

Chapter 1

General Overview

A. History

The state sales and use tax was first imposed in South Carolina in 1951. The imposition of the tax was upheld by the State Supreme Court in *State ex rel. Roddey v. Byrnes*, 219 S.C. 485, 66 S.E.2d 33 (1951). Over the years, the state tax rate has increased as follows:

1951 – 3%¹

1969 – 4%²

1984 – 5%³

2007 – 6%⁴

As enacted in 1951, the original state sales and use tax law contained 19 exemptions. Today, there are 77 exemptions; and several of these 77 “exemption provisions” are in fact multiple exemptions. In addition, there are other sales and use tax exemptions contained in other areas of the South Carolina Code of Laws.

The original sales and use tax law established a maximum tax of \$75.00 on any single item. This was repealed in 1955.⁵ From 1984 through 1986 various maximum tax provisions were enacted for specific items, such as motor vehicles, boats, aircraft, self-propelled light construction equipment, certain trailers, manufactured homes, musical instruments and office equipment sold to a religious organization, and certain research and development machinery.⁶

Over the years, the imposition of the sales and use tax has been expanded to include various services such as sleeping accommodations, communication services, laundry and drycleaning services and electricity.

In 1991, the first local sales and use tax to be administered and collected by the Department of Revenue was authorized by the General Assembly. Today, the Department of Revenue administers and collects on behalf of local jurisdictions several types of local sales and use tax as well as the Catawba Tribal Sales Tax.

¹ Act No. 379 of 1951.

² Act No. 274 of 1969.

³ Act No. 512 of 1984.

⁴ Act No. 388 of 2006.

⁵ Act No. 234 of 1955.

⁶ The maximum tax for certain research and development machinery was later repealed and replaced by a full exemption for such machinery.

These provisions, as well as many others found in the present sales and use tax law, will be discussed in this publication.

The “South Carolina Sales and Use Tax Act” can be found in Chapter 36 of Title 12.

B. Rates and Impositions

South Carolina imposes a 6% sales tax⁷ on the gross proceeds of sales of every person engaged in the business of selling tangible personal property at retail. The retailer is liable for the tax. The sales tax is also imposed on the fair market value of items originally purchased at wholesale that are withdrawn for use by the business or by any person withdrawing the property.⁸

South Carolina imposes a complementary 6% use tax⁹ on the sales price of tangible personal property purchased at retail for storage, use, or other consumption in South Carolina, regardless of whether the retailer is engaged in business in South Carolina. The use tax is the liability of the purchaser.¹⁰ If the purchaser, however, has a receipt from a seller required or authorized to collect the state use tax showing the seller has collected the tax from the purchaser, the purchaser is relieved of the liability for the tax.¹¹ South Carolina allows a credit against the use tax due in South Carolina for the state and local sales or use tax due and paid in another state on purchases of tangible personal property.

In addition to applying to the sale or use of tangible personal property (*e.g.*, furniture, clothing, computers, etc.), the sales and use taxes also apply to:

- (1) certain communication services,¹²
- (2) laundry and dry cleaning services,¹³
- (3) electricity,¹⁴
- (4) the fair market value of tangible personal property manufactured within South Carolina or brought into South Carolina by its manufacturer for storage, use, or consumption in South Carolina by the manufacturer,¹⁵
- (5) transient construction property,¹⁶
- (6) the furnishing of accommodations,¹⁷ and
- (7) sales or renewals of warranty, maintenance, and similar contracts for tangible personal property.¹⁸

⁷ South Carolina Code §§12-36-910(A) and 12-36-1110.

⁸ South Carolina Code §12-36-110(c)(1).

⁹ South Carolina Code §§12-36-1310(A) and 12-36-1110.

¹⁰ South Carolina Code §12-36-1310(A).

¹¹ South Carolina Code §12-36-1330. See also South Carolina Code §12-36-2130(1) and *McJunkin v. City of Orangeburg* 238 F.2d. 528 (1956).

¹² South Carolina Code §§12-36-910(B)(3), 12-36-1310(B)(3) and 12-36-2645.

¹³ South Carolina Code §§12-36-910(B)(1) and 12-36-1310(B)(1).

¹⁴ South Carolina Code §§12-36-910(B)(2) and 12-36-1310(B)(2).

¹⁵ South Carolina Code §§12-36-910(B)(4) and 12-36-1310(B)(4).

¹⁶ South Carolina Code §12-36-1320.

¹⁷ South Carolina Code §12-36-920.

¹⁸ South Carolina Code §§12-36-910(B)(6) and 12-36-1310(B)(6).

South Carolina imposes a 7% sales tax¹⁹ on charges for any rooms, lodgings, or sleeping accommodations for less than 90 days to the same person and a 6% sales tax²⁰ on “additional guest charges” added to the guest’s room charge for a specific amenity or service.

C. Local Sales and Use Taxes

Local governments have limited authority to levy local taxes and fees. A local governing body may not impose a new tax unless specifically authorized by the General Assembly. As explained below, local sales and use taxes may be imposed for various purposes. The majority of these are administered and collected by the Department in the same manner as the state sales and use taxes. Below is a brief description of the local taxes.

D. Local Taxes Administered by the Department

General Property Tax Relief. Counties have the option of increasing the sales, use, and accommodations tax rate by 1% to provide additional revenue for local governments and a property tax rollback.²¹ The increase must be approved by voter referendum. Currently, there are 30 South Carolina local option counties that impose an additional 1% sales and use tax, typically referred to as the “local option sales tax.”

Local Sales and Use Tax for Transportation Facilities. A governing body of a county may raise revenue for a transportation project by either imposing a sales and use tax up to 1% or by authorizing a transportation authority created by the county governing body to impose tolls.²² The increase is imposed by enacting an ordinance, subject to approval by voter referendum, and must be for a specific period of time to collect a limited amount of money. At no time may any portion of the county area be subject to both the local sales and use tax for transportation facilities and the capital project sales tax (discussed below).

Capital Project Sales Tax. A governing body of a county may impose a 1% sales and use tax to defray the debt service on bonds issued to pay for authorized capital projects.²³ The increase is imposed by enacting an ordinance, subject to approval by voter referendum. At no time may any portion of the county area be subject to both the capital project sales tax and the local sales and use tax for transportation facilities (discussed above). It may not be imposed for more than 7 years.

Personal Property Tax Relief. The county council may impose, by referendum, a local sales and use tax in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors.²⁴ The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on these items in the most recently completed fiscal year. Currently, this tax is not being imposed.

¹⁹ South Carolina Code §12-36-920(A).

²⁰ South Carolina Code §§12-36-920(B) and 12-36-1110.

²¹ South Carolina Code §4-10-20.

²² South Carolina Code §4-37-30.

²³ South Carolina Code §4-10-300.

²⁴ South Carolina Code §4-10-540.

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 for school districts. Most of these taxes are imposed at a rate of 1%. Currently, only 8 of the 20 school district taxes that have been authorized by the General Assembly are being imposed.

Catawba Tribal Sales and Use Tax. The Catawba Indian Reservation is located in Lancaster and York counties. South Carolina Code §27-16-130(H) contains the specific sales and use tax provisions relating to the Catawba Tribal Sales and Use Tax. The tribal sales tax is administered and collected by the Department and the tribal use tax is administered and collected by the tribe.²⁵ For more information concerning the Catawba Tribal Sales and Use Tax, see Chapter 18 of this manual.

Local Option Sales and Use Tax for Local Property Tax Credit. The governing body of the county, by a county council ordinance or by an initiated ordinance submitted to the governing body of the county by a petition signed by at least 7% of the qualified electors of the county, may impose a sales and use tax in increments of one-tenth of 1%, not to exceed 1%, subject to referendum approval.²⁶ The tax provides a credit against property tax imposed by a political subdivision. Currently, this tax is not being imposed.

Education Capital Improvements Sales and Use Tax. The General Assembly has authorized a school district or school districts within a county to 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.²⁷ The tax 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.

E. Local Taxes Administered by Local Governments

Local Accommodations Tax. The governing body of a county or municipality may impose, by ordinance, a local accommodations tax, on the gross proceeds derived from the rental or charges for accommodations furnished to transients as provided in South

²⁵ See South Carolina Revenue Ruling #98-18 and South Carolina Information Letter #08-19, Note 13 for additional information.

²⁶ South Carolina Code §§4-10-720 through 4-10-810.

²⁷ South Carolina Code §§4-10-410 through 4-10-470 (Act No. 316 of 2008).

Carolina Code §12-36-920(A), not to exceed 3%.²⁸ The revenue generated by this additional tax must be used exclusively for certain tourism purposes.

Local Hospitality Tax. The governing body of a county or municipality may impose, by ordinance, a tax on the sales of prepared meals and beverages sold in establishments, or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.²⁹ The tax may not exceed 2% of the charges for food and beverages.

F. Exclusions

If a transaction is excluded from the tax, it is not subject to sales and use tax in South Carolina. The exclusions are found in several sections of the sales and use tax statute and apply to a variety of transactions. The following briefly describes South Carolina's sales and use tax exclusions.

Caution: The exclusions below are briefly described. See the statute cited for the specific exclusion details. If a transaction does not squarely fall within the requirements of an exclusions statute and applicable regulations, the exclusion does not apply.

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| 12-36-60 | Transmission of computer database information by a cooperative service when assembled by and for the exclusive use of the members of the cooperative service. |
| 12-36-90(1)(c)(iii) | The withdrawal from inventory of tangible personal property for use in replacing a defective part under a warranty, maintenance, or similar service contract if tax was paid on the sale or renewal of the contract and the customer is not charged for labor or material when the part is replaced. |
| 12-36-90(2)(h) | Sales of property that are actually charged off as bad debts or uncollectible accounts for state income tax purposes. |
| 12-36-90(2)(i) | Interest, fees, or charges imposed on a customer for late payment of a bill for electricity or natural gas. |
| 12-36-90(2)(l) | Sales of tangible personal property to 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 renewal of the contract and the customer is not charged for labor or material when the part is replaced. |

²⁸ South Carolina Code §6-1-500.

²⁹ South Carolina Code §6-1-700.

- 12-36-110(2) Sales of tangible personal property to a manufacturer or construction contractor when the property is partially or completely fabricated or manufactured in South Carolina by the manufacturer or construction contractor and transported out of state and assembled, installed or erected at the out-of-state job site
- 12-36-120(1) Sales of property to a licensed retailer or another wholesaler for resale. This does not include sales to users or consumers not for resale.
- 12-36-120(2) Sales of property to a manufacturer or compounder as an ingredient or component part of the tangible personal property or product manufactured or compounded for sale.
- 12-36-120(3) Sales of property “used directly” in manufacturing, compounding, or processing tangible personal property into products for sale. Regulation 117-302.1 provides property is “used directly” if it comes into direct contact with the product being manufactured and contributes to bring about a chemical or physical change in the product.
- 12-36-120(4) Sales of materials, containers, cores, labels, sacks or bags used incident to the sale and delivery of tangible personal property, or used by manufacturers, processors and compounders in shipping tangible personal property.
- 12-36-120(5) Sales of food or drink products to licensed retail merchants for use as ingredients in preparing ready to eat food or drink sold at retail.
- 12-36-140(C)(1) Purchases of tangible personal property from outside the state and transported to South Carolina for storage and for the exclusive purpose of subsequently transporting it outside of South Carolina for first use outside of South Carolina. (Applies to use tax).
- 12-36-140(C)(2) Purchases of tangible personal property from outside the state and transported to South Carolina for the purpose of first being manufactured, processed, or compounded into other tangible personal property that will be transported and used solely outside of South Carolina. (Applies to use tax).
- 12-36-140(C)(3) Purchases of tangible personal property for the purpose of being distributed as cooperative direct mail promotional advertising materials by means of interstate carrier, a mailing house, or a United States Post Office to residents of this State from locations both inside and outside the state. (Applies to use tax).
- 12-36-910(C) Charges for or use of certain data processing.

G. Partial Exemptions

There are two types of exemptions provided under South Carolina's sales and use tax law: (1) partial exemptions and (2) full exemptions.

Partial exemptions limit or "cap" the amount of tax.³⁰ The local sales and use taxes collected by the Department do not apply to sales that are subject to a cap.

A maximum tax of \$300 is imposed on sales of the following:³¹

- Aircraft – including unassembled aircraft assembled by the purchaser
- Motor vehicles – including equipment supplied or installed on a firefighting vehicle at the time of purchase³²
- Motorcycles
- Boats, including personal watercrafts such as jet skis
- Trailers and semi-trailers that can be pulled only by a truck tractor. This does not include house trailers and campers as defined in South Carolina Code §56-3-710.
- Horse trailers. This does not include house trailers and campers as defined in South Carolina Code §56-3-710.
- Recreational vehicles, including tent campers, travel trailers, park trailers, motor homes and fifth wheels
- Self-propelled light construction equipment with compatible attachments. The equipment's net engine horse power must not exceed 160.
- Fire safety education trailers

The cap also applies to leases of the above items provided the lease is in writing and the lease has a stated term and remains in force for a period in excess of 90 continuous days. The taxpayer may pay the total tax due at the time the lease is executed or by installments with each lease payment until the \$300 is paid.

Also, a maximum tax of \$300 is imposed on sales of musical instruments or office equipment sold to religious organizations.³³

³⁰ South Carolina Code §12-36-2110.

³¹ South Carolina Code §12-36-2110(A).

³² South Carolina Code §12-36-2110(E).

³³ South Carolina Code §12-36-2110(C).

Further, the sale of a manufactured home is subject to a maximum tax of \$300 if the home meets or exceeds certain energy efficient requirements specifically outlined in the law.³⁴ If the home does not meet these energy efficient requirements, the sale of the home is subject to a maximum tax of \$300 plus 2% of the taxable basis or measure that exceeds \$6,000.³⁵ Finally, the sale of a manufactured homes from July 1, 2009 through July 1, 2019, will be exempt from the entire tax if the manufactured home has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or has been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program.³⁶

H. Full Exemptions

Although it may be determined that a transaction is subject to sales and use tax, a particular exemption in the statute may exempt it from sales and use tax in South Carolina. South Carolina Code §§12-36-2120 and 12-36-2130 contain numerous full exemptions. The local sales and use taxes collected by the Department do not apply to sales which are exempt from the state sales and use tax.³⁷

The following briefly describes South Carolina's sales and use tax exemptions. For purposes of this discussion, South Carolina's full exemptions are divided into the following categories:

- Government Related Exemptions
- Business Related Exemptions
- Agricultural Exemptions
- Educational Exemptions
- General Public Good Exemptions
- Alternative Energy Exemptions

³⁴ South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

³⁵ South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

³⁶ South Carolina Code §§12-36-2110(B) and 12-36-2120(34). See Act No. 354 of 2008.

³⁷ All sales and purchases exempt from the state sales and use tax under South Carolina Code §§12-36-2120 and 12-36-2130 are exempt from local sales and use tax administered and collected by the Department on behalf of local jurisdictions, except for sales of unprepared food under South Carolina Code §12-36-2120(75). South Carolina Code §12-36-2120(75) specifically states that the exemption for unprepared food only applies to the state sales and use tax. Therefore, such sales are subject to local sales and use taxes unless the local sales and use tax specifically exempts sales of unprepared food. See SC Regulation 117-337 and SC Information Letter #08-19.

Caution: The exemptions below are briefly described. See the statute cited for the specific exemption details. If a transaction does not squarely fall within the requirements of an exemption statute and applicable regulations, the exemption does not apply.

Government Related Exemptions

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| 12-36-2120(1) | Transactions that are prohibited from being taxed by United States or State Constitutional provisions or federal or state law |
| 12-36-2120(2) | Sales to the federal government |
| 12-36-2120(22) | Material necessary to assemble missiles |
| 12-36-2120(25) | Sales of cars and motorcycles to nonresident military personnel |
| 12-36-2120(29) | Federal government contracts – property that passes to the government |
| 12-36-2120(30) | Supplies purchased by the State General Services Division for resale to State agencies |
| 12-36-2120(46) | War memorials and monuments |
| 12-36-2120(48) | Solid waste disposal collection bags required under a solid waste disposal plan of a county or other political subdivision |
| 12-36-2120(60) | Lottery tickets sold pursuant to Chapter 150 of Title 59 (South Carolina Education Lottery Act) |
| 12-36-2120(61) | Copies of, or access to, legislation or other informational documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency’s cost of the copies |
| 12-36-2120(68) | Any property sold to the public through a sheriff’s sale as provided by law |

Business Related Exemptions

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|----------------|--|
| 12-36-2120(9) | Coal, coke, or other fuel for manufacturers, transportation companies, electric power companies, and processors |
| 12-36-2120(11) | Toll charges between telephone exchanges, certain access charges, charges for telegraph messages and automatic teller machine transactions |
| 12-36-2120(13) | Fuel and other supplies for consumption on ships on the high seas |

- 12-36-2120(14) Wrapping paper, containers, etc., used incident to the sale and delivery of tangible personal property
- 12-36-2120(15) Motor fuel taxed under the motor fuel user fee law
- 12-36-2120(17) Machines used in manufacturing, processing, recycling, compounding, mining or quarrying tangible personal property for sale. This includes certain machines used to prevent or abate air, water or noise pollution caused by machines used in manufacturing, processing, recycling, compounding, mining or quarrying tangible personal property for sale.
- 12-36-2120(19) Electricity used to manufacture, process, mine, or quarry tangible personal property for sale or used by cotton gins to manufacture tangible personal property for sale
- 12-36-2120(20) Railcars and locomotives
- 12-36-2120(21) Certain vessels and barges (more than 50 tons burden)
- 12-36-2120(24) Laundry supplies and machinery. This exemption does not apply to coin operated laundromats.³⁸
- 12-36-2120(31) Vacation time sharing plans and exchange of accommodations in which the accommodation to be exchanged is the primary consideration
- 12-36-2120(34) 50% of the gross proceeds of a modular home regulated under Chapter 43 of Title 23
- 12-36-2120(35) Movies sold or rented to movie theatres
- 12-36-2120(36) Tangible personal property delivered out of state by South Carolina retailers
- 12-36-2120(37) Petroleum asphalt products transported and used outside South Carolina
- 12-36-2120(40) Shipping containers used by international shipping lines under contract with the State Ports Authority
- 12-36-2120(42) Depreciable assets sold as part of the sale of an entire business
- 12-36-2120(43) Supplies, equipment, machinery and electricity for use in filming/producing motion pictures

³⁸ A coin-operated laundromat machine includes any laundromat machine operated by a slot in which is deposited or placed a coin, token, debit card, or other thing of value so as to begin operation of the machine for the purposes of laundering, cleaning, or drying clothing and other textiles.

- 12-36-2120(49) Postage purchased by a person engaged in the business of selling advertising services for clients consisting of mailing advertising material through the United States mail
- 12-36-2120(50) The following items when used by a qualified recycling facility: recycling property, electricity, natural gas, fuels, gasses, fluids and lubricants, ingredients or component parts of manufactured products, property used for the handling or transfer of postconsumer waste or manufactured products or in or for the manufacturing process, and machinery and equipment foundations
- 12-36-2120(51) Material handling systems and material handling equipment used in the operation of a distribution facility or a manufacturing facility of a taxpayer that invests at least \$35 million in South Carolina
- 12-36-2120(52) Parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft owned by or leased to the federal government or commercial air carriers. This exemption does not extend to tools and other equipment not attached to or that do not become a part of the aircraft.
- 12-36-2120(53) Motor vehicle extended service and warranty contracts
- 12-36-2120(54) Clothing and other attire required for working in a class 100 or better clean room environment (as defined in Federal Standard 209E)
- 12-36-2120(55) Audiovisual masters made or used by a production company
- 12-36-2120(56) Machines used in research and development
- 12-36-2120(58) Cooperative direct mail promotional advertising materials and promotional maps, brochures, pamphlets, or discount coupons for use by nonprofit chambers of commerce or nonprofit convention and visitor bureaus
- 12-36-2120(59) Facilities transmitting electricity that are transferred, sold or exchanged by an electrical utility, municipality, electric cooperative, or political subdivision to a limited liability company subject to regulation under the Federal Power Act and formed to operate or to take functional control of electric transmission assets
- 12-36-2120(62) 70% of the gross proceeds of the rental or lease of portable toilets
- 12-36-2120(64) Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass

- 12-36-2120(65) and 12-36-2120(66) Computer equipment used in connection with, and electricity and certain fuel used by, a technology intensive facility (defined in Code Section 12-6-3360(M)(14)(b)) that invests \$300 million over 5 years, creates at least 100 new jobs during the 5 years with an average cash compensation of 150% of the per capita income of the State, and spends at least 60% of the \$300 million investment on computer equipment
- 12-36-2120(67) Construction material used in the construction of a single manufacturing or distribution facility, or one that is both, that invests at least \$100 million at a single site in South Carolina over an 18 month period. This exemption will be phased in from July 1, 2007 through July 1, 2011.
- 12-36-2120(69) 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 sales or use tax
- 12-36-2120(70) Gold, silver or platinum bullion or any combination; coins that are or have been legal tender; and currency.
- 12-36-2120(73) Amusement park rides; parts, machinery and equipment used to assemble, operate and make up amusement park rides; and performance venue facilities and any related or required machinery, equipment and fixtures. A \$250 million investment and creation of 250 full-time jobs and 500 part-time or seasonal jobs over a 5 year period is required.
- 12-62-30 Tangible personal property purchased by a certified motion picture production company for use in connection with the filming or production of motion pictures in South Carolina for a company planning to spend at least \$250,000 in connection with the filming or production of one or more motion pictures in South Carolina within a consecutive 12 month period. This provision does not apply to: (a) local sales tax levied and collected directly by a local governmental subdivision or (b) the production of television coverage of news and athletic events.

Agricultural Exemptions

- 12-36-2120(4) Livestock
- 12-36-2120(5) Feed used to produce and maintain livestock
- 12-36-2120(6) Insecticides, chemicals, fertilizers, soil conditioners, seeds, seedlings or nursery stock used in the production of farm products

- 12-36-2120(7) Containers and labels used in preparing agriculture products for sale or preparing turpentine gum, gum resin and gum spirits of turpentine for sale
- 12-36-2120(16) Farm machinery
- 12-36-2120(18) Fuel used to cure agriculture products
- 12-36-2120(23) Farm products sold in their original state of production when sold by the producer
- 12-36-2120(32) Electricity and gas used in the production of livestock and milk
- 12-36-2120(44) Electricity used to irrigate crops
- 12-36-2120(45) Building materials, supplies, fixtures and equipment used to construct commercial housing for poultry or livestock

Educational Exemptions

- 12-36-2120(3) Textbooks, books, magazines, periodicals, newspapers and access to online information used in a course of study or for use in a school or public library. These items may be in printed form or in alternative forms such as microfilm or CD ROM. Certain communication services and equipment subject to tax under South Carolina Code §§12-36-910(B)(3) and 12-36-1310(B)(3) are not exempt.
- 12-36-2120(8) Newspapers, newsprint paper and South Carolina Department of Agriculture Market Bulletin³⁹
- 12-36-2120(10)(a) Meals or food used in furnishing meals to students in schools (not for profit)
- 12-36-2120(26) Television, radio and cable TV supplies, equipment, machinery, and electricity
- 12-36-2120(27) Zoo plants and animals
- 12-36-2130(2) Exhibition rentals for museums (charitable, eleemosynary or governmental museums) (use tax only.)

³⁹ This exemption also states that sales of religious publications (e.g., The Bible, hymnals) are exempt; however, the South Carolina Supreme Court held in *Thayer v. South Carolina Tax Commission*, 307 S.C. 6, 413 S.E.2d 810 (1992), that the exemption for religious publications was unconstitutional. Therefore, sales of religious publications are subject to the sales and use tax, unless otherwise exempt under the law. For more information, see SC Information Letter #92-8.

Temporary Proviso 89.50, (Act 310 of 2008) Purchases of tangible personal property during the state fiscal year 2008-2009 for use in private primary and secondary schools, including kindergarten and early childhood education programs, are exempt from the use tax if the school is exempt from income taxes under Internal Revenue Code §501(c)(3).

General Public Good Exemptions

12-36-2120(10)(b) Meals provided to elderly or disabled persons at home by nonprofit organizations

12-36-2120(10)(c) Food sold to nonprofit organizations or food sold or donated by the nonprofit organization to another nonprofit organization

12-36-2120(10)(d) Meals or foodstuffs prepared or packaged that are sold to public or nonprofit organizations for congregate or in-home service to the homeless or needy or disabled adults over 18 or individuals over 60. This exemption only applies to meals and foodstuffs eligible for purchase under the USDA food stamp program.

12-36-2120(12) Water sold by public utilities and certain non-profit corporations

12-36-2120(28) Medicine and prosthetic devices sold by prescription; certain diabetic supplies sold to diabetics under the written authorization and direction of a physician; certain free samples of medicine and certain medicine donated to hospitals; prescription medicine and radiopharmaceuticals used in treating cancer or rheumatoid arthritis, including prescription medicines to relieve the effects of treatment; prescription medicines used to prevent respiratory syncytial virus; disposable medical supplies, such as bags, tubing, needles, and syringes, dispensed by a pharmacist by prescription of a licensed health care provider for the intravenous administration of a prescription drug (only for treatment outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center); and prescription medicine dispensed to Medicare Part A patients in a nursing home.

12-36-2120(33) Residential electricity and fuel

12-36-2120(38) Hearing aids

12-36-2120(39) Concession sales by nonprofit organizations at festivals

12-36-2120(41) Sales by nonprofit organizations

12-36-2120(47) Goods sold to nonprofit hospitals that primarily treat children at no cost to the patient

- 12-36-2120(57) Annual sales tax holiday on the first Friday, Saturday, and Sunday in August for personal use clothing, clothing accessories, footwear, computers, printers, printer supplies, computer software, bath wash cloths, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs, pillows, pillow cases, and school supplies
- 12-36-2120(63) Medicine and medical supplies, including diabetic supplies and diabetic diagnostic and testing equipment, sold to a health care clinic providing free medical and dental care to all patients
- 12-36-2120(74) Durable medical equipment and related supplies as defined under federal and state Medicare and Medicaid laws if (a) paid directly by funds of South Carolina or the United States under the Medicare and Medicaid programs, (b) state and federal law prohibits the payment of the sales and use tax, and (c) the sale is by a provider with a South Carolina retail license whose principal place of business is in South Carolina. This exemption will be phased in beginning July 1, 2007.
- 12-36-2120(75) Unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons. This exemption does not apply to local taxes unless the local tax specifically exempts the sale of such food.
- 12-36-2120(76) Annual sales tax holiday on the Friday and Saturday after Thanksgiving for handguns (as defined in Code Section 16-23-10(1)), rifles and shotguns.⁴⁰
- 12-36-2120(77) Annual sales tax holiday during the month of October (beginning in 2009 and ending 2018) for certain energy efficient products, provided certain revenue growth forecasts are met.⁴¹

⁴⁰ On June 26, 2008, the Supreme Court of South Carolina accepted original jurisdiction in *The American Petroleum Institute and BP Products North America Inc v. South Carolina Department of Revenue, et al.* The Petitioners are seeking a declaratory judgment that Senate Bill 1143, Section 3 (Act No. 338), dealing with motor fuel products offered by a terminal, violates the one subject rule of the South Carolina Constitution, Article III, Section 17 and is unconstitutional. The Court has issued a temporary injunction enjoining the Respondents from implementing Section 3. The Department will issue additional information if the Court's decision affects Senate Bill 1143, Section 2, concerning the sales tax holiday for handguns, rifles, and shotguns.

⁴¹ On June 26, 2008, the Supreme Court of South Carolina accepted original jurisdiction in *The American Petroleum Institute and BP Products North America Inc v. South Carolina Department of Revenue, et al.* The Petitioners are seeking a declaratory judgment that Senate Bill 1143, Section 3 (Act No. 338), dealing with motor fuel products offered by a terminal, violates the one subject rule of the South Carolina Constitution, Article III, Section 17 and is unconstitutional. The Court has issued a temporary injunction enjoining the Respondents from implementing Section 3. The Department will issue additional information if the Court's decision affects Senate Bill 1143, Section 1, concerning the sales tax holiday for energy efficient products.

Temporary Viscosupplementation therapies (for state fiscal year 2008 –
Proviso 89.92 2009)
(Act No. 310 of 2008)

Alternative Energy Exemptions

12-36-2120(71) Any device, equipment or machinery that is (a) operated by hydrogen or fuel cells, (b) used to generate, produce or distribute hydrogen and designated specifically for hydrogen applications or for fuel cell applications and (c) used predominantly for the manufacturing of, or research and development involving hydrogen or fuel cell technologies. This exemption is effective October 1, 2007.

12-36-2120(72) Building material used to construct a new or renovated building in a research district and machinery or equipment located in a research district. The sales tax that would have been assessed must be invested by the taxpayer in hydrogen or fuel cell machinery or equipment located in the same research district within 24 months of the exempt purchase. This exemption is effective October 1, 2007.

NOTE: In 2007 the General Assembly enacted a sales tax rebate for the purchase or lease of certain alternate fuel and fuel efficient vehicles and for the purchases of certain equipment for converting a vehicle into an alternative fuel vehicle. This rebate would have been applicable to purchases, lease and conversions occurring from July 1, 2008 through June 30, 2013; however, in 2008 the General Assembly repealed these rebates. As such, the sales tax rebate is no longer available.⁴²

⁴² See House Bill 3649 of 2008.