

## **7. SALES AND USE TAX GENERAL PROVISIONS**

### **1. STATE SALES AND USE TAXES**

South Carolina Code §§12-36-910(A) and 12-36-1110 impose a 6% sales tax on the gross proceeds of sales of every person engaged in the business of selling tangible personal property at retail. The retailer is liable for the tax. The sales tax is also imposed on the fair market value of items originally purchased at wholesale that are withdrawn for use by the business or by any person withdrawing the property. See South Carolina Code §12-36-110(1)(c)(i) and South Carolina Revenue Ruling #08-11.

South Carolina Code §§12-36-1310(A) and 12-36-1110 impose a 6% use tax on the sales price of tangible personal property purchased at retail for storage, use, or other consumption in South Carolina, regardless of whether the retailer is engaged in business in South Carolina. The use tax is the liability of the purchaser under South Carolina Code §12-36-1330. If the purchaser; however, has a receipt from a seller required or authorized to collect the state use tax showing the seller has collected the tax from the purchaser, the purchaser is relieved of the liability for the tax. South Carolina allows a credit against the use tax due in South Carolina for the state and local sales or use tax due and paid in another state on purchases of tangible personal property. See South Carolina Revenue Ruling #18-9.

In addition to applying to tangible personal property (*e.g.*, furniture, clothing, computers, etc.), the sales and use taxes also apply to specific services and intangibles, such as laundry and dry cleaning services, electricity, and certain communication services. It also applies to the fair market value of tangible personal property manufactured within South Carolina or brought into South Carolina by its manufacturer for storage, use, or consumption in South Carolina by the manufacturer.

South Carolina Code §12-36-920(A) imposes a 7% sales tax on charges for any rooms, lodgings, or sleeping accommodations for less than 90 days to the same person. South Carolina Code §§12-36-920(B) and 12-36-1110 impose a 6% sales tax on “additional guest charges” added to the guest’s room charge for (1) room service, (2) laundering and dry cleaning services, (3) in-room movies, (4) telephone service, and (5) rentals of meeting rooms. For more information, see South Carolina Revenue Ruling #15-11, South Carolina Revenue Ruling #14-5, South Carolina Revenue Ruling #14-7, South Carolina Revenue Ruling #19-7, South Carolina Revenue Ruling #16-10, and South Carolina Revenue Ruling #18-10.

### **2. LOCAL SALES AND USE TAXES**

Local governments have limited authority to levy local taxes and fees. A local governing body may not impose a new tax unless specifically authorized by the General Assembly. As explained below, local sales and use taxes may be imposed for various purposes. The majority of these

taxes are administered and collected by the Department in the same manner as the state sales and use taxes.<sup>1</sup> Below is a brief description of the local taxes.

**a. Local Taxes Administered by the Department**

- ◆ **General Property Tax Relief.** Counties have the option of increasing the sales, use, and accommodations tax rate by 1% to provide additional revenue for local governments and a property tax rollback.<sup>2</sup> The tax must be approved by voter referendum and is typically referred to as the “local option sales tax.”
- ◆ **Local Sales and Use Tax for Transportation Facilities.** A governing body of a county may raise revenue for a transportation project by either imposing a sales and use tax up to 1% or by imposing tolls.<sup>3</sup> The increase is imposed by enacting an ordinance, subject to approval by voter referendum, and must be for a specific period of time to collect a limited amount of money. At no time may any portion of the county area be subject to both the local sales and use tax for transportation facilities and the capital project sales tax (discussed below).
- ◆ **Capital Project Sales Tax.** A governing body of a county may impose a 1% sales and use tax to defray the debt service on bonds issued to pay for authorized capital projects.<sup>4</sup> The increase is imposed by enacting an ordinance, subject to approval by voter referendum. At no time may any portion of the county area be subject to both the capital project sales tax and the local sales and use tax for transportation facilities (discussed above). The capital project sales tax may not be imposed for more than 8 years for newly imposed taxes or 7 years for re-imposed taxes.
- ◆ **Personal Property Tax Relief.** The county council may impose, by referendum, a local sales and use tax in lieu of the personal property tax imposed on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors.<sup>5</sup> The tax may not exceed the lesser of 2% or the amount necessary to replace the property tax on these items in the most recently completed fiscal year. Currently, this tax is not being imposed.
- ◆ **School District Taxes.** The General Assembly has authorized certain school districts to impose a sales and use tax within the county. These taxes are generally imposed to pay debt service on general obligation bonds and/or the cost of capital improvements for school districts. Most of these taxes are imposed at a rate of 1%.

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<sup>1</sup> Note: Sales of unprepared food are only exempt from a local sales and use tax if the local sales and use tax law specifically exempts such sales. For information on the exemption for sales of unprepared food from local sales and use taxes, see the discussion below entitled “Exemption for Certain Food Sales” and the most recent South Carolina information letter on the “Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information.”

<sup>2</sup> South Carolina Code §4-10-20.

<sup>3</sup> South Carolina Code §4-37-30.

<sup>4</sup> South Carolina Code §4-10-300.

<sup>5</sup> South Carolina Code §4-10-540.

- ◆ Catawba Tribal Sales and Use Tax. The Catawba Indian Reservation is located in York County. South Carolina Code §27-16-130(H) contains the specific sales and use tax provisions relating to the Catawba Tribal Sales and Use Tax. The tribal sales tax is administered and collected by the Department and the tribal use tax is administered and collected by the tribe.<sup>6</sup> For more information concerning the Catawba Tribal Sales and Use Tax, see Chapter 18 of the Sales and Use Tax Manual.
  
- ◆ Local Option Sales and Use Tax for Local Property Tax Credit. The governing body of the county, by a county council ordinance or by an initiated ordinance submitted to the governing body of the county by a petition signed by at least 7% of the qualified electors of the county, may impose a sales and use tax in increments of one-tenth of 1%, not to exceed 1%, subject to referendum approval.<sup>7</sup> The tax provides a credit against property tax imposed by a political subdivision. Currently, this tax is not being imposed.
  
- ◆ Education Capital Improvements Sales and Use Tax. The General Assembly has authorized a school district or school districts within a county to impose a 1% sales and use tax within the county for specific education capital improvements for the school district for not more than 15 years.<sup>8</sup> The tax must be approved by a referendum open to all qualified electors residing in the county. Pursuant to a memorandum of agreement, a portion of the revenue may be shared with the area commission (governing body of a technical college) or higher education board of trustees (governing body of a public institution of higher learning) or both, for specific education capital improvements on the campus of the recipient located in the county listed in the referendum. The General Assembly has established several criteria that, if met, will allow a county or school district to impose this tax. The county or school district must meet only one of these criteria in order to impose the tax.<sup>9</sup> This tax may not be imposed in a county that is imposing or is scheduled to impose a local sales and use tax for public school capital improvements.
  
- ◆ Tourism Development Tax: The governing body of a municipality, by an ordinance adopted by a two-thirds majority of the municipal council or by approval by a majority of qualified electors voting in a referendum authorized by a majority of the municipal council, may impose a general sales and use tax within the municipality.<sup>10</sup> The tax is imposed specifically for tourism advertisement and promotion directed at non-South Carolina residents; however, in the second and subsequent years of this tax a portion of the tax may be used for certain property tax rollbacks and other purposes. It may only be imposed by a municipality located in a county where revenue from the state accommodations tax is at least fourteen million dollars in a fiscal year. Currently, only the City of Myrtle Beach imposes this tax.

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<sup>6</sup> See South Carolina Revenue Ruling #98-18 and the most recent South Carolina information letter on the “Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information.”

<sup>7</sup> South Carolina Code §§4-10-720 through 4-10-810.

<sup>8</sup> South Carolina Code §§4-10-410 through 4-10-470.

<sup>9</sup> South Carolina Code §4-10-470.

<sup>10</sup> South Carolina Code §§4-10-910 through 4-10-970.

For a complete list of local taxes administered by the Department, see the most recent South Carolina information letter on “Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information.” This information is available on the Department’s website at [www.dor.sc.gov](http://www.dor.sc.gov).

## **b. Local Taxes Administered by Local Governments**

- ◆ **Local Accommodations Tax.** The governing body of a county or municipality may impose, by ordinance, a local accommodations tax, on the gross proceeds derived from the rental or charges for accommodations furnished to transients as provided in South Carolina Code §12-36-920(A), not to exceed 3%.<sup>11</sup> The revenue generated by this additional tax must be used exclusively for certain tourism purposes.
- ◆ **Local Hospitality Tax.** The governing body of a county or municipality may impose, by ordinance, a tax on the sales of prepared meals and beverages sold in establishments, or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.<sup>12</sup> The tax may not exceed 2% of the charges for food and beverages.

## **3. NEXUS**

Nexus is a sufficient connection between a person and a state, and a sufficient connection between an activity, property, or transaction and a state, that allows the state to subject the person and the activity, property, or transaction to its taxing jurisdiction. The Due Process and Commerce Clauses of the United States Constitution and other federal statutes provide limitations on a state’s powers to tax out-of-state businesses. Retailers that have nexus with South Carolina must remit the sales tax or use tax with respect to all sales at retail (not otherwise exempt) of tangible personal property in South Carolina.

Over the years, the courts have provided limitations and guidelines in determining whether certain activities create nexus in a taxing state. For example, see *South Dakota v. Wayfair, Inc.*, 585 U.S. \_\_\_\_\_, 138 S. Ct. 2080, 201 L. Ed. 2d 403 (2018); *Quill v. North Dakota*, 504 U.S. 298, 112 S. Ct. 1904, 119 L. Ed. 2d 91 (1992); *National Bellas Hess v. Illinois*, 386 U.S. 753, 87 S. Ct. 1389, 18 L. Ed. 505 (1967); *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 97 S. Ct. 1076, 51 L. Ed. 326 (1977); *Miller Brothers v. Maryland*, 347 U.S. 340, 74 S. Ct. 535, 98 L. Ed. 744 (1954); *Scripto, Inc. v. Carson*, 362 U.S. 207, 80 S. Ct. 52, 4 L. Ed. 2d 54 (1960); *Helicopteros Nacionales de Columbia, S.A. v. Hall*, 104 S. Ct. 1868 (1984); and *National Geographic Society v. California Bd. of Equal*, 430 U.S. 551, 97 S. Ct. 1386, 51 L. Ed. 2d 631 (1977). Until recently, sales and use tax nexus has been limited to those businesses with a physical presence in the taxing state. However, as discussed below, the *Wayfair* decision now allows a state to impose its sales and use tax laws on businesses without a physical presence in that state.

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<sup>11</sup> South Carolina Code §6-1-500.

<sup>12</sup> South Carolina Code §6-1-700.

On June 21, 2018, the United States Supreme Court in *South Dakota v. Wayfair, Inc.*, 585 U.S. \_\_\_\_, 138 S. Ct. 2080, 201 L. Ed. 2d 403 (2018), ruled that retailers (including online retailers) without physical presence in a state may be subject to sales and use tax in that state. This decision overturned the Court’s longstanding position in *Quill Corp. v. North Dakota*, 504 U.S. 298, 112 S. Ct. 1904, 119 L. Ed. 2d 91 (1992), and *National Bellas Hess, Inc. v. Department of Revenue of Illinois*, 386 U.S. 753, 87 S. Ct. 1389, 18 L. Ed. 505 (1967), which allowed states to collect sales and use tax only from retailers with a physical presence in that state.

Following *Wayfair*, a retailer may have a requirement to obtain a retail license and to collect and remit sales and use tax in South Carolina if it has either an economic presence or a physical presence in South Carolina.

**Note:** A “marketplace facilitator” is a retailer or seller for purposes of South Carolina’s sales and use tax. South Carolina Code §12-36-71 defines “marketplace facilitator.” For further information about “marketplace facilitators,” see South Carolina Information Letter #19-14 and South Carolina Revenue Ruling #19-6.

South Carolina Revenue Rulings #18-14 and #14-4 provide guidance concerning sales and use tax nexus standards in South Carolina.

These advisory opinions reflect the Department’s official position at the time of this publication. Since developments in this area are taking place, any guidance is subject to change due to a future statute, regulation, court decision, or advisory opinion.

#### 4. EXCLUSIONS

For additional information, see the most recent South Carolina Sales and Use Tax Manual. If a transaction is excluded from the tax, it is not subject to sales and use tax in South Carolina. The exclusions are found in several sections of the sales and use tax statute and apply to a variety of transactions. The following briefly describes South Carolina’s sales and use tax exclusions.

**Caution: The exclusions below are briefly described. See the statute cited for the specific exclusion details. If a transaction does not squarely fall within the requirements of an exclusions statute and applicable regulations, the exclusion does not apply.**

Code Section	Description
12-36-60	Transmission of computer database information by a cooperative service when assembled by and for the exclusive use of the members of the cooperative service

<b>Code Section</b>	<b>Description</b>
12-36-90(1)(c)(iii)	The withdrawal from inventory of tangible personal property for use in replacing a defective part under a written warranty contract if the warranty contract is given without charge at the time of original purchase of the defective property; the tax was paid on the sale of the defective part or on the sale of the property of which the defective part was a component; and the warrantee is not charged for any labor or materials
12-36-90(2)(h)	Sales of property that are actually charged off as bad debts or uncollectible accounts for state income tax purposes
12-36-90(2)(i)	Interest, fees, or charges imposed on a customer for late payment of a bill for electricity or natural gas <sup>13</sup>
12-36-90(2)(l)	Amounts received from a “buydown” as that term is defined in the statute
12-36-110(2)	Sales of tangible personal property to a manufacturer or construction contractor when the property is partially or completely fabricated or manufactured in South Carolina by the manufacturer or construction contractor and transported out of state and assembled, installed or erected at the out-of-state job site
12-36-120(1)	Sales of property to a licensed retailer or another wholesaler for resale. This does not include sales to users or consumers not for resale
12-36-120(2)	Sales of property to a manufacturer or compounder as an ingredient or component part of the tangible personal property or product manufactured or compounded for sale
12-36-120(3)	Sales of property “used directly” in manufacturing, compounding, or processing tangible personal property into products for sale. South Carolina Regulation 117-302.1 provides property is “used directly” if it comes into direct contact with the product being manufactured and contributes to bring about a chemical or physical change in the product.
12-36-120(4)	Sales of materials, containers, cores, labels, sacks or bags used incident to the sale and delivery of tangible personal property, or used by manufacturers, processors and compounders in shipping tangible personal property

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<sup>13</sup> This exclusion does not apply to charges imposed for a late payment of a bill for other items, such as cable television or telephone service.

<b>Code Section</b>	<b>Description</b>
12-36-120(5)	Sales of food or drink products to licensed retail merchants for use as ingredients in preparing ready to eat food or drink sold at retail
12-36-140(C)(1)	Purchases of tangible personal property from outside the state and transported to South Carolina for storage and for the exclusive purpose of subsequently transporting it outside of South Carolina for first use outside of South Carolina (Applies to use tax)
12-36-140(C)(2)	Purchases of tangible personal property from outside the state and transported to South Carolina for the purpose of first being manufactured, processed, or compounded into other tangible personal property that will be transported and used solely outside of South Carolina (Applies to use tax)
12-36-140(C)(3)	Purchases of tangible personal property for the purpose of being distributed as cooperative direct mail promotional advertising materials by means of interstate carrier, a mailing house, or a United State Post Office to residents of this State from locations both inside and outside the state (Applies to use tax).
12-36-910(C)	Charges for or use of certain data processing. See, South Carolina Code §12-36-910(C) for a definition of “data processing.”

## **5. PARTIAL EXEMPTIONS**

There are two types of exemptions provided under South Carolina’s sales and use tax law: (1) partial exemptions, and (2) full exemptions.

Partial exemptions limit or “cap” the amount of tax.<sup>14</sup> The local sales and use taxes collected by the Department do not apply to sales that are subject to a cap.

A maximum sales or use tax of \$500 is imposed on sales of the following:<sup>15</sup>

- Aircraft – including unassembled aircraft assembled by the purchaser

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<sup>14</sup> South Carolina Code §12-36-2110.

<sup>15</sup> South Carolina Code §12-36-2110(A). Note: As of July 1, 2017, an infrastructure maintenance fee (IMF) applies to sales of items which are required to be registered with SCDMV under Chapter 3 of Title 56. (e.g., motor vehicles and motorcycles). Items which are subject to the IMF are exempt from sales and use tax under South Carolina Code §12-36-2120(83). See South Carolina Information Letter #17-10 for more information.

- Motor vehicles – including equipment supplied or installed on a firefighting vehicle at the time of purchase<sup>16</sup>
- Motorcycles
- Boats, including personal watercrafts such as jet skis
- Trailers and semi-trailers that can be pulled only by a truck tractor. This does not include house trailers and campers as defined in South Carolina Code §56-3-710.<sup>17</sup>
- Horse trailers. This does not include house trailers and campers as defined in South Carolina Code §56-3-710.
- Recreational vehicles, including tent campers, travel trailers, park models, park trailers, motor homes and fifth wheels
- Self-propelled light construction equipment with compatible attachments. The equipment's net engine horse power must not exceed 160.
- Fire safety education trailers

The sale of a manufactured home is subject to a maximum tax of \$300 if the home meets or exceeds certain energy efficiency requirements specifically outlined in the law.<sup>18</sup> If the home does not meet these energy efficiency requirements, the sale of the home is subject to a maximum tax of \$300 plus 2% of the taxable basis or measure that exceeds \$6,000.<sup>19</sup> Finally, the sale of manufactured homes from July 1, 2009 through July 1, 2024, will be exempt from the entire tax if the manufactured home has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy saving efficiency requirements or has been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program.<sup>20</sup>

In addition, South Carolina Code §12-36-2120(62) provides an exemption for 70% of the gross proceeds of the rental or lease of portable toilets; and South Carolina Code §12-36-2120(34) exempts 50% of the gross proceeds of a modular home regulated under Chapter 43 of Title 23.

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<sup>16</sup> South Carolina Code §12-36-2110(E).

<sup>17</sup> Sales of utility trailers that are capable of being pulled by an automobile, minivan, or pick-up truck, and that are not recreational vehicles, fire safety education trailers or horse trailers, are not eligible for the \$500 maximum tax. See SC Revenue Ruling #14-2.

<sup>18</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

<sup>19</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

<sup>20</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34). See Act No. 354 of 2008 and Act No. 138 of 2020, Section 2.



## 6. FULL EXEMPTIONS

Although it may be determined that a transaction is subject to sales and use tax, a particular exemption in the statute may exempt it from sales and use tax in South Carolina. South Carolina Code §§12-36-2120 and 12-36-2130 as well as certain other code provisions contain numerous full exemptions, including several designed specifically for certain industries or facilities. The local sales and use taxes collected by the Department do not apply to sales which are exempt from the state sales and use tax.<sup>21</sup>

The following briefly describes South Carolina’s full sales and use tax exemptions. For purposes of this discussion, South Carolina’s full exemptions are divided into the following categories:

- Government Related Exemptions
- Business Related Exemptions
- Agricultural Exemptions
- Educational Exemptions
- General Public Good Exemptions
- Alternative Energy Exemptions

**Caution: The exemptions below are briefly described. See the statute cited for the specific exemption details. If a transaction does not squarely fall within the requirements of an exemption statute and applicable regulations, the exemption does not apply.**

### Government Related Exemptions

Code Section	Description
12-36-2120(1)	Transactions that are prohibited from being taxed by United States or state constitutional provisions or federal or state law
12-36-2120(2)	Sales to the federal government

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<sup>21</sup> All sales and purchases exempt from the state sales and use tax under South Carolina Code §§12-36-2120 and 12-36-2130 are exempt from local sales and use tax administered and collected by the Department on behalf of local jurisdictions, except for sales of unprepared food under South Carolina Code §12-36-2120(75). South Carolina Code §12-36-2120(75) specifically states that the exemption for unprepared food only applies to the state sales and use tax. Therefore, such sales are subject to local sales and use taxes unless the local sales and use tax specifically exempt’s sales of unprepared food. See South Carolina Regulation 117-337 and the most recent South Carolina information letter on the “Local Sales and Use Tax Charts, Catawba Tribal Sales and Use Tax Chart and Exemption Information.”

<b>Code Section</b>	<b>Description</b>
12-36-2120(22)	Material necessary to assemble missiles
12-36-2120(25)	Sales of cars and motorcycles to nonresident military personnel
12-36-2120(29)	Federal government contracts – property that passes to the government
12-36-2120(30)	Supplies purchased by the State General Services Division for resale to state agencies
12-36-2120(46)	War memorials and monuments
12-36-2120(48)	Solid waste disposal collection bags required under a solid waste disposal plan of a county or other political subdivision
12-36-2120(60)	Lottery tickets sold pursuant to Chapter 150 of Title 59 (South Carolina Education Lottery Act)
12-36-2120(61)	Copies of, or access to, legislation or other informational documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency’s cost of the copies
12-36-2120(68)	Any property sold to the public through a sheriff’s sale as provided by law

**Business Related Exemptions**

<b>Code Section</b>	<b>Description</b>
12-36-2120(9)	Coal, coke, or other fuel for manufacturers, transportation companies, electric power companies, and processors  Fuel used by an aircraft manufacturer for test flights or for transportation of an aircraft prior to completion from one facility to another facility if the aircraft manufacturer invests at least \$750 million and creates at least 3,800 full-time jobs over a seven-year period at a single manufacturing facility. <b>This exemption became effective November 1, 2009 and required that a notice be filed with the Department prior to October 31, 2015 in order for the taxpayer to qualify for the exemption. This exemption continues to be available to eligible taxpayers who notified the Department prior to October 31, 2015.</b>

<b>Code Section</b>	<b>Description</b>
12-36-2120(11)	Toll charges between telephone exchanges, certain access charges, charges for telegraph messages and automatic teller machine transactions
12-36-2120(13)	Fuel and other supplies for consumption on ships on the high seas
12-36-2120(14)	Wrapping paper, containers, etc., used incident to the sale and delivery of tangible personal property
12-36-2120(15)	Motor fuel taxed under the motor fuel user fee law; natural gas to be compressed or cooled for use as a motor fuel; and liquefied petroleum gas for use as a motor fuel.
12-36-2120(17)	Machines used in manufacturing, processing, agricultural packaging, recycling, compounding, mining or quarrying tangible personal property for sale. This includes certain machines used to prevent or abate air, water or noise pollution caused by machines used in manufacturing, processing, agricultural packaging, recycling, compounding, mining or quarrying tangible personal property for sale.
12-36-2120(19)	Electricity used to manufacture, process, mine, or quarry tangible personal property for sale or used by cotton gins to manufacture tangible personal property for sale
12-36-2120(20)	Railcars and locomotives
12-36-2120(21)	Certain vessels and barges (more than 50 tons burden)
12-36-2120(24)	Laundry supplies and machinery. This exemption does not apply to coin operated laundromats.
12-36-2120(31)	Vacation time sharing plans and exchange of accommodations in which the accommodation to be exchanged is the primary consideration
12-36-2120(35)	Movies sold or rented to movie theatres
12-36-2120(36)	Tangible personal property delivered out of state by South Carolina retailers
12-36-2120(37)	Petroleum asphalt products transported and used outside South Carolina

Code Section	Description
12-36-2120(40)	Shipping containers used by international shipping lines under contract with the State Ports Authority
12-36-2120(42)	Depreciable assets sold as part of the sale of an entire business
12-36-2120(43)	Supplies, equipment, machinery and electricity for use in filming/producing motion pictures
12-36-2120(49)	Postage purchased by a person engaged in the business of selling advertising services for clients consisting of mailing advertising material through the United States mail
12-36-2120(50)	The following items when used by a qualified recycling facility: recycling property, electricity, natural gas, fuels, gasses, fluids and lubricants, ingredients or component parts of manufactured products, property used for the handling or transfer of postconsumer waste or manufactured products or in or for the manufacturing process, and machinery and equipment foundations <sup>22</sup>
12-36-2120(51)	Material handling systems and material handling equipment used in the operation of a distribution facility or a manufacturing facility of a taxpayer that invests at least \$35 million in South Carolina
	Code §12-36-2140 provides that for purposes of the exemptions in Article 21, Chapter 36, the term “distribution facility” includes, but is not limited to, a “port facility” as defined in South Carolina Code §12-6-3375 <sup>23</sup>
	<b>Note:</b> Under Temporary Proviso 50.20, the Navy Base Intermodal Facility is considered a distribution facility for the purpose of this exemption for State Fiscal Year 2021-2022.
	Further, under Temporary Proviso 117.164, material handling equipment for an agribusiness facility that invests at least \$100 million in South Carolina is exempt under this exemption for State Fiscal Year 2021-2022.

<sup>22</sup> See South Carolina Code §12-6-3460 for the definitions of “qualified recycling facility,” “recycling property,” and “post-consumer waste material.”

<sup>23</sup> A “port facility” is defined as any publicly or privately owned facility located within South Carolina through which cargo is transported by way of waterborne ship or vehicle to or from destinations outside South Carolina and which handles cargo owned by third parties in addition to cargo owned by the port facility’s owner.

<b>Code Section</b>	<b>Description</b>
12-36-2120(52)	Parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft. This exemption does not extend to tools and other equipment not attached to or that do not become a part of the aircraft.
12-36-2120(53)	Motor vehicle extended service and warranty contracts
12-36-2120(54)	Clothing and other attire required for working in a class 100 or better clean room environment (as defined in Federal Standard 209E)
12-36-2120(55)	Audiovisual masters made or used by a production company
12-36-2120(56)	Machines used in research and development
12-36-2120(58)	Cooperative direct mail promotional advertising materials and promotional maps, brochures, pamphlets, or discount coupons for use by nonprofit chambers of commerce or nonprofit convention and visitor bureaus
12-36-2120(59)	Facilities transmitting electricity that are transferred, sold or exchanged by an electrical utility, municipality, electric cooperative, or political subdivision to a limited liability company subject to regulation under the Federal Power Act and formed to operate or to take functional control of electric transmission assets
12-36-2120(64)	Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass
12-36-2120(65)(a) and 12-36-2120(66)	Computer equipment used in connection with, and electricity and certain fuel used by, a technology intensive facility <sup>24</sup> that invests \$300 million over 5 years, creates at least 100 new jobs during the 5 years with an average cash compensation of 150% of the per capita income of the State, and spends at least 60% of the \$300 million investment on computer equipment

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<sup>24</sup> South Carolina Code §12-6-3360(M)(14)(b) defines a “technology intensive facility” for purposes of this exemption as “a facility primarily used for one or more activities listed under the 2002 version of the NAICS Codes 51811 (Internet Service Providers, and Web Search Portals).”

Code Section	Description
12-36-2120(65)(b)	<p>Computer equipment used in connection with a manufacturing facility that invests at least \$750 million and creates at least 3,800 full-time new jobs at a single manufacturing facility over a 7-year period. <b>This exemption became effective November 1, 2009 and required that a notice be filed with the Department prior to October 31, 2015 in order for the taxpayer to qualify for the exemption. This exemption continues to be available to eligible taxpayers who notified the Department prior to October 31, 2015.</b></p>
12-36-2120(67)	<p>Construction material used in the construction of a new or expanded single manufacturing or distribution facility, or one that is both, that invests at least \$100 million at a single site in South Carolina over an 18-month period.</p> <p>South Carolina Code §12-36-2140 provides that for purposes of the exemptions in Article 21, Chapter 36, the term “distribution facility” includes, but is not limited to, a port facility as defined in South Carolina Code §12-6-3375.<sup>25</sup></p> <p>Construction material used in the construction of a new or expanded single manufacturing facility that invests at least \$750 million and creates at least 3,800 full-time new jobs at the facility over a 7-year period. <b>This exemption became effective November 1, 2009 and required that a notice be filed with the Department prior to October 31, 2015 in order for the taxpayer to qualify for the exemption. This exemption continues to be available to eligible taxpayers who notified the Department prior to October 31, 2015.</b></p> <p><b>Note:</b> Under Temporary Proviso 50.20, the Navy Base Intermodal Facility is considered a distribution facility for the purpose of this exemption for State Fiscal Year 2021-2022.</p> <p>Further, under Temporary Proviso 117.164 construction materials for an agribusiness facility that invests at least \$100 million in South Carolina is exempt under this exemption for State Fiscal Year 2021-2022.</p>
12-36-2120(70)	<p>Gold, silver or platinum bullion or any combination; coins that are or have been legal tender; and currency</p>

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<sup>25</sup> A “port facility” is defined as any publicly or privately owned facility located within South Carolina through which cargo is transported by way of waterborne ship or vehicle to or from destinations outside South Carolina and which handles cargo owned by third parties in addition to cargo owned by the port facility’s owner.

Code Section	Description
12-36-2120(73)	Amusement park rides; parts, machinery and equipment used to assemble, operate and make up amusement park rides; and performance venue facilities and any related or required machinery, equipment and fixtures. A \$250 million investment and creation of 250 full-time jobs and 500 part-time or seasonal jobs over a 5-year period is required.
12-36-2120(78)	Machinery and equipment, building and other raw materials, and electricity used in the operation of a facility owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. A \$20 million investment in real or personal property at a single site in this State over a 3-year period is required.
12-36-2120(79)	Computers, computer equipment, and computer software used within a datacenter, and electricity used by a datacenter or used by eligible business property located and used at a datacenter where the taxpayer: (1) invests at least \$50 million in real or personal property or both over a 5-year period; or, if more than one taxpayer, invests a minimum aggregate capital investment of at least \$75 million in real or personal property or both over a 5-year period; (2) creates and maintains at least 25 full-time jobs at the facility with an average cash compensation level of 150% of the per capita income of South Carolina or of the county in which the facility is located; and (3) maintains the jobs requirement for 3 consecutive years after certification by the Department of Commerce.  This exemption only applies to a datacenter that is certified by the Department of Commerce prior to January 1, 2032. However, for datacenters certified by December 31, 2031, this exemption will remain in effect for an additional ten-year period.
12-62-30	Tangible personal property purchased by a certified motion picture production company for use in connection with the filming or production of motion pictures in South Carolina for a company planning to spend at least \$250,000 in connection with the filming or production of one or more motion pictures in South Carolina within a consecutive 12-month period. This provision does not apply to: (a) local sales tax levied and collected directly by a local governmental subdivision or (b) the production of television coverage of news and athletic events.

<b>Code Section</b>	<b>Description</b>
12-69-30	Building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a motorsports entertainment complex. To be eligible for this sales and use tax exemption, a company must submit an application to be approved by the Department, receive written certification from the Department, and meet the requirements of Chapter 69, Title 12.
Temporary Proviso 109.12, (Act No. 94 of 2021)	<p>Certain clothing required by Current Good Manufacturing Practices as set forth in 21 C.F.R. § 111.10, as it may be amended, used at perishable prepared food manufacturing facilities, as defined by the North American Industry Classification System 311991 to prevent health hazards.</p> <p>Clothing eligible for this exemption includes outer garments, gloves of an impermeable material, hairnets, headbands, beard covers, caps, hair covers or other effective hair restraints, and other attire required pursuant to 21 C.F.R. §110.10 for persons working in direct contact with food, food contact surfaces, and food packaging materials to protect against contamination of food in perishable prepared food manufacturing facilities.</p> <p>This temporary proviso is effective for State Fiscal Year July 1, 2021 through June 30, 2022 and will expire unless reenacted by the General Assembly.</p>

### Agricultural Exemptions

<b>Code Section</b>	<b>Description</b>
12-36-2120(4)	Livestock
12-36-2120(5)	Feed used to produce and maintain livestock
12-36-2120(6)	Insecticides, chemicals, fertilizers, soil conditioners, seeds, seedlings or nursery stock used in the production of farm products
12-36-2120(7)	Containers and labels used in preparing agriculture products for sale or preparing turpentine gum, gum resin and gum spirits of turpentine for sale
12-36-2120(15)	Fuels used in farm machinery and farm tractors; and fuel used in commercial fishing vessels



<b>Code Section</b>	<b>Description</b>
12-36-2120(16)	Farm machinery and replacement parts and attachments
12-36-2120(18)	Fuel used to cure agriculture products
12-36-2120(23)	Farm products sold in their original state of production when sold by the producer
12-36-2120(32)	Electricity and gas used in the production of livestock and milk
12-36-2120(44)	Electricity used to irrigate crops
12-36-2120(45)	Building materials, supplies, fixtures and equipment used to construct commercial housing for poultry or livestock

### Educational Exemptions

<b>Code Section</b>	<b>Description</b>
12-36-2120(3)	Textbooks, books, magazines, periodicals, newspapers and access to online information used in a course of study or for use in a school or public library. These items may be in printed form or in alternative forms such as microfilm or CD ROM. Certain communication services and equipment subject to tax under South Carolina Code §§12-36-910(B)(3) and 12-36-1310(B)(3) are not exempt.
12-36-2120(8)	Newspapers, newsprint paper and South Carolina Department of Agriculture Market Bulletin <sup>26</sup>
12-36-2120(10)(a)	Meals or food used in furnishing meals to K-12 students in schools (not for profit)
12-36-2120(26)	Television, radio and cable TV supplies, equipment, machinery, and electricity
12-36-2120(27)	Zoo plants and animals

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<sup>26</sup> This exemption also states that sales of religious publications (e.g., The Bible, hymnals) are exempt; however, the South Carolina Supreme Court held in *Thayer v. South Carolina Tax Commission*, 307 S.C. 6, 413 S.E.2d 810 (1992), that the exemption for religious publications was unconstitutional. Therefore, sales of religious publications are subject to the sales and use tax, unless otherwise exempt under the law. For more information, see South Carolina Information Letter #92-8.

<b>Code Section</b>	<b>Description</b>
12-36-2130(2)	Exhibition rentals for museums (charitable, eleemosynary or governmental museums) (use tax only) <sup>27</sup>
Temporary Proviso 117.36, (Act No. 94 of 2021)	Purchases of tangible personal property during the state fiscal year 2021-2022 for use in private primary and secondary schools, including kindergarten and early childhood education programs, are exempt from the <u>use tax</u> if the school is exempt from income taxes under Internal Revenue Code §501(c)(3) <sup>28</sup>

### General Public Good Exemptions

<b>Code Section</b>	<b>Description</b>
12-36-2120(10)(b)	Meals provided to elderly or disabled persons at home by nonprofit organizations
12-36-2120(10)(c)	Food sold to nonprofit organizations or food sold or donated by the nonprofit organization to another nonprofit organization
12-36-2120(10)(d)	Meals or foodstuffs prepared or packaged that are sold to public or nonprofit organizations for congregate or in-home service to the homeless or needy or disabled adults over 18 or individuals over 60. This exemption only applies to meals and foodstuffs eligible for purchase under the USDA food stamp program.
12-36-2120(12)	Water sold by public utilities and certain non-profit corporations
12-36-2120(28)	Medicine and prosthetic devices sold by prescription; certain diabetic supplies sold to diabetics under the written authorization and direction of a physician; certain free samples of medicine and certain medicine donated to hospitals; prescription medicine and radiopharmaceuticals used in treating cancer or rheumatoid arthritis, including prescription medicines to relieve the effects of treatment; prescription medicines used to prevent respiratory syncytial virus; disposable medical supplies, such as bags, tubing, needles, and syringes, dispensed by a pharmacist by prescription of a licensed health care provider for the intravenous

<sup>27</sup> This exemption only applies to the use tax. If the transaction in question is a sales tax transaction, this exemption does not apply. See South Carolina Regulation 117-334 for information on when a transaction is a sales tax transaction and when it is a use tax transaction.

<sup>28</sup> This exemption only applies to the use tax. If the transaction in question is a sales tax transaction, this exemption does not apply. See South Carolina Regulation 117-334 for information on when a transaction is a sales tax transaction and when it is a use tax transaction.

Code Section	Description
	administration of a prescription drug (only for treatment outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center); and prescription medicine dispensed to Medicare Part A patients in a nursing home.
12-36-2120(33)	Residential electricity and fuel. See South Carolina Revenue Ruling #19-5 for a discussion of this exemption as it applies to primary residences, vacation homes, and second homes.
12-36-2120(38)	Hearing aids
12-36-2120(39)	Concession sales by nonprofit organizations at festivals
12-36-2120(41)	Sales by certain nonprofit organizations
12-36-2120(47)	Goods sold to nonprofit hospitals that primarily treat children at no cost to the patient
12-36-2120(57)	<p>Annual sales tax holiday on the first Friday, Saturday, and Sunday in August for certain clothing, clothing accessories, footwear, computers, printers, printer supplies, computer software, bath wash cloths, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs, pillows, pillow cases, and school supplies</p> <p>For a question and answer document on the annual sales tax holiday, see South Carolina Revenue Ruling #19-4.</p>
12-36-2120(63)	Medicine and medical supplies, including diabetic supplies and diabetic diagnostic and testing equipment, sold to a health care clinic providing free medical and dental care to all patients
12-36-2120(74)	Durable medical equipment and related supplies as defined under federal and state Medicare and Medicaid laws if (a) paid directly by funds of South Carolina or the United States under the Medicare and Medicaid programs, (b) state and federal law prohibits the payment of the sales and use tax, and (c) the sale is by a provider with a South Carolina retail license whose principal place of business is in South Carolina.
12-36-2120(75)	Unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons. This exemption does not apply to local taxes unless the local tax specifically exempts the sale of such food.

Code Section	Description
12-36-2120(76)	<b>NO LONGER VALID</b> - This exemption for a sales tax holiday for handguns, rifles, and shotguns was ruled unconstitutional by the Supreme Court of South Carolina <sup>29</sup>
12-36-2120(77)	<b>NO LONGER VALID</b> - This exemption for certain energy efficient products was ruled unconstitutional by the Supreme Court of South Carolina <sup>30</sup>
12-36-2120(80)	Injectable medications and injectable biologics, so long as the medication or biologic is administered by or pursuant to the supervision of a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services certified kidney dialysis facility.
12-36-2120(81)	Construction material used by an entity organized under IRC §501(c)(3) as a nonprofit corporation to build, rehabilitate, or repair a home for the benefit of an individual or family in need. An “individual or family in need” means an individual or family, as applicable, whose income is less than or equal to 80% of the county median income
12-36-2120(82)	Children’s clothing sold to a private charitable organization exempt from federal and state income tax, except for private schools, for the purpose of distribution by that organization to needy children. “Clothing” means those items exempt from sales and use tax pursuant to Code Section 12-36-2120(57)(a)(i) and (ii). “Needy children” means children eligible for free meals under the National School Lunch Program of the US Department of Agriculture.
12-36-2120(83)	Any item which is subject to the infrastructure maintenance fee set forth in South Carolina Code §56-3-627
Temporary Proviso 117.59 (Act No. 94 of 2021)	Viscosupplementation therapies (for State Fiscal Year 202–2022)

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<sup>29</sup> On May 4, 2009, the Supreme Court of South Carolina ruled that South Carolina Code §12-36-2120((76), which established an annual sales tax holiday on the Friday and Saturday after Thanksgiving for handguns (as defined in South Carolina Code §16-23-10(1)), rifles and shotguns, was unconstitutional. *The American Petroleum Institute and BP Products North America Inc. v. South Carolina Department of Revenue, et al.* S.C., 677 S.E.2d 16 (2009).

<sup>30</sup> On May 4, 2009, the Supreme Court of South Carolina ruled that South Carolina Code §12-36-2120(77), which established an annual sales tax holiday during the month of October (beginning in 2009 and ending 2018) for certain energy efficient products (provided certain revenue growth forecasts were met), was unconstitutional. *The American Petroleum Institute and BP Products North America Inc. v. South Carolina Department of Revenue, et al.* S.C., 677 S.E.2d 16 (2009).

## Alternative Energy Exemptions

<b>Code Section</b>	<b>Description</b>
12-36-2120(71)	Any device, equipment or machinery that is (a) operated by hydrogen or fuel cells, (b) used to generate, produce or distribute hydrogen and designated specifically for hydrogen applications or for fuel cell applications and (c) used predominantly for the manufacturing of, or research and development involving hydrogen or fuel cell technologies.
12-36-2120(72)	Building material used to construct a new or renovated building in a research district and machinery or equipment located in a research district. The sales tax that would have been assessed must be invested by the taxpayer in hydrogen or fuel cell machinery or equipment located in the same research district within 24 months of the exempt purchase.