



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 #22-9

**SUBJECT:** Injectable Medications and Injectable Biologics Sold to Hospitals and Independent Surgery Centers - Exemption in Code Section 12-36-2120(80)  
(Sales and Use Tax)

**EFFECTIVE DATE:** All periods open under the statute.

**REFERENCES:** S.C. Code Ann. Section 12-36-2120(80) (2014)

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

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. 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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

**PURPOSE:**

The purpose of this advisory opinion is to address the application of the sales and use tax exemption for injectable medications and injectable biologics in Code Section 12-36-2120(80) that are administered by or pursuant to the supervision of a physician in a hospital or an independent surgical center.

**QUESTIONS:**

1. Is the sale at retail of an injectable medication or injectable biologic for use in a hospital exempt from the sales and use tax under Code Section 12-36-2120(80)?
2. Is the sale at retail of an injectable medication or injectable biologic for use in an independent surgery center exempt from the sales and use tax under Code Section 12-36-2120(80)?

## CONCLUSIONS:

1. The sale at retail of an injectable medication or injectable biologic for use in a hospital is not exempt from the sales and use tax under Code Section 12-36-2120(80).
2. The sale at retail of an injectable medication or injectable biologic for use in an independent surgery center is not exempt from the sales and use tax under Code Section 12-36-2120(80).

Note: While the injectable medication or injectable biologic is not exempt under Code Section 12-36-2120(80) when sold for use in a hospital or an independent surgery center, it may be exempt under another provision of Code Section 12-36-2120. For example, if the injectable medication or injectable biologic is a prescription medicine and therapeutic radiopharmaceutical “used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases,” or a prescription medicine “used to relieve the effects of any such treatment,” then the the injectable medication or injectable biologic is exempt from the tax under Code Section 12-36-2120(28)(a).

## LAW AND ANALYSIS

Code Section 12-36-2120(80)(a) exempts from sales and use tax the gross proceeds of sales and sales price of:

... injectable medications and injectable biologics, so long as the medication or biologic is administered by or pursuant to the supervision of a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility. For purposes of this exemption, “biologics” means the products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms[.]

The exemption statute specifically requires that the injectable medication or injectable biologic be administered “in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility.”

The question at hand is whether the exemption is applicable to injectable medication or injectable biologic administered in a hospital or in an independent surgical center.

In *Pennsylvania National Mutual Casualty Insurance Co. v. Montgomery*, 282 S.C. 546, 320 S.E.2d 458 (Ct. App. 1984), the South Carolina Court of Appeals held:

A well-established rule of statutory construction is “expressio unius est exclusio alterius,” which means that the enumeration of particular things excludes the idea of something else not mentioned. Under the rule, exceptions made in a statute give rise to a strong inference that no other exceptions were intended.

Furthermore, the South Carolina Supreme Court held in *Hollingsworth on Wheels, Inc. v. Greenville County Treasurer*, 276 S.C. 314, 278 S.E.2d 340 (1981), that the language of a tax exemption statute must be given its plain, ordinary meaning and must be strictly construed against the claimed exemption.

Based on the above, the enumeration of an “office” and a “CMS certified kidney dialysis facility” in the exemption statute excludes the idea of something else not mentioned, such as a hospital or an independent surgical center. In addition, the language of a tax exemption statute must be given its plain, ordinary meaning and, with respect to this exemption, must be strictly construed so as to limit the exemption to injectable medication and injectable biologics administered “in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility.” If the General Assembly intended for this exemption to apply to hospitals and independent surgical centers, they could have listed such places in the exemption or could have exempted injectable medication or injectable biologics administered by or pursuant to a physician without listing a specific location for the treatment.

In conclusion, the sale at retail of an injectable medication or injectable biologic for use in a hospital or an independent surgery center, is not exempt from the sales and use tax under Code Section 12-36-2120(80).

SOUTH CAROLINA DEPARTMENT OF REVENUE

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

October 20, 2022  
Columbia, South Carolina