
State of South Carolina
Department of Revenue
301 Gervais Street, P.O. Box 125, Columbia, South Carolina, 29214

NOTICE TO DRY CLEANING FACILITIES

M RGRG

DRYCLEANER

SID:

TO: Dry Cleaning Facilities
FROM: South Carolina Department of Revenue
SUBJECT: Drycleaning Facility Restoration Trust Fund
DATE: August 26, 2004

According to our information, you are in the business of drycleaning in South Carolina and you are not presently participating in the Drycleaning Facility Restoration Trust Fund. Effective July 1, 1995, legislation created the South Carolina Drycleaning Facility Restoration Trust Fund which provides for the cleanup at drycleaning facilities of discharges of solvents which pose a threat to the environment. On May 24, 2004, the South Carolina General Assembly enacted Act No. 237 which allows certain drycleaning facilities that do not currently participate in the Trust Fund another opportunity to register for the Trust Fund. You may review this Act on our website, www.sctax.org. The information is included in the "What's New" section of the homepage.

The following information explains which facilities must register for the Trust Fund, the facilities that have the option to participate, the dates by which your registration or election must be completed and the options available for payment.

For those facilities or locations in operation on or before July 1, 1995:

- (1) If you clean with Halogenated drycleaning fluids, you **must** register the facility for the Trust Fund and pay the appropriate fees. Fees are due retroactive to July 1, 1995. You should complete the attached Form L-2093 for each year of operation and return it with the required fee(s) to the address shown. You do not have the option of non-participation in the Trust Fund. If you do not register for the Trust Fund, you will be assessed the appropriate fees including penalties and interest.
- (2) If you clean with Nonhalogenated cleaners only and you were in operation on July 1, 1995, you once again have the option of participating in the Trust Fund. You must notify this office of your irrevocable election no later than July 1, 2005. If you elect to participate, complete the Form L-2093 for each year of operation and return it with the required fee(s) to the address shown. You will not be liable for penalties or interest if you make a timely election and you may make monthly installments through July 2006 in order to pay the back fees. If you elect not to participate, you should complete the Statement of Non-participation. If you elect not to participate, you or any future owner/operator will not be eligible for any disbursement from the Trust Fund and you may be held personally liable for any clean-up costs.

- (3) If you clean with both Halogenated fluids and Nonhalogenated cleaners and you were in operation on July 1, 1995, you have the option of participating in the Fund. You must notify this office of your election no later than July 1, 2005. If you elect to participate, complete the Form L-2093 for each year of operation and return it with the required fee(s) to the address shown. You will not be liable for penalties or interest if you make a timely election and you may make monthly installments through July 2006 in order to pay the back fees. If you elect not to participate, you should complete the Statement of Non-participation. If you elect not to participate, you or any future owner/operator will not be eligible for any disbursement from the Trust Fund and you may be held personally liable for any clean-up costs.

For those facilities or locations which began operations after July 1, 1995:

- (1) If the Drycleaning facility or location opened after July 1, 1995 and the facility/location uses solvent, you **must** register the facility for the Trust Fund and pay the appropriate fees, regardless of the solvent used at your location. You do not have the option of non-participation in the Trust Fund. If you do not register for the Trust Fund, you will be assessed the appropriate fees including penalties and interest. Fees are due retroactive to the date the location opened and there is no proration of fees for any partial year. You should complete the Form L-2093 each year of operation and return it with the required fee(s) to the address shown.

It is imperative to remember the following:

- (1) Registration or the appropriate election of non-participation is required from each "wetsite" location (facility/location that uses solvent) no later than July 1, 2005. "Dry drop-off" facilities are not required to register but should complete the Statement of Non-participation and return it to this office by July 1, 2005.
- (2) Your facility may be eligible to obtain cleanup funds from the Trust Fund only if you register the facility or location for the Trust Fund by July 1, 2005 and pay the appropriate fees. If you elect not to participate, you or any future owner/operator will not be eligible for any disbursement from the Trust Fund and you may be held personally liable for any clean-up costs.
- (3) In addition to the annual registration fee, participants in the Trust Fund are required to pay a solvent surcharge and an additional 1% surcharge on the gross proceeds of sales. The 1% surcharge on the gross proceeds of sales of a drycleaning facility was also enacted by Act No. 237 and was detailed in our letter of June 16, 2004. The solvent surcharge is based on the type of drycleaning solvent used by the facility. We have included definitions of the two types of solvents defined in the legislation.

We have enclosed two forms for your convenience:

- (1) Statement of Non-participation - Permanent election form for those facilities that have the option of participation/non-participation; and
- (2) Form L-2093 - Drycleaning Facility Registration Form for those facilities that are required to participate in the Fund or those facilities that wish to voluntarily participate. The annual registration fees are based on the number of employees of the participating drycleaning facilities. The fee schedule is as follows:

\$750.00	- Up to four (4) employees
\$1500.00	- Five (10) to ten (10) employees
\$2250.00	- Eleven (11) or more employees

Participation in the Fund:

If you have elected to not participate in the Fund in the past, this new legislation may afford you an opportunity to voluntarily participate in the Fund by paying all back fees by July 1, 2006. To determine if you are currently eligible to join the Fund, you may contact the DHEC within the next sixty (60) days at 1-866-343-2379 (toll-free).

Each facility and/or location must notify the South Carolina Department of Revenue of their election. If you are required to participate in the Trust Fund or, if qualified, you voluntarily elect to participate in the Fund, you should complete the Form L-2093 in its entirety and return it to the address below no later than July 1, 2005. The appropriate fee will be due for each year the location has been in existence as a drycleaning facility. If you elect to not participate in the Fund and you are eligible to do so, you should complete the Statement of Non-participation and return it to the address listed within 90 days of this letter.

Please mail the completed Statement of Non-participation or the Registration Form with appropriate fee(s) to:

SOUTH CAROLINA DEPARTMENT OF REVENUE
REGISTRATION SECTION
COLUMBIA SC 29214-0140

If you have questions regarding this notice, please call (803) 898-5872 or your nearest South Carolina Department of Revenue Taxpayer Service Center.

Definitions

Code Section 44-56-410 defines the following:

"Drycleaning facility" means a professional retail commercial establishment located in this State that operates or has at some time in the past operated in whole or in part for the purpose of cleaning clothing and other fabrics from members of the public utilizing a process which involves the use of drycleaning solvents. "Drycleaning facility" includes laundry facilities that are using or have used drycleaning solvents as part of their cleaning process, but does not include textile mills or uniform rental and linen supply facilities.

"Drycleaning solvents" means nonaqueous solvents used in the cleaning of clothing and other fabrics and includes halogenated drycleaning fluids and nonhalogenated cleaners, and their breakdown products. "Drycleaning solvents" includes only solvents originating from use at a drycleaning facility or by a wholesale supply facility.

"Dry drop-off facility" means a commercial retail store that receives from customers clothing and other fabrics for drycleaning at an off-site drycleaning facility and does not clean the clothing or fabrics at the store utilizing drycleaning solvents.

"Employee" means a natural person employed and paid by the owner of a drycleaning facility for thirty-five or more hours a week for forty-five or more weeks a year and on whose behalf the owner contributes payments to the South Carolina Employment Security Commission or Department of Revenue as required by law. Excluded from the meaning of the term "employee" are owners of drycleaning facilities and family members of owners, regardless of the level of consanguinity, if the family members are not employed and compensated pursuant to the definition of the term "employee" contained in this item. Part-time employees who are employed and paid for fewer than thirty-five hours a week for fewer than forty-five weeks a year must not be deemed to be employees unless their hours and weeks of employment, when combined with the hours and weeks of employment of another or other part-time employee or employees, total thirty-five or more hours a week for forty-five or more weeks a year.

"Person" means any individual, partnership, corporation, association, or other entity that is vested with ownership, dominion, or legal or rightful title to the real property or which has a ground lease interest in the real property on which a drycleaning or wholesale supply facility is or has ever been located.

"Wholesale supply facility" means a commercial establishment that supplies drycleaning solvents to drycleaning facilities.

"Halogenated Drycleaning Fluid" is subject to a \$10.00 per gallon surcharge payable to the supplier and includes all solvents that contain 10% or more of any of the compounds known as "Halogens", which is the a chemical name for substances containing chlorine, bromine, fluorine or iodine. Perchloroethylene is considered to be a halogenated fluid.

"Nonhalogenated Cleaners" are subject to a \$2.00 per gallon surcharge payable to the supplier. "Nonhalogenated Cleaners" contain less than 10% of halogen compounds. All current formulations of commercial petroleum-based solvents are considered as nonhalogenated cleaners, as are the newer, synthetic cleaning agents based on silicone (i.e. "Greenearth") or propylene-glycol ("Impress"). Because of the possibility that nonhalogenated cleaners may eventually be procured in a non-liquid form (e.g. "Carbon Dioxide"), the legislation also includes a surcharge of \$0.20 per pound to cover that eventuality.



DRYCLEANING FACILITY RESTORATION TRUST FUND STATEMENT OF NON-PARTICIPATION

I. PURPOSE

The purpose of this form is to allow qualifying drycleaning facilities to elect not to be included in the Drycleaning Facility Restoration Trust Fund. Those facilities that may elect not to participate include the following:

- 1. Facilities in existence on or before July 1, 1995 that clean only with Nonhalogenated cleaners;
- 2. Facilities in existence on or before July 1, 1995 that use both Nonhalogenated and Halogenated drycleaning fluids; or
- 3. Facilities that are "Dry Drop-off" or "Pick-up" sites only. These facilities certify that they do not use any type of solvent at the location.

If you do not meet any one of the conditions above, you are required to participate in the Trust Fund and you must submit the Form L-2093 by July 1, 2005.

Any owner/operator that does not participate in the Drycleaning Facility Restoration Trust Fund will not be eligible for any disbursement from the Fund and the owner/operator may be held personally liable for any restoration costs at the location. To determine if you are currently eligible to join the Fund, you may contact the DHEC at 1-866-343-2379 (toll-free).

II. ELECTION

SELECT ONLY ONE: Required for each facility/location (If an option is not selected, your election will be invalid and you may be liable for any back fees plus applicable penalties and interest)

_____ I certify that this facility was in existence on or before July 1, 1995 and the facility cleans with Nonhalogenated cleaners only. I elect **not** to participate in the Fund and I acknowledge that I will not be eligible for any disbursement from the Fund. In addition, I acknowledge that I may be held liable for any clean-up costs.

_____ I certify that this facility was in existence on or before July 1, 1995 and the facility cleans with both Nonhalogenated cleaners and Halogenated drycleaning fluids. I elect **not** to participate in the Fund and I acknowledge that I will not be eligible for any disbursement from the Fund. In addition, I acknowledge that I may be held liable for any clean-up costs.

_____ I certify that this facility is a "Dry Drop-off facility" only and does not utilize drycleaning solvents.

STATEMENT - Required for each facility/location

I understand that this is a permanent election and there is no provision for reinstatement in the Trust Fund once an election is made for Non-participation.

Facility Name _____

Owner Name _____

Street Address _____

Signature of Owner/
Officer/Partner _____

Date _____

If you lease or rent the property where facility is located:

Name of Property Owner: _____

Address of Property Owner _____

III. APPLICABLE LAW

You may review the entire text of Act No. 237 on our website, www.sctax.org . The information is included in the "What's New" section of the homepage.

Section 44-56-485:

- (A) Notwithstanding any other provision of this article, this article does not apply to a drycleaning facility that was in existence on July 1, 1995, that drycleans with nonhalogenated cleaners only, nor to dry drop-off facilities whose clothing and other fabrics are cleaned only by such a dry cleaning facility. However, an owner or operator of a facility or person may elect to place the facility under the provisions of this article by paying the required annual fee for the facility before October 1, 1995. If an owner or operator of a facility or person does not elect to place a facility under this article before October 1, 1995, the current or a future owner or operator of the site or person is prohibited from receiving any funds or assistance under this article. Failure to pay the required annual fee by October 1, 1995, constitutes electing not to place a facility under this article. Additionally, an owner, operator, or person who does not elect to place a facility under this article is prohibited from receiving any funds or assistance under this article for any site the owner, operator, or person currently or previously operated or abandoned.
- (B) A drycleaning facility in existence on July 1, 1995, that uses halogenated fluids and nonhalogenated cleaners may elect to remove the facility from the requirements of this article if the election is made before October 1, 1995. Failure to pay the required annual fee by October 1, 1995, constitutes electing to remove a facility from the requirements of this article. An owner, operator, or person of a facility using halogenated and nonhalogenated cleaners may not elect to remove a facility from the requirements of this article for one solvent and not the other.
- (C) Notwithstanding subsections (A) and (B) of this section, if a person or an owner or operator of a drycleaning facility in existence on July 1, 1995, has made an election not to place a facility under the provisions of this article as allowed in subsection (A) or (B) above, then the person, owner, or operator may affirmatively and irrevocably elect to place the drycleaning facility under the provisions of this article. This election must be made by registering with the Department of Revenue on or before July 1, 2005, and paying the fees and taxes provided under this article. An electing drycleaning facility is liable for payment of all taxes and fees from the later of July 1, 1995, or the date the drycleaning facility began operating, but is not liable for any penalties or interest. An electing drycleaning facility may pay the back taxes and fees that the facility is required to pay under this subsection by making monthly installments toward full payment of all back taxes and fees. The monthly installments must commence no later than July 1, 2004, and all back taxes and fees must be fully paid on or before July 1, 2006.
- (D) Notwithstanding any other provision of this article, any person or owner or operator of a drycleaning facility that has not registered with the Department of Revenue and complied with the provisions of this article may voluntarily register with the Department of Revenue on or before July 1, 2005, without incurring any penalties or interest. Payment of all taxes and fees due pursuant to this article is required to be made from the later of July 1, 1995, or the date the drycleaning facility began operating. Any person or owner or operator of a drycleaning facility that does not voluntarily register under this provision is subject to interest, penalties, and payment of all taxes and fees from the later of July 1, 1995, or the date the drycleaning facility began operating. No fees will be prorated or refunded for a business in operation for less than twelve months.
- (E) Notwithstanding any other provisions in this article, the department may direct the Department of Revenue to allow a person or owner or operator of a drycleaning facility, who elected not to place the facility under this article pursuant to subsection (A) or (B) of this section to register, provided the department finds that the person or owner or operator of the drycleaning facility requesting to register did not have notice of this article for more than ninety days prior to requesting registration. The person or owner or operator of a drycleaning facility registering pursuant to this subsection is liable for payment of all taxes or fees, including interest, from the later of July 1, 1995, or the date the drycleaning facility began operating; however, the registering person, owner, or operator is not liable for penalties. No fees will be prorated or refunded for a business in operation for less than twelve months."

