

Chapter 18

Catawba Indian Reservation - State and Tribal Sales and Use Taxes

A. The Catawba Indian Claims Settlement Act

Chapter 16, Title 27 of the South Carolina Code of Laws is known as “The Catawba Indian Claims Settlement Act” (“The Act”). The Act is based on the agreement in principle reached between the State of South Carolina and the Catawba Indian Tribe to settle differences between the two parties.

This act took effect on November 29, 1993 when the Governor certified that the Counties of York and Lancaster had taken all actions required of them by the Settlement Agreement and that the federal implementing legislation enacted by Congress and signed in law by the President was consistent with the Settlement Agreement.

Section 27-16-130 of the Catawba Indian Claims Settlement Act reads, in part:

(H) The Tribe, its members, and the Tribal Trust Funds are liable for the payment of all state and local sales and use taxes to the same extent as any other person or entity in the State, except as specifically provided as follows:

- (1) Purchases made by the Tribe for tribal government functions during ninety-nine years from the effective date of this chapter are exempt from state and local sales and use taxes.
- (2) Catawba pottery and artifacts made by members of the Tribe and sold on or off the Reservation by the Tribe or members of the Tribe are exempt from state and local sales and use taxes.
- (3) During ninety-nine years from the effective date of this chapter, the sale on the Reservation of all other items, made on or off the Reservation, are exempt from state and local sales and use taxes but are subject to a special tribal sales tax levied by the Tribe equal to the state and local sales tax that would be levied in the jurisdiction encompassing the Reservation but for this exemption.
 - (a) The South Carolina sales and use tax laws, regulations, and rulings apply to the special tribal sales tax, and the special tribal sales tax must be administered and collected by the South Carolina Tax Commission.¹

¹ The South Carolina Tax Commission is now the South Carolina Department of Revenue.

- (b) The South Carolina Tax Commission separately shall account for the special tribal sales tax, and the State Treasurer shall remit the special tribal sales tax revenues periodically to the Tribe at no cost to the Tribe.
- (c) The tribal sales tax does not apply to retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are one hundred dollars or less. If it does not apply, the state sales tax applies.
- (d) The Tribe shall impose a tribal use tax on the storage, use, or other consumption on the Reservation of tangible personal property purchased at retail outside the State when the vendor does not collect the tax. However, use taxes collected by a vendor which is not located in the State are subject to state use taxes, and the use tax must be remitted to the State and not the Tribe. Use taxes not collected by the vendor and remitted to the State are subject to the tribal use tax and must be collected directly by the Tribe.

B. Application of State and Tribal Sales and Use Taxes to Sales of Tangible Personal Property Delivered on the Reservation

Based on the Catawba Indian Claims Settlement Act, the following chart outlines the application of sales and use taxes to sales to individual members of the Catawba Indian Tribe:

<u>Delivery on the Reservation From:</u>	<u>Type Tax Applicable</u>	<u>Administered and Collected By:</u>
Location On the Reservation	Tribal Sales Tax (Equal to Combined State and Local Rate)	DOR
Location Off the Reservation But in SC – Sales \$100 or less	State Sales Tax (6%) *	DOR
Location Off the Reservation But in SC – Sales Over \$100	Tribal Sales Tax (Equal to Combined State and Local Rate)	DOR
Location Off the Reservation and Outside the State – Seller Registered with DOR	State Use Tax (6%) *	DOR
Location Off the Reservation and Outside the State – Seller Not Registered with DOR	Tribal Use Tax (Equal to Combined State and Local Rate)	Catawba Indian Tribe

* Local taxes would not be applicable in these circumstances.

Effective May 1, 2009, Lancaster county imposes a 1% local option sales and use tax and a 1% Capital Projects Tax. York county imposes a 1% Capital Projects sales and use tax. These local taxes are in addition to the State sales and use tax. Therefore, **effective May 1, 2009**, the tribal sales tax and the tribal use tax are imposed at the following rates:

For sales (deliveries) made on the Reservation within Lancaster County:

- 8% for general sales of tangible personal property
- 9% for sales of accommodations
- 2% for sales of unprepared foods

For sales (deliveries) made on the Reservation within York county:

- 7% for general sales of tangible personal property
- 8% for sales of accommodations
- 1% for sales of unprepared foods

Please note that the rate for the tribal sales tax and the tribal use tax may increase or decrease dependent upon whether the total state and local sales and use tax rates change in Lancaster county or York county in the future.

C. Purchases by the Tribe for Tribal Government Functions²

Sales to, or purchases by, the Catawba tribal government for tribal government functions are exempt from state and local sales and use taxes until November 28, 2092 (99 years after the Act took effect on November 29, 1993). Sales to, or purchases by, the Catawba tribal government for tribal government functions will be subject to state and local sales and use taxes beginning November 29, 2092.

D. Artifacts Made by Members of the Tribe³

Catawba pottery and artifacts made by members of the Tribe and sold on or off the Reservation by the Tribe or members of the Tribe are exempt from state and local sales and use taxes. Unlike the other exemptions enacted in Code Section 27-16-130(H), this exemption does not automatically expire on November 28, 2092 (99 years after the Act took effect on November 29, 1993).

For purposes of this exemption, the phrase “artifacts made by members of the Tribe” means objects, including tools, weapons and ornaments, produced or shaped by the workmanship of one or more members of the Catawba Indian Tribe that are associated with the culture or history of the Tribe.

² South Carolina Code §27-16-130(H)(1).

³ South Carolina Code §27-16-130(H)(2).

E. Sales on the Reservation⁴

Sales on the Reservation (whether the tangible personal property is made on or off the Reservation) are exempt from state and local sales and use taxes until November 28, 2092 (99 years after the Act took effect on November 29, 1993), except for retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are one hundred dollars or less. Sales occurring on the Reservation as a result of delivery from outside the Reservation are subject to state and local sales and use taxes when the gross proceeds of the sale are one hundred dollars or less. Sales on the Reservation will be subject to state and local sales and use taxes beginning November 29, 2092.

Sales on the Reservation (whether the tangible personal property is made on or off the Reservation) are subject to the Catawba tribal sales and use tax until November 28, 2092 (99 years after the Act took effect on November 29, 1993), except for retail sales occurring on the Reservation as a result of delivery from outside the Reservation when the gross proceeds of sale are one hundred dollars or less. Sales occurring on the Reservation as a result of delivery from outside the Reservation are subject to state and local sales and use taxes when the gross proceeds of sale are one hundred dollars or less. Sales on the Reservation will no longer be subject to the Catawba tribal sales and use tax beginning November 29, 2092.

F. Tangible Personal Property Made by Members of the Tribe (Other than Artifacts)

Delivered Off the Reservation within South Carolina

When tangible personal property, other than pottery and artifacts made by members of the Tribe, is sold and delivered by a retailer to a location in South Carolina but outside the reservation, sales of these items off the Reservation are subject to state and local sales taxes and are not subject to the tribal sales tax.

Delivered Off the Reservation Outside of South Carolina

When tangible personal property is sold and delivered by a retailer to a location outside of South Carolina, sales of these items off the Reservation and outside of South Carolina are exempt from the tribal tax and the state tax.⁵

When tangible personal property is sold and delivered by a retailer to the mails or to a common carrier for delivery outside of South Carolina, sales of these items off the Reservation and outside of South Carolina are exempt from the tribal tax and the state tax.⁶

⁴ South Carolina Code §27-16-130(H)(3).

⁵ South Carolina Code §12-36-2120(36).

⁶ South Carolina Code §12-36-2120(36).

G. Accommodations

Accommodations furnished on the Reservation are subject to the tribal sales tax at a rate of 9% for accommodations furnished in Lancaster county and at a rate of 8% for accommodations furnished in York county. Additional guest charges imposed on the Reservation are subject to the tribal sales tax at a rate of 8% in Lancaster county and at a rate of 7% in York county.

H. Maximum Tax Items

For sales (deliveries) made on the Reservation of tangible personal property subject to the maximum tax provisions, the tribal sales and use tax rate is 5%⁷ in each county (since the state sales and use tax on maximum tax items is 5% and maximum tax items are exempt from all local sales and use taxes), but the tax may not exceed the maximum tax set forth in Code Section 12-36-2110.⁸

⁷ Since the state sales and use tax rate for maximum tax items is 5%, the tribal tax rate for items subject to the maximum tax must equal the combined state and local rate for the counties in which the reservation is located. At this time, the rate of maximum tax items would be 5% (equal to the 5% state rate and the 0% local rate since maximum tax items are not subject to local taxes).

⁸ See Chapter 10 of this publication for information on the maximum tax provisions of South Carolina Code §12-36-2110.