



PURPOSE:

1. What is the solid waste excise tax?

The South Carolina Solid Waste Policy Management Act of 1991 was enacted to help protect public health and the environment from the millions of tons of solid waste generated in South Carolina each year. A statewide solid waste management program has been implemented to provide for a solid waste reduction and recycling program. Effective November 1, 1991, an excise tax is imposed on motor oil and similar lubricants, lead-acid batteries, tires and white goods in order to provide funds for their collection and disposal.

DEFINITIONS:

2. How does the law define the items subject to the solid waste excise tax?

The four categories of items subject to the solid waste excise tax are defined in the statute as follows:

Motor oil and similar lubricants - the fraction of crude oil or synthetic oil that is classified for use in the crankcase, transmission, gearbox, or differential of an internal combustion engine, including automobiles, buses, trucks, lawn mowers and other household power equipment, industrial machinery, and other mechanical devices that derive their power from internal combustion engines. The terms include re-refined oil but do not include heavy greases and specialty industrial or machine oils, such as spindle oils, cutting oils, steam cylinder oils, industrial oils, electrical insulating oils, or solvents which are not sold at retail in this state.

Tires - the continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle, trailer, or motorcycle as defined in Section 56-3-20(2), (4) and (13). It does not include an industrial press-on tire, with a metal or solid compound rim, which may be retooled.

Lead-acid batteries - any battery that consists of lead and sulfuric acid, is used as a power source, and has a capacity of six volts or more, except that this term shall not include a small sealed lead-acid battery which means a lead-acid battery weighing twenty-five pounds or less, used in non-vehicular, non-SLI (starting lighting ignition) applications.

White goods - include refrigerators, ranges, water heaters, freezers, dishwashers, trash compactors, washers, dryers, air conditioners, and commercial large appliances.

COMPLIANCE QUESTIONS:

3. Who is liable for collecting and remitting the fee?

The imposition of the fee at the wholesale, retail or consumer level depends upon the category of the item sold as described below:

Motor Oil and Similar Lubricants - The \$0.08 per gallon fee is imposed at the wholesale level on wholesale sales in South Carolina and is imposed on retailers or consumers on the importation of motor oil or similar lubricants into South Carolina upon which the solid waste fee has not been levied. **Note: Motor oil or similar lubricants exported from South Carolina in its original package or container are exempt from the fee.**

Tires - The \$2.00 fee is imposed at the retail level only.

Lead-Acid Batteries - The \$2.00 fee is imposed at the retail level only effective September 29, 1992. Prior to this the tax was reported at the wholesale level.

White goods - The \$2.00 fee is imposed at the wholesale level on white goods for resale in South Carolina. Licensed wholesalers receiving new white goods from unlicensed wholesalers are responsible for the fee. Also, the fee is imposed at the retail level on purchases by retail merchants, jobbers or dealers from unlicensed wholesalers.

NOTE: As stated above, the fee is imposed at the wholesale, retail or consumer level depending upon the category of item sold. A wholesaler or retailer liable for the fee may increase the price of the item by the solid waste excise fee. Such an increase is considered an increase in the price of the item and **not** a payment of the solid waste excise fee by the purchaser. There is no requirement in the law that the fee be passed on to the purchaser, and the fee is still due by the wholesaler/retailer even if their purchaser, refuses to pay the fee.

4. What is meant by the term "wholesaler" for purposes of the Form ST-391, Solid Waste Registration Removal/Wholesale Information?

The term includes anyone who makes sale for resale including a manufacturer, distributor, importer, supplier, jobber or wholesaler of motor oil and similar lubricants or white goods.

5. Is the solid waste excise tax imposed on sales of used tires, lead-acid batteries and white goods?

No, the tax is imposed only on sales of new tires, lead-acid batteries and white goods.

6. Are taxpayers who are exempt from sales and use taxes also exempt from the solid waste excise tax?

No, the sales and use tax exemptions provided to farmers, manufacturers, etc. do not exempt them from the solid waste excise tax.

7. Are sales made to the federal government or agents of the federal government taxable?

Yes, the solid waste tax is imposed on the wholesaler or retailer, not the purchaser, except for ex-tax motor oil. Therefore, the solid waste fee is not a direct tax on the federal government, and there is no requirement the fee be passed along to the consumer (government). Note: The federal government will not be liable for the solid waste tax imposed on **ex-tax** motor oil and similar lubricants they import into South Carolina.

8. Is the solid waste excise tax imposed on new tangible personal property which contain motor oil, tires, white goods or batteries, such as vehicles, boats, machines, mobile homes and tractors?

No, the fee is not imposed on the sale of tangible personal property containing motor oil or similar lubricants, tires, white goods, or lead-acid batteries. However, the fee is imposed on the separate sale of oil, tires, white goods or lead-acid batteries as a replacement part or a repair to vehicles, machines, and the like.

9. Are motor oil, tires or batteries sold to an automobile dealer or leasing company for a used vehicle that will be leased or ultimately sold subject to the solid waste fees?

Yes. The person liable for collecting the tax on motor oil is explained in question 3 above. In the case of tires and batteries, the automobile dealer will be liable for the solid waste fee at the time the tires and batteries are withdrawn from their stock for installation on the used car.

10. Is the tax imposed on consignment sales?

Yes, the fee is imposed on the first sale or importation of motor oil or similar lubricants into South Carolina, on the receipt of white goods by a wholesaler or retailer, and on the retail sale of tires and batteries. The taxpayer will be allowed a credit for shipbacks on which the solid waste excise fee has been imposed.

11. What evidence must retailers or wholesalers obtain from their wholesaler or suppliers to verify to the Department that the solid waste excise fee has been paid?

The retailer or wholesaler must have evidence on their invoice indicating the tax has been paid by their supplier. Evidence would include a supplier's stamped or written statement on the invoice indicating the solid waste tax had been paid.

12. Is sales tax computed after the solid waste excise fee is added to the sales price?

No, the solid waste excise fee is not included when computing sales tax. This includes the refundable deposit when a lead-acid battery core is not returned to a retailer.

GENERAL REPORTING REQUIREMENTS:

13. When does collection of the solid waste excise tax begin?

Collection began on November 1, 1991. The Department initially registered retailers for the solid waste excise tax based upon the type of business they reported on their business tax application. Retailers that should not have been registered may request removal from our solid waste excise tax registration records by completing Form ST-391 - Solid Waste Registration Removal/Wholesale Information.

14. How is the payment to be made?

Form ST-390 - Solid Waste Excise Tax Return is to be used when remitting the tax. A tax return must be filed for each

each period even if no solid waste excise tax liability exists.

Taxpayers who have more than one business location may choose to file a Form ST-390 for each business location or may file a consolidated return for all locations.

The return should be mailed to:

South Carolina Department of Revenue
Solid Waste
Columbia, South Carolina 29214-0106

15. When are payments due?

Solid waste excise tax payments are due on or before the 20th day of each month following the month in which the fee is collected. However, taxpayers who are permitted to file a quarterly sales and use tax return may remit solid waste excise tax payments on a quarterly basis.

16. Are discounts available for early filing and paying of the solid waste excise tax?

No, however, the law allows that all taxpayers may retain 3% of the total solid waste fees due in order to cover their administrative costs of remitting these fees. The pre-printed fee amounts on Form ST-390 reflect the 3% administrative allowance. (Only 97% of the total solid waste fees are remitted to the Department - \$1.94 per battery, white good and tire and 7.76 cents per gallon of motor oil or similar lubricant.)

17. Will penalties and interest be imposed for failure to file a solid waste excise tax return or failure to pay the solid waste excise tax?

Yes, penalties and interest will be assessed according to the provisions of Chapter 54 of Title 12.

18. Do taxpayers have to send a separate check for the solid waste excise tax if they have other tax liabilities due at the same time?

Yes, payment should be sent **only** for the amount of solid waste excise tax. If other liabilities are due at the same time, such as sales and use tax liabilities, taxpayers must remit these payments separately; otherwise, the payments may not be properly credited.

19. Can an amended Form ST-390 or a request for extension of time be filed?

Yes, to file an amended Form ST-390 the taxpayer should write "amended" on top of the Form ST-390 and provide a written explanation for the amendment. To request an extension of time, the taxpayer should submit a written request prior to the due date of the return.

SPECIFIC QUESTIONS CONCERNING MOTOR OIL:

20. What are examples of motor oil and similar lubricant subject to the fee?

Examples of motor oil and similar lubricants subject to the fee include automatic transmission fluid, oil additions which are not burned or consumed in the engine, and jet engine oil. Items such as brake fluid, WD-40, hydraulic fluid, 2-cycle oil mixed with gasoline that is consumed or burned, and motor oil or lubricants used in electric motors are examples of items **not subject to the fee**.

21. How is the fee computed on parts of a gallon of oil?

The amount of motor oil and similar lubricants subject to the solid waste excise tax should be totaled at the end of the reporting period. When the total results in a fractional gallon, the total should be rounded up to the nearest whole gallon when the fraction is one-half gallon or more and should be rounded down to the nearest whole gallon if the fraction is less than one-half gallon. For example, if **total** motor oil sales in South Carolina for the month are 1000.75 gallons, then the amount shown on Form ST-390 should be 1001 gallons. **Remember, only whole gallons are to be reported on the ST-390.**

22. Is motor oil to be exported from South Carolina exempt from the solid waste excise tax?

Any person purchasing motor oil or similar lubricants at wholesale in its original package or container and who exports such motor oil or similar lubricants from South Carolina may certify in writing to the seller that the motor oil or similar lubricants will be exported, and such certification, if taken by the seller in good faith, will relieve the seller of the fee

otherwise imposed. The written certification should include any documentation to identify the number of gallons exported, such as sales invoice or delivery ticket.

23. What is the "for hire motor carrier" exemption?

An exemption from the solid waste excise fee imposed on motor oil and similar lubricants is provided for in the law to "for hire motor carriers" who purchase lubricating oils not for resale for use in their fleets. The for hire motor carrier must hold a Certificate of Public Convenience and Necessity or be registered with the Public Service Commission and must also (1) have a maintenance facility to service their own fleets and properly store waste oil for recycling collections, (2) have reported to the EPA the existence of storage tanks for waste oil storage, (3) maintain records of the dispensing and servicing of lubrication oil in the fleet vehicles and (4) have a written contractual agreement with an approved waste oil hauler. Qualifying carriers must apply for this exemption on South Carolina Department of Revenue Form ST-10-Application for Certificate. The application should be mailed to the main office of the South Carolina Department of Revenue. Upon approval, exempt carriers will be issued a Form ST-9 - South Carolina Exemption Certificate.

SPECIFIC QUESTIONS CONCERNING TIRES:

24. What tire sales are subject to solid waste excise tax?

The statute imposes the tax on motor vehicle, trailer and motorcycle tires as defined in Section 56-3-20(2), (4) and (13). The definitions are:

(2) **Motor vehicle** - Every vehicle which is self-propelled, excepts mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wire, but not operated upon rails;

(4) **Motor-driven cycle** - Every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower.

(13) **Trailer** - Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Based upon the above definitions, the types of tires that **are** subject to the solid waste fee are new tires sold or leased for transportation of tangible personal property or persons on the streets or highways.

Farm tractor tires, airplane tires, off highway machinery, used tires, recaps, retreads, lawn mower tires, and tires for vehicles propelled solely by human power, such as bicycles, garden carts, and wheel barrows are examples of tires that are **not** subject to the solid waste excise tax.

25. How will tires returned to a permitted tire disposal facility be treated?

A wholesaler or retailer required to submit a solid waste fee who delivers or arranges delivery of waste tires to a permitted waste tire disposal facility may apply to the Department for a refund of one dollar per tire delivered. In lieu of requesting a refund, a credit may be taken on the current return for tires delivered to a permitted facility up to the number of tires reported as taxable. A credit balance should be carried forward to the next month, or a refund requested for any overage.

SPECIFIC QUESTIONS CONCERNING WHITE GOODS:

26. Are replacement parts for white goods, such as compressors, subject to the solid waste excise tax?

No. The fee is imposed on the sale of the new item and not on replacement or repair parts. For example, a central heating and air conditioning unit is subject to the fee; however, the replacement of a compressor on an air conditioner is not subject to the fee.

SPECIFIC QUESTIONS CONCERNING BATTERIES:

27. How will exchange or warranty items be treated?

The tax will not be due when there is a full refund or exchange of the item. If there is a pro-rated or partial charge for the item, the tax will be due.

ADDITIONAL INFORMATION:

28. Whom do I contact for additional information?

For additional information, please call 803-898-5182 or the Taxpayer Service Center nearest you.