~~Indicates Matter Stricken~~

Indicates New Matter

POLLED OUT OF COMMITTEE

MAJORITY FAVORABLE

May 25, 2011

**H. 3488**

Introduced by Reps. Bingham, Harrell and Toole

S. Printed 5/25/11--S.

Read the first time May 12, 2011.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 3488) to amend Act 99 of 2007, relating to the addition of a sales tax exemption for durable medical equipment and the phase in of that exemption, so as to delete, etc., respectfully

**REPORT:**

Has polled the Bill out majority favorable.

**A** **BILL**

TO AMEND ACT 99 OF 2007, RELATING TO THE ADDITION OF A SALES TAX EXEMPTION FOR DURABLE MEDICAL EQUIPMENT AND THE PHASE IN OF THAT EXEMPTION, SO AS TO DELETE THE PHASE IN REQUIREMENTS; AND TO AMEND SECTIONS 12‑36‑90, 12‑36‑910, 12‑36‑1310, AND 12‑36‑2120, ALL AS AMENDED, RELATING TO THE IMPOSITION OF AND EXEMPTIONS FROM THE SALES AND USE TAX, SO AS TO PROVIDE FURTHER FOR THOSE INSTANCES WHERE SALES AND USE TAX APPLIES IN CONNECTION WITH WARRANTIES AND SERVICE MAINTENANCE CONTRACTS SOLD IN CONNECTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 1, Act 99 of 2007 is amended by deleting subsections B and C, which read:

“B. Notwithstanding the sales and use rates imposed pursuant to Chapter 36, Title 12 of the 1976 Code, the rate of tax imposed pursuant to that chapter on the gross proceeds of sales of items described in subsection A of this section is five and one‑half percent for such sales from July 1, 2007.

C. Beginning with the February 15, 2008, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually thereafter, if the forecast of that growth equals at least five percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then the applicable state sales and use tax rate imposed on items described in subsection A of this section is reduced, effective the following July first, by one and one‑half percent in the first year and by one percent every year thereafter. That reduced rate applies until a subsequent reduction takes effect. If the February fifteenth forecast meets the requirement for a rate reduction, the board promptly shall certify this result in writing to the Department of Revenue. On the July first that the rate attains zero, the provisions of subsections B and C of this section no longer apply.”

B. Notwithstanding the general effective date of this act, the amendment to Act 99 of 2007 made by subsection A of this section takes effect July 1, 2011.

SECTION 2. A. 1. Section 12‑36‑90(1)(c)(iii) of the 1976 Code, as last amended by Act 161 of 2005, is further amended to read:

“(iii) tangible personal property replacing defective parts under written warranty contracts if:

(A) the warranty~~, maintenance, service, or similar~~ contract is given without charge~~,~~ at the time of original purchase of the defective property~~, or the tax was paid on the sale or renewal of warranty, maintenance, or similar service contract for tangible personal property of which the defective part was a component, whether or not such contract was purchased in conjunction with the sale of tangible personal property,~~;

(B) ~~in the case of a warranty, maintenance, service, or similar contract that is given without charge at the time of original purchase of the defective property,~~ the tax was paid on the sale of the defective part or on the sale of the property of which the defective part was a component~~,~~; and

(C) the warrantee is not charged for any labor or materials~~,~~;”

2. Section 12‑36‑90(2) of the 1976 Code, as last amended by Act 386 of 2006, is further amended by deleting subitem (l) which reads:

“(l) tangible personal property purchased by a person engaged in the business of servicing a warranty, maintenance, or similar service contract for use in replacing a defective part under the contract if tax was paid on the sale or the renewal of the contract and the customer is not charged for labor or material when the part is replaced.”

B. Section 12‑36‑910(B) of the 1976 Code, as last amended by Act 386 of 2006, is further amended by deleting items (6) and (7) which read:

“(6) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.

(7) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not the contracts are purchased in conjunction with the sale of tangible personal property.”

C. Section 12‑36‑1310(B) of the 1976 Code, as last amended by Act 161 of 2005, is further amended by deleting item (6) which reads:

“(6) gross proceeds accruing or proceeding from the sale or renewal of warranty, maintenance, or similar service contracts for tangible personal property, whether or not such contracts are purchased in conjunction with the sale of tangible personal property.”

D. Section 12‑36‑2120 of the 1976 Code, as last amended by Act 280 of 2010, is further amended by deleting item (69) which reads:

“(69) the sale or renewal of a warranty, maintenance, or similar service contract for tangible personal property if the sale or purchase of the tangible personal property covered by the contract is exempt or excluded from the tax imposed by this chapter.”

E. Notwithstanding the general effective date provided in this act, the provisions of this section take effect on the first day of the third month beginning after the date of approval of this act.

SECTION 3. This act takes effect upon approval by the Governor.

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