



STATE OF SOUTH CAROLINA  
**DEPARTMENT OF REVENUE**

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 125, Columbia, South Carolina 29214-0575

SC REVENUE RULING #22-10

**SUBJECT:** Inflation Fees, Convenience Fees, Non-Cash Adjustment Fees, and Similar Fees  
(Sales and Use Taxes)

**EFFECTIVE DATE:** Applies to all periods open under the statute.

**REFERENCES:** S.C. Code Ann. Section 12-36-90 (2014; Supp. 2021)  
S.C. Code Ann. Section 12-36-130 (2014; Supp. 2021)  
S.C. Code Ann. Section 12-36-910 (2014)  
S.C. Code Ann. Section 12-36-1310 (2014)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
S.C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public and Department personnel. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

**QUESTION**

Is a separately stated "inflation fee," "convenience fee," "non-cash adjustment fee," or similar type of fee charged by a retailer as part of the retail sale of tangible personal property to a customer, as described in the facts, includable in "gross proceeds of sales" or "sales price" and subject to the sales and use tax?

**FACTS**

As a result of recent inflationary times, some retailers are adding a separate fee to a customer's invoice or receipt in order to recover some or all of their increased operating costs (e.g., higher inventory costs, labor costs, fuel costs, rental costs, etc.). This fee may be referred to as an inflation fee or a similar term. Other retailers are adding a separate fee to recover their credit card processing costs. This fee may be referred to as convenience fee, non-cash adjustment fee, or similar term. These fees may be a flat fee, a fee based on a percentage of the sales price of the product, or based on some other calculation.

Questions have arisen as to the applicability of sales and use taxes to these various fees.

## LAW AND ANALYSIS

Code Section 12-36-910(A) imposes a sales tax upon every person engaged or continuing within this State in the business of selling tangible personal property<sup>1</sup> at retail. Code Section 12-36-1310(A) imposes a use tax on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State, regardless of whether the retailer is or is not engaged in business in this State.

The sales tax is imposed on the “gross proceeds of sales” as defined in Code Section 12-36-90. The use tax is imposed on the “sales price” as defined in Code Section 12-36-130. They are essentially both defined as the total proceeds or “value proceeding or accruing from the sale, lease, or rental of tangible personal property,” without deductions for expenses. Expenses that are not deducted include: the cost of goods sold; the cost of materials, labor, or service; interest; losses; transportation; or manufacturers or importers excise taxes imposed by the United States.

Based upon the above, the “measure” of the sales and use tax is the total proceeds of a sale (i.e., it is the sum total of all consideration received in conjunction with the sale of tangible personal property, without any deductions, unless specifically provided).<sup>2</sup>

## CONCLUSION

A separately stated “inflation fee,” “convenience fee,” “non-cash adjustment fee,” or similar type of fee charged by a retailer as part of the retail sale of tangible personal property to a customer, as described in the facts, is includable in “gross proceeds of sales” or “sales price” and subject to the sales and use tax, unless the retail sale of the tangible personal property is otherwise exempt from the sales and use tax (e.g., a sale to the federal government) or the retail transaction is not subject to sales and use tax (e.g., a nontaxable service, such as services provided by doctors, accountants, hair stylists).

## EXAMPLES

### **Example 1 – Restaurant Charges an “Inflation Fee” to Offset Rising Costs:**

Because of the increased inventory and operating costs, Restaurant X is temporarily adding a 10% “inflation fee” to each order. Customer A purchases a BBQ meal and sweet tea at Restaurant X for \$15. The customer is charged a \$1.50 inflation fee.

Since the inflation fee is part of the “gross proceeds of sales” of the meal, the basis or measure upon which the sales tax (state and applicable local tax) is calculated is \$16.50. As such, Restaurant X must remit sales and use tax based on the entire amount paid by Customer A (\$16.50 in this example).

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<sup>1</sup> The term “tangible personal property” for sales and use tax purposes is defined in Code Section 12-36-60 and includes items such as communications and laundry services not typically thought of as tangible personal property.

<sup>2</sup> Code Section 12-36-90, defining “gross proceeds,” and Code Section 12-36-130, defining “sales price,” provide certain exclusions.

**Example 2 – Retail Thrift Store Charges a “Non-Cash Adjustment Fee” to Recover Credit Card Processing Charges:**

To recover credit card processing fees, Retailer Y adds a 3% “non-cash adjustment fee” to each retail sale of tangible personal property where the customer is paying by credit card. Customer B purchases a lamp at Retailer Y’s store for \$30. The customer is charged a \$0.90 non-cash adjustment fee.

Since the non-cash adjustment fee is part of the “gross proceeds of sales” of the lamp, the basis or measure upon which the sales tax (state and applicable local tax) is calculated is \$30.90. As such, Retailer Y must remit sales and use tax based on the entire amount paid by Customer B (\$30.90 in this example).

**Note: If an “inflation fee,” “convenience fee,” “non-cash adjustment fee,” or similar type of fee is imposed on the retail sale of multiple products when the items sold include both exempt and taxable items, then the sales and use tax is only due on that portion of the fee related to the taxable items, provided the seller can reasonably prorate the fee between the taxable items and nontaxable items sold based on his books and records. If the “inflation fee,” “convenience fee,” “non-cash adjustment fee,” or similar type of fee breakdown, however, is unreasonable or unsupported by the records of the seller, then the entire fee is subject to the sales and use tax.**

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell  
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W. Hartley Powell, Director

October 20, 2022  
Columbia, South Carolina