

9

Exemptions

Chapter 9

Exemptions

A. Exemptions Authorized under the Sales and Use Tax Law (Chapter 36 of Title 12)

The South Carolina sales and use tax law contain numerous exemptions¹. As a general rule, tax exemption statutes are strictly construed against the taxpayer.² This rule of strict construction simply means that constitutional and statutory language will not be strained or liberally construed in the taxpayer's favor.³

The following briefly describes South Carolina's sales and use tax exemptions⁴. For purposes of this discussion, South Carolina's exemptions are divided into the following categories:

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

The following provides a list of the exemptions in each of the above categories and a list of relevant statutes, court cases, regulations, and advisory opinions for each exemption (if any). The list of statutes, court cases, regulations, and advisory opinions is not all-inclusive.

¹ South Carolina Code §§12-36-2120 and 12-36-2130.

² *Owen Industrial Products, Inc. v. Sharpe*, 274 S.C. 193, 262 S.E.2d 33 (1980); *Hollingsworth on Wheels, Inc. v. Greenville County Treasurer et al*, 276 S.C. 314, 278 S.E.2d 340 (1981).

³ *York County Fair Association v. South Carolina Tax Commission*, 249 S.C. 337, 154 S.E.2d 361 (1967).

⁴ 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 #14-5.

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)	<p>Transactions that are prohibited from being taxed by U.S. or State Constitutional provisions or federal or state law⁵</p> <p><i>South Carolina Information Letter #89-8 (American Red Cross); South Carolina Code §58-25-80 (Regional Transportation Authorities); South Carolina Code §56-19-480 (Insurance Companies and Motor Vehicles); South Carolina Code §44-7-2120 (Regional Health Services Districts⁶); South Carolina Code §38-29-150 (South Carolina Life and Accident and Health Insurance Guaranty Association); South Carolina Code §38-31-130 (South Carolina Property and Casualty Insurance Guaranty Association); South Carolina Code §12-11-30 (Banks); South Carolina Code §12-13-50 (Building and Loan Associations); South Carolina Code §13-17-90 (South Carolina Research Authority); South Carolina Code §§12-63-20 and 12-63-30 (Motion Picture Production Companies⁷); and South Carolina Revenue Ruling #06-8⁸ (Federal Moratorium on the taxation of Internet Access charges)</i></p>

⁵ There are several provisions in the South Carolina Code of Laws that are not codified in Chapter 36 of Title 12 that provide an exemption from the sales tax, the use tax or both. Some of these provisions exempt a specific transaction and some exempt a specific entity. In the case of an exemption provision involving a specific entity, each statutory provision must be reviewed to determine if sales to the entity are exempt, sales by the entity are exempt, or if both sales to and sales by the entity are exempt. In addition, there are several provisions of federal law that provide an exemption from state and local taxes to certain specific entities. Each of these federal statutory provisions must also be reviewed to determine if sales to the entity are exempt, sales by the entity are exempt, or if both sales to and sales by the entity are exempt. **Please note that the list (in italics) of transactions that are prohibited from being taxed by U.S. or State Constitutional provisions or federal or state law is not all-inclusive.**

⁶ See also *Lexington Health Services District v. South Carolina Department of Revenue*, S.C., 682 S.E.2d 508 (2009).

⁷ See also Chapter 19 of this publication and South Carolina Revenue Ruling #08-12.

⁸ South Carolina Revenue Ruling #06-8 concerns the taxation of communications services and addresses the federal moratorium on the taxation of Internet Access charges as part of the discussion on taxable and non-taxable communication services.

Code Section	Description
12-36-2120(2)	<p>Sales to the federal government</p> <p><i>SC Regulation 117-307.6; Attorney General Opinion dated 8/9/1984;⁹ South Carolina Revenue Ruling #09-1; South Carolina Revenue Ruling #13-2</i></p>
12-36-2120(22)	Material necessary to assemble missiles
12-36-2120(25)	<p>Sales of cars and motorcycles to nonresident military personnel</p> <p><i>South Carolina Private Letter Ruling #90-12; South Carolina Private Letter Ruling #90-11; South Carolina Private Letter Ruling #89-9</i></p>
12-36-2120(29)	<p>Federal government contracts – property that passes to the government</p> <p><i>SC Regulation 117-314.11; South Carolina Revenue Ruling #04-9</i></p>
12-36-2120(30)	<p>Supplies purchased by State General Services Division for resale to State agencies</p> <p><i>SC Regulation 117-304.1; South Carolina Revenue Ruling #92-15</i></p>
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

⁹ This Attorney General Opinion concluded that sales to the federal government upon requisition or order of the South Carolina National Guard, payment for which is from the Federal Treasury upon order of Federal officers, are exempt from the sales and use tax. However, others sales of tangible personal property to the Guard are taxable.

12-36-2120(68) Any property sold to the public through a sheriff’s sale as provided by law

Business Related Exemptions

Code Section Description

12-36-2120(9)(a – d) Coal, coke, or other fuel for manufacturers, transportation companies, electric power companies, and processors

SC Regulation 117-302.3; South Carolina Private Letter Ruling #88-10

12-36-2120(9)(e)(f) Fuel used for test flights of aircraft by the manufacturer of the aircraft or used in the transportation of an aircraft prior to its completion from one facility of the manufacturer to another facility of the manufacturer, provided the taxpayer, over a seven year period, invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility and creates at least three thousand eight hundred full-time new jobs at the a single manufacturing facility. **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.**

SC Information Letter #15-18

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

SC Regulation 117-321.1

12-36-2120(14) Wrapping paper, containers, etc., used incident to the sale and delivery of tangible personal property

SC Regulation 117-302.2; SC Regulation 117-312

Code Section	Description
12-36-2120(15)	Motor fuel taxed under the motor fuel user fee law
12-36-2120(17)	<p>Machines used in manufacturing, processing, 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</p> <p><i>SC Regulation 117-302.5; SC Regulation 117-302.6; SC Regulation 117-306.1; SC Regulation 309.3; SC Regulation 117-309.9; SC Regulation 117-314.10; SC Regulation 117-315.3; SC Regulation 117-328; <u>Hercules Contractors and Engineers, Inc. v. South Carolina Tax Commission</u>, 313 S.E. 2d 300 (1984); <u>Springs Industries, Inc., v. South Carolina Department of Revenue</u>, South Carolina Court of Appeals, No. 2003-UP-029, January 8, 2003 (unpublished), certiorari denied, October 8, 2003; <u>Anonymous Corporation v. South Carolina Department of Revenue</u> (02-ALJ-17-0350-CC); <u>Southeastern-Kusan, Inc. v. South Carolina Tax Commission</u> 280 S.E. 2d 57 (1981); South Carolina Revenue Ruling #04-7; South Carolina Revenue Ruling #89-7; South Carolina Revenue Ruling #91-8; South Carolina Revenue Ruling #98-19; South Carolina Private Letter Ruling #92-9; South Carolina Private Letter Ruling #91-1; South Carolina Private Letter Ruling #87-3; South Carolina Private Letter Ruling #90-3; South Carolina Private Letter Ruling #89-15; South Carolina Private Letter Ruling #95-8; South Carolina Private Letter Ruling #99-3; South Carolina Revenue Procedure #05-1¹⁰</i></p>
12-36-2120(19)	<p>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</p> <p><i>SC Regulation 117-302.4</i></p>
12-36-2120(20)	Railcars and locomotives

¹⁰ The controlling authorities with respect to the machine exemption are SC Regulation 117-302.5; *Hercules Contractors and Engineers, Inc. v. South Carolina Tax Commission*, 313 S.E. 2d 300 (1984); *Springs Industries, Inc., v. South Carolina Department of Revenue*, South Carolina Court of Appeals, No. 2003-UP-029, January 8, 2003 (unpublished), certiorari denied, October 8, 2003; and *Anonymous Corporation v. South Carolina Department of Revenue* (02-ALJ-17-0350-CC). The advisory opinions listed are provided for additional reference.

Code Section	Description
12-36-2120(21)	<p>Certain vessels and barges (more than 50 tons burden)</p> <p><i>SC Regulation 117-312; SC Regulation 117-321.1</i></p>
12-36-2120(24)	<p>Laundry supplies and machinery used by a laundry or drycleaning business. This exemption does not apply to coin operated laundromats.</p> <p><i>SC Regulation 117-303</i></p>
12-36-2120(31)	<p>Vacation time sharing plans and exchange of accommodations in which the accommodation to be exchanged is the primary consideration</p> <p><i>The Department held in South Carolina Revenue Ruling #98-5 that accommodations provided under exchange agreements are subject to the sales tax on accommodations. However, the General Assembly subsequently enacted the above exemption for “any...exchange of accommodations in which the accommodations to be exchanged are the primary consideration.</i></p> <p><i>Therefore, the furnishing of accommodations via an exchange of accommodation is not subject to the sales tax on accommodations if the accommodations to be exchanged is the primary consideration. If the accommodations to be exchanged is not the primary consideration, the furnishing of the accommodations is subject to the sales tax on accommodations, unless otherwise exempt.</i></p>
12-36-2120(34)	<p>50% of the gross proceeds of a modular home regulated under Chapter 43 of Title 23</p> <p><i>SC Regulation 117-335.2</i></p>
12-36-2120(35)	<p>Movies sold or rented to movie theatres</p>
12-36-2120(36)	<p>Tangible personal property delivered out of state by South Carolina retailers</p>
12-36-2120(37)	<p>Petroleum asphalt products transported and used outside South Carolina</p>

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 as part of a sale of an entire business <i>South Carolina Revenue Advisory Bulletin #01-1</i>
12-36-2120(43)	Supplies, equipment, machinery, and electricity for use in filming/producing motion pictures <i>South Carolina Revenue Ruling #08-12¹¹</i>
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
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 ¹² <i>South Carolina Revenue Ruling #13-3</i>
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). ¹³

¹¹ South Carolina Revenue Ruling #08-12 mainly concerns the exemption for motion picture production companies in South Carolina Code §12-63-30; however, it does briefly discuss the exemption in South Carolina Code §12-36-2120(43).

¹² This exemption requires that certain notices be filed by the taxpayer with the South Carolina Department of Revenue in order for the taxpayer to qualify for the exemption.

¹³ Prior to January 1, 2016, this exemption was limited to parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft owned by or leased to the federal government or commercial air carriers.

Code Section	Description
12-36-2120(53)	<p>Motor vehicle extended service and warranty contracts</p> <p><i>South Carolina Revenue Ruling #11-1; South Carolina Revenue Ruling #93-6</i></p>
12-36-2120(54)	<p>Clothing and other attire required for working in a class 100 or better clean room environment (as defined in Federal Standard 209E)</p>
12-36-2120(56)	<p>Machines used in research and development</p> <p><i>South Carolina Revenue Ruling #08-3</i></p>
12-36-2120(58)	<p>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</p>
12-36-2120(59)	<p>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</p>
12-36-2120(62)	<p>70% of the gross proceeds of the rental or lease of portable toilets</p> <p><i>South Carolina Revenue Ruling #09-5; Eugenia Boggero, d/b/a/ Boggero's Portable Toilets v. South Carolina Department of Revenue, 414 SC 277, 777 SE 2d 842 (2015).</i></p>
12-36-2120(64)	<p>Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass</p>
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))¹⁴ 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</p>

¹⁴ 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
	<p>Computer equipment used in connection with a manufacturing facility where the taxpayer, over a seven year period, invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility and creates at least three thousand eight hundred full-time new jobs at the a single manufacturing facility. 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.</p> <p><i>SC Information Letter #15-18</i></p>
12-36-2120(67)	<p>Construction material used in the construction of a single manufacturing or distribution facility, or one that serves both, that invests at least \$100 million at a single site in South Carolina over an 18 month period.¹⁵</p> <p>Construction material used in the construction of a single manufacturing facility where the taxpayer, over a seven year period, invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility and creates at least three thousand eight hundred full-time new jobs at the a single manufacturing facility. 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.</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>

¹⁵ Act No. 110 of 2007 provided that this exemption will be phased in from July 1, 2007 through June 30, 2011. This exemption was phased in by reducing the tax rate as follows: (a) 4% for sales from July 1, 2007 through June 30, 2008; (b) 3% for sales from July 1, 2008 through June 30, 2009; (c) 2% for sales from July 1, 2009 through June 30, 2010; and (d) 1% for sales from July 1, 2010 through June 30, 2011. Effective July 1, 2011, qualifying construction material is fully exempt.

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) ¹⁶	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, provided the taxpayer invests at least twenty million dollars over a three year period.
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. ¹⁷

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.

South Carolina Revenue Ruling #13-5

¹⁶ Act No. 280 of 2010. To qualify for this exemption, the taxpayer must notify the South Carolina Department of Revenue of its intent to qualify and must invest at least twenty million dollars in real or personal property at a single site in this State over the three-year period.

¹⁷ See Code Section 12-36-2120(79) which requires that the taxpayer meet certain investment, jobs, and notification requirements in order to claim this exemption.

Code Section	Description
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 new and athletic events.

South Carolina Revenue Ruling #08-12

Agricultural Exemptions¹⁸

12-36-2120(4)	Livestock <i>SC Regulation 117-301.1</i>
12-36-2120(5)	Feed used to produce and maintain livestock <i>SC Regulation 117-301.2; South Carolina Private Letter Ruling #99-1</i>
12-36-2120(6)	Insecticides, chemicals, fertilizers, soil conditioners, seeds, or seedlings, or nursery stock used in the production of farm products <i>SC Regulation 117-301.3</i>
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 <i>SC Regulation 117-301.4</i>

¹⁸ In reviewing the exemption statutes for the agriculture industry, it should be noted that South Carolina Code §46-1-10 states:

1. The terms “agriculture, agricultural purposes, agricultural uses, farm crops, cultivated crops” or words of similar import shall include horticulture, floriculture, and aquaculture. Words of similar import applicable to agriculture are likewise applicable to horticulture, floriculture, aquaculture.
2. The term “aquaculture” means the cultivation, production, or marketing of domesticated aquatic organisms.
3. The term “domesticated aquatic organism” means any fish, aquatic invertebrate, or aquatic plant that is spawned, produced, or marketed as a cultivated crop in the waters of this State.

Code Section	Description
12-36-2120(16)	<p>Farm machinery</p> <p><i>SC Regulation 117-301.5; South Carolina Revenue Ruling #99-3; South Carolina Private Letter Ruling #89-16</i></p>
12-36-2120(18)	<p>Fuel used to cure agriculture products</p> <p><i>South Carolina Technical Advice Memorandum #88-6</i></p>
12-36-2120(23)	<p>Farm products sold in their original state of production when sold by the producer</p> <p><i>SC Regulation 117-301.9; South Carolina Technical Advice Memorandum #88-4; South Carolina Private Letter Ruling #93-4</i></p>
12-36-2120(32)	<p>Electricity and gas used in the production of livestock and milk</p> <p><i>SC Regulation 117-301.7</i></p>
12-36-2120(44)	<p>Electricity used to irrigate crops</p> <p><i>SC Regulation 117-301.7</i></p>
12-36-2120(45)	<p>Building materials, supplies, fixtures, and equipment used to construct commercial housing for poultry or livestock</p> <p><i>SC Regulation 117-301.8; South Carolina Revenue Ruling #95-11; South Carolina Information Letter #95-1</i></p>

Educational Exemptions

12-36-2120(3)	<p>Textbooks, books, magazines, periodicals, newspapers, and access to on line 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. 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.</p> <p><i>SC Regulation 117-316; South Carolina Revenue Ruling #94-11; South Carolina Private Revenue Opinion #02-3; South Carolina Technical Advice Memorandum #90-6; South Carolina Private Letter Ruling #90-5</i></p>
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Code Section	Description
12-36-2120(8)	<p>Newspapers, newsprint paper, and the South Carolina Department of Agriculture Market Bulletin¹⁹</p> <p><i>SC Regulation 117-315.1; SC Regulation 117-315.2; South Carolina Private Letter Ruling #98-1; South Carolina Private Letter Ruling #93-1 Attorney General Opinion dated 9/26/1983</i>²⁰</p>
12-36-2120(10)(a)	<p>Meals or food used in furnishing meals to K-12 students in schools (not for profit)</p> <p><i>SC Regulation 117-305.5</i></p>
12-36-2120(26)	<p>Television, radio, and cable TV supplies, equipment, machinery, and electricity</p> <p><i>SC Regulation 117-328; South Carolina Private Letter Ruling #12-1.</i></p>
12-36-2120(27)	Zoo plants and animals
12-36-2130(2)	Exhibition rentals for museums (charitable, eleemosynary, or governmental museums) ²¹
Temporary Proviso 117.40, (Act No. 286 of 2014)	<p>Purchases of tangible personal property during the State fiscal year 2014-2015 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).²²</p>

¹⁹ 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 SC 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.

²⁰ This Attorney General Opinion concluded that “preprints” were an integral part of a newspaper; therefore, the sale or purchase of preprints for incorporation into a newspaper were exempt.

²¹ 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.

²² 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.

General Public Good Exemptions

Code Section	Description
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 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.

Code Section	Description
	<i>Home Medical Systems, Inc. v. South Carolina Department of Revenue, 677 SE2d 582 (2009); Associated Medical Specialist, P.A v. South Carolina Tax Commission, SC Ct. of App., Unpublished Op. No. 97-UP-447 (1997); Drummond v. State of South Carolina, Court of Common Pleas, Case No. 02-CP-40-4651 (2010). SC Regulation 117-332; SC Revenue Ruling #11-3; SC Revenue Ruling #91-19; SC Revenue Ruling #90-1; SC Revenue Ruling #98-9; SC Private Letter Ruling #95-6; SC Private Revenue Opinion #01-4; SC Private Letter Ruling #92-4; SC Private Letter Ruling #05-1; SC Private Letter Ruling #93-5; SC Private Letter Ruling #04-5; SC Private Letter Ruling #05-3; SC Private Letter Ruling #03-3; SC Private Letter Ruling #88-22; SC Private Letter Ruling #92-4; SC Private Letter Ruling #92-8; SC Private Revenue Opinion #02-5</i>
12-36-2120(33)	Residential electricity and fuel <i>SC Regulation 117-323; SC Revenue Ruling #89-5; SC Revenue Ruling #92-4; SC Technical Advice Memorandum #87-5; SC Private Letter Ruling #98-4; SC Private Letter Ruling #89-12</i>
12-36-2120(38)	Hearing aids ²³
12-36-2120(39)	Concession sales by nonprofit organizations at festivals
12-36-2120(41)	Sales by nonprofit organizations <i>SC Revenue Ruling #12-3; SC Revenue Ruling #09-8; SC Revenue Procedure #03-6; SC Private Revenue Opinion #01-5</i>
12-36-2120(47)	Goods sold to nonprofit hospitals that primarily treat children at no cost to the patient

²³ Hearing aids are defined in South Carolina Code §40-25-20(5) as “an acceptable wearable instrument or device designated or offered to aid or compensate for impaired human hearing and parts, attachments, or accessories, including earmold, but excluding batteries and cords.” Therefore, separate sales of batteries or cords do not fall within this exemption and are subject to the tax.

Code Section	Description
12-36-2120(57)	<p>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</p> <p><i>SC Revenue Ruling #10-7; SC Revenue Ruling #10-8</i></p>
12-36-2120(63)	<p>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</p> <p><i>SC Revenue Ruling #11-3</i></p>
12-36-2120(74)	<p>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. Effective January 1, 2013, sales meeting the requirements of this exemption became fully exempt from both state and local sales and use taxes.²⁴</p> <p><i>South Carolina Revenue Ruling #11-3</i></p>

²⁴ An uncodified provision of the legislation that enacted this exemption in 2007 provided that the exemption would be phased in by reducing the rate of tax based on revenue projections by the Board of Economic Advisors. This uncodified provision was later amended in Act 32 of 2011 to establish a new phase in of the exemption as follows: The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is five and one-half percent for such sales from July 1, 2007. The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is three and one-half percent for such sales from July 1, 2011. The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is one and three-quarters percent for such sales from July 1, 2012. Effective January 1, 2013, the sales tax exemption on the gross proceeds of sales of items meeting the requirements of Code Section 12-36-2120(74) is fully implemented. Local sales and use taxes continued to apply until the exemption was fully implemented. Effective January 1, 2013, sales meeting the requirements of the exemption are fully exempt from both state and local sales and use taxes.

Code Section	Description
12-36-2120(75)	<p>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</p> <p><i>SC Regulation 117-337; SC Revenue Ruling #07-4</i></p>
12-36-2120(77)	<p>This exemption is no longer valid.²⁵</p>
12-36-2120(80)	<p>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.²⁶</p> <p><i>SC Information Letter #14-4</i></p>
12-36-2120(81)	<p>Construction material used by an entity organized under Section 501(c)(3) of the Internal Revenue Code 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).</p>

²⁵ In 2008, the General Assembly enacted in South Carolina Code §12-36-2120(77) an annual sales tax holiday during October for certain energy efficient products. However, the Supreme Court of South Carolina held in *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)* that the act (Act No. 338 of 2008) was unconstitutional. Therefore, the exemption in South Carolina Code §12-36-2120(77) is no longer valid.

²⁶ This exemption will be phased-in based on the annual general fund growth as determined by the Board of Economic Advisors (“BEA”). If, beginning with the February 15 forecast, the BEA forecasts an annual general fund revenue growth of at least 2%, then the exemption will be phased-in as follows:

- Phase-in 1: For sales made on or after July 1st of the first State fiscal year (July 1 through June 30) following a February 15th forecast meeting the 2% growth requirement, 50% of the gross proceeds of sales are exempt.
- Phase-in 2: For sales made on or after July 1st of the next State fiscal year (July 1 through June 30), 100% of the gross proceeds of sales are exempt.

On February 19, 2014, the Board of Economic Advisors notified the Department that the requirements have been met to implement this exemption. Accordingly, for July 1, 2014 - June 30, 2015, 50% of the gross proceeds of sales of qualifying sales or purchases are exempt from the State and local sales and use taxes. On or after July 1, 2015, qualifying sales or purchases are fully exempt from the State and local sales and use taxes. See SC Information Letter #14-4.

Code Section	Description
12-36-2120()	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. (Effective January 1, 2016).

Alternative Energy Exemptions

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. ²⁷

²⁷ This exemption is only valid for sales or purchases from July 1, 2009 to July 1, 2019. Manufactured homes not meeting the energy efficient 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.

B. Other Sales and Use Tax Exemptions Authorized by the General Assembly

In addition to the sales and use tax exemptions authorized by the General Assembly in the sales and use tax law,²⁸ the General Assembly has authorized sales and use tax exemptions in other provisions of the South Carolina Code of Laws. While the code sections authorizing these exemptions are listed above under the exemption for “Transactions that are prohibited from being taxed by U.S. or State Constitutional provisions or federal or state law,” the following will provide additional details about these exemptions.

Some of these exemption provisions exempt a specific transaction and some exempt a specific entity. In the case of an exemption provision involving a specific entity, each statutory provision must be reviewed to determine if sales to the entity are exempt, sales by the entity are exempt, or if both sales to and sales by the entity are exempt. **Please note that the list of transactions that are prohibited from being taxed by state law is not all-inclusive.**

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.

South Carolina Code §58-25-80 (Regional Transportation Authorities)

This exemption provides that a regional transportation authority shall not pay any sales tax or use tax. In addition, it provides that a regional transportation authority shall not pay any state or local ad valorem tax, income tax, fuel tax, excise tax or any other use taxes or taxes from which municipalities and counties are exempt.²⁹

South Carolina Code §56-19-480 (Insurance Companies and Motor Vehicles)

This exemption provides that vehicles that have been declared a total loss and are transferred to or from an insurance company in settlement of a claim are exempt from casual excise tax and sales and use taxes.³⁰

²⁸ Chapter 36 of Title 12 of the South Carolina Code of Laws.

²⁹ See 1985 Op. Atty. Gen. No. 85-120, p. 329.

³⁰ See SC Revenue Ruling #93-13 and SC Revenue Ruling #08-8.

South Carolina Code §44-7-2120 (Regional Health Services Districts)

This exemption provides that the gross proceeds of the sale of any property owned by a regional health services district and used in the construction and equipment of any health care facilities for a district is exempt from the sales taxes and all similar excise taxes. In addition, the exemption provision states that it is the intent of the General Assembly that a regional health services district incur no tax liability to the State or any of its political subdivisions except to the extent that sales and use taxes may be payable on the purchases of goods or equipment by the regional health services district.³¹

This provision also provides exemptions for other taxes. See the code section for details.

South Carolina Code §38-29-150 (South Carolina Life and Accident and Health Insurance Guaranty Association)

This provision exempts the South Carolina Life and Accident and Health Insurance Guaranty Association from payment of all fees and all state, county, and municipal taxes.

South Carolina Code §38-31-130 (South Carolina Property and Casualty Insurance Guaranty Association)

This provision exempts the South Carolina Property and Casualty Insurance Guaranty Association from payment of all taxes levied by this State or any of its political subdivisions, except taxes levied on real or personal property.

South Carolina Code §12-11-30 (Banks)

This provision provides that the income tax paid by banks³² is in lieu of all other taxes on banks, except the use tax, the deed recording fee, and taxes on real property. The real property of a bank is taxed in the place where it is located.

³¹ See also *Lexington Health Services District v. South Carolina Department of Revenue*, S.C., 682 S.E.2d 508 (2009).

³² Chapter 11 of Title 12 of the South Carolina Code of Laws.

South Carolina Code §12-13-50 (Building and Loan Associations)

This provision provides that the income tax paid by building and loan associations³³ shall be in lieu of any and all other taxes on such associations, except use taxes, deed recording fees, and taxes on real property. The real property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals.

South Carolina Code §13-17-90 (South Carolina Research Authority)

This provision states that the South Carolina Research Authority shall pay no taxes or assessments including, but not limited to, income tax, sales and use tax, and property tax upon any of the property acquired by it or upon any of its activities; except that the South Carolina Research Authority is entitled to the above-referenced sales and use tax exemption only in (1) transactions to obtain tangible personal property for the authority's own use or consumption, (2) transactions related to authority contracts with governmental entities and nonprofit entities, and (3) transactions related to authority contracts with private, for-profit entities doing business in South Carolina, where these contracts do not place these entities in competition with other private, for-profit entities doing business in South Carolina.

South Carolina Code §§12-63-20 and 12-63-30 (Motion Picture Production Companies³⁴)

This provision provides a sales and use tax exemption for all qualifying tangible personal property used in connection with the South Carolina filming by a “motion picture production company” that is approved by the South Carolina Film Commission at the South Carolina Department of Parks, Recreation and Tourism.

For more details on this exemption, see Chapter 19 of this publication.

³³ Chapter 13 of Title 12 of the South Carolina Code of Laws.

³⁴ See also Chapter 19 of this publication and SC Revenue Ruling #08-12.