4. BUSINESS PROPERTY TAX AND EXEMPTIONS

1. TAXATION OF REAL AND PERSONAL PROPERTY

Real property is subject to property taxes. Personal property used in business and certain personal property used for personal purposes, such as motor vehicles, boats, and airplanes, are also subject to property taxes. Property taxes are generally assessed and collected by local governments. The Department assesses and collects some property taxes and assists in the administration of property taxes by overseeing all property tax assessments to ensure equitable and uniform assessment throughout South Carolina.

In general, the person who owns real property on the lien date (December 31st of the year preceding the tax year year) in fee simple, for life, or as trustee, as recorded in the public records for deeds, who has the care of the property as a guardian, executor, trustee, or committee on the lien date is liable for payment of the taxes on the real property. South Carolina Code §§12-37-610 and 12-49-20. A leasehold will be subject to ad valorem tax if real property that is subject to a property tax exemption is leased for a definite term and the lessee does not qualify for an exemption. South Carolina Code §12-37-950; see *Clarendon County ex. rel. Clarendon County Assessor v. Tykat, Inc.*, 394 S.C. 21, 714 S.E. 2d 305 (2011)

Property taxes are generally due and payable between September 30th and January 15th after their yearly assessment. South Carolina Code §12-45-70(A); see South Carolina Code §12-39-150. There are special rules fixing liability and due dates for taxpayers that make returns to the Department on a fiscal year basis. See South Carolina Code §12-37-970 and SC Revenue Ruling #05-20.

The amount of property tax due is based upon three elements: (1) the property value, (2) the assessment ratio applicable to the property used to determine assessed value, and (3) the millage rate imposed by the taxing jurisdictions. Each of these elements is briefly discussed below.

1. **Valuation**: Real property (other than agricultural use property and most property that is subject to a Fee in Lieu of property taxes) is appraised to determine fair market value. Real property is reappraised on a countywide basis every 5 years. South Carolina Code §12-43-217. For purposes of this reassessment, any increase in fair market value of any parcel of real property is limited to 15%. This cap on value remains in effect until an "assessable transfer of interest" or "ATI" occurs. AN ATI will result in a valuation not limited by the 15% cap. A non-exclusive list of events that constitute an ATI is provided in South Carolina Code §§12-37-3150. Certain properties that undergo an ATI after 2010 may be eligible for a partial exemption/alternative valuation. The fair market value of

improvements and additions will be added to the fair market value of a parcel after completion. The 15% cap does not apply to improvements or additions in the year they are first subject to property tax. See South Carolina Code §§12-43-217 and 12-37-3120 through 12-37-3170.

Personal property of manufacturers is valued at cost from which a fixed statutory depreciation percentage is deducted each year until a residual value is reached. Personal property of merchants is valued at cost from which income tax depreciation is deducted each year until a residual value is reached. In general, motor vehicles, boats, and airplanes are valued in accordance with nationally recognized publications of value (except that the value may not exceed 95% of the prior year's value). Discounts are allowed for motor vehicles with high mileage.

The property of utilities, airlines, railroads, private car lines, motor carriers, and golf courses is valued using special methods of valuation.

2. **Assessment Ratio**: Assessment ratios are established in the State Constitution to ensure stability and differ according to property classification. In general, all manufacturing property (whether real or personal) and most commercial personal property is assessed at 10.5%. Commercial real property is assessed at 6%. Personal use motor vehicles are assessed at 6%; motor vehicles that do not qualify as personal use motor vehicles (*i.e.,* those that are used for business, are assessed at 10.5 %.) South Carolina Code §12-43-330 provides that property exempt from taxation is also exempt from assessment.

   The valuation is multiplied by the applicable assessment ratio to produce the "assessed value" of a particular piece of property. Taxes are levied based upon this assessed value.

   New and expanding businesses that invest $2.5 million or more ($1 million or more in certain instances) can enter into a Fee in Lieu of property taxes arrangement, which can reduce a 10.5% assessment ratio to 6% for up to 40 years for qualifying property. Very large investments can qualify for a Fee in Lieu of property taxes arrangement with a 4% assessment ratio for up to 50 years for qualifying property. (See Chapter 6 for more details on Fee in Lieu of property taxes.)

3. **Millage**: On an annual basis each taxing jurisdiction determines the number of mills required so that when that number is multiplied by the total assessed value of property subject to taxation within its jurisdiction it will raise the money necessary for it to operate for the next year. The 2014 average millage rate is 317.7 mills. A mill is a unit of monetary value equal to one one-thousandth of a dollar or $0.001.

Example: If a manufacturer owns a piece of property with a value of $10,000 and an assessment ratio of 10.5% (the ratio for manufacturing property in the absence of a Fee in Lieu of property taxes agreement), the assessed value of that property is $1,050 ($10,000 x 10.5%). If the taxing jurisdiction decides in a particular year to levy a tax of 298.7 mills, then the property tax liability of the owner is $312 ($1,050 x .297).

2. PROPERTY CLASSIFICATION

a. General Information

Classification based on ownership and use of a property is used to determine the property's assessment ratio. Classification also determines whether the property will be valued by a county assessor (for real property), by a county auditor (for personal property), or by the Department (for specified real and personal property as provided in South Carolina Code §12-4-540).

South Carolina Regulation 117-1760.1 provides that in classifying businesses for purposes of property tax assessments, if the company is involved in more than one operation, the major operation of the company determines the classification.

b. Business Classification

For purposes of assessing property of manufacturers, the Department follows the classifications set out in Sectors 21, 31, 32, and 33 of the most recent North American Industry Classification System Manual. However, establishments that publish newspapers, books, and periodicals that do not have facilities for printing or that do not actually print their publications are not classified as manufacturers. See South Carolina Code §12-43-335(B).

For purposes of assessing property of railroads, private carlines, airlines, water, power, telephone, cable television, sewer, and pipeline companies, the Department follows the classifications set out in Sectors 22, 51, 424, 481, 482, 483, 485, and 486 (with exceptions within certain sectors) of the most recent North American Industry Classification System Manual. See South Carolina Code §12-43-335(C).

For purposes of assessing the property of merchants and related businesses, the Department follows the classifications set forth in the most recent North American Industry Classification System Manual, Sectors 22, 23, 42, 44, 45, 48, 51, 56, 71, 81, 453, 481, 483, and 484 (with exceptions within certain sectors). See South Carolina Code §12-43-335(A).

For purposes of appraising and assessing personal property of businesses and other entities under the jurisdiction of the county auditor, the county auditor follows the following classifications as contained in the most recent North American Industry Classification System Manual: Sector 11 – Subsectors 111 through 115, unless exempt; Sector 51 - Subsector 512; Sector 52 – Subsectors 522 through 525; Sector 53 – Subsectors 531 and 533; Sector 54 – Subsector 541; Sector 55, Subsector 551, unless exempt; Sector 61, Subsector 611; Sector 62 – Subsectors 621 through 624; Sector 71 – Subsector 712; Sector 72 – Subsector 721; and Sector 81 – Subsectors 813 through- 814, unless exempt. See South Carolina Code §12-39-70.

If a business is involved in more than one operation, the major operation determines its classification for purposes of property tax assessments.

3. ASSESSMENT RATIOS AND VALUATION

a. Manufacturers' and Utilities' Real Property

South Carolina Code §12-43-220(a) provides that real property owned by, or leased to, manufacturers and utilities and used by the manufacturer or utility in the conduct of its business is taxed on an assessment of 10.5% of the fair market value of the property, unless otherwise provided. South Carolina Regulation 117-1700.3 defines "utilities" to include water companies, power companies, electric cooperatives, and telephone companies. The Department also considers sewer companies and cable television companies to be utilities.

Assessment Ratio. Depending on use, the real property owned by a manufacturer may qualify for a 6% assessment ratio rather than a 10.5% assessment ratio. The qualifying uses are discussed below.

- Real property owned by, or leased to, a manufacturer and used primarily for research and development is not considered used by a manufacturer in the conduct of its manufacturing business for purposes of classification of property. The phrase "research and development" means basic and applied research in the sciences and engineering and the design and development of prototypes and processes.

- Real property owned by, or leased to, a manufacturer and used primarily as an office building is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property if the office building is not located on the premises of, or contiguous to, the plant site of the manufacturer.

- A public road and railway tracks which a manufacturer holds in fee simple does not defeat contiguity. When a manufacturer's manufacturing facility and its office building is separated by the road and tracks, the office building does not qualify for the special 6% assessment ratio. *Sonoco Products Co. v. South Carolina Department of Revenue*, 378 S.C. 385 (2008).

- Real property owned by, or leased to, a manufacturer and used **primarily** for warehousing and wholesale distribution is not considered used by a manufacturer in its manufacturing business for purposes of classification of property. Real property subject to this special provision must not be physically attached to the manufacturing plant unless the warehousing and wholesale area is separated from the manufacturing area by a permanent wall.

Valuation. The fair market value of a manufacturer's real property, other than agricultural use real property and potentially property that is subject to a Fee in Lieu of property taxes, is determined by appraisal as discussed at the beginning of this chapter.

All real and personal property of a utility is valued using a unit valuation method to value the utility operations as a whole. See South Carolina Code §§12-37-930 and 12-4-540(B).

b. Manufacturers' Machinery and Equipment

Assessment Ratio. South Carolina Code §12-43-220(a) provides that personal property owned by, or leased to, a manufacturer is taxed on an assessment of 10.5%.

Valuation. South Carolina Code §12-37-930 provides that the fair market value of manufacturers' machinery and equipment used in the conduct of the manufacturing business is determined by reducing the original cost by an annual depreciation allowance. The depreciation allowances range from 6% to 30% per year. South Carolina Code §12-37-935 provides that the maximum depreciation allowed for manufacturer's machinery and equipment is 90% of original cost. Special depreciation rates are applicable to Class 100 or better clean rooms and to machinery and equipment used directly in the manufacturing process by a "life sciences facility" or a "renewable energy manufacturing facility" as defined in South Carolina Code §12-37-930.

Special Reporting Rule for Idle Property Not Under a Fee Agreement. Personal property of a manufacturer located at the manufacturer's facility does not have to be returned for property tax purposes if the facility has not been operational for one fiscal year and the personal property has not been used in the operations for one fiscal year. A return is not required for the property until it becomes operational in a manufacturing process or until it has not been

returned for 4 years, whichever occurs first. The manufacturer must continue to list the personal property annually with a designation that the personal property is not subject to tax. South Carolina Code §12-37-900.

c. Merchants' Business Personal Property

Assessment Ratio. In general, South Carolina Code §12-43-220(f) provides that the personal property of a merchant is assessed at 10.5%.

Valuation. South Carolina Regulation 117-1840.1 provides that the fair market value of merchants' personal property is equal to its depreciated basis for income tax purposes (but not less than 10% of its original cost).

d. Motor Vehicles and Watercraft

Assessment Ratio. In general, South Carolina Code §12-43-220(f) provides that the assessment ratio of tangible personal property is 10.5%. Exceptions are: (1) the assessment ratio for personal use motor vehicles is 6%, and (2) the assessment ratio for commercial fishing boats, commercial tugboats, and pilot boats is 5%.

Valuation. South Carolina Code §12-37-930 requires motor vehicles and watercraft to be valued based on nationally recognized publications (but the value cannot exceed more than 95% of the prior year's value).

Watercraft and motors that have an assessed value of $50 or less are exempt from property taxes under South Carolina Code §12-37-220(B)(38). Watercraft trailers are exempt from property taxes under South Carolina Code §12-37-220(B)(40). The governing body of a county, by ordinance, may exempt from property tax 42.75% of the fair market value of a watercraft and it's motor. The motor need not be attached to the watercraft to qualify. South Carolina Code §12-37-220(B)(38).

Boats and boat motors that are not currently taxed in South Carolina and that are not used exclusively in interstate commerce become taxable if they are present in South Carolina for 60 consecutive days or 90 days in the aggregate in a property tax year. In lieu of the above rule, the local governing body may, by ordinance, replace the 60/90 day provision with one of the following:

1. The boat or boat motor will be considered taxable if the boat or motor is in South Carolina for an aggregate of 180 days in a property tax year. The number of consecutive days that the boat or motor is in South Carolina is disregarded if the county chooses this option; or,

2. The boat or boat motor will be considered taxable if the boat or boat motor is present in South Carolina for an aggregate of 90 days in a property tax year. The number of consecutive days that the boat or motor is in South Carolina is disregarded if the county chooses this option.

For boats used in interstate commerce and that have a tax situs in South Carolina and in at least one other state, the value is computed by multiplying the fair market value by a fraction (*i.e.,* the number of days the boat was present in South Carolina divided by 365.) The boat must be physically present for an aggregate of 30 days in South Carolina to be subject to property taxes in this State. South Carolina Code §12-37-714.

e. General Aviation Aircraft

Assessment Ratio. Pursuant to South Carolina Code §12-43-220(f), aircraft are assessed at 10.5%. South Carolina Code §12-43-360 allows the governing body of a county, by ordinance, to reduce the assessment ratio of general aviation aircraft subject to property tax in the county to not less than 4% of the fair market value. The ordinance must be applied uniformly to all general aviation aircraft subject to property tax in the county.

Valuation. South Carolina Code §12-37-930 requires aircraft to be valued based on nationally recognized publications (but the value cannot exceed more than 95% of the prior year's value).

f. Golf Courses

Assessment Ratio. Pursuant to South Carolina Code §12-43-220(e) golf courses are assessed at 6%.

Valuation. Golf courses are appraised to determine fair market value. South Carolina Code §12-43-365 provides that the valuation of golf course real property does not include the value of tangible and intangible personal property, or any income or expense derived from such property, whether directly or indirectly. Additional rules are provided if the capitalized income approach is used to determine fair market value. Real property is generally subject to the 15% cap as discussed at the beginning of this chapter.

g. All Other Property

Assessment Ratio. South Carolina Code §12-43-220(e) provides that all other real property not otherwise provided for is assessed at 6% of its fair market value. South Carolina Code §12-43-220(f) provides that all other tangible personal property is assessed at 10.5% of its fair market value.

Valuation. The fair market value of real property is generally determined by appraisal as discussed at the beginning of this chapter. South Carolina Regulation 117-1840.2 provides that all personal property that is under county jurisdiction and is not covered by assessment guides furnished by the Department for the assessment of vehicles shall be appraised by the county auditor in the same manner as business personal property under the jurisdiction of the Department as provided for in South Carolina Regulation 117-1840.1.

h. Motor Carriers

South Carolina Code §§12-37-2810 through 12-37-2880 provide that the Department will annually assess, equalize, and apportion for property tax purposes the valuation of all motor vehicles of motor carriers who are South Carolina based International Registration Plan registrants or who own or lease real property within South Carolina used directly in the transportation of freight. Motor carriers meeting the definition of "motor carrier" in South Carolina Code §12-37-2810(A) will be exempt from all other property taxes on their motor vehicles.

Valuation. The fair market value of motor carriers' vehicles taxable in South Carolina is determined by depreciating the gross capitalized cost of each motor vehicle by the percentage set forth in the statute. The vehicle may not be depreciated below 10% of its gross capitalized cost. The resulting value is multiplied by the ratio of a carrier's total mileage operated within this state during the preceding calendar year to the carrier's total mileage within and without this state during the same preceding calendar year times the fair market value of all motor vehicles of the carrier.

Assessment Ratio. This amount (fair market value of vehicles taxable in South Carolina) is then multiplied by a 9.5% assessment ratio to arrive at the assessed value of motor vehicles taxable in South Carolina.

Millage. Once the assessed value has been determined, it is multiplied by the average millage for all purposes statewide for the preceding year. The result is the amount of property tax due.

Exceptions. Trailers and semitrailers used by motor carriers are subject to a one-time $87 fee in lieu of all property taxes and registration requirements after the initial registration. Trailers and semitrailers do not include pole trailers.

4. MANUFACTURING EXEMPTIONS

Article X, §3 of the South Carolina Constitution and South Carolina Code §12-37-220(A)(7) provide for a 5 year exemption from county property taxes (the exemption does not apply to school or municipal taxes) for all new manufacturing establishments and all additions costing $50,000 or more to existing manufacturing facilities located in South Carolina. The exemption applies to land, buildings, and additional machinery and equipment installed in the facility. Further, Article X, §3 of the South Carolina Constitution provides that a municipality may, by ordinance, also exempt this property from municipal property taxes for not more than 5 years. The timely filing of Form PT-300, "Property Return," and appropriate schedules with the Department is deemed to be the application for this exemption.

Additionally, South Carolina Code §12-37-220(C) provides that the exemption may be extended to an unrelated purchaser for the time remaining in the seller's exemption period. To qualify, the purchaser must (1) acquire the facility in an arms-length transaction, (2) preserve the existing facility and existing number of jobs, and (3) obtain the approval of the governing body of the county. If the qualifying unrelated purchaser meets the above three requirements and makes additions to the new or existing facility costing $50,000 or more, then the purchaser may qualify for a 5 year exemption from county property taxes. See South Carolina Revenue Ruling #04-14. Since this exemption requires approval from the local county governing body, the purchaser must timely submit an application for this exemption to the Department on Form PT-444, "Five Year Exemption Extended to Unrelated Purchaser."

Opinions concerning the exemption in South Carolina Code §12-37-220(A)(7) include the following:

1. South Carolina Attorney General Opinion #3712 (1974) determined that for purposes of the $50,000 addition requirement the cost of the addition must be $50,000 to one manufacturing plant rather than an aggregate expenditure for all manufacturing plants of a single taxpayer located in one county.

2. South Carolina Private Letter Ruling #87-11 reviewed whether a new business purchasing an existing facility from a company that had ceased operations at the facility met the requirement to be a new manufacturing establishment or was a continuation of the previous business. The following elements were considered relevant: (1) change in

ownership, (2) change in product, (3) substantial investment of new capital, (4) cessation of former business, and (5) change in product market. Based on the facts in the advisory opinion, the plant met these elements to a degree sufficient to allow the exemption as a new manufacturing establishment.

3. South Carolina Revenue Ruling #89-3 concluded that the exemption for additions to real property improvements of existing manufacturers is allowed to the extent that the real property improvements increase the total real property improvements appraisal.

5. RESEARCH AND DEVELOPMENT EXEMPTIONS

South Carolina Code §12-37-220(B)(34) provides a 5 year exemption from county property taxes (the exemption does not apply to school or municipal taxes) for the facilities of all new enterprises (and all additions valued at $50,000 or more to existing facilities of enterprises) engaged in research and development activities. Further, South Carolina Code §12-37-220(B)(39) provides that the governing body of a municipality may, by ordinance, exempt from municipal property taxes for not more than 5 years property that is located in the municipality and that receives the exemption from county property taxes allowed under South Carolina Code §12-37-220(B)(34). The timely filing of Form PT-300, "Property Return," and appropriate schedules with the Department is deemed to be the application for this exemption. (See Sales and Use Tax Specific Provisions, Chapter 8, Section 7, which addresses a sales or use tax exemption for machines used in research and development pursuant to South Carolina Code §12-36-2120(56).)

Facilities of enterprises engaged in research and development activities are defined in South Carolina Code §12-37-220(B)(34) as facilities devoted directly and primarily to research and development in the experimental or laboratory sense for new products, new uses for existing products, or for improving existing products. The exemption does not include facilities used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects. Additions include machinery and equipment installed in an existing manufacturing or research and development facility. The facility or its addition must be devoted primarily to research and development.

Additionally, South Carolina Code §12-37-220(C) provides that the exemption may be extended to an unrelated purchaser for the time remaining in the seller's exemption period. To qualify, South Carolina Revenue Ruling #04-14 provides that the purchaser must (1) acquire the facility in an arms-length transaction, (2) preserve the existing facility and existing number of jobs, and (3) obtain the approval of the governing body of the county. If the qualifying unrelated

purchaser meets the above three requirements and makes additions to the new or existing facility costing $50,000 or more, then the purchaser may qualify for a 5 year exemption from county property taxes. Since this exemption requires approval from the local county governing body, the purchaser must timely submit an application for this exemption to the Department on Form PT-444, "Five Year Exemption Extended to Unrelated Purchaser."

6. CORPORATE HEADQUARTERS, CORPORATE OFFICE FACILITY, AND DISTRIBUTION FACILITY EXEMPTIONS

South Carolina Code §12-37-220(B)(32) provides a 5 year exemption from county property taxes (the exemption does not apply to school and municipal property taxes) for new corporate headquarters, corporate office facilities, distribution facilities, and all additions to existing corporate headquarters, corporate office facilities, or distribution facilities if:

1. The cost of the new construction or addition is $50,000 or more, and
2. 75 or more new full-time jobs, or 150 or more substantially equivalent jobs, are created in South Carolina.

Further, South Carolina Code §12-37-220(B)(39) provides that the governing body of a municipality may, by ordinance, exempt from municipal property taxes for not more than 5 years property that is located in the municipality and that receives the exemption from county property taxes allowed under South Carolina Code §12-37-220(B)(32). The timely filing of Form PT-300, "Property Return," and appropriate schedules with the Department is deemed to be the application for this exemption. (See Chapter 2, Business Income Tax, Section 16, for a discussion of the income tax credit for corporate headquarters.)

Additionally, South Carolina Code §12-37-220(C) provides that the exemption may be extended to an unrelated purchaser for the time remaining in the seller's exemption period. To qualify, South Carolina Revenue Ruling #04-14 provides that the purchaser must (1) acquire the facility in an arms-length transaction, (2) preserve the existing facility and existing number of jobs, and (3) obtain the approval of the governing body of the county. If the qualifying unrelated purchaser meets the above three requirements and (1) makes additions to the new or existing facility costing $50,000 or more and (2) creates an additional 75 new full time jobs or 150 substantially equivalent jobs at the corporate headquarters, corporate office facility or distribution facility, then the purchaser may qualify for a 5 year exemption from county property taxes. Since this exemption requires approval from the local county governing body, the purchaser must timely submit an application for this exemption with the Department on Form PT-444, "Five Year Exemption Extended to Unrelated Purchaser."

A number of terms are defined in South Carolina Code §12-37-220(B)(32) for purposes of this exemption. Listed below are some of the defined terms:

- "Corporate headquarters" means the location where corporate staff members or employees are domiciled and employed and where the majority of the company's financial, personnel, legal, planning, or other business functions are handled either on a regional or national basis; it must be the sole such corporate headquarters within the region or nation.

- "Region" or "regional" means a geographic area comprised of either (a) at least 5 states, including South Carolina, or (b) 2 or more states, including South Carolina, if the entire business operations of the corporation are performed within fewer than 5 states.

- "New job" means any job created by an employer in South Carolina at the time a new facility or an expansion is initially staffed, but does not include a job created when an employee is shifted from an existing South Carolina location to work in a new or expanded facility.

  - "Full-time" means a job requiring a minimum of 35 hours of an employee's time a week for the entire normal year of company operations or a job requiring a minimum of 35 hours of an employee's time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility.

  - "Substantially equivalent" means a job requiring a minimum of 20 hours of an employee's time a week for the entire normal year of company operations or a job requiring a minimum of 20 hours of an employee's time for a week for a year in which the employee was initially hired for or transferred to the South Carolina corporate headquarters, corporate office facility, or distribution facility and worked at a rented facility pending construction of a corporate headquarters, corporate office facility, or distribution facility.

- "Corporate Office Facility" means the location where corporate managerial, professional, technical, and administrative personnel are domiciled and employed, and where corporate financial, personnel, legal, technical, support services, and other business functions are handled. Support services include, but are not limited to, claims processing, data entry, word processing, sales order processing, and telemarketing.

- "Distribution facility" means an establishment where shipments of tangible personal property are processed for delivery to customers. The term does not include an establishment where retail sales of tangible personal property are made to retail customers on more than 12 days a year except for a facility which processes customer sales orders by mail, telephone, or electronic means, if the facility also processes shipments of tangible personal property to customers and if at least 75% of the dollar amount of goods sold through the facility are sold to customers outside of South Carolina. Retail sales made inside the facility to employees working at the facility are not considered for purposes of the 12 day and 75% limitation.

South Carolina Private Letter Ruling #89-19 dealt with several questions concerning the property tax exemption and the income tax credit for a corporate headquarters for a taxpayer under a unique set of facts. One question concerned what was an "addition to an existing corporate headquarters." In this instance, the taxpayer constructed two buildings at their South Carolina location. For purposes of the employment requirement, it was necessary to determine whether the additions should be viewed as one expansion or two. The Department concluded that since the phrase "addition to an existing corporate headquarters" may mean the building of one building or many buildings, a reasonable interpretation is to look to the plan of expansion. Since the plan of expansion in question included the current construction of both buildings, then the buildings should be construed as one addition; therefore, requiring the taxpayer to fulfill the employment provisions once.

Another question addressed in South Carolina Private Letter Ruling #89-19 was whether the positions created had to be placed in the new buildings. The Department concluded that the positions need not be placed in the new buildings; however, they must be employed in the South Carolina headquarters complex. Early staffing for the purpose of training was acceptable if the employee would be placed in the corporate headquarters during the construction of the expansion or immediately after its completion.

7. TEXTILE REVITALIZATION CREDITS

a. General Provisions

The South Carolina Textile Communities Revitalization Act, contained in Title 12, Chapter 65, provides a credit for the renovation, rehabilitation, and redevelopment of abandoned textile mill sites in South Carolina. South Carolina Code §12-65-30 allows a taxpayer who rehabilitates an abandoned textile mill site to choose one of the following tax credits:

1. A credit against real property taxes ("property tax credit") equal to 25% of the eligible rehabilitation expenses made to the site multiplied by the local taxing entity ratio for each local taxing entity consenting to the credit or
2. A credit against income tax, license tax, or both or a credit against bank or insurance premium taxes ("income/bank/license/insurance premium tax credit") equal to 25% of eligible rehabilitation expenses.

A "Notice of Intent to Rehabilitate" must be filed by the taxpayer before incurring its first rehabilitation expenses at the textile mill site. The Notice must be filed with the municipality (or county if the site is located in an unincorporated area) for a taxpayer choosing the property tax credit. Rehabilitation expenses incurred before the Notice is provided generally will not qualify for the credit.

The Notice is a letter submitted by the taxpayer indicating:

- the taxpayer intends to rehabilitate the site
- the location of the site
- the amount of acreage involved with the site
- the estimated expenses to be incurred
- which buildings on the site are to be renovate or demolished and
- whether new construction is to be involved at the site.

b. Property Tax Credit

For the property tax credit, the municipality or county must, by resolution, determine the eligibility of the textile mill site and the proposed rehabilitation expenses. A positive majority vote of the local governing body must approve the rehabilitation and the expenses. Final approval must be by public hearing and ordinance.

At least 45 days before holding the public hearing, the governing body of the municipality or county must give notice to all affected local taxing entities where the textile mill site is located of its intention to grant the property tax credit and the amount of estimated credit based on the amount of estimated rehabilitation expenses. If the local taxing entity does not file an objection, it is deemed to have consented to the credit. A taxpayer is not allowed the property tax credit if it owned the textile mill site immediately prior to its abandonment and the site was operational at that time. Further, a taxpayer is not eligible to claim a credit if the facility previously received textile mill credits.

This credit amount is based upon actual or estimated expenses as follows:

1. The credit is 25% of the actual rehabilitation expenses if the actual expenses incurred in rehabilitating the site are 80% - 125% of the estimated rehabilitation expenses listed in the Notice.

2. The credit is 25% of 125% of the estimated rehabilitation expenses if the actual rehabilitation expenses exceed 125% of the estimated expenses listed in the Notice.

3. No credit is allowed if the actual rehabilitation expenses are below 80% of the estimated expenses.

The amount of allowable expenses is multiplied by the local taxing entity ratio of each local taxing entity that has consented to the credit to determine the amount that may offset property taxes. The ordinance shall allow the credit to be taken against up to 75% of the real property taxes due on the textile mill site each year for up to 8 years. The credit may be claimed for each applicable phase or portion of the site beginning for the property tax year the applicable phase or portion is first placed in service. An unused credit may be carried forward for 8 years.

c. Income or License Tax Credit

See Chapter 2, “Business Income Tax”, Section 33, for a summary of the textile revitalization income/bank/license/insurance premium tax credit.

d. Definitions

South Carolina Code §12-65-20 contains a list of definitions of terms used in the Act. Some of the defined terms are:

1. “Textile mill” - a facility or facilities that were initially used for textile manufacturing, dying, or finishing operations and for ancillary uses to those operations.

2. “Textile mill site” - the textile mill together with the land and other improvements on it which were used directly for textile manufacturing operations or ancillary uses. However, the area of the site is limited to the land located within the boundaries where the textile manufacturing, dying, or finishing facility structure is located and does not include land located outside the boundaries of the structure or devoted to ancillary uses.

3. “Ancillary uses” - uses related to the textile manufacturing, dying, or finishing operations on a textile mill site consisting of sales, distribution, storage, water runoff, wastewater treatment and detention, pollution control, landfill, personnel offices, security offices, employee parking, dining and recreation areas, and internal roadways or driveways directly associated with such uses.

4. “Abandoned” - at least 80% of the textile mill has been continuously closed to business or otherwise nonoperational as a textile mill for at least one year immediately preceding the date the taxpayer files a “Notice of Intent to Rehabilitate”. A textile mill that qualifies as abandoned may be subdivided into separate parcels, and those parcels may be owned by the same taxpayer or different taxpayers, and each parcel is deemed to be a textile mill site for purposes of determining whether each subdivided parcel has been abandoned.

5. “Rehabilitation expenses” - expenses or capital expenditures incurred in the rehabilitation, renovation, or redevelopment of the textile mill site, including demolition of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the site, but excluding the cost of acquiring the site or the cost of personal property located at the site. For expenses to qualify for the credit, the textile mill and buildings on the site must be either renovated or demolished.

6. “Placed in service” - the date the textile mill site is completed and ready for its intended use. If the site is completed and ready for use in phases or portions, each phase or portion is considered placed in service when it is completed and ready for its intended use.

7. “Local taxing entities” - a county, municipality, school district, special purpose district, and any other entity or district with the power to levy ad valorem property taxes against the site.

8. “Local taxing entity ratio” - that percentage computed by dividing the millage rate of each local taxing entity by the total millage rate for the site.

CAUTION: Other rules may apply to a site located on the Catawba River near Interstate 77, and transitional rules may apply to certain sites.

e. Certification Procedures

South Carolina Code §12-65-60 provides a procedure which allows a taxpayer to apply to the governing body of the municipality or county in which the textile mill site is located for certification of the site. The certification can be done by either ordinance or binding resolution. The certification must include certain findings. A taxpayer who receives this certification is allowed to conclusively rely on the certification in determining the credit allowed; however, the taxpayer must include a copy of the certification on his first return where the credit is claimed.

8. RETAIL FACILITIES REVITALIZATION CREDITS

a. General Provisions

The South Carolina Retail Facilities Revitalization Act, contained in Title 6, Chapter 34, provides a property tax credit or an income tax credit for the renovation, improvement, and redevelopment of abandoned retail facility sites in South Carolina.

South Carolina Code §6-34-40 allows a taxpayer who improves, renovates, or redevelops an eligible site to elect one of the following credits:

1. A “property tax credit” equal to 25% of the rehabilitation expenses made to the eligible site times the local taxing entity ratio for each local taxing entity consenting to the credit, up to 75% of the real property taxes due on the eligible site each year or

2. An “income tax credit” equal to 10% of the rehabilitation expenses.

Subject to county approvals, the taxpayer elects whether to claim the property tax credit or the income tax credit. To elect the property tax credit, the taxpayer must provide written notification to the Department prior to the date the eligible site is placed in service. If the taxpayer does not affirmatively make the property tax credit election timely in writing before the date the site is placed in service or does not obtain the required county approvals in South Carolina Code §6-34-40(B), then the taxpayer is deemed to have elected the income tax credit. There is no notification process for the income tax credit. There is no formal procedure to elect the income tax credit; it is simply claimed on the income tax return. For questions regarding the property tax credit election notification, contact the South Carolina Department of Revenue at 803-898-5557.

b. Property Tax Credit

If a taxpayer elects the property tax credit provided in South Carolina Code §6-34-40(B), the municipality (or county if the site is located in an unincorporated area) must determine the eligibility of the site and the proposed project. A majority vote of the local governing body must approve the project by resolution, and the determinations and the final approval must be made by public hearing and ordinance.

No later than 45 days before holding the public hearing, the governing body of the municipality or county must give notice to all local taxing entities where the eligible site is located of its intention to grant the property tax credit. If the local taxing entity does not file an objection, it is deemed to have consented to the credit if the actual tax credit does not exceed the credit stated in the public hearing notice.

The ordinance shall allow the credit to be taken against up to 75% of the real property taxes due on the eligible site each year for up to 8 years. The property tax credit vests in the taxpayer in the year in which the eligible site is placed in service. Any unused credit may be carried forward up to 8 years.

c. Income Tax Credit

See Chapter 2, “Business Income Tax,” Section 34, for a summary of the retail facility revitalization income tax credit.

d. Definitions

South Carolina Code §6-34-30 contains the definitions for the following terms used in the Act:

1. “Eligible site” - a shopping center, mall, or free standing site that has been abandoned whose primary use was as a retail facility with at least one tenant or occupant located in a 40,000 square foot or larger building or structure. However, for purposes of the property tax credit, the governing body of a county or municipality where the site is located may, by resolution, reduce the 40,000 square foot eligibility requirement by not more than 15,000 square feet.

2. “Abandoned” - at least 80% of the eligible site’s facilities have been continuously closed to business or nonoperational for at least one year immediately prior to the time the determination is to be made. However, during the abandonment, the eligible site may serve as a wholesale facility for no more than one year. The eligible site’s facilities only include the site’s building or structure.

3. "Rehabilitation expenses" – "the expenses incurred in the rehabilitation of the eligible site, excluding the cost of acquiring the eligible site or the cost of personal property maintained at the eligible site."

4. "Placed in service" - the date the eligible site is suitable for occupancy for the purposes intended.

5. "Local taxing entity ratio" - the "percentage computed by dividing the millage rate of each local taxing entity by the total millage rate for the eligible site."

6. "Local taxing entity" – "a county, municipality, school district, special purpose district, and any other entity or district with the power to levy ad valorem property taxes against the eligible site."

e. Transfer of Credit

The owner of the eligible site may transfer, devise, or distribute any unused credit to the tenant of the eligible site, provided the Department receives written notification of, and approves the transfer, devise, or distribution.

f. Repeal Date

The South Carolina Retail Facilities Revitalization Act is repealed on July 1, 2016.

9. ABANDONED BUILDINGS REVITALIZATION CREDIT

a. General Provisions

The South Carolina Abandoned Buildings Revitalization Act, contained in Title 12, Chapter 67, provides a credit for the rehabilitation, renovation, and redevelopment of abandoned buildings begun in tax years beginning in 2013 and thereafter. A qualifying taxpayer may elect one of the following tax credits:

1. A credit against income tax, license tax, bank tax or a combination of the three equal to 25% of the eligible rehabilitation expenses made to the site or

2. A credit against real property taxes equal to 25% of the eligible rehabilitation expenses made to the site multiplied by the local taxing entity ratio of each local taxing entity consenting to the credit, which can offset up to 75% of the real property taxes due on the eligible site each year.

In order for expenses associated with the site to qualify for the credit, the abandoned buildings on the building site must be either renovated or redeveloped and the taxpayer could not have owned the site immediately prior to its abandonment if the site was operational at that time.

For the property tax credit, a taxpayer must file a "Notice of Intent to Rehabilitate" (Notice) with the municipality, or if a building is located in an unincorporated area, the county, before incurring any rehabilitation expenses. Failure to provide the Notice results in only those rehabilitation expenses incurred after the Notice is provided qualifying for the credit.

The Notice is a letter submitted by the taxpayer indicating:

- the taxpayer intends to rehabilitate the building;
- the location of the building site;
- the amount of acreage involved with the site;
- the amount of square footage of existing buildings;
- the estimated expenses to be incurred;
- which buildings will be rehabilitated; and
- whether new construction is to be involved at the site.

b. Property Tax Credit

In order for a taxpayer to obtain the credit, the municipality or county must, by resolution, determine the eligibility of the abandoned building site and the proposed rehabilitation expenses. Both must be approved by a positive majority vote of the local governing body, Final approval must be made by public hearing and ordinance.

At least 45 days before holding the public hearing, the governing body of the municipality or the county must give notice to all affected local taxing entities of its intent to grant the property tax credit and the amount of the estimated credit based on the amount of estimated rehabilitation expenses. If a local taxing entity does not file an objection, it is deemed to have consented to the credit. The local taxing entity ratio is set at the time the Notice is filed and remains set for the entire period that the credit is claimed by the taxpayer.

Finally, the ordinance must provide for the credit to be taken as a credit against up to 75% of the real property taxes due on the building site each year for up to 8 years. The property tax credit for each phase or portion of the building site may be claimed beginning with the property tax year in which the applicable portion or phase of the building site is placed in service.

The credit is based upon actual or estimated expenses as follows:

1. The credit is 25% of the actual rehabilitation expenses if the actual expenses incurred in rehabilitating the site are between 80% and 125% of the estimated rehabilitation expenses listed in the Notice.

2. The credit is 25% of 125% of the estimated rehabilitation expenses if the actual rehabilitation expenses exceed 125% of the estimated expenses listed in the Notice.

3. No credit is allowed if the actual rehabilitation expenses are below 80% of the estimated expenses.

c. Investment Requirements

The abandoned buildings credit only applies to abandoned building sites, or phases or portions thereof, put into operation where the taxpayer incurs:

- More than $250,000 of rehabilitation expenses for buildings located in the unincorporated areas of a county or in a municipality in the county with a population of more than 25,000 people.

- More than $150,000 of rehabilitation expenses for buildings located in the unincorporated areas of a county or in a municipality in the county with a population between 1,000 and 25,000 people.

- More than $75,000 of rehabilitation expenses for buildings located in a municipality with a population of less than 1,000 people.

d. Income/License/Bank Tax Credit

See Chapter 2, “Business Income Tax”, Part E “Property Rehabilitation Credits” for a summary of the abandoned buildings income/license/bank tax credit.

e. Definitions

South Carolina Code §12-67-120 contains a list of definitions of terms used in the Act. Some of the defined terms are:

1. "Abandoned building" - a building or structure, other than a single family residence, which clearly may be delineated from other buildings or structures, at least 66% of the space which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least 5 years immediately preceding the date on which the taxpayer files the Notice of Intent to Rehabilitate. A building that otherwise qualifies may be divided into unit or parcels, which may be owned by the same taxpayer or different taxpayers. Each unit or parcel is deemed to be an abandoned building site for purposes of determining whether each subdivided parcel is considered to be abandoned. Special rules apply if the building is listed on the National Register for Historic Places.

2. "Building site" - the abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. However, the area of the building site is limited to the land upon which the abandoned building is located and the land immediately surrounding such building used for parking and other similar purposes directly related to the building's income producing use.

3 "Rehabilitation expenses" - expenses or capital expenditures incurred in the rehabilitation, demolition, renovation, or redevelopment of the building site, including without limitation, the renovation or redevelopment of existing buildings, environmental remediation, site improvements and the construction of new buildings and other improvements on the site, but excluding the cost of acquiring the site or the cost of personal property located at the site, and demolition expenses if the building is on the National Register of Historic Places.

   Rehabilitation expenses associated with a building site that increase the amount of square footage on the building site in excess of 200% of the amount of the square footage of the buildings that existed on the buildings site as of the filing of the Notice shall not be considered a rehabilitation expense for calculating the amount of the credit.

4. "Placed in service" - the date upon which the building site is completed and ready for its intended use. If the site is completed and ready for use in phases or portions, each phase or portion is considered placed in service when it is completed and ready for its intended use.

5. "Local taxing entities" - a county, municipality, school district, special purpose district, and any other entity or district with the power to levy ad valorem property taxes against the site.

6. "Local taxing entity ratio" - that percentage computed by dividing the millage rate of each local taxing entity by the total millage rate for the site.

g. Repeal of the Act

The South Carolina Abandoned Buildings Revitalization Act is repealed on December 31, 2019. Any credit carryforward under South Carolina Code §12-67-140(C) will continue to be allowed until the 8 year time period is completed.

10. FIRE SPRINKLER SYSTEM CREDIT

South Carolina Code §12-6-3622 provides that a local taxing entity may allow a property tax credit to a taxpayer who installs a new or existing fire sprinkler system in a new or existing commercial or residential structure if the system is not required by law, regulation, or code. The property tax credit is equal to 25% of the direct expenses incurred in connection with the system, but does not include any fee charged by a utility. The credit is claimed against real property taxes levied by a local taxing entity. The taxpayer may also claim an income tax credit equal to the amount of the property tax credit allowed by the local taxing entity. The term "fire sprinkler system" has the same meaning as provided in South Carolina Code §40-10-20.

The owner of the structure may transfer, devise, or distribute any unused credit to the tenant of the eligible site. To be effectual, the local taxing entity must receive written notification. The property tax credit is claimed on Form TC-52C, "Sprinkler System Credit Claim and Certification Form," submitted with the payment of real property taxes to the local taxing entity.

See below for a discussion of the fire sprinkler system equipment exemption and see Chapter 2, "Business Income Tax," for a discussion of the income tax credit allowed for the installation of a fire sprinkler system.

11. REHABILITATED HISTORIC PROPERTY OR LOW AND MODERATE INCOME RENTAL PROPERTY - PREFERENTIAL VALUATION

South Carolina Code §§4-9-195 and 5-21-140 provide that the governing body of a county or municipality may grant by ordinance special property tax assessments to real property qualifying as "rehabilitated historic property" or as "low and moderate income rental property" as described below.

a. Rehabilitated Historic Property

Upon preliminary certification by the taxing entity, owner occupied rehabilitated historic property is assessed for two years based on a special valuation equal to the fair market value of the property at the time of preliminary certification. Rehabilitated historic property is eligible for preliminary certification if (1) the owner of the property applies for and is granted historic designation by the governing body of the taxing entity and (2) the proposed rehabilitation receives approval of rehabilitation work from the appropriate reviewing authority. The appropriate reviewing authority is either: (1) the county board of architectural review for counties having such a board operating under South Carolina Code §6-29-870, (2) another qualified entity with historic preservation expertise designated by a county that does not have a board of architectural review or, (3) the South Carolina Department of Archives and History for counties not having a board of architectural review or designated entity. In order to be granted a historic designation, the property must meet certain conditions related to its age and/or location. The taxing entity may require that an owner apply for preliminary certification before any work begins.

Upon completion of the project, the property must receive final certification from the taxing entity to continue to obtain its special valuation. To receive final certification the property must meet the following conditions: (1) the owner of the property must apply for and be granted historical designation by the governing body of the taxing entity based on the criteria established for a "historic designation," (2) the completed rehabilitation must receive approval of the rehabilitation work from the appropriate reviewing authority, and (3) the "minimum expenditures for rehabilitation" must have been incurred and paid. Once the final certification has occurred, the property must be assessed based on a special valuation equal to the fair market value at the time of preliminary certification or final certification, whichever occurs first. The property is assessed at that value for 20 years or whatever lesser period the county establishes in its ordinance or until a disqualifying event occurs. The disqualifying events are set forth in South Carolina Code §4-9-195(E).

b. Low and Moderate Income Rental Property

Upon certification by the governing body of the taxing entity, low and moderate income rental property is assessed based on a special valuation equal to the fair market value of the property at the time of certification. The requirements for qualifying as low and moderate income rental property are set forth in the South Carolina Code §4-9-195(C). Once the certification has occurred, the property must be assessed based on the special valuation for 20 years or whatever lesser period the county establishes in its ordinance or until a disqualifying event occurs. The disqualifying events are set forth in South Carolina Code §4-9-195(E).

c. General Information

If an application for preliminary or final certification is filed by May 1st or approved by August 1st, the special assessment is effective for that year. Otherwise, it is effective beginning the following year. Once the governing body has granted this special property tax assessment, the owner of the property must apply to the county auditor for the special assessment.

See South Carolina Property Tax, published on the Department's website at www.sctax.org/publications, for more information.

12. EXEMPTIONS FOR INVENTORY AND INTANGIBLES

South Carolina Code §§12-37-220(A)(6) and (B)(30) exempt all inventories from property taxes. Further, there is no local tax on inventories. South Carolina Code §12-4-720(A)(3) provides that no application is required to exempt inventories.

South Carolina Revenue Ruling #91-7 addressed the definition of "inventory" and concluded (1) merchandise purchased for resale is inventory for purposes of South Carolina Code §12-37-450 (the reimbursement to counties and municipalities for revenues lost as a result of the inventory exemption), (2) the purpose for which merchandise was bought and held governs in determining whether it is inventory, not the fact that it may subsequently be resold, and (3) equipment which is rented out by rental businesses and materials and supplies used in a business are examples of property which are not inventory and; therefore, are not exempt from property taxation under South Carolina Code §12-37-220(B)(30). Generally, items are classified as inventory if they are inventory for South Carolina income tax purposes, which is based upon federal income taxes.

South Carolina Code §12-37-220(A)(10) exempts "intangible personal property" from property taxes. Further, there is no local tax on intangible personal property. South Carolina Code §12-4-720(A)(3) provides that no application is required to exempt intangible personal property.

13. EXEMPTION FOR PERSONAL PROPERTY IN TRANSIT

South Carolina Code §12-37-220(B)(17) exempts from property taxation personal property in transit with "no situs" status as defined in South Carolina Code §12-37-1110. Personal property in transit is personal property, goods, wares, and merchandise that: (1) is moving in interstate commerce, or (2) was consigned to a warehouse (public or private) within this state from without this state for storage in transit to a final destination outside of this state, whether specified when transportation began or afterward. This property is subject to certain record keeping requirements. No application for this exemption is necessary.

14. POLLUTION CONTROL EXEMPTION

South Carolina Code §12-37-220(A)(8) exempts from property taxation all facilities or equipment of industrial plants used in the conduct of their business which are designed for the elimination, mitigation, prevention, treatment, abatement, or control of internal or external water, air, or noise pollution required by the state or federal government.

For equipment that serves a dual purpose of production and pollution control, the value eligible for the property exemption is the difference in cost between this equipment and equipment of similar production capacity or capability without the ability to control pollution.

For purposes of this exemption, 20% of the cost of any piece of machinery and equipment placed in service in a greige mill qualifies as internal air and noise pollution control property and is exempt from property taxes. "Greige mill" means all textile processes from opening through fabric formation before dyeing and finishing.

At the request of the Department, the Department of Health and Environmental Control ("DHEC") investigates the property of any manufacturer or company eligible for the exemption to determine the portion of the property that qualifies as pollution control property. Upon investigation of the property, DHEC furnishes the Department with a detailed listing of the property that qualifies as pollution control property.

South Carolina Code §12-4-720(A)(2) provides that application for this exemption must be filed with the Department before the first penalty date for the payment of property taxes.

15. ENVIRONMENTAL CLEANUP EXEMPTION

Subject to approval by the governing body by resolution, South Carolina Code §12-37-220(B)(44) provides a 5 year exemption from county property taxes (the exemption does not apply to school and municipal property taxes) for property and improvements subject to a nonresponsible party voluntary cleanup contract for which a certificate of completion has been issued by the South Carolina Department of Health and Environmental Control pursuant to Article 7, Chapter 56, Title 44 (The Brownfields Voluntary Cleanup Program). The exemption applies beginning with the taxable year in which a certificate of completion is issued.

16. FIRE SPRINKLER SYSTEM EXEMPTION

South Carolina Code §12-37-220(B) provides an exemption for all fire sprinkler system equipment that is installed on a commercial or residential structure when the installation is not required by law, regulation, or code. The value of such equipment is exempt until there is an "assessable transfer of interest."

See Section 1 above for a brief discussion of assessable transfer of interest. Also, see above for a discussion of the fire sprinkler system credit and Chapter 2, "Business Income Tax," for a discussion of the income tax credit allowed for the installation of a fire sprinkler system.

17. OTHER PARTICULAR BUSINESS EXEMPTIONS

Some or all of the property of the following businesses is exempt from property taxes:

- South Carolina Code §§12-37-220(B)(23) and 12-4-720(A)(3) provide that the personal property of banks and savings and loan associations, including motor vehicles, is exempt from property taxes. No application for this exemption is necessary.
- South Carolina Code §§12-37-220(B)(23)[1] and 12-4-720(A)(3) provide that beer and wine are exempt from property taxes. No application for this exemption is necessary.
- South Carolina Code §§12-37-220(B)(10) and 12-4-720(A)(1) provide that the property of telephone companies and rural telephone cooperatives used in providing rural telephone service that was exempt from property taxation as of December 31, 1973, is exempt from property taxes, provided that the amount of property subject to property taxes in any tax district is not less than the net amount to which the tax millage was

[1] SC Code §12-37-220(B)(23) references SC Code §12-21-1080. That code section has been changed to SC Code §12-21-1085.

applied for the year ending December 31, 1973. Property in any tax district added after December 31, 1973, is also exempt in the same proportion that the exempt property of the company or cooperative as of December 31, 1973, in that tax district bears to the total property of the company or cooperative as of December 31, 1973, in the tax district. Application for this exemption must be filed with the Department within the period provided in South Carolina Code §12-54-85(F) for claims for refund.

- South Carolina Code §12-37-220(A)(11) exempts from property taxes all property of public benefit corporations established by a county or municipality and used exclusively for economic development which serves a governmental purpose as defined in Internal Revenue Code §115.

- South Carolina Code §12-37-220(B)(33) provides that all personal property, including aircraft of an air carrier which operates an air carrier hub terminal facility in South Carolina for 10 consecutive years from the date of qualification, are exempt from property taxes. An air carrier hub terminal facility is defined in South Carolina Code §55-11-500. Further, all aircraft and associated personal property owned by a company owning aircraft meeting the requirements of South Carolina Code §55-11-500(a)(3)(i) (i.e., two or more specially equipped planes that are used for the transportation of specialized cargo, irrespective of the number of flights) is exempt from property taxes. South Carolina Code §§12-4-720(A)(1) and 12-37-220(B)(33) provide that application for this exemption must be filed with the Department within the period provided in South Carolina Code §12-54-85(F) for claims for refund.

- South Carolina Code §12-37-220(B)(51) exempts 100% of the value of a newly constructed detached single family home offered by a residential builder or developer through the earlier of (a) the property tax year in which the home is sold or otherwise occupied, or (b) the property tax year ending the sixth December 31 after the home is completed and any required certificate of occupancy is issued, provided required notice is given for each year of eligibility and the county approves.

  To obtain this exemption, the owner of the property must notify the county assessor and auditor by written affidavit that the property is eligible for the exemption and is unoccupied. In the first year of eligibility, this notification must be made no later than 30 days after the certificate of occupancy is issued. In subsequent years of eligibility, notification must be made by January 31st of the applicable tax year.

18. AD VALOREM TAXATION OF LEASEHOLD INTERESTS IN CERTAIN PROPERTY

If real property subject to an exemption from ad valorem property taxes is leased for a definite term to a lessee who does not qualify for an exemption, the leasehold interest of such person is subject to tax and the liability for property taxes shifts to the lessee. See, South Carolina Code §12-37-950 and *Clarendon County ex rel Clarendon County Assessor v. TYKAT, Inc.*, 394 S.C. 21, 714 S.E. 2d 305 (2011).

19. MULTI-COUNTY INDUSTRIAL PARKS

South Carolina Code §4-1-170 provides that a joint industrial or business park (referred to as a multi-county industrial park) can be established by two or more counties pursuant to a written agreement between those counties, as provided in Section 13 of Article VIII of the South Carolina Constitution.

The multi-county park area is exempt from property tax. The owners of any property in the park will pay a fee in the amount equal to the property taxes that would have been due and payable if the property was not in a multi-county industrial park, unless the parties agree to a negotiated fee in lieu of property tax. The fee is treated like a property tax for purposes of collection and enforcement and the owners must file returns as if the fee were a property tax. See Negotiated Fees in Lieu of Property Taxes, Chapter 6 for a detailed discussion of negotiated fees in lieu of property taxes.

A county may issue special source revenue bonds to help fund the project or to allow an entity paying a multi-county park fee in lieu of taxes a credit against the fee. However, the special source revenue bonds or the credit amount must be used solely for the purpose of paying the cost of acquiring, constructing, or improving (1) infrastructure serving the county, municipality or project, (2) improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise or (3) aircraft which qualifies as a project under the Simplified Fee (South Carolina Code §12-44-30(16)) which enhances the economic development of the county or municipality.

If the bonds or monies from a credit against the fee are used to pay for the costs of personal property and the personal property is later removed from the project and is not replaced with qualifying property, the amount of any fee due on the property must be paid for the year the property is removed from the project and for the 2 years following its removal from the project. If any bond funds or credit funds are used to pay for both real property and personal property or infrastructure and personal property, all the funds will be presumed to be used first to pay for the personal property. See South Carolina Code §4-1-175. See Negotiated Fees in Lieu of Property Taxes, Chapter 6, for a detailed discussion of special source revenue bonds.

Additionally, a taxpayer located in a multi-county industrial park creating qualifying new, full time jobs is eligible for an additional $1,000 job tax credit. See Business Income Tax, Chapter 2, Section 9, for a discussion of the job tax credit benefits.

20. REAL PROPERTY EXEMPTION AND ALTERNATE VALUATION

South Carolina Code §12-37-3135 allows real property that undergoes an assessable transfer of interest (ATI) after 2010 to be subject to a partial exemption/alternate valuation if eligibility requirements are met. To obtain the partial exemption/alternate valuation, the following requirements must be met:

- the property must be subject to property tax before the ATI;
- the property must be subject to the 6% assessment ratio before the ATI and remain so thereafter; and
- the owner must notify the assessor that the property will be subject to the 6% assessment ratio before January 31st of the property tax year for which the owner first claims eligibility for the partial exemption/alternate valuation.

The partial exemption will be applied to the fair market value of the property as follows:

If the "ATI fair market value" exceeds the "current fair market value" (see meaning of terms below), the partial exemption is allowed reducing the ATI fair market value by an amount equal to 25% of the ATI fair market value. The resulting amount, referred to as the "exemption value," becomes the taxable value for the property. However, the exemption value cannot be less than the currently fair market value of the property. If the exemption value exceeds the current fair market value of the property, then the current fair market value becomes the taxable value for the property.

If the ATI fair market value is less than the current fair market value of the property, the partial exemption is not allowed and the ATI fair market value becomes the taxable value for the property.

In determining if the partial exemption/alternate value is allowed, the following terms are relevant.

"Fair market value" is the fair market value of the real property as determined by the assessor by an initial appraisal, or as reappraised either after an ATI or periodically under South Carolina Code §12-43-217 ("Full value without cap").

“Current fair market value” is the fair market value as reflected on the assessor’s records for the current year.

“Property Tax Value” is fair market value as limited by the 15% cap per SC Code §12-37-3140(“Capped Value”)

“ATI fair market value” is the fair market value of the property determined by appraisal after the latest ATI.

“Exemption value” is the ATI fair market value reduced by the 25% exemption.

South Carolina Code §12-37-3135.