

Chapter 12

Local Sales and Use Taxes

A. General Information

The South Carolina Code of Laws allows the imposition of various types of local sales and use taxes. As such, the citizens of a county, depending upon the needs within the county, may impose one or several local sales and use taxes.

The Department publishes a chart with the various types of local sales and use taxes collected by the Department and the exemptions allowed under each tax. As of the date of this document, SC Information Letter #09-2 contains the most recently published information; updated information will be published on the Department's website <http://www.sctax.org/Tax+Policy/Policy/salesIndex.htm> as warranted.

Currently, all local taxes administered and collected by the Department of Revenue on behalf of local jurisdictions are administered and collected on a county-wide basis. The criteria discussed in this chapter, unless otherwise indicated in legislation enacted by the General Assembly, will also apply to any future sales or use taxes administered and collected by the Department of Revenue on behalf of a jurisdiction on a county-wide or other basis.

Please note that this chapter only addresses the general local sales and use taxes collected by the Department of Revenue on behalf of local jurisdictions (*e.g.*, counties, school districts) and the tribal sales tax collected by the Department of Revenue on behalf of the Catawba Indian tribal government.¹ It does not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties.

B. Types of Local Sales and Use Taxes:

The following is a list of local sales and use taxes² that General Assembly has authorized the Department of Revenue to administer and collect on behalf of local jurisdictions that may enact one or more of these local sales and use taxes.

Local Option: The local option sales and use tax is authorized under South Carolina Code §4-10-10 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

¹ The tribal use tax is collected directly by the Catawba Indian tribal government.

² The General Assembly may authorize other local sales and use taxes in the future. Unless such legislation states otherwise, any such new local sales and use tax will be administered and collected in the same manner as the taxes listed in this chapter. In addition, the Catawba Indian Tribal Sales Tax is not a local tax; however, it is administered and collected by the Department in a similar manner and is therefore included on this list.

Capital Projects: The local capital projects sales and use tax is authorized under South Carolina Code §4-10-300 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Transportation: The local transportation projects sales and use tax is authorized under South Carolina Code §4-37-30 et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Personal Property Tax Relief: The personal property tax relief sales and use tax is authorized under South Carolina Code §4-10-540. et seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year. **As of the date of this publication, this tax is not being imposed.**

Local Property Tax Credits: The local option sales and use tax for local property tax credits is authorized under South Carolina Code §4-10-720 et seq. (Act 388 of 2006, Part III). This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to provide a credit against property tax imposed by a political subdivision for all classes of property subject to the property tax and is collected by the Department of Revenue on behalf of these counties. **As of the date of this publication, this tax is not being imposed.**

Education Capital Improvement Sales and Use Tax. The school district or school districts within a county may impose a 1% sales and use tax within the county for specific education capital improvements for the school district for not more than 15 years. The tax is authorized under South Carolina Code §4-10-410 et seq. (Act No. 316 of 2008) and must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum. This tax may only be imposed in counties that have collected at least \$7 million in state accommodations taxes in the most recent fiscal year for which data is available. Once the threshold is met, a county remains eligible to impose this tax. This tax may not be imposed in a county that is imposing or is scheduled to impose a local sales and use tax for public school capital improvements.

School District Taxes. The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements. Currently, only 8 of the 20 school district taxes that have been authorized by the General Assembly are being imposed.

As of October 1, 2008, these school district taxes are being imposed at a rate of 1%:³

| <u>County</u> | <u>Act Authorizing Tax</u> |
|---------------|---|
| Cherokee | Act No. 588 of 1994 |
| Chesterfield | Act No. 441 of 2000 |
| Clarendon | Act No. 355 of 2004 and Act No. 195 of 2005 |
| Darlington | Act No. 132 of 2003 |
| Dillon | Act No. 137 of 2007 (Effective October 1, 2008) |
| Jasper | Act No. 146 of 2001 |
| Lee | Act No. 426 of 2006 |
| Lexington | Act No. 378 of 2004 |

As of the date of this publication, these school district taxes are **not** currently being imposed:

| <u>County</u> | <u>Act Authorizing Tax</u> |
|---------------|----------------------------------|
| Allendale | Act No. 371 of 2008 |
| Berkeley | Act No. 178 of 1999 |
| Colleton | Act No. 462 of 1998 |
| Dillon | Act No. 197 of 2005 ⁴ |
| Edgefield | Act No. 365 of 2004 |
| Horry | Act No. 371 of 2004 |
| Marlboro | Act No. 204 of 2005 |
| McCormick | Act No. 387 of 2004 |
| Newberry | Act No. 151 of 2003 |
| Richland | Act No. 326 of 2002 |
| Pickens | Act No. 463 of 2002 |
| Union | Act No. 497 of 1998 |

³ See SC Information Letter #09-2 for the date each school district tax was first imposed. Currently, all local taxes administered and collected by the Department of Revenue on behalf of local jurisdictions (including the above school district taxes) are administered and collected on a county-wide basis.

⁴ This school district tax was never imposed and the Act authorizing the tax was repealed by Act No. 137 of 2007.

Catawba Indian Tribal Tax: The Catawba Indian Reservation is located in Lancaster and York counties. The application of either the state sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in South Carolina Code §27-16-130(H). The Catawba Tribal sales and use tax expires on November 28, 2092.

The following chart provides a summary of these provisions:

| <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 (Local taxes would not be applicable in these circumstances.) | 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 (Local taxes would not be applicable in these circumstances.) | 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 |

* **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. Local Sales and Use Tax Due Dependent on County of Delivery

The determination as to which local sales and use tax is due depends on where delivery of the tangible personal property took place.⁵

For purposes of local sales and use taxes, delivery of tangible personal property is defined to occur when and where title or possession of tangible personal property transfers from the retailer to his customer. Following are guidelines to be used in determining when and where delivery occurs:⁶

FOB Destination or Similar Terms: Delivery is considered to take place at the purchaser's location or wherever delivered to the purchaser (at the purchaser's direction).

FOB Shipping Point or Similar Terms: Delivery is considered to take place at the retailer's location. Retailers with multiple retail locations are to maintain their records so as to clearly show which sales are attributable to each location.

Shipping Terms Are Unspecified: Delivery is considered to take place at the purchaser's location or wherever delivered to the purchaser (at the purchaser's direction).

Retailer Uses Own Vehicle: If a retailer uses his own vehicle(s) for making deliveries, delivery is considered to take place at the purchaser's location or wherever delivered at the direction of the purchaser. This applies whether the vehicles are owned or leased by the retailer.

Situations Where Title Transfers, but Not Possession: Delivery is considered to take place at the retailer's location.

For example, a printer may produce business cards for a customer. The cards include all needed information except for the employee name. The printer keeps possession of, but not title to, the cards. At the direction of the customer, the printer will imprint the customer's cards with an employee's name and send the imprinted cards to the customer.

Retailers with multiple retail locations are to maintain their records so as to clearly show which sales are attributable to each location.

⁵ Attorney General Opinion #91-47 (7/30/1991).

⁶ SC Revenue Ruling #91-17.

D. Retailer's Responsibility to Remit Local Sales and Use Taxes⁷

Whether or not a retailer can be required to remit a county's tax is dependent upon the controlling facts and the extent of the seller's activities with the county into which tangible personal property is delivered.

If a retailer that has established Commerce Clause nexus with South Carolina purposefully avails itself of the benefits of the economic market of a county or it has purposefully directed its efforts toward the residents of a county, it has a minimal connection with that county sufficient to subject it to that county's jurisdiction and therefore require it to remit the county's tax on its deliveries into that county, even if it has no physical presence in that particular county.

Examples of when a retailer that has established Commerce Clause nexus with South Carolina must remit a county's sales and use tax include, but are not limited to:

Retailers Using Their Own Vehicles: A retailer is required to remit a county's tax if the retailer is shipping property into the county using his own vehicles (whether owned or leased).

Retailers Using a Contract Carrier: A retailer is required to remit a county's tax if the retailer is shipping property into the county using a contract carrier (an independent or related company working specifically for or otherwise representing the retailer with respect to the delivery.)

Retailers Using a Common Carrier: A retailer is required to remit a county's tax if the retailer is shipping property into the county using a common carrier (*e.g.*, UPS, the mail), and the retailer is subject to the county of delivery's jurisdiction (Due Process nexus has been established with the county of delivery).

Examples of when a retailer is subject to the county of delivery's jurisdiction include, but are not limited to, the following:

- (a) The retailer maintains, temporarily or permanently, directly or by subsidiary, an office, warehouse, distribution house, sales house, other place of business, or property of any kind in the county of delivery.
- (b) The retailer or a subsidiary has, temporarily or permanently, an agent, representative (including delivery personnel and independent contractors acting on behalf of the retailer), salesman, or employee operating within the county of delivery.
- (c) The retailer advertises via advertising media located in the county of delivery (*e.g.*, newspapers, television, cable systems, and radio).

⁷ SC Revenue Ruling #05-16.

- (d) The retailer advertises via advertising media located outside the county but which has coverage within the county of delivery (*e.g.*, newspapers, television, cable systems, and radio).

Please note that these statements are only examples and that there are other circumstances in which a retailer must remit a county's tax with respect to deliveries into that county. Retailers must be aware that as the courts address this issue, the requirements for remitting a county's tax may evolve and the retailer will be liable for the tax if the retailer fails to remit the tax when it has a connection with that county sufficient to require it to remit that county's tax. If upon being audited, it is found that a retailer has a sufficient connection with a particular county so as to require remittance of that county's tax, but the retailer has failed to do so, the Department will assess the retailer for that county's tax.

E. Purchasers - Reporting Requirements

Purchases of tangible personal property (not for resale) first stored, used or consumed in a local tax county are subject to the local use tax. Such purchases are to be reported on Form ST-389 by county and/or municipality where the property is first stored, used or consumed. Form ST-389 provides information as to which type of local sales and use tax must be reported by county and municipality and which type of local sales and use tax must only be reported by county.

NOTE: The purchaser is not liable for a county's local use tax if he takes delivery in another county and pays the other county's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. Also, the purchaser is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the local use tax.

F. Transactions Exempt from Local Sales and Use Taxes

While most local sales and use taxes provide the same exemptions for certain sales and purchases, there are some differences. Exhibit A of this chapter should provide guidance concerning the various types of local sales and use taxes collected by the Department of Revenue and the types of exemptions allowed under each tax.

Exhibit A

Local Tax Chart and Transactions Exempt from Local Sales and Use Taxes

Effective March 1, 2009

Please note that from time to time the Department issues information letters to update the chart and other information found in this exhibit.

These information letters can be found on the Department's website (www.sctax.org).

Please check the website regularly in order to maintain an up-to-date list of the local sales and use taxes that are being imposed in South Carolina. The most current version of this information, as of the date on this publication, is SC Information Letter #09-2

Local Tax Chart and Transactions Exempt from Local Sales and Use Taxes - Effective March 1, 2009

| SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES | | | | | | | | |
|---|--|---|--|---|---|--|--|---------|
| COUNTY | TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE | 12-36-2120 12-36-2130 STATE EXEMPTIONS | 12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS | 12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS | EXEMPTION FOR FOOD STAMP PURCHASES | EXEMPTION FOR CERTAIN FOOD SALES | "GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS | NOTE |
| <i>Abbeville</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Aiken</i> | Capital Projects 4/1/06 | Yes | Yes | No | Yes | No | Yes | 1 & 12 |
| <i>Allendale</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | 1 & 5 |
| | Capital Projects 5/1/09 | Yes | Yes | No | Yes | No | Yes | |
| <i>Bamberg</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Barnwell</i> | Local Option 5/1/99 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Beaufort</i> | Transportation 5/1/07 | Yes | Yes | No | Yes | No | Yes | 1 & 6 |
| <i>Berkeley</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | 1 & 18 |
| | Transportation 5/1/09 | Yes | Yes | No | Yes | No | Yes | |
| <i>Calhoun</i> | Local Option 5/1/05 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Catawba Indian Reservation</i> | Tribal Tax (See Notes #13 and #14) | Yes | See Note #14 | See Note #14 | Yes | See Note #13 | See Note #14 | 13 & 14 |
| <i>Charleston</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | 1 & 8 |
| | Transportation 5/1/05 | Yes | Yes | No | Yes | No | Yes | |
| <i>Cherokee</i> | Cherokee School 7/1/96 | Yes | Yes | No | Yes | Yes | Yes | 1 & 19 |
| | Local Option 5/1/09 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Chester</i> | Local Option 5/1/94 | Yes | Yes | Yes | Yes | No | Yes | 1 & 3 |
| | Capital Projects 5/1/09 | Yes | Yes | No | Yes | No | Yes | |
| <i>Chesterfield</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | 1 & 4 |
| | Chesterfield School 9-1-00 | Yes | Yes | No | Yes | Yes | Yes | |

| SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES | | | | | | | | |
|---|--|---|--|---|---|--|--|--------|
| COUNTY | TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE | 12-36-2120 12-36-2130 STATE EXEMPTIONS | 12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS | 12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS | EXEMPTION FOR FOOD STAMP PURCHASES | EXEMPTION FOR CERTAIN FOOD SALES | "GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS | NOTE |
| <i>Clarendon</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | 1 & 11 |
| | Clarendon Schools 6/1/04 | Yes | Yes | No | Yes | Yes - until 6/30/05 No - effective 7/1/05 | Yes | |
| <i>Colleton</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Darlington</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | 1 & 10 |
| | Darlington School 2/1/04 | Yes | Yes | No | Yes | Yes | Yes | |
| <i>Dillon</i> | Local Option 5/1/96 | Yes | Yes | Yes | Yes | No | Yes | 1 & 7 |
| | School District 10/1/08 | Yes | Yes | No | Yes | Yes | Yes | |
| <i>Dorchester</i> | Transportation 5/1/05 | Yes | Yes | No | Yes | No | Yes | 1 |
| <i>Edgefield</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Fairfield</i> | Local Option 5/1/06 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Florence</i> | Local Option 5/1/94 | Yes | Yes | Yes | Yes | No | Yes | 1 & 16 |
| | Capital Projects 5/1/07 | Yes | Yes | No | Yes | No | Yes | |
| <i>Greenwood</i> | Capital Projects 5/1/07 | Yes | Yes | No | Yes | No | Yes | 1 |
| <i>Hampton</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | 1 & 9 |
| | Capital Projects 5/01/03 | Yes | Yes | No | Yes | No | Yes | |
| <i>Horry</i> | Capital Projects 5/1/07 | Yes | Yes | No | Yes | No | Yes | 1 & 17 |
| | Ed. Capital Imp. 3/1/09 | Yes | Yes | No | Yes | Yes | Yes | |
| <i>Jasper</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | 1 & 2 |
| | Jasper School 12/1/02 | Yes | Yes | No | Yes | Yes | Yes | |

| SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES | | | | | | | | |
|---|--|---|--|---|---|--|--|--------|
| COUNTY | TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE | 12-36-2120 12-36-2130 STATE EXEMPTIONS | 12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS | 12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS | EXEMPTION FOR FOOD STAMP PURCHASES | EXEMPTION FOR CERTAIN FOOD SALES | "GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS | NOTE |
| <i>Kershaw</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Lancaster</i> | Local Option 5/1/92 Capital Projects 5/1/09 | Yes Yes | Yes Yes | Yes No | Yes Yes | No No | Yes Yes | 1 & 20 |
| <i>Laurens</i> | Local Option 5/1/99 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Lee</i> | Local Option 5/1/96 School District 10/1/06 | Yes Yes | Yes Yes | Yes No | Yes Yes | No Yes | Yes Yes | 1 & 15 |
| <i>Lexington</i> | Lexington Schools 3/1/05 | Yes | Yes | No | Yes | Yes | Yes | 1 |
| <i>Marion</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Marlboro</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>McCormick</i> | Local Option 7/1/91 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Newberry</i> | Capital Projects 4/1/05 | Yes | Yes | No | Yes | No | Yes | 1 & 12 |
| <i>Orangeburg</i> | Capital Projects 4/1/06 | Yes | Yes | No | Yes | No | Yes | 1 & 12 |
| <i>Pickens</i> | Local Option 5/1/95 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Richland</i> | Local Option 5/1/05 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Saluda</i> | Local Option 5/1/92 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>Sumter</i> | Local Option 5/1/96 Capital Projects 5/1/09 | Yes Yes | Yes Yes | Yes No | Yes Yes | No No | Yes Yes | 1 & 21 |
| <i>Williamsburg</i> | Local Option 5/1/97 | Yes | Yes | Yes | Yes | No | Yes | |
| <i>York</i> | Capital Projects 10/1/04 | Yes | Yes | No | Yes | No | Yes | 1 & 12 |

LOCAL TAX RATES:

Each local tax listed in the above chart is imposed at a rate of 1%, except for the Charleston county Transportation tax which is imposed at a rate of ½ of 1% and the Catawba Tribal Sales and use tax. See Notes #13 and #14 for information on the tax rates and the application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation.

TYPES OF LOCAL SALES AND USE TAXES:

Local Option: The local option sales and use tax is authorized under Code Section 4-10-10 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Capital Projects: The local capital projects sales and use tax is authorized under Code Section 4-10-300 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Transportation: The local transportation projects sales and use tax is authorized under Code Section 4-37-30 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.

Personal Property Tax Relief: The personal property tax relief sales and use tax is authorized under Code Section 4-10-540. et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year. **As of the date of this information letter, this tax is not being imposed.**

Local Property Tax Credits: The local option sales and use tax for local property tax credits is authorized under Code Section 4-10-720 et. seq. (Act 388 of 2006, Part III). This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to provide a credit against property tax imposed by a political subdivision for all classes of property subject to the property tax and is collected by the Department of Revenue on behalf of these counties. **As of the date of this information letter, this tax is not being imposed.**

Education Capital Improvement Sales and Use Tax. The school district or school districts within a county may impose a 1% sales and use tax within the county for specific education capital improvements for the school district for not more than 15 years. The tax is authorized under Code Section 4-10-410 et. seq. (Act No. 316 of 2008) and must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum. This tax may only be imposed in counties which have collected at least \$7 million in state accommodations taxes in the most recent fiscal year for which data is available. Once the threshold is met, a county remains eligible to impose this tax. This tax may not be imposed in a county that is imposing or is scheduled to impose a local sales and use tax for public school capital improvements.

School District Taxes. The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements. Currently, only 8 of the 20 school district taxes authorized by the General Assembly are being imposed.

As of the date of this information letter, these school district taxes are being imposed at a rate of 1%⁸:

| <u>County</u> | <u>Act Authorizing Tax</u> |
|---------------|---|
| Cherokee | Act No. 588 of 1994 |
| Chesterfield | Act No. 441 of 2000 |
| Clarendon | Act No. 355 of 2004 and Act No. 195 of 2005 |
| Darlington | Act No. 132 of 2003 |
| Dillon | Act No. 137 of 2007 |
| Jasper | Act No. 146 of 2001 |
| Lee | Act No. 426 of 2006 |
| Lexington | Act No. 378 of 2004 |

As of the date of this information letter, these school district taxes are **not** currently being imposed:

| <u>County</u> | <u>Act Authorizing Tax</u> |
|---------------|----------------------------------|
| Allendale | Act No. 371 of 2008 |
| Berkeley | Act No. 178 of 1999 |
| Colleton | Act No. 462 of 1998 |
| Dillon | Act No. 197 of 2005 ⁹ |

⁸ See the above chart for the date each school district tax was first imposed.

⁹ This school district tax was never imposed and the Act authorizing the tax was repealed by Act No. 137 of 2007.

| | |
|-----------|---------------------|
| Edgefield | Act No. 365 of 2004 |
| Horry | Act No. 371 of 2004 |
| Marlboro | Act No. 204 of 2005 |
| McCormick | Act No. 387 of 2004 |
| Newberry | Act No. 151 of 2003 |
| Richland | Act No. 326 of 2002 |
| Pickens | Act No. 463 of 2002 |
| Union | Act No. 497 of 1998 |

Catawba Indian Tribal Tax: The Catawba Indian Reservation is located in Lancaster and York counties where the combined sales and use tax rate in each county is 7% through April 30, 2009. Effective May 1, 2009, the combined sales and use tax rate for Lancaster county will be 8% and York county will remain 7%. Code Section 27-16-130(H) contains the specific sales and use tax provisions. The sales tax is administered and collected by the Department. See South Carolina Revenue Ruling #98-18 and see Notes #13 and #14.

REMITTANCE OF LOCAL SALES AND USE TAXES BY RETAILERS:

For information on when a retailer is required to remit a local sales and use tax when delivering product to a purchaser in another county, see SC Revenue Ruling #05-16.

TYPES OF EXEMPTIONS:

State Exemptions - 12-36-2120: Sales of tangible personal property exempt from the State sales and use tax are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Maximum Tax Items- 12-36-2110: Sales of items subject to a maximum tax under the State sales and use tax law [i.e. aircraft, motor vehicles, motorcycles, boats, trailers and semitrailers pulled by truck tractors, horse trailers, recreational vehicles (including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels), self-propelled light construction equipment, unassembled aircraft, manufactured homes, musical instruments and office equipment purchased by certain religious organizations and fire safety education trailers] are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Casual Excise Tax Items - 12-36-1710: Sales of items subject to the casual excise tax under Code Section 12-36-1710 through Code Section 12-36-1740 (i.e. motor vehicles, motorcycles, boats, motors, and airplanes required to be registered, titled, or licensed) are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Food Stamp Purchases: Sales of food purchased with foods stamps are exempt from the State sales and use tax; therefore, such sales are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Certain Food Sales: Sales of certain foods, while subject to the State sales and use tax, are exempt from the local sales and use tax if marked “Yes” under this column. Sales of food which are eligible to be purchased with United States Department of Agriculture food stamps come under this exemption. This exemption applies to everyone, not just persons using food stamps.

Foods which may be purchased with food stamps and are exempt from these local sales and use taxes include:

- * Any food intended to be eaten at home by people, including snacks, beverages and seasonings
- * Seeds and plants intended to grow food (not birdseed or seeds to grow flowers)
- * Cold items, which may include salads or sandwiches, intended to be eaten at home by people

Items which cannot be purchased with food stamps and are, therefore, subject to these local sales and use taxes are:

- * Alcoholic beverages, such as beer, wine, or liquor
- * Hot beverages ready-to-drink such as coffee
- * Tobacco
- * Hot foods ready to eat
- * Foods designed to be heated in the store
- * Hot and cold food to be eaten at a lunch counter, in a dining area or anywhere else in the store or in a nearby area such as a mall food court
- * Vitamins and medicines (Note: Sales of certain medicines are exempt from the State sales and use tax, and therefore, are also exempt from all local sales and use taxes.)
- * Pet food
- * Any non-food items such as tissue, soap or other household goods

“Grandfather Clause” Exemption for Certain Purchases By Construction

Contractors: All the local sales and use taxes discussed in this information letter exempt purchases of building materials for use under a construction contract if both of the following conditions are met:

- A. 1. the construction contract is executed before the imposition date; or

2. a written bid is submitted before the imposition date culminating in a construction contract entered into before or after the imposition date; and
- B. a verified copy of the contract is mailed within 6 months of the imposition date to:

South Carolina Department of Revenue
Registration Unit
P. O. Box 125
Columbia, South Carolina 29214-0140

A "verified copy" is a copy accompanied by a statement, signed under penalties of perjury, that it is true and correct. If the contractor is a corporation, the statement is to be signed by an officer of the corporation or an employee authorized to sign. If the contractor is a partnership, the statement is to be signed by a general partner. If the contractor is a sole proprietorship, the owner is to sign.

Special Exemption Certificate. In order for a contractor to purchase building materials for a particular contract free of the local tax, the contractor must complete Form ST-10-C ("Application for Exemption from Local Option Tax") and submit it to the Department of Revenue. If the Department determines the contract in question meets the above requirements, the contractor will be issued a special exemption certificate (Form ST-35). The certificate may only be used to purchase building materials for the contract for which it is issued and may not be used to purchase anything other than building material. If the contractor uses this certificate to make purchases free of the local tax, upon which the tax should have been paid, then the contractor will be held liable for the tax. **Also, the certificate does not allow the contractor to make purchases of building materials free of the State tax.**

An exemption certificate (Form ST-35) issued by the Department of Revenue to a prime contractor under this exemption may not be used by a subcontractor nor may a prime contractor use a subcontractor's exemption certificate. Each contractor must obtain his own certificate for each construction contract.

Note #1: By not exempting items subject to the casual excise tax ("No" in the "Casual Excise Items" column), counties imposing this local sales and use tax will impose the local tax on sales and purchases of trailers that can be pulled by vehicles other than truck tractors, sales of pole trailers and sales of boat motors not attached to a boat at the time of sale, but will not impose the local sales and use tax on items subject to a maximum tax under the State sales and use tax law.

Note #2: Effective December 1, 2002, Jasper county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Jasper School Tax. Jasper county has imposed the 1% Local Option Tax since July 1, 1991 and imposed both the 1% Local Option Tax and 1% Capital Projects Tax for the period of May 1, 1999 through November 30, 2002.

Note #3: Since May 1, 1994, Chester county has imposed the 1% Local Option Tax. Effective May 1, 2009 Chester county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects. Chester county had previously imposed another 1% Capital Projects Tax for the period of May 1, 1999 through April 30, 2000.

Note #4: Since May 1, 1997, Chesterfield county has imposed the 1% Local Option Tax. Effective September 1, 2000, Chesterfield county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Chesterfield School Tax.

Note #5: Since May 1, 1992, Allendale county has imposed the 1% Local Option Tax. Allendale county previously imposed the 1% Capital Projects Tax for the period of May 1, 2001 through December 31, 2006. In November 2008, the citizens of Allendale county voted to impose a 1% Capital Projects Tax again; however, the vote was not timely certified and the imposition of the tax was scheduled to be postponed until May 1, 2010 unless the General Assembly enacted legislation to allow an earlier imposition date. On February 25, 2009, the Governor signed such legislation, House Bill 3232 of 2009, authorizing the imposition of the 1% Capital Projects Tax in Allendale county effective May 1, 2009.

Note #6: Beaufort county imposed a 1% Transportation Tax for the period of June 1, 1999 through November 30, 2000. In November 2006, the citizens of Beaufort county voted to impose a 1% Transportation Tax again; however, the vote was not timely certified and the imposition of the tax was scheduled to be postponed until May 1, 2008 unless the General Assembly enacted legislation to allow an earlier imposition date. On February 19, 2006, the Governor signed such legislation, Senate Bill 273 of 2006, authorizing the imposition of the 1% Transportation Tax in Beaufort county effective May 1, 2007.

Note #7: Since May 1, 1996, Dillon county has imposed the 1% Local Option Tax. Effective May 1, 2003 and ending September 30, 2008, Dillon county charged two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax. Effective October 1, 2008, Dillon county charges two local sales and use taxes - the 1% Local Option Tax and a 1% School District Tax.

Note #8: Since July 1, 1991, Charleston county has imposed the 1% Local Option Tax. Effective May 1, 2005, Charleston county charges two local sales and use taxes - the 1% Local Option Tax and a ½ of 1% Transportation Tax. (Prior to the enactment of this Transportation Tax, Charleston county was scheduled to impose another Transportation Tax at the rate of ½ of 1% in May of 2003; however, this tax was not imposed as a result of a South Carolina Supreme Court decision.)

Note #9: Since July 1, 1991, Hampton county has imposed the 1% Local Option Tax. Effective May 1, 2003, Hampton county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #10: Since May 1, 1997, Darlington county has imposed the 1% Local Option Tax. Effective February 1, 2004, Darlington county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Darlington School Tax.

Note #11: Since May 1, 1997, Clarendon county has imposed the 1% Local Option Tax. Effective June 1, 2004, Clarendon county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Clarendon Schools Tax. Sales of foods which are eligible to be purchased with United States Department of Agriculture food stamps, and which are exempt from the 1% Clarendon School Tax for the period of June 1, 2004 through June 30, 2005, are subject to the 1% Clarendon School Tax effective July 1, 2005 (Senate Bill 426 of 2005).

Note #12: The citizens of Aiken, Newberry, Orangeburg, and York counties have imposed Capital Projects taxes and have subsequently voted to extend the Capital Projects taxes in their counties. The “new” Capital Projects tax in Aiken, Newberry, Orangeburg, and York counties began immediately upon the expiration of the “original” tax. The effective date listed on the chart for each of these counties is the effective date of the “new” Capital Projects tax. In each county, the “original” Capital Projects tax expired on the previous day.

Note #13: The application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in Code Section 27-16-130(H).

The Catawba Tribal sales and use tax expires on November 28, 2092. The following chart provides a summary of these provisions:

| <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 (Local taxes would not be applicable in these circumstances.) | 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 (Local taxes would not be applicable in these circumstances.) | 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 |

* **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.

For additional information, see SC Revenue Ruling #98-18.

Note #14: 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% 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.

Casual Excise Tax Items: Counties imposing a local sales and use tax that do not exempt casual excise tax items will impose the local tax on sales and purchases of (a) trailers that can be pulled by vehicles other than truck tractors, (b) sales of pole trailers and (c) sales of boat motors not attached to a boat at the time of sale. Therefore, for sales (deliveries) of these trailers and boat motors made on the Reservation within each county, the tribal sales and use tax rate is 7% (since only the local option tax in Lancaster county exempts these casual excise items).

“Grandfather Clause” Exemption for Certain Purchases By Construction Contractors: As a result of any increase in the tribal sales and use tax rate due to the imposition of a new local sales and use tax in either Lancaster county or York county, there is an exemption from the portion of the tribal sales and use tax represented by the new local sales and use tax for certain purchases by construction contractors. For more information about this partial exemption, see the discussion on pages 8 and 9 of this information letter concerning *“Grandfather Clause” Exemption for Certain Purchases By Construction Contractors* and the *Special Exemption Certificate*.

Note #15: Since May 1, 1996, Lee county has imposed the 1% Local Option Tax. Effective October 1, 2006, Lee county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Lee School Tax.

Note #16: Since May 1, 1994, Florence county has imposed the 1% Local Option Tax. Effective May 1, 2007, Florence county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #17: Since May 1, 2007, Horry county has imposed a 1% Capital Projects Tax. Effective March 1, 2009, Horry county charges two local sales and use taxes - the 1% Capital Projects Tax and the 1% Education Capital Improvements Tax.

Note #18: Since May 1, 1997, Berkeley county has imposed the 1% Local Option Tax. Effective May 1, 2009, Berkeley county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Transportation Tax.

Note #19: Since July 1, 1996, Cherokee county has imposed the 1% School District Tax. Effective May 1, 2009, Cherokee county charges two local sales and use taxes - the 1% School District Tax and the 1% Local Option Tax.

Note #20: Since May 1, 1992, Lancaster county has imposed the 1% Local Option Tax. Effective May 1, 2009, Lancaster county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #21: Since May 1, 1996, Sumter county has imposed the 1% Local Option Tax. Effective May 1, 2009, Sumter county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Please note that this chart only addresses the general local option taxes collected by the Department of Revenue on behalf of the counties, school districts, and the Catawba Indian tribal government. It does not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties.