

SC INFORMATION LETTER 05-1

SUBJECT: Exemptions - Local Sales and Use Taxes Collected by the Department of Revenue
(Sales and Use Tax)

DATE: January 6, 2005

SUPERSEDES: SC Information Letter #97-1, SC Information Letter #99-11, SC Revenue Informational Bulletin #00-16, SC Revenue Informational Bulletin #01-1, SC Revenue Informational Bulletin #02-2, SC Revenue Informational Bulletin #02-21, SC Information Letter #03-7, SC Information Letter #03-26, SC Information Letter #04-9 and all previous documents and any oral directives in conflict herewith.

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Ann. Section 1-23-10(4) (Supp. 2003)
SC Revenue Procedure #03-1

SCOPE: An Information Letter is a written statement issued to the public by the Department to announce general information useful in complying with the laws administered by the Department. **An Information Letter has no precedential value, and is not binding on the public or the Department.**

The South Carolina Code of Laws allows the imposition of various types of local sales and use taxes. As such, the citizens of a county, depending upon the needs within the county, may impose one or several local sales and use taxes. While most of these local sales and use taxes provide the same exemptions for certain sales and purchases, there are some differences. Attached is a chart that should provide guidance concerning the various types of local sales and use taxes collected by the Department of Revenue and the types of exemptions allowed under each tax. Please note that this chart only addresses the general local sales and use taxes collected by the Department of Revenue on behalf of the counties, school districts, and the Catawba Indian tribal government. It does not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties.

	SALES AND PURCHASES EXEMPT FROM LOCAL SALES AND USE TAXES							
COUNTY	TYPE OF LOCAL SALES AND USE TAX AND EFFECTIVE DATE	12-36-2120 12-36-2130 STATE EXEMPTIONS	12-36-2110 EXEMPTION FOR MAXIMUM TAX ITEMS	12-36-1710 EXEMPTION FOR CASUAL EXCISE ITEMS	EXEMPTION FOR FOOD STAMP PURCHASES	EXEMPTION FOR CERTAIN FOOD SALES	"GRANDFATHER CLAUSE" EXEMPTION FOR CERTAIN PURCHASES BY CONTRACTORS	NOTE
<i>Abbeville</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
<i>Aiken</i>	Capital Projects 5/1/01	Yes	Yes	No	Yes	No	Yes	
<i>Allendale</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	1 & 5
	Capital Projects 5/1/01	Yes	Yes	No	Yes	No	Yes	
<i>Bamberg</i>	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
<i>Barnwell</i>	Local Option 5/1/99	Yes	Yes	Yes	Yes	No	Yes	
<i>Beaufort</i>								6
<i>Berkeley</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	
<i>Calhoun</i>	Local Option 5/1/05	Yes	Yes	Yes	Yes	No	Yes	
<i>Catawba Indian Reservation</i>	Tribal Tax (See Note #14)	Yes	No	No	Yes	No	No	13 & 14
<i>Charleston</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	1 & 8
	Transportation 5/1/05	Yes	Yes	No	Yes	No	Yes	
<i>Cherokee</i>	Cherokee School 7/1/96	Yes	Yes	No	Yes	Yes	Yes	1
<i>Chester</i>	Local Option 5/1/94	Yes	Yes	Yes	Yes	No	Yes	1 & 3
<i>Chesterfield</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	1 & 4
	Chesterfield School 9-1-00	Yes	Yes	No	Yes	Yes	Yes	
<i>Clarendon</i>	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	1 & 11
	Clarendon Schools 6/1/04	Yes	Yes	No	Yes	Yes	Yes	
<i>Colleton</i>	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	

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Darlington	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	1 & 10
	Darlington School 2/1/04	Yes	Yes	No	Yes	Yes	Yes	
Dillon	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes	1 & 7
	Capital Projects 5/1/03	Yes	Yes	No	Yes	No	Yes	
Dorchester	Transportation 5/1/05	Yes	Yes	No	Yes	No	Yes	1
Edgefield	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
Florence	Local Option 5/1/94	Yes	Yes	Yes	Yes	No	Yes	
Hampton	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	1 & 9
	Capital Projects 5/01/03	Yes	Yes	No	Yes	No	Yes	
Jasper	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	1 & 2
	Jasper School 12/1/02	Yes	Yes	No	Yes	Yes	Yes	
Kershaw	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	
Lancaster	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
Laurens	Local Option 5/1/99	Yes	Yes	Yes	Yes	No	Yes	
Lee	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes	
Lexington	Lexington Schools 3/1/05	Yes	Yes	No	Yes	Yes	Yes	1
Marion	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	
Marlboro	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
McCormick	Local Option 7/1/91	Yes	Yes	Yes	Yes	No	Yes	
Newberry	Capital Projects 5/1/99	Yes	Yes	No	Yes	No	Yes	1 & 12

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Orangeburg	Capital Projects 5/1/99	Yes	Yes	No	Yes	No	Yes	1 & 12
Pickens	Local Option 5/1/95	Yes	Yes	Yes	Yes	No	Yes	
Richland	Local Option 5/1/05	Yes	Yes	Yes	Yes	No	Yes	
Saluda	Local Option 5/1/92	Yes	Yes	Yes	Yes	No	Yes	
Sumter	Local Option 5/1/96	Yes	Yes	Yes	Yes	No	Yes	
Williamsburg	Local Option 5/1/97	Yes	Yes	Yes	Yes	No	Yes	
York	Capital Projects 10/1/04	Yes	Yes	No	Yes	No	Yes	1 & 12

LOCAL TAX RATES:

Each local tax listed in the above chart is imposed at a rate of 1%, except for the Charleston county Transportation tax which is imposed at a rate of ½ of 1% and the Catawba Tribal Sales and use tax. See Notes #13 and #14 for information on the tax rates and the application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation.

TYPES OF LOCAL OPTION TAXES:

Local Option: The local option sales and use tax is authorized under Code Section 4-10-10 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed to reduce the property tax burden on persons in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Capital Projects: The local capital projects sales and use tax is authorized under Code Section 4-10-300 et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various capital projects in the counties that impose this type of local tax and is collected by the Department of Revenue on behalf of these counties.

Transportation: The local transportation projects sales and use tax is authorized under Code Section 4-37-30 et. seq. This tax is a general sales and use tax on all sales at retail (with a

few exceptions) taxable under the state sales and use tax. This tax is imposed specifically to defray the debt service on bonds issued for various transportation projects in the counties that impose this type of local tax and are collected by the Department of Revenue on behalf of these counties.

Cherokee School: The Cherokee County School District One School Bond-Property Tax Relief Act provided, that upon public approval in a referendum conducted by the Cherokee County Election Commission, a 1% sales and use tax be imposed in Cherokee County for not more than 20 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued to defray the costs of specified improvements for Cherokee County School District One.

Union School: The School District of Union County School Bond-Property Tax Relief Act provided, that upon public approval in a referendum conducted by the Union County Election Commission, a sales and use tax (not to exceed 2%) be imposed in Union County for not more than 25 years. The revenue from this sales and use tax will be used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act or to pay directly costs of acquisition or construction of specified improvements for the School District of Union County. **As of the date of this information letter, the sales and use tax authorized under School District of Union County School Bond-Property Tax Relief Act has not been imposed in Union county.**

Colleton School: The Colleton County School District School Bond-Property Tax Relief Act provided, that upon public approval in a referendum conducted by the Colleton County Election Commission, a 1% sales and use tax be imposed in Colleton County for not more than 20 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act. **As of the date of this information letter, the sales and use tax authorized under the Colleton County School District School Bond-Property Tax Relief Act has not been imposed in Colleton county.**

Chesterfield School: The Chesterfield County School District School Bond-Property Tax Relief Act provided, that upon public approval in a referendum conducted by the Chesterfield County Election Commission, a sales and use tax (not to exceed 1%) be imposed in Chesterfield County for not more than 25 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act, or to pay directly the cost of acquisition or construction of any of the improvements identified in the school board's resolution.

Berkeley School: The Berkeley County School District School Bond-Property Tax Relief Act provided, that upon public approval in a referendum conducted by the Berkeley County Board of Elections and Registration, a 1% sales and use tax be imposed in Berkeley County for not more than 20 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act. **As of the date of this information letter, the sales and use tax authorized under the Berkeley County School District School Bond-Property Tax Relief Act has not been imposed in Berkeley county.**

Jasper School: The governing body of the Jasper County School District may impose, by referendum, a sales and use tax not exceeding 1% for not more than 25 years. The revenue must be used to pay debt service on general obligation bonds issued pursuant o the School

Bond Act.

Personal Property Tax Relief: The personal property tax relief sales and use tax is authorized under Code Section 4-10-540. et. seq. This tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax. This tax is imposed in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors. The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on vehicles, motorcycles, general aviation aircraft, boats, and boat motors in the most recently completed fiscal year. **As of the date of this information letter, this tax is not being imposed.**

Richland County School Districts: The Richland County School Districts Property Tax Relief Act provided, that upon public approval in a referendum, a 1% sales and use tax may be imposed within Richland County for not more than 20 years. The proceeds of the tax must be distributed to the three school districts in Richland County. **As of the date of this information letter, the sales and use tax authorized under the Richland County School Districts Property Tax Relief Act has not been imposed in Richland county.**

Pickens County School District: The School District of Pickens County School Bond Property Tax Relief Act provided, that upon public approval in a referendum, a 1% sales and use tax may be imposed within Pickens County for not more than 20 years. The proceeds of the tax must be distributed to the three school districts in Pickens County. **As of the date of this information letter, the sales and use tax authorized under the School District of Pickens County School Bond Property Tax Relief Act has not been imposed in Pickens county.**

Darlington County School District: The School District of Darlington County School Bond Property Tax Relief Act provided that upon public approval in a referendum, a 1% sales and use tax may be imposed within Darlington County for not more than 26 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act.

Newberry County School District: The Newberry County School District School Bond Property Tax Relief Act provided, that upon public approval in a referendum, a sales and use tax not exceeding 1% may be imposed within Newberry for not more than 30 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act or to pay directly costs of acquisition or construction of any of the improvements identified in the resolution providing for the imposition of the tax. **As of the date of this information letter, the sales and use tax authorized under the Newberry County School District School Bond Property Tax Relief Act has not been imposed in Newberry county.**

Clarendon County School District: The Clarendon County School Districts Property Tax Relief Act provided, that upon county ordinance, a 1% sales and use tax may be imposed within Clarendon for not more than 20 years. The revenue from this sales and use tax is used to reduce ad valorem property taxes imposed to pay debt service on general obligation bonds or to otherwise defray the cost of capital improvements within each school district.

Edgefield County School District: The School District of Edgefield County School Bond Property Tax Relief Act provided, that upon public approval in a referendum, a 1% sales and

use tax may be imposed within Edgefield County for not more than 26 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act or to pay directly costs of acquisition or construction of any of the improvements identified in the resolution providing for the imposition of the tax. **As of the date of this information letter, the sales and use tax authorized under the School District of Edgefield County School Bond Property Tax Relief Act has not been imposed in Edgefield county.**

Horry County School District: The Horry County School District School Bond Property Tax Relief Act provided, that upon public approval in a referendum, a sales and use tax not exceeding 1% may be imposed within Horry County for not more than 10 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act or to pay directly costs of acquisition or construction of any of the improvements identified in the resolution providing for the imposition of the tax. **As of the date of this information letter, the sales and use tax authorized under the Horry County School District School Bond Property Tax Relief Act has not been imposed in Horry county.**

Lexington County School Districts: The Lexington County School District Property Tax Relief Act provided, that upon public approval in a referendum, a 1% sales and use tax may be imposed within Lexington County for 7 years, unless extended as provided in the Act. The revenues from this sales and use tax allotted to a school district must be used to provide a credit against the school property tax liability on property taxable in the district.

McCormick County School District: The School District of McCormick County School Bond Property Tax Relief Act provided, that upon public approval in a referendum, a 1% sales and use tax may be imposed within McCormick County for not more than 26 years. The revenue from this sales and use tax is used to pay debt service on general obligation bonds which were issued pursuant to the School Bond Act or to pay directly costs of acquisition or construction of any of the improvements identified in the resolution providing for the imposition of the tax. **As of the date of this information letter, the sales and use tax authorized under the School District of McCormick County School Bond Property Tax Relief Act has not been imposed in McCormick county.**

Catawba Indian Tribal Tax: See Notes #13 and #14.

TYPES OF EXEMPTIONS:

State Exemptions - 12-36-2120: Sales of tangible personal property exempt from the 5% State sales and use tax are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Maximum Tax Items- 12-36-2110: Sales of items subject to a maximum tax under the 5% State sales and use tax law (i.e. aircraft, motor vehicles, motorcycles, boats, trailers and semitrailers pulled by truck tractors, horse trailers, recreational vehicles (including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels), self-propelled light construction equipment, unassembled aircraft, manufactured homes, musical instruments and office equipment purchased by certain religious organizations, and certain research and development machinery) are exempt from the local

sales and use tax if marked “Yes” under this column.

Exemption for Casual Excise Tax Items - 12-36-1710: Sales of items subject to the casual excise tax under Code Section 12-36-1710 through Code Section 12-36-1740 (i.e. motor vehicles, motorcycles, boats, motors, and airplanes required to be registered, titled, or licensed) are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Food Stamp Purchases: Sales of food purchased with foods stamps are exempt from the 5% State sales and use tax; therefore, such sales are exempt from the local sales and use tax if marked “Yes” under this column.

Exemption for Certain Food Sales: Sales of certain foods, while subject to the 5% State sales and use tax, are exempt from the local sales and use tax if marked “Yes” under this column. Sales of food which are eligible to be purchased with United States Department of Agriculture food stamps come under this exemption. This exemption applies to everyone, not just persons using food stamps.

“Grandfather Clause” Exemption for Certain Purchases By Construction Contractors: All the local sales and use taxes discussed in this information letter exempt purchases of building materials for use under a construction contract if both of the following conditions are met:

- A. 1. the construction contract is executed before the imposition date; or
2. a written bid is submitted before the imposition date culminating in a construction contract entered into before or after the imposition date; and
- B. a verified copy of the contract is mailed within 6 months of the imposition date to:

South Carolina Department of Revenue
Registration Unit
P. O. Box 125
Columbia, South Carolina 29214-0140

A "verified copy" is a copy accompanied by a statement, signed under penalties of perjury, that it is true and correct. If the contractor is a corporation, the statement is to be signed by an officer of the corporation or an employee authorized to sign. If the contractor is a partnership, the statement is to be signed by a general partner. If the contractor is a sole proprietorship, the owner is to sign.

Special Exemption Certificate. In order for a contractor to purchase building materials for a particular contract free of the local tax, the contractor must complete Form ST-10-C ("Application for Exemption from Local Option Tax") and submit it to the Department of Revenue. If the Department determines the contract in question meets the above requirements, the contractor will be issued a special exemption certificate (Form ST-35). The certificate may only be used to purchase building materials for the contract for which it is issued and may not be used to purchase anything other than building material. If the contractor uses this certificate to make purchases free of the local tax, upon which the tax should have been paid, then the contractor will be held liable for the tax. **Also, the certificate does not allow the contractor to make purchases of building materials free of the 5%**

state tax.

An exemption certificate (Form ST-35) issued by the Department of Revenue to a prime contractor under this exemption may not be used by a subcontractor nor may a prime contractor use a subcontractor's exemption certificate. Each contractor must obtain his own certificate for each construction contract.

Note #1: By not exempting items subject to the casual excise tax (“No” in the “Casual Excise Items” column), counties imposing this local sales and use tax will impose the local tax on sales and purchases of trailers that can be pulled by vehicles other than truck tractors, sales of pole trailers and sales of boat motors not attached to a boat at the time of sale, but will not impose the local sales and use tax on items subject to a maximum tax under the 5% State sales and use tax law.

Note #2: Effective December 1, 2002, Jasper county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Jasper School Tax. Jasper county has imposed the 1% Local Option Tax since July 1, 1991 and imposed both the 1% Local Option Tax and 1% Capital Projects Tax for the period of May 1, 1999 through November 30, 2002.

Note #3: Effective May 1, 2000 Chester county no longer imposes the 1% Capital Projects Tax. Chester county still imposes the 1% Local Option Tax. Chester county imposed the 1% Capital Projects Tax for the period of May 1, 1999 through April 30, 2000.

Note #4: Effective September 1, 2000, Chesterfield county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Chesterfield School Tax.

Note #5: Since May 1, 1992, Allendale county has imposed the 1% Local Option Tax. Effective May 1, 2001, Allendale county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #6: Effective December 1, 2000 Beaufort county no longer imposes the 1% Transportation Tax. Beaufort county imposed the 1% Transportation Tax for the period of June 1, 1999 through November 30, 2000.

Note #7: Since May 1, 1996, Dillon county has imposed the 1% Local Option Tax. Effective May 1, 2003, Dillon county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #8: Since July 1, 1991, Charleston county has imposed the 1% Local Option Tax. Effective May 1, 2005, Charleston county charges two local sales and use taxes - the 1% Local Option Tax and a ½ of 1% Transportation Tax. (Prior to the enactment of this Transportation Tax, Charleston county was scheduled to impose another Transportation Tax at the rate of ½ of 1% in May of 2003; however, this tax was not imposed as a result of a South Carolina Supreme Court decision.)

Note #9: Since July 1, 1991, Hampton county has imposed the 1% Local Option Tax. Effective May 1, 2003, Hampton county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Capital Projects Tax.

Note #10: Since May 1, 1997, Darlington county has imposed the 1% Local Option Tax.

Effective February 1, 2004, Darlington county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Darlington School Tax.

Note #11: Since May 1, 1997, Clarendon county has imposed the 1% Local Option Tax. Effective June 1, 2004, Clarendon county charges two local sales and use taxes - the 1% Local Option Tax and the 1% Clarendon Schools Tax.

Note #12: In November 2004, Newberry county and Orangeburg county citizens voted to extend the Capital Projects taxes in their counties. The “new” Capital Projects taxes in these counties will begin immediately upon the expiration of the “original” taxes. This should occur sometime in 2005. York county citizens previously voted to extend their Capital Projects tax. The “new” York Capital Projects tax began on October 1, 2004, immediately after the “original” tax expired on September 30, 2004.

Note #13: The application of either the State sales and use tax or the Catawba Tribal sales and use tax for sales (deliveries) made on the Catawba Indian Reservation are determined by the Catawba Indian Claims Settlement Act. The specific sales and use tax provisions can be found in Code Section 27-16-130(H). The Catawba Tribal sales and use tax expires on November 28, 2092. The following chart provides a summary of these provisions:

<u>Delivery on the Reservation From:</u>	<u>Type Tax Applicable</u>	<u>Administered and Collected By:</u>
Location On the Reservation	Tribal Sales Tax (Equal to Combined State and Local Rate)	DOR
Location Off the Reservation But in SC – Sales \$100 or less	State Sales Tax (5%) (Local taxes would not be applicable in these circumstances.)	DOR
Location Off the Reservation But in SC – Sales Over \$100	Tribal Sales Tax (Equal to Combined State and Local Rate)	DOR
Location Off the Reservation and Outside the State – Seller Registered with DOR	State Use Tax (5%) (Local taxes would not be applicable in these circumstances.)	DOR
Location Off the Reservation and Outside the State – Seller Not Registered with DOR	Tribal Use Tax (Equal to Combined State and Local Rate)	Catawba Indian Tribe

For additional information, see SC Revenue Ruling #98-18.

Note #14: By not exempting sales of tangible personal property subject to the maximum tax provisions, sales of such maximum tax items are taxed under the tribal sales and use tax at 6%, but the tax may not exceed the maximum tax set forth in Code Section 12-36-2110.

Please note that this chart only addresses the general local option taxes collected by the Department of Revenue on behalf of the counties, school districts, and the Catawba Indian tribal government. It does not address the local taxes on sales of accommodations or on sales of prepared meals that are collected directly by the counties.