

117-308 Professional, Personal, and Other Services

117-308.1. Professional Services

117-308.2. Dentists

117-308.3. Doctors

117-308.4. Lawyers

117-308.5. Veterinarians

117-308.6. Architects

117-308.7. Ophthalmologists, Oculists and Optometrists

117-308.8. Hospitals, Infirmaries, Sanitariums, Nursing Homes and like Institutions

117-308.9. Advertising Agencies

117-308.10. Bookbinders and Paper Cutters

117-308.11. Jewelry Repairmen

117-308.12. Shoe Repairmen

117-308.13. Barber and Beauty Shops

117-308.14. Taxidermists

117-308.15. Automobile Painters

117-308.16. Painters

117-308 Professional, Personal, and Other Services.

The receipts from services, when the services are the true object of the transaction, are not subject to the sales and use tax, unless the sales and use tax is specifically imposed by statute on such services (i.e. accommodation services, communication services). The following subsections of this regulation will discuss various types of services. It should also be noted that several businesses, in addition to selling nontaxable services, also sell tangible personal property and should be licensed to report the tax.

This list is not all-inclusive as to services offered in South Carolina, as to services offered by a particular profession, or as to sales made by a particular profession.

117-308.1. Professional Services.

Receipts from the performance of professional services are not subject to the sales tax.

The property used incidental to the performance of such services by licensed medical doctors, dentists, doctors of veterinary medicine, oculists, optometrists, lawyers, accountants, civil engineers, and other licensed professional men is subject to tax on its sale to such persons.

Note however, that a doctor, etc., may in addition to rendering a service, also be in the business of making sales of tangible personal property. For instance, a doctor may sell medicines.

In those cases where professional men are regularly engaged in the business of selling tangible personal property at retail, they must obtain a retail license and remit the taxes due on such sales.

117-308.2. Dentists.

Dentists use and consume equipment, supplies, and medicines in rendering professional service, which equipment, supplies and medicines, etc., are taxable at the time of its purchase by the dentists. Note: Sales of dental prosthetic devices to dentists are exempt from the tax.

117-308.3. Doctors.

Doctors are the consumers of the supplies, medicines, office furniture and fixtures and special tools and equipment they use in the practice of their profession. Sales of such supplies and equipment to doctors are retail sales and subject to the sales tax.

It is only when a doctor has a stock of drugs from which he makes numerous and substantial retail sales that he is required to have a retail license and to remit sales tax directly to the department.

117-308.4. Lawyers.

Lawyers use law books, supplies, and equipment, which books, supplies and equipment are taxable.

117-308.5. Veterinarians.

Veterinarians are deemed to be the users or consumers of the property they purchase, whether used in the rendering of professional services or sold outright as part of the veterinarian practice and not furnished as a part of professional services rendered.

117-308.6. Architects.

Architects are not considered to be engaged in the business of selling tangible personal property when they render professional services in the forming of original plans, designs and specifications. Also considered to be proceeds from the rendition of professional services are charges for the sale of these original design concepts which have been changed as a result of elevation and/or other architectural modifications to a customer's specific requirements.

Sales by architects of all reproductions of such plans, designs or specifications, unaltered or unmodified in any way, are deemed to be subject to the sales or use tax.

117-308.7. Ophthalmologists, Oculists and Optometrists.

Ophthalmologists, oculists and optometrists are engaged primarily in rendering professional services and when they furnish, replace, or repair eye glasses, lenses or other such ophthalmic materials for their patients in connection with their services, the gross receipts from such services are not taxable, but they must pay the tax as consumers to their suppliers on all materials purchased by them for use in the performance of such service.

The optician is the maker and seller of eyeglasses. He does not examine eyes, but merely fills prescriptions supplied by the ophthalmologist, oculist or optometrist and must charge the tax on all sales by him to users or consumers. The optician is required to obtain a retail license and collect and remit the tax on the gross proceeds of such sales.

All persons or companies, whether opticians, optometrists, or otherwise, making sales of such property as sun glasses, barometers, telescopes, binoculars, opera glasses, etc., are required to have a retail license and collect the sales tax upon the sales of such items of merchandise to the consumer or user thereof.

Likewise, ophthalmologists, oculists and optometrists who are also opticians must pay a tax based on the reasonable and fair market value of all tangible personal property withdrawn for use by them in filling their own prescriptions.

The term "reasonable and fair market value" is held to mean the retail sales price at which the property is offered for sale to the public in the absence of affirmative proof of the contrary. In no event can it be less than the cost of materials used, to include fabrication and service labor, and all other expenses which are a part of preparing the property for the patient, except that it shall not include charges for professional services in connection with examining the patient.

117-308.8. Hospitals, Infirmaries, Sanitariums, Nursing Homes and like Institutions.

Hospitals, infirmaries, sanitariums, nursing homes and like institutions are engaged primarily in the business of rendering services. They are not liable for the sales tax with respect to their gross proceeds or receipts from meals, bandages, dressings, drugs, x-ray photographs and other tangible personal property where such property is used in the rendering of the primary medical service to patients. This is true irrespective of whether or not such tangible items are billed separately to their patients. Hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be the users or consumers of such tangible personal property and the instate sellers of these items are required to report and remit the tax due on the sale of such property to the hospitals, infirmaries, sanitariums, nursing homes, and like institutions or in the case of out-of-state purchases, use tax shall be reported and remitted by the purchaser.

Where meals and beverages are furnished by hospitals, infirmaries, sanitariums, nursing homes and like institutions to the patient as a part of their primary medical service, with or

without a separate charge being made, the hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be the users or consumers of the prepared meal if same is purchased or acquired or the users or consumers of the unprepared food products if the hospitals, infirmaries, sanitariums, nursing homes and like institutions purchase such products and prepare the meal.

Sales of meals, foodstuffs or beverages by hospitals, infirmaries, sanitariums, nursing homes or like institutions to members of the staff, nurses, attendants, employees, visitors or patients, other than those meals furnished as a part of the primary medical service rendered, are sales at retail and such institution is required to obtain a retail license for each location and report and remit the sales tax on the gross proceeds of such sales, to include sales for cash, credit, payroll deduction and sales at special event functions. This includes sales made in institutions, cafeterias, snack bars, canteens and commissaries.

Where drugs, prosthetic devices and other supplies are furnished to their patients as a part of the medical service rendered, such hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be users or consumers of such drugs, prosthetic devices and other supplies.

Gases such as oxygen, etc., sold to hospitals, medical doctors, dentists, and others for professional use are subject to the sales or use tax, whichever may apply.

117-308.9. Advertising Agencies.

Advertising agencies are engaged primarily in the business of selling services. These rely on expertise in advertising strategy, in media buying, in graphic arts production and in other specialized fields to secure and retain clients.

These companies purchase and/or produce finished advertising materials such as radio and television spots and newspaper, magazine and billboard ads, and contract with local and network radio and television stations, newspaper and magazine publishers, outdoor advertising companies, transit advertising companies (bus, taxi and airline) and other media for time or space to air or display these programs.

In the development and execution of a complete advertising campaign, advertising agencies may also share responsibilities with clients in the development of products or services to include, as an example, creation of a trademark, determination of a price, selection or creation of channels of distribution of the products and/or dealership and appraisal of competition.

Receipts of advertising agencies from the furnishing of these professional services are not subject to the sales or use tax. The tax is due, however, on all tangible personal property purchased by these agencies for use in the performance of such services irrespective of whether such property is acquired in the name and for the account of the advertising agencies or their respective principals.

117-308.10. Bookbinders and Paper Cutters.

Persons engaged in the business of binding books, magazines or other printed matter belonging to another, render nontaxable services. Sales of equipment, materials and supplies to bookbinders for use in performing such services are taxable.

If a bookbinder binds his own printed matter and sells the finished products to users or consumers, or makes and sells at retail loose-leaf binders or other articles, he must remit the tax on the entire receipts from such sales.

A person engaging in the business of paper-cutting, folding, gathering, padding or punching circulars, office forms or other printed matter belonging to others, renders nontaxable services. Sales of tangible personal property to such persons for use or consumption in the performance of these services are taxable.

Materials used by bookbinders in repairing textbooks are subject to the tax.

117-308.11. Jewelry Repairmen.

The jewelry repairman is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible personal property used by him in rendering such services. Consequently, the sales by the supply house to the jewelry repairman of articles of machinery and equipment and of such supplies as springs, crystals, jewel staffs, gold, silver solder and other materials used incident to the repair operation are sales at retail within the meaning of the law. Receipts of the jewelry repairman from watch, clock or other jewelry repair are not subject to the tax.

The sales of watches, clocks, watch bands, watch chains, and other items of jewelry or property of like nature constitutes sales of tangible personal property and as such bear the tax. The repairman making sales of such property is required to hold a retail license and to remit directly to the department the sales tax on such sales.

117-308.12. Shoe Repairmen.

The shoe repairman is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible property used by him in rendering such services. Consequently, the sale to the shoe repairman of articles of machinery and equipment and such supplies as sole leather, rubber heels, thread, nails and other findings for use in connection with rendering such services are sales at retail within the meaning of the law.

The sale of shoe laces, second-hand shoes, package products and other like property constitutes sales of tangible personal property and as such bear the tax. The repairman making

sales of such property is required to hold a retail license and to remit directly to the department the sales tax on such sales.

117-308.13. Barber and Beauty Shops.

Barber and beauty shop operators primarily render personal services. They are the purchasers for use or consumption of such tangible personal property as is used or consumed incidentally in the rendering of such personal service.

Barber and beauty shops are not, however, relieved from collecting and reporting the tax on sales of tangible personal property, for use or consumption, such as package cosmetics, hair tonics, lotions, and like articles, when sold apart from the rendering of personal services to the purchasers thereof.

117-308.14. Taxidermists.

Persons practicing the art of taxidermy are deemed to be performing a service the receipts from which are not subject to the sales or use tax. A tax is due, however, on all purchases of tangible personal property for use in the performance of such services.

117-308.15. Automobile Painters.

The painting of automobiles is a service by the painter. Receipts from such painting are not taxable. The paint, supplies, etc., used or consumed by the painter are taxable when sold to him.

117-308.16. Painters.

Persons doing any kind of painting where the only tangible personal property supplied by them is the paint which they apply, are primarily rendering a service and not making retail sales. The receipts from such painting are not subject to the sales tax. All of the paint, tools, brushes, equipment, and supplies purchased by painters are subject to the sales tax or use tax, whichever applies, at the time of sale to the painter.

Note, however, that where painters sell painted signs, furniture, or articles which they have manufactured or purchased for painting for resale purposes, such painters are selling such manufactured or processed articles, which sales are subject to the sales tax. The paint and other materials used as a component part of articles to be sold are purchased tax free at wholesale.

Where painters are both consuming paints, etc., in rendering services and consuming from the same stock the same kind of property in producing property for sale, and where the use in production is continuous and a substantial part of the total business, and where suitable records are kept revealing costs of all materials used in contract painting, and costs of materials

used in producing for sale, the painter using the materials for both purposes will be allowed to purchase all of the dual purpose materials at wholesale, tax-free, and pay sales tax on the basis of gross receipts from property sold at retail, plus the total cost of all materials used, consumed, or furnished by him in his contract painting business.

Where the painter is in such a dual business and his records are not kept to reveal his sales and the cost of property used in contract painting, he shall be required to pay sales or use tax on all his purchases and in addition will be required to report and pay sales tax on all of his sales of property at retail.

Such consumable supplies as brushes, thinners, paint remover, tools, sandpaper, etc., are, in any event, taxable when purchased by the painter.

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