

117-312 Containers and Other Packaging Material

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117-312 Containers and Other Packaging Material.

The statute provides an exemption (Section 12-36-2120) and an exclusion (Section 12-36-120) for containers and other packaging material. The following explains the application of the exemption and exclusion in certain situations.

117-312.1. Containers and Packaging Materials, Sales of to Licensed Retailers.

Licensed retailers purchase free of sales or use taxes wrapping paper, wrapping twine, paper bags and containers for use incident to the delivery of tangible personal property sold by them. They also purchase tax-free materials used in packaging personal property sold by them.

The list below, while illustrative of items falling within the exemption or exclusion, is not exhaustive:

Souffle cups, butter chips, paper cups, paper plates, boxes and crates and glazed tissue used to package articles of food.

It will be seen that items such as straws, napkins, wooden or paper spoons and forks do not meet the requirements outlined above and, hence, must bear the tax. Such items are rather in the nature of supplies used or consumed by the retailer in the operation of his or its business.

117-312.2. Containers, Beverage Boxes and Crates.

Especially designed crates and boxes of the type used by distributors of soft drinks or milk products retained by the purchaser of such products for reuse by the distributor thereof may be purchased free of sales or use taxes.

The exemption extends to materials used in repairing such crates and boxes.

117-312.3. Packaging Materials.

Section 12-36-120 excludes from the measure of the sales or use taxes the gross proceeds of the sale 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.”

The term “materials” is deemed to include, among other things, wrapping paper, twine, strapping, nails, staples, wire, lumber, cardboard, adhesives, tape, waxed paper, plastic materials, aluminum foils, and pallets used in packaging tangible personal property for shipment or sale; also excelsior, cellulose wadding, paper stuffing, sawdust and other packing materials used to protect products in transit. Materials such as dry ice and rust preventives used to preserve property during shipment do not come within the exemption. Also excluded from the exemption are materials such as strapping and dunnage (e.g. lumber used to block up equipment for shipment) to temporarily brace or block tangible personal property within trucks and railroad cars as a protection during shipment.

“Containers” include, but are not limited to, such items as, paper, plastic or cloth sacks, bags, boxes, bottles, cans, cartons, drums, barrels, kegs, carboys, cylinders, and crates.

The term “cores” is defined to include spools, spindles, cylindrical tubes and the like on which tangible personal property is wound.

Labels affixed to manufactured articles to identify such products are exempted from the tax only when such labels are passed on to the ultimate consumer of such products.

117-312.4. Advertising Materials.

Printed advertising materials and/or price lists placed into cartons or packages with tangible personal property being packaged for shipment or sale are subject to the sales or use tax.

117-312.5. Multiform Invoices.

Multiform invoices used to invoice the customer and also to serve as a packing slip and address label are subject to the sales or use tax.

117-312.6. Grease, Protective.

Grease used as a protective coating for manufactured products while in storage is purchased at retail for such use and subject to the tax. This material is a supply item which is used or consumed by the manufacturer. Grease used as a protective coating for manufactured products while in transit is purchased at wholesale, free of the tax, as a material used incident to the sale and delivery of tangible personal property.

117-312.7. Rust Preventives.

Petroleum products and other materials used as rust preventives or for surface protection of metal products while in storage are subject to sales or use tax. Petroleum products and other materials used as rust preventives or for surface protection of metal products while in transit are not subject to sales or use tax.

117-312.8. Icing of Perishables.

The charge for ice when sold to common carriers for the icing of perishables during shipment or transshipment, will include the cost of transportation where the ice is transported to the truck loading platform, or to a storage warehouse in the ice manufacturer's transportation equipment, and/or under terms where the transportation is for the account of the ice manufacturer, and the charge will also include any charges for placing said ice in a storage warehouse by the ice manufacturer prior to the actual car icing regardless of whether said charges for transportation and/or storage are contracted for or invoiced separately by and between the ice manufacturer and the carrier.

The sales price of the ice will not include the charge for the actual icing of the railroad car or truck in which the perishable property is to be shipped, provided the charge for said icing service is separately billed to the common carrier.

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