

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

January 22, 1987

SUBJECT: Taxation & Revenue - Merchants inventory tax return.

SYLLABUS: The return of inventory as required by Section 12-37-970 must be filed on or before the date due before the exemption of the inventory as provided by Section 12-37-450 can be granted.

TO: Honorable S. Hunter Howard, Jr.  
Chairman, South Carolina Tax Commission

FROM: Joe L. Allen, Jr. *JAL*  
Chief Deputy Attorney General

QUESTION: Is the exemption provided by Section 12-37-450 afforded when the return required by Section 12-37-970 is untimely?

APPLICABLE LAW: Sections 12-37-450 and 12-37-970 of the 1976 South Carolina Code of Laws as amended.

DISCUSSION:

Both statutes are clear in their requirements. Section 12-37-970 requires the filing of the return. The date the return is to be filed is:

" . . . on or before the fifteenth day of the fourth month after the close of the accounting period regularly employed by the taxpayer for income tax purposes in accordance with Chapter 7, Title 12."

Section 12-37-450 provides an exemption equal to 50 percent of the inventory for the 1986 tax year and 100 percent for the 1987 year. The section further provides that:

"The exemption provided in this section is not allowed if the return is received by the Commission after the date due or the tax due is received by the county or municipality after the date due."

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As a condition for the exemption, the return must be timely filed. A failure to do so precludes the grant of the exemption.<sup>1</sup>

CONCLUSION:

The return of inventory as required by Section 12-37-970 must be filed on or before the date due before the exemption of the inventory as provided by Section 12-37-450 can be granted.<sup>2</sup>

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<sup>1</sup>The opinion does not address the issue when a timely request for an extension of time in which to file is granted under Section 12-37-980. A tentative return is there required as a condition for the extension. That return must reflect 100 percent of the value of the property that is to be listed in the final return. Should an opinion be needed for this circumstance the same will be separately treated.

<sup>2</sup>The opinion is based upon settled rules of statutory construction. The statute language is clear and requires no interpretation. (For accumulation of cases so holding see 17, Statutes, Key 190.) Additionally, a person claiming an exemption must place himself squarely within the terms of the statute that grants the same. York County Fair Ass'n. v. South Carolina Tax Commission, 249 S.C. 337, 154 S.E.2d 361.

JLAJR/jws