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

SC REVENUE RULING #97-6

SUBJECT: Material Handling Systems and Material Handling Equipment
(Sales and Use Taxes)

EFFECTIVE DATE: March 1, 1996

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCE: S.C. Code Ann. Section 12-36-2120 (Supp. 1996)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp.1996)
SC Revenue Procedure #94-1

SCOPE: A Revenue Ruling is the Department of Revenue's **official advisory opinion** of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

LAW:

Code Section 12-36-2120 reads, in pertinent part:

Exempted from the taxes imposed by this chapter [sales and use taxes] are the gross proceeds of sales, or sales price of:

* * * *

- (51) Material handling systems and material handling equipment including, but not limited to, racks, whether or not the racks are used to support a facility structure, or part thereof, used in the operation of a distribution facility or a manufacturing facility. In order to qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall invest at least thirty-five million dollars in any real or personal property in this State over the five-year period beginning on the date provided by the taxpayer to the department in its notices.

The effective date of this exemption is March 1, 1996.

QUESTIONS AND ANSWERS:

Since its enactment, a number of questions have arisen concerning the provisions of Code Section 12-36-2120(51). The following is intended to provide guidance with respect to the exemption.

1. Q. Are material handling systems and material handling equipment used in the operation of processing, recycling, compounding, mining or quarrying facilities covered by the exemption in Code Section 12-36-2120(51)?
 - A. No. Only material handling systems and material handling equipment used in distribution or manufacturing facilities qualify for the exemption in Code Section 12-36-2120(51). However, certain purchases of material handling equipment may qualify for the machine exemption provided for in Code Section 12-36-2120(17).
2. Q. Are replacement and repair parts for material handling systems and material handling equipment covered by the exemption?
 - A. Yes. Purchases of replacement and repair parts qualify for the exemption.
3. Q. When and how must a taxpayer notify the Department of the taxpayer's intent to start using the exemption?
 - A. The taxpayer must notify the Department before the first month he will use the exemption. The notification must be **in writing** and mailed to:

S.C. Department of Revenue
Office Services Division
License and Registration Unit
P.O. Box 125
Columbia, S.C. 29214-0140

The written notice should include the taxpayer's name, address, retail license number or use tax registration number, the location of records, the beginning date of the investment period, a brief description of the qualifying investment, a brief description of property claimed to be exempt from tax and where it will be used, and the name of a person to contact with respect to the exemption and that person's telephone number.

4. Q. Must the five-year investment period begin on the same date the taxpayer begins to use the exemption?
 - A. No. The five-year investment period can begin as early as March 1, 1996. However, a taxpayer cannot start using the exemption until the first day of the month following the month in which the taxpayer notifies the Department that he will use the exemption.

5. Q. What must the taxpayer present to suppliers to make tax-exempt purchases under the exemption?
 - A. The Department will issue a certificate to the taxpayer. This certificate is to be presented to suppliers to make tax-exempt purchases of material handling systems and material handling equipment.
6. Q. Who will be held liable for any taxes due if the certificate is used to make purchases that do not come within the exemption - the supplier or the purchaser?
 - A. If the certificate is used to make purchases tax-free that do not come within the exemption, then the purchaser will be held liable for any taxes due.
7. Q. What expenditures meet the thirty-five million dollar investment requirement?
 - A. The investment is limited to real or personal property in South Carolina. This includes expenditures for land, site preparation, infrastructure development (roads, water, sewer, etc), buildings, fixtures, machinery, equipment and furniture. Expenditures for wages, employee benefits, taxes, raw material and inventory do **not** meet the investment requirement.
8. Q. Is it required that the investment must be made at the same location where the material handling systems and material handling equipment will be used?
 - A. No. The investment may be made anywhere in South Carolina and the investment does not have to be made at the same location where the exemption is taken.
9. Q. What is the earliest date taxpayers may use as the beginning date for the five-year investment period?
 - A. The investment period may not begin earlier than March 1, 1996, the effective date of the exemption.
10. Q. What records must taxpayers keep with respect to this exemption?
 - A. Taxpayers must be able to substantiate they have met the investment requirement. Like other records maintained for sales and use tax purposes, the records must be readily available for inspection by the Department. Examples of records that must be maintained are real estate closing documents, building contracts, and purchase invoices with evidence of payment.
11. Q. How long must taxpayers maintain records supporting their investment in South Carolina?

- A. Records substantiating that a taxpayer has met the investment requirement must be maintained for as long as the taxpayer continues to take the exemption, plus three years, unless the Department advises the taxpayer that he can discontinue maintaining the records.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank III, Director

Columbia, South Carolina
July 22, 1997