

## Chapter 1

# General Overview

### A. History

The state sales and use tax was first imposed in South Carolina in 1951. The imposition of the tax was upheld by the State Supreme Court in *State ex rel. Roddey v. Byrnes*, 219 S.C. 485, 66 S.E.2d 33 (1951). Over the years, the state tax rate has increased as follows:

1951 – 3%<sup>1</sup>

1969 – 4%<sup>2</sup>

1984 – 5%<sup>3</sup>

2007 – 6%<sup>4</sup>

As enacted in 1951, the original state sales and use tax law contained 19 exemptions. Today, there are 81 exemptions<sup>5</sup>; and several of these 81 “exemption provisions” are in fact multiple exemptions. In addition, there are other sales and use tax exemptions contained in other areas of the South Carolina Code of Laws.

The original sales and use tax law established a maximum tax of \$75.00 on any single item. This was repealed in 1955.<sup>6</sup> From 1984 through 1986 various maximum tax provisions were enacted for specific items, such as motor vehicles, boats, aircraft, self-propelled light construction equipment, certain trailers, manufactured homes, musical instruments and office equipment sold to a religious organization, and certain research and development machinery.<sup>7</sup>

Over the years, the imposition of the sales and use tax has been expanded to include various services and intangibles such as sleeping accommodations, communication services, laundry and drycleaning services, and electricity.

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<sup>1</sup> Act No. 379 of 1951.

<sup>2</sup> Act No. 274 of 1969.

<sup>3</sup> Act No. 512 of 1984.

<sup>4</sup> Act No. 388 of 2006.

<sup>5</sup> Code Section 12-36-2120 lists 83 exemptions; however, two of those exemptions (numbers (76) and (77)) were ruled unconstitutional. Additionally, the legislature also may enact annual provisos that exempt certain items from sales and use tax, although the exemptions are not codified.

<sup>6</sup> Act No. 234 of 1955.

<sup>7</sup> The maximum tax for certain research and development machinery was later repealed and replaced by a full exemption for such machinery.

In 1991, the first local sales and use tax to be administered and collected by the Department of Revenue was authorized by the General Assembly. Today, the Department of Revenue administers and collects on behalf of local jurisdictions several types of local sales and use tax as well as the Catawba Tribal Sales Tax.

These provisions, as well as many others found in the present sales and use tax law, will be discussed in this publication.

The “South Carolina Sales and Use Tax Act” can be found in Chapter 36 of Title 12.

## **B. Rates and Impositions**

South Carolina imposes a 6% sales tax<sup>8</sup> 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.<sup>9</sup>

South Carolina imposes a complementary 6% use tax<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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.

In addition to applying to the sale or use of tangible personal property (*e.g.*, furniture, clothing, computers, etc.), the sales and use taxes also apply to:

- (1) certain communication services,<sup>13</sup>
- (2) laundry and dry cleaning services,<sup>14</sup>
- (3) electricity,<sup>15</sup>

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<sup>8</sup> South Carolina Code §§12-36-910(A) and 12-36-1110.

<sup>9</sup> South Carolina Code §12-36-110(c)(1).

<sup>10</sup> South Carolina Code §§12-36-1310(A) and 12-36-1110.

<sup>11</sup> South Carolina Code §12-36-1310(A).

<sup>12</sup> South Carolina Code §12-36-1330. See also South Carolina Code §12-36-2130(1) and *McJunkin v. City of Orangeburg*, 238 F.2d. 528 (1956).

<sup>13</sup> South Carolina Code §§12-36-910(B)(3), 12-36-910(B)(5), 12-36-1310(B)(3), 12-36-1310(B)(5), and 12-36-2645.

<sup>14</sup> South Carolina Code §§12-36-910(B)(1) and 12-36-1310(B)(1).

<sup>15</sup> South Carolina Code §§12-36-910(B)(2) and 12-36-1310(B)(2).

- (4) 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,<sup>16</sup>
- (5) transient construction property,<sup>17</sup> and
- (6) the furnishing of accommodations.<sup>18</sup>

South Carolina imposes a 7% sales tax<sup>19</sup> on charges for any rooms, lodgings, or sleeping accommodations for less than 90 days to the same person and a 6% sales tax<sup>20</sup> on “additional guest charges” added to the guest’s room charge for a specific amenity or service.

## **C. 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 are administered and collected by the Department in the same manner as the state sales and use taxes. Below is a brief description of the local taxes.

## **D. 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>21</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 authorizing a transportation authority created by the county governing body to impose tolls.<sup>22</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).

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<sup>16</sup> South Carolina Code §§12-36-910(B)(4) and 12-36-1310(B)(4).

<sup>17</sup> South Carolina Code §12-36-1320.

<sup>18</sup> South Carolina Code §12-36-920.

<sup>19</sup> South Carolina Code §12-36-920(A).

<sup>20</sup> South Carolina Code §§12-36-920(B) and 12-36-1110.

<sup>21</sup> South Carolina Code §4-10-20.

<sup>22</sup> South Carolina Code §4-37-30.

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>23</sup> The increase is imposed by enacting an ordinance, subject to approval by voter referendum. It may not be imposed for more than 8 years for newly imposed taxes or 7 years for reimposed taxes. 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).

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>24</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%. Currently, only six of the 20 school district taxes that have been authorized by the General Assembly are being imposed.

Catawba Tribal Sales and Use Tax. The Catawba Indian Reservation is located in Lancaster and York counties. 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>25</sup> For more information concerning the Catawba Tribal Sales and Use Tax, see Chapter 18 of this 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>26</sup> The tax provides a credit against property tax imposed by a political subdivision. Currently, this tax is not being imposed.

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<sup>23</sup> South Carolina Code §4-10-300.

<sup>24</sup> South Carolina Code §4-10-540.

<sup>25</sup> See South Carolina Revenue Ruling #98-18 and South Carolina Information Letter #19-91, Notes 1 and 2 for additional information.

<sup>26</sup> South Carolina Code §§4-10-720 through 4-10-810.

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>27</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 in to impose the tax.<sup>28</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>29</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.

## **E. 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>30</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>31</sup> The tax may not exceed 2% of the charges for food and beverages.

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<sup>27</sup> South Carolina Code §§4-10-410 through 4-10-470 (Act No. 316 of 2008).

<sup>28</sup> South Carolina Code §4-10-470.

<sup>29</sup> South Carolina Code §§4-10-910 through 4-10-970 (Act No. 3 of 2009 and Act No. 130 of 2010).

<sup>30</sup> South Carolina Code §6-1-500.

<sup>31</sup> South Carolina Code §6-1-700.

## F. Exclusions

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 exclusion's 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
12-36-90(1)(c)(iii)	The withdrawal from inventory of tangible personal property for use in replacing a defective part under a 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
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

<b>Code Section</b>	<b>Description</b>
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. SC 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
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 (1) cooperative direct mail promotional advertising materials, or (2) promotional maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus who are exempt from income taxation pursuant to Internal Revenue Code § 501(c) 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



## G. 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>32</sup> The local sales and use taxes collected by the Department do not apply to sales that are subject to a cap.

A maximum tax of \$500 is imposed on sales of the following:<sup>33</sup>

- Aircraft – including unassembled aircraft assembled by the purchaser
- Motor vehicles – including equipment supplied or installed on a firefighting vehicle at the time of purchase<sup>34</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>35</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 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 cap also applies to leases of the above items provided the lease is in writing and the lease has a stated term and remains in force for a period in excess of 90 continuous days. The taxpayer may pay the total tax due at the time the lease is executed or by installments with each lease payment until the \$500 is paid.

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<sup>32</sup> South Carolina Code §12-36-2110.

<sup>33</sup> South Carolina Code §12-36-2110(A). However, certain items, such as motor vehicles and motorcycles, are subject to an infrastructure maintenance fee (instead of a sales or use tax) upon first registration with the SC Department of Motor Vehicles. See South Carolina Code §§56-3-627 and 12-36-2120(83). See also SC Information Letter #17-10 (revised). This information letter contains information concerning whether an item is subject to sales and use tax or the infrastructure maintenance fee.

<sup>34</sup> South Carolina Code §12-36-2110(E). See SC Revenue Ruling #18-12 for information on sales of fire trucks and firefighting equipment.

<sup>35</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.



Also, a maximum tax of \$300 is imposed on sales of musical instruments or office equipment sold to religious organizations.<sup>36</sup>

Further, 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>37</sup> If the home does not meet these energy efficient 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>38</sup> Finally, the sale of a manufactured home from **July 1, 2009 through July 1, 2019**, 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>39</sup>

## H. 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 contain numerous full exemptions. 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>40</sup>

The following briefly describes South Carolina's 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

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

<sup>37</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

<sup>38</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34).

<sup>39</sup> South Carolina Code §§12-36-2110(B) and 12-36-2120(34). See Act No. 354 of 2008.

<sup>40</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 exempts sales of unprepared food. See SC Regulation 117-337 and South Carolina Information Letter #19-9.

- 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
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

<b>Code Section</b>	<b>Description</b>
12-36-2120(68)	Any property sold to the public through a sheriff's sale as provided by law

Business Related Exemptions

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. <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>
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)(a)	Motor fuel taxed under the motor fuel user fee law
12-36-2120(15)(e)	Natural gas to be compressed or cooled for use as a motor fuel
12-36-2120(15)(f)	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, recycling, compounding, mining or quarrying tangible personal property for sale.

<b>Code Section</b>	<b>Description</b>
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. <sup>41</sup>
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(34)	50% of the gross proceeds of a modular home regulated under Chapter 43 of Title 23
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
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

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<sup>41</sup> A coin-operated laundromat machine includes any laundromat machine operated by a slot in which is deposited or placed a coin, token, debit card, or other thing of value so as to begin operation of the machine for the purposes of laundering, cleaning, or drying clothing and other textiles.

<b>Code Section</b>	<b>Description</b>
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>42</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 (Note: Under Temporary Provisos 117.133 and 50-20, respectively, the State Ports Authority is and the Navy Base Intermodal Facility are considered a distribution facilities for the purpose of this exemption for State fiscal year 2018-2019))
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 (Effective January 1, 2016).
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

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<sup>42</sup> See South Carolina Code §12-6-3460 for the definitions of “qualified recycling facility,” “recycling property,” and “post-consumer waste material.”

<b>Code Section</b>	<b>Description</b>
12-36-2120(62)	70% of the gross proceeds of the rental or lease of portable toilets
12-36-2120(64)	Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass
12-36-2120(65) and 12-36-2120(66)	<p>Computer equipment used in connection with, and electricity and certain fuel used by, a technology intensive facility (defined in South Carolina Code §12-6-3360(M)(14)(b)) that invests \$300 million over five 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</p> <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 the facility over a seven-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 materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, that invests at least \$100 million at a single site in South Carolina over an 18-month period.          (Note: Under Temporary Provisos 117.133 and 50-20, respectively, the State Ports Authority is and the Navy Base Intermodal Facility are considered a distribution facilities for the purpose of this exemption for State fiscal year 2018-2019)</p> <p>Construction materials 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 seven-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(70)	Gold, silver or platinum bullion or any combination; coins that are or have been legal tender; and currency

<b>Code Section</b>	<b>Description</b>
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 five-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 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 three-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 five-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 five-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 three 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 as meeting the investment and job requirements. 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.



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)(c)	Fuel used in farm machinery and farm tractors
12-36-2120(15)(d)	Fuel used in commercial fishing vessels
12-36-2120(16)	Farm machinery
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

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 Code §12-36-1310(B)(3) are not exempt.
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<b>Code Section</b>	<b>Description</b>
12-36-2120(8)	Newspapers, newsprint paper and South Carolina Department of Agriculture Market Bulletin <sup>43</sup>
12-36-2120(10)(a)	Meals or food used in furnishing meals to 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
12-36-2130(2)	Exhibition rentals for museums (charitable, eleemosynary or governmental museums) (use tax only) <sup>44</sup>
Temporary Proviso 117.37, (Act No. 264 of 2018)	Purchases of tangible personal property during the state fiscal year 2018-2019 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>45</sup>

General Public Good Exemptions

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

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<sup>43</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.

<sup>44</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 SC Regulation 117-334 for information on when a transaction is a sales tax transaction and when it is a use tax transaction.

<sup>45</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 SC Regulation 117-334 for information on when a transaction is a sales tax transaction and when it is a use tax transaction.

<b>Code Section</b>	<b>Description</b>
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 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
12-36-2120(38)	Hearing aids
12-36-2120(39)	Concession sales by nonprofit organizations at festivals
12-36-2120(41)	Sales by 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)	Annual sales tax holiday on the first Friday, Saturday, and Sunday in August for personal use 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

<b>Code Section</b>	<b>Description</b>
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.
12-36-2120(76)	This exemption for a sales tax holiday for handguns, rifles, and shotguns was ruled unconstitutional by the Supreme Court of South Carolina <sup>46</sup>
12-36-2120(77)	This exemption for certain energy efficient products was ruled unconstitutional by the Supreme Court of South Carolina <sup>47</sup>

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<sup>46</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.*, 382 S.C. 572, 677 S.E.2d 16 (2009). However, the General Assembly enacted a temporary proviso that established a sales tax holiday on November 26<sup>th</sup> and 27<sup>th</sup> of 2010 for handguns (as defined in South Carolina Code §16-23-10(1)), rifles and shotguns.

<sup>47</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.*, 382 S.C. 16, 677 S.E.2d 16 (2009).

<b>Code Section</b>	<b>Description</b>
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. <sup>48</sup>
12-36-2120(81)	Construction material used by an entity organized under IRS Section 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 (Effective January 1, 2016).
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 U.S. Department of Agriculture. (Effective January 1, 2016).
12-36-2120(83)	Any item which is subject to the infrastructure maintenance fee set forth in South Carolina Code Section 56-3-627.
Temporary Proviso 117.61 (Act No. 264 of 2018)	Viscosupplementation therapies (for State fiscal year 2018–2019)
12-69-30	Chapter 69 of Title 12 provides an exemption from state and local sales tax for the construction, repair, or improvement of a motorsports entertainment complex, if at least a \$10 million capital investment is made within the five-year period immediately following approval of the application.

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<sup>48</sup> When completing the Sales and Use Tax Return (ST-3), a taxpayer will reflect sales or purchases qualifying for this exemption on “the worksheet” under the “Allowable Deductions” section. The taxable gross proceeds after all deductions will be subject to both the State and applicable local sales and use taxes.

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.
12-36-2110(B)	Manufactured homes designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy efficiency requirements or designated as meeting or exceeding the energy efficiency requirements under each agency's Energy Star program. <sup>49</sup>

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<sup>49</sup> **This exemption is only valid for sales or purchases from July 1, 2009 to July 1, 2019.** Manufactured homes not meeting the energy efficiency requirements for this exemption, but meeting other energy efficient requirements in South Carolina Code §12-36-2110(B), will only be subject to the \$300.00 maximum tax.