



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #18-12

SUBJECT: Sales of Fire Trucks and Firefighting Equipment
(Sales or Use Tax)

EFFECTIVE DATE: July 1, 2017

SUPERSEDES: SC Revenue Ruling #08-10 and all previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-36-910 (2014)
S.C. Code Ann. Section 12-36-1310 (2014)
S.C. Code Ann. Section 12-36-1110 (2014)
S.C. Code Ann. Section 12-36-2110 (2014; Supp. 2017)
S.C. Code Ann. Section 56-3-627 (2018; Supp. 2017)
S.C. Code Ann. Section 56-3-120(6) (2018)

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 to 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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

Purpose of Update:

In July 2017, the South Carolina Infrastructure and Economic Development Reform Act was enacted to address the funding of significant road maintenance. To accomplish this purpose, the "maximum tax" for sales and use taxes was increased to \$500 from \$300 for certain items, and a new "infrastructure maintenance fee" was imposed upon the registration of vehicles with the South Carolina Department of Motor Vehicles. This document is being revised to reflect these law changes and otherwise remains unchanged.

Introduction:

Code Section 56-3-627 imposes an infrastructure maintenance fee upon an owner's first registration of a vehicle or other item required to be registered with the South Carolina Department of Motor Vehicles pursuant to Chapter 3 of Title 56. Code Section 56-3-120(6), however, exempts certain firefighting vehicles from the registration and licensing requirements in Chapter 3 of Title 56. This provision reads:

The following vehicles are exempt from registration and licensing under this chapter:

* * *

(6) firefighting vehicles that are publicly owned by the state or a county, municipality, or special purpose district as follows:

- (a) motorized firefighting vehicles that carry a pump or water tank in excess of three hundred gallons;
- (b) motorized firefighting vehicles containing a hydraulically operated ladder; and
- (c) specialized support vehicles that specifically transport equipment utilized for rescue operations, hazardous materials response, wildfire emergencies, breathing air refill support, and incident command.

Code Section 12-36-2120(83) provides a sales and use tax exemption for sales of items which are subject to the infrastructure maintenance fee. Based on the above, any firefighting vehicle identified in Code Section 56-3-120(6) is exempt from registration and licensing and is thereby exempt from the infrastructure maintenance fee in Code Section 56-3-627. Since firefighting vehicles identified in Code Section 56-3-120(6) are exempt from the infrastructure maintenance fee, sales or use tax applies to sales of these vehicles.

Question:

What amount of sales or use tax should be imposed on sales of fire trucks which are exempt from registration and licensing under Code Section 56-3-120(6) and firefighting equipment necessary to be mounted or stowed on a fire truck whether sold individually or as part of the truck?

Conclusion:

The following outlines the proper sales or use tax to be imposed upon sales of fire trucks which are exempt from registration and licensing under Code Section 56-3-120(6) and firefighting equipment:

1. The sale of a fire truck alone is subject to sales or use tax in the amount of 5% of the truck's sales price or \$500, whichever is less.

2. Sales of firefighting equipment such as ladders, hoses, fire extinguishers, oxygen tanks, and axes (except for protective clothing) are part of the sale of the truck (i.e., the same transaction) if the equipment is installed, provided, or supplied with the truck, is sold by the same vendor as the truck, and is included in the purchase price at the time of the sale of the truck.

If the equipment (except for protective clothing) is installed, provided, or supplied with the truck, is sold by the same vendor as the truck, and is included in the purchase price at the time of the sale of the truck, the sale of the truck and the equipment (except for protective clothing) is taxed as one transaction. The sales or use tax due is 5% of the combined sales price of the truck and firefighting equipment or \$500, whichever is less.

The sale of protective clothing, whether or not installed, provided, or supplied with the truck, sold by the same vendor as the truck, or included in the purchase price at the time of the sale of the truck, is subject to sales or use tax at the rate of 6%, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.¹

If the equipment is not installed, provided, or supplied with the truck, is not sold by the same vendor as the truck, or is not included in the purchase price at the time of the sale of the truck, the sale of the truck and firefighting equipment are separate and distinct transactions. The sales or use tax due on the sale of the truck is 5% of the sales price of the truck or \$500, whichever is less. The sales or use tax due on the sale of the firefighting equipment (including protective clothing) is 6% of the sales price of the equipment, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of a local jurisdiction.²

Discussion:

The purpose of this document is to address the imposition of the sales or use tax on sales of fire trucks which are exempt from registration and licensing requirements under Code Section 56-3-120(6) and sales of firefighting equipment mounted or stowed on a truck.

The sales tax and use tax are transactional taxes imposed upon the privilege of the business of selling at retail, or using, storing, or consuming tangible personal property in South Carolina. The general state sales and use tax rate is 6%. The state sales and use tax rate on sales of items subject to the maximum tax is 5%.³

¹ Sales or use tax applies to the sale of protective clothing whether the fire truck is subject to a sales or use tax or an infrastructure maintenance fee.

² Even if a fire truck is subject to an infrastructure maintenance fee instead of the sales or use tax, state and local sales or use tax applies to the sale of firefighting equipment (including protective clothing) which is not installed, provided, or supplied with the truck, is not sold by the same vendor as the truck, or is not included in the purchase price at the time of the sale of the truck.

³ Code Section 12-36-1110. This statute increased the state sales and use tax rate by 1% beginning June 1, 2007, from 5% to 6% for most items. The 1% increase did not apply to items subject to a maximum sales and use tax.

Code Section 12-36-2110 establishes a maximum tax (\$500 cap) on the sale, use, storage, or consumption of certain items and reads, in part:

(A)(1) The maximum tax imposed by this chapter is [five]⁴ hundred dollars for each sale...of each:

* * *

(b) motor vehicle;

* * *

(E) Equipment provided, supplied, or installed on a firefighting vehicle is included with the vehicle for purposes of calculating the maximum tax due under this section.

The provision concerning firefighting equipment in Code Section 12-36-2110(E) was enacted in Act 419 of 1998, Part II, Section 31A. The General Assembly also enacted the following uncodified provision in Section 31B:

The effect of this amendment is to clarify and express the intent of the General Assembly that the sales tax application of the sale of firefighting vehicles must include in the calculation of the maximum tax all equipment installed, provided, or supplied with the vehicle and included in the purchase price at the time of the sale of the vehicle, not including individual firefighter's protective clothing.

Consequently, in determining the amount of the sales or use tax imposed on sales of fire trucks and firefighting equipment, the maximum tax only applies to sales of firefighting equipment that is provided, supplied, or installed on a fire truck as part of the same sales transaction as the truck.

However, the maximum tax does not apply to protective clothing; therefore, sales of protective clothing are taxed at a state rate of 6%, plus any applicable local sales and use tax administered and collected by the Department of Revenue on behalf of local jurisdictions.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

W. Hartley Powell, Director

June 11 _____, 2018
Columbia, South Carolina

⁴ Effective after June 30, 2017, the maximum sales and use tax imposed pursuant to Chapter 36 of Title 12 on the sale, lease, or registration of an item enumerated in Code Section 12-36-2110(A)(1) is increased from \$300 to \$500. Code Section 12-36-2110(A)(4).