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117-301 Agriculture.

The South Carolina sales and use tax law provides many exemptions from the tax for the agriculture industry. The exemptions are found in Code Section 12-36-2120 and include exemptions for livestock, feed, insecticides, chemicals, fertilizers, containers, labels, machinery, fuel, electricity, gas, and building materials. In order to obtain an exemption, all provisions of the exemption must be met. This regulation will explain these exemptions in more detail.

In many of the subsections of this regulation, examples of items exempt and not exempt are provided. These examples are not all inclusive.

117-301.1. Livestock

The sale of livestock is exempt from the tax under Code Section 12-36-2120(4). Livestock is defined as domesticated animals customarily raised in South Carolina farms for use primarily as beasts of burden or food. Livestock also means mammals raised for their pelts or furs.

The practical result of the above is to exempt from the tax horses, mules, cattle, swine, sheep, goats, rabbits, ostriches and any other animals raised as food for human consumption, domesticated fish produced for human consumption, and chinchillas.

Animals such as dogs, cats, reptiles, fowls (excepts baby chicks and poults), minnows, worms, fish (excepts those cultivated for human consumption), and animals of a wild nature are not considered livestock.

117-301.2. Feed.

The sale of feed used in the production and maintenance of livestock, as defined Regulation 117-301.1, is exempt from the tax under Code Section 12-36-2120(5). Horse feed, rabbit feed used in the production and maintenance of rabbits for human consumption, and feed used in the production and maintenance of fry, fingerlings and fish are exempt.

117-301.3. Insecticides, Chemicals, Fertilizers, Soils Conditioners, Seeds and Seedlings.

Insecticides, chemicals, fertilizers, soils conditioners, seeds and seedlings used solely in the production for sale of farm, grove, vineyard or garden products are exempt under Code Section 12-36-2120(6). This exemption includes:

(a) explosives (chemicals) used solely in the production for sale of farm, grove, vineyard or garden products.

(b) medicines (chemicals) used solely in the production for sale of livestock.

(c) insecticides, chemicals, fertilizers, soils conditioners, seeds and seedlings used solely in the production for sale of timber and timber products, nursery products, and poultry and poultry products.

(d) insecticides and chemicals, including washing powder, soap, etc., used by dairy operators at the dairy barn in the production for sale of products of the dairy.

(e) bull semen used solely in the production for sale of livestock.

This exemption does not apply to liquid petroleum gas used for burning grass and weeds around farm crops.

117-301.4. Containers and Labels.

Containers and labels used in preparing agriculture products for sale and used in preparing turpentine gum, gum spirits of turpentine, and gum resins for sale are exempt under Code Section 12-36-2120(7). For the purposes of this exemption, "containers" means boxes, crates, bags, bagging, ties, barrels, and other containers.

This exemption applies to bags sold to:

(a) wholesale grain and feed dealers for use as furnished containers of corn and oats.

(b) cotton dealers or ginneries for use as furnished containers of cotton seed.

(c) produce dealers for use as furnished containers of potatoes, cabbage, etc.

(d) peanut hullers for use as furnished containers of peanut kernels, hulls, and vines.

(e) nurserymen for use as furnished containers of nursery stock.

Wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property are exempt under Code Section 12-36-2120(14).

The above exemptions do not apply to tobacco twine used by farmers incident to the curing of tobacco.

117-301.5. Farm Machinery.

The sale of farm machinery that is used in planting, cultivating or harvesting farms crops for sale is exempt under Code Section 12-36-2120(16). This exemption also applies to replacement parts and attachments. For purposes of this exemption, the terms “planting,” “cultivating,” and “harvesting” are defined as follows:

“Planting” includes all necessary steps in the preparation of the soil prior to, and including, the planting and sowing of the seed.

“Cultivating” includes the loosening of the soil around growing plants, control of moisture content in the soil, and weed and pest control.

“Harvesting” begins with the gathering of the crop and ends when the crop is placed in a temporary or permanent storage area. It also includes the additional preparation for storage or sale of certain crops such as the curing of tobacco, grains, and peanuts and the grading and packaging of peaches, cucumbers, tomatoes, etc.

The sale of bulk coolers (farm dairy tanks) used in the production and preservation of milk on dairy farms and machines used in the production of poultry and poultry products on poultry farms when such products are sold in the original state of production or preparation for sale are also exempt under Code Section 12-36-2120(16).

The following machines qualify for this exemption:

(a) machinery used in constructing terraces, drainage and irrigation ditches, dikes used to control the water level in cultivated fields, and land clearing prior to cultivation of the soil.

(b) machinery specially designed for irrigation purposes, including pumps, pipes, spigots, etc., when sold for use in the cultivation of farm crops.

(c) farms wagons used in planting, cultivating or harvesting farm crops.

(d) pasteurizing machines, cooling machines, mechanical separators, homogenizing machines and bottling machines used by dairies in the production of milk for sale. Milking machines do not come within the exemption for farm machinery.

(e) machines used in the production of poultry and poultry products for sale when incorporated into and made a part of an automated system. This includes automated bulk feed bins placed either inside or outside the building when such bins are connected to automatic feeding systems; the auger conveying feed from bulk feed bins to the automated feeder system; roll-up curtains (hand crank and motorized) to control light and room temperature; automatic chain feeders; auger and pan feeders; automatic waterers, valves, and accessories, brooders-all types, winching systems used to raise and lower brooders to control room temperature and also to facilitate cleaning; electric debeakers; egg washing machinery; egg

grading machinery; egg candling machinery; time clocks for controlling lights or machinery; automated nests only; belt gathering systems for nests; laying cages when a part or attachment to an automated feeding and/or watering system; mechanically operated feed carts; bulk feed bodies (the vehicles on which these bodies are mounted are subject to the tax as well as nonmechanized carts); automatic clean-out systems for cage houses; small tractor or Bobcat used for clean-out of poultry houses; machinery used to cool eggs; humidifiers for egg rooms; auxiliary power generators; ventilation equipment for poultry houses (to include fans and motorized shutter assemblies); electric heat tapes (water warmers); monorail system for use in conveying eggs in process; automatic medication proportioners; incubators; scales used in loading mixing buggies to gauge the amount of feed per chicken; electric shockers and wire over automatic troughs; (electrified wire fences would be subject to the tax unless exempt under Section 12-36-2120(45)); vibrators; infrared brooders (heat lamps used primarily to brood quail); and incinerators.

Examples of properties not exempted from the tax under Section 12-36-2120(16) are building materials, fencing and fence posts, hand tools, range waterers and feeders (unless completely mechanized), egg baskets and stackers, hand trucks and nonmechanized egg carts, dollies, brooding paper and guards, nesting materials, boots, gloves, hand-operated sprayers and powder dusters, mouse traps (all types), leg bands, wing bands, and nest eggs. (Note: Some of these items may be exempt under Section 12-36-2120(45).)

(f) animal and motor drawn or operated implements such as plows, harrows, hay rakes, mowers, cultivators, and planters.

(g) machinery used in planting, cultivating, and harvesting timber products.

(h) tobacco curers (not including flues and furnaces).

(i) a flatbed trailer or a stock trailer used for hauling farm crops (i.e. hay, corn, peaches) if the flatbed trailer or stock trailer is used substantially in planting, cultivating, or harvesting such farm crops for sale in their original state of production or preparation for sale.

(j) animal and motor drawn or operated tobacco transplanters.

(k) portable power saws for use in planting, cultivating, or harvesting farm crops may be purchased free of the tax. The term "farm crops" includes forest products or products of the forests.

(l) skidders used in logging operations, when used either by sawmills or by contract loggers.

(m) machinery purchased by operators of commercial fisheries and used directly in fishing operations, such as motor operated watercraft and nets attached to booms or cranes for lowering into the sea bed.

(n) machinery purchased by commercial crabbers and used directly in crabbing operations, such as motors, mechanical capstans, and crab traps when such traps are hoisted by capstans.

This exemption does not apply to:

(a) automobiles and trucks.

(b) machinery used in constructing fences and buildings and repairing machinery and equipment.

(c) farm implements which are not animal and motor drawn or operated, such as hoes, pitchforks, and shovels.

(d) tobacco thermometers.

(e) a flatbed trailer or a stock trailer used for hauling tractors, harvesting equipment or cattle or for hauling farm crops from a storage area to market or to a buyer.

(f) tobacco transplanters which are not animal and motor drawn or operated.

(g) greenhouses.

117-301.6. Fuel.

Fuel used in farm machinery and farm tractors used in planting, cultivating, or harvesting farm crops and fuel used to cure agricultural products is exempt under Code Sections 12-36-2120(15) and 12-36-2120(18). This applies to fuel used in curing grain in grain elevators for storage or sale.

117-301.7. Electricity and Gas.

The following sales of electricity and gas are exempt:

(a) sales of electricity and natural and liquefied petroleum gas to farmers for use in the production of livestock or milk (Code Section 12-36-2120(32)).

(b) sales of electricity for irrigating farms crops (Code Section 12-36-2120(44)).

Sale of electricity and gas to farmers for other uses are taxable.

117-301.8. Building Materials, Supplies, Fixtures and Equipment for Commercial Housing of Poultry and Livestock.

Sales of building material, supplies, fixture, and equipment used in the construction, repair, or improvement a commercial housing of poultry or livestock, or that becomes part of a

self-contained enclosure or structure designed, constructed and used for the commercial housing of poultry or livestock, are exempt under Code Section 12-36-2120(45).

This exemption applies to:

(a) wood chips for use on the floors of self-contained enclosures or structures specifically designed, constructed, and used for the commercial housing of poultry.

(b) fencing and fencing supplies when used to surround an area on all sides in order to protect livestock or poultry raised or maintained for commercial purposes. The exemption is applicable when the fencing and fencing supplies are used within a building such as a barn or a chicken house or used to surround a field that is specifically set aside and used for livestock or poultry that is raised or maintained for commercial purposes.

(c) watering tubs, feed troughs, and hay feeders placed within a fenced in area specifically set aside and used for livestock or poultry, provided the livestock and poultry within the enclosure are being raised or maintained for commercial purposes.

The exemption does not apply to fencing and fencing supplies used to surround a field where crops are grown.

117-301.9. Sales by Farmers.

Sales of farm products are exempt if sold in their original state of production and sold by the farmer or a member of the farmer's immediate family. This exemption not only applies to sales of farm products by individuals; it also applies to sales by corporations and other entities. The exemption applies to food products, ornamental plants, timber, and grass sod.

The exemption is not applicable if the farmer processes his product beyond the usual and customary preparation for sale. For example, where a farmer also operates a processing plant, he cannot claim the exemption for sales of these processed products.

117-301.10. Hatcheries.

The hatchery operator may purchase under his retail license hatchery eggs for use in hatching baby chicks for sale. Hatchery eggs may be sold free of the tax to a hatchery operator not having a retail license, provided, the seller thereof takes from such operator a certificate that the property is for resale either in the original form or as baby chicks or as full grown chickens. Hatcheries engaged in the business of hatching baby chicks for others from eggs grown by those other persons (custom hatching) are rendering a service which is not subject to the tax.

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