



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 125, Columbia, South Carolina 29214-0575

SC REVENUE RULING #21-9

- SUBJECT:** Beekeepers – Exemptions and Exclusions
(Sales and Use Tax)
- EFFECTIVE DATE:** Applies to all periods open under the statute.
- SUPERSEDES:** All previous advisory opinions and any oral directives in conflict herewith.
- REFERENCES:** S.C. Code Ann. Section 12-36-120 (2014)
S.C. Code Ann. Section 12-36-2120 (2014; Supp. 2020)
SC Regulation 117-301 (2012)
SC Regulation 117-302 (2012)
SC Regulation 117-332 (2012)
- AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3
- SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department’s position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

OVERVIEW

The agriculture industry enjoys numerous exemptions and exclusions from sales and use tax. As part of the agricultural industry, these exemptions are available to commercial beekeepers. In addition, beekeepers also process the honey they produce and are allowed exemptions and exclusions available to “processors.” Certain other exemptions are also available to any purchaser (a commercial beekeeper and a noncommercial beekeeper).

For purposes of this advisory opinion, the term “commercial beekeeper” means a person who is engaged in the business of selling honey bees, honey, or other honey bee products produced for sale at wholesale or retail. The term “noncommercial beekeeper” means a person who is not engaged in the business of selling honey bees, honey, or other products at wholesale or retail.

As part of the agricultural industry, beekeepers customarily raise honey bees (livestock) on farms to produce food and other honey bee products, such as candles and hand creams. The operation of a commercial beekeeper includes purchasing honey bees, and other items such as building materials to construct bee houses; food to maintain honey bees; medicine; and machinery to process or package honey and bee products produced.

The purpose of this advisory opinion is to provide guidance to beekeepers regarding common exemptions and exclusions available for purchases they make and to provide information about exemption certificates that may be used to make certain purchases tax free.

This document also discusses the taxation of sales of agricultural products produced by beekeepers, such as honey bees, honey, and other bee products sold at wholesale or at retail.

At the end of this advisory opinion, a reference chart is provided summarizing the common exemptions and exclusions available with respect to purchases by commercial and noncommercial beekeepers that are discussed in this advisory opinion.

LAW AND REGULATIONS

Sales to and Purchases by Commercial Beekeepers of Agricultural Machinery, Building Materials, and Supplies - Exemptions and Exclusions

Honey Bees (Livestock). Code Section 12-36-2120(4) exempts the gross proceeds of sales, or sales price, of “livestock” from sales and use tax. It defines livestock as “domesticated animals customarily raised on South Carolina farms for use primarily as beasts of burden, or food, and certain mammals when raised for their pelts or fur. Animals such as dogs, cats, reptiles, fowls (except baby chicks and poults), and animals of a wild nature, are not considered livestock.”

Food for Honey Bees. Code Section 12-36-2120(5) exempts the gross proceeds of sales, or sales price, of “feed used for the production and maintenance of poultry and livestock.”

Building Materials to House Honey Bees. Code Section 12-36-2120(45) exempts the gross proceeds of sales, or sales price, of “building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a self-contained enclosure or structure specifically designed, constructed, and used for the commercial housing of poultry or livestock.”

Chemicals (Including Medicines). Code Section 12-36-2120(6) exempts the gross proceeds of sales, or sales price, of “insecticides, chemicals, fertilizers, soil conditioners, seeds, or seedlings, or nursery stock, used solely in the production for sale of farm, dairy, grove, vineyard, or garden products or in the cultivation of poultry or livestock feed.” Regulation 117-301.3(b) provides that the term “chemicals” includes medicines used solely in the production for sale of livestock.

Medicine Sold by Prescription to Treat Honey Bees. Code Section 12-36-2120(28)(a) exempts the gross proceeds of sales, or sales price, of “medicine...sold by prescription....”

Machines Used to Process or Package Honey. Code Section 12-36-2120(16) exempts the gross proceeds of sales, or sales price, of “farm machinery and their replacement parts and

attachments, used in planting, cultivating, or harvesting farm crops....” See Regulation 117-301.5 for definitions of the terms planting, cultivating, or harvesting. This exemption does not include automobiles or trucks; farm implements, such as hoes, pitchforks, and shovels; or machinery used in constructing fences and buildings, and repairing machinery and equipment. Code Section 12-36-2120(17) exempts the gross proceeds of sales, or sales price, of “machines used in manufacturing, processing, agricultural packaging...tangible personal property for sale.” The term “machines” includes the parts of machines, attachments, and replacements used, or manufactured for use, on or in the operation of the machines and which are necessary to the operation of the machines and customarily so used. This exemption does not include automobiles or trucks.

Tools and Supplies “Used Directly” in the Processing of Honey Bees and Bee Products.

Code Section 12-36-120(3) excludes from the sales and use tax the sale of “tangible personal property used directly in manufacturing, compounding, or processing tangible personal property into products for sale.” Regulation 117-302.1 defines “used directly” as used in this exclusion to mean “the materials or products so used come in direct contact with and contribute to bring about some chemical or physical change in the ingredient or component properties during the period in which...processing takes place.”

Electricity Used in Processing Honey and Bee Products. Code Section 12-36-2120(19) exempts the gross proceeds of sales, or sales price, of electricity used in “processing” tangible personal property for sale.

Fuel Used in Processing Honey and Bee Products. Code Section 12-36-2120(15)(c) exempts the gross proceeds of sales, or sales price, of “fuel used in farm machinery and farm tractors.” Code Section 12-36-2120(9) exempts the gross proceeds of sales, or sales price, of fuel used in “processing” tangible personal property for sale.

Containers and Labels Used to Package Honey and Bee Products. Code Section 12-36-2120(7) exempts the gross proceeds of sales, or sales price, of “containers and labels used in...preparing agricultural, dairy, grove, or garden products for sale....”

Sales by Beekeepers and Sales of Beekeeper Products – Exemptions and Exclusions

Retail Sales of Honey. Code Section 12-36-2120(23) exempts the gross proceeds of sales, or sales price, of “farm, grove, vineyard, and garden products, if sold in the original state of production or preparation for sale, when sold by the producer or by members of the producers immediate family.”

Wholesale Sales of Honey and Bee Products. Code Section 12-36-120(1) excludes the sale of “tangible personal property to licensed retail merchants, jobbers, dealers, or wholesalers for resale....”

Retail Sales of Food that Contains Honey. Code Section 12-36-2120(75) exempts the gross proceeds of sale, or sales price of “unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons. However, the exemption allowed by this item applies only to the state sales and use tax....”

QUESTIONS AND ANSWERS

Sales to and Purchases by Commercial Beekeepers of Agricultural Machinery, Building Materials, and Supplies - Exemptions and Exclusions

1. Q. Is the purchase of honey bees exempt from sales and use tax?
 - A. Yes. The purchase of honey bees is exempt from sales and use tax as “livestock.” Code Section 12-36-2120(4).

Note: This exemption is not limited to purchases of honey bees by commercial beekeepers; it applies to all sales, or purchases, of honey bees. See SC Revenue Ruling #21-6, “Honey Bees – Livestock Exemption.”

2. Q. Is the purchase of food used in the production and maintenance of honey bees exempt from sales and use tax?
 - A. Yes. The purchase of sugar, syrup, and other food used in the production and maintenance of honey bees is exempt from sales and use tax. Code Section 12-36-2120(5).

Note: This exemption is not limited to purchases of food for honey bees by commercial beekeepers; it applies to all sales, or purchases, of food for honey bees.

3. Q. Is the purchase of building materials by a commercial beekeeper used to construct, repair, or replace bee houses for commercial purposes exempt from sales and use tax?
 - A. Yes. The purchase of building materials by a commercial beekeeper used to construct, repair, or replace bee houses for commercial purposes is exempt from sales and use tax. Code Section 12-36-2120(45). Types of building materials exempt from sales and use tax include: pre-made bee houses and frames, hive bottoms, stands, lumber, hardware, paint, and other components that become a part of a bee house for use by a commercial beekeeper.

4. Q. Is the purchase of medicine by a commercial beekeeper used to treat honey bees exempt from sales and use tax?
 - A. Yes. The purchase of medicine by a commercial beekeeper used to treat honey bees is exempt from sales and use tax as either chemicals under Code Section 12-36-2120(6) or medicine sold by prescription under Code Section 12-36-2120(28)(a).

5. Q. Is the purchase of medicine by a noncommercial beekeeper used to treat honey bees exempt from sales and use tax?
 - A. The purchase of medicine by a noncommercial beekeeper used to treat honey bees is exempt from sales and use tax provided it is medicine sold by prescription to the beekeeper under Code Section 12-36-2120(28)(a). However, medicine that is not sold by prescription to a noncommercial beekeeper is subject to sales and use tax; noncommercial

beekeepers do not qualify for the exemption for chemicals (including medicine) under Code Section 12-36-2120(6). See SC Revenue Ruling #11-3 for more information concerning the exemption for medicine sold by prescription.

6. Q. Is the purchase of a machine by a commercial beekeeper used to process or package honey or bee products for sale exempt from sales or use tax?
- A. Yes. The purchase of a machine by a commercial beekeeper used to process or package honey or bee products for sale is exempt from sales and use tax if used in a facility whose purpose is processing a product for sale. See Regulation 117-302.5(B). Code Section 12-36-2120(17) exempts from the sales and use tax the sale or purchase of machines used in processing and in agricultural packaging of tangible personal property for sale.

Types of machines exempt from sales and use tax include: honey extractor machines, honey bottling and packaging machines, and processing tanks. The exemption in Code Section 12-36-2120(17) does not apply to automobiles, trucks, or storage tanks.

7. Q. Are purchases by a commercial beekeeper of tools and other supplies that are “used directly” in processing honey and other bee products for sale excluded from sales and use tax?
- A. Yes. Purchases by a commercial beekeeper of tools and other supplies that are “used directly” in processing honey and other bee products for sale are excluded from sales and use tax under Code Section 12-36-120(3).

Code Section 12-36-120 defines the terms wholesale sale and sale at wholesale. Item (3) of this section excludes from the tax as a wholesale sale “tangible personal property used directly in manufacturing, compounding, or processing tangible personal property into products for sale.” Regulation 117-302.1 defines “used directly” as used in this exclusion to mean “the materials or products so used come in direct contact with and contribute to bring about some chemical or physical change in the ingredient or component properties during the period in which...processing takes place.”

Therefore, in order to qualify as an item “used directly,” the tool or supply purchased by a commercial beekeeper must: (1) come in direct contact with the honey or other honey product being produced and (2) contribute to bring about some chemical or physical change in the ingredient or component properties of the honey or honey product during the period in which the processing of the honey or honey product takes place.

Types of tools and supplies excluded from sales and use tax include: the honeycomb knife used to cut the wax produced by the bees and the strainer, cheesecloth, or filter used to remove debris or pollen. Tools used to maintain the hive or the area around the hive (e.g., a weeder) or to remove honey from the hive, do not qualify as an item “used directly” since such tools are not used during the processing of the honey or honey product.

8. Q. Is the purchase of electricity by a commercial beekeeper used in processing honey for sale exempt from sales and use tax?
- A. Yes. The purchase of electricity by a commercial beekeeper used in processing honey for sale is exempt from sales and use tax. Code Section 12-36-2120(19).
9. Q. Is the purchase of fuel by a commercial beekeeper to process honey exempt from sales and use tax?
- A. Yes. The purchase of fuel by a commercial beekeeper used in processing honey for sale is exempt from sales and use tax. Code Section 12-36-2120(9).
10. Q. Is the purchase of containers or labels by a commercial beekeeper used to package honey and bee products for sale exempt from sales and use tax?
- A. Yes. The purchase of containers and labels used to package honey and bee products for sale is exempt from sales and use tax under Code Section 12-36-2120(7). Items eligible for this exemption include: glass jars or plastic containers for honey or bee products, jar lids, container labels, and cardboard boxes to package the honey and bee products for sale.
11. Q. Is the purchase of specialized clothing and protective equipment by a commercial beekeeper exempt from sales and use tax?
- A. No. The purchase of specialized clothing and protective equipment (e.g., hoods, veils, suits, gloves, and boots) by a commercial beekeeper to wear when handling honey bees is subject to sales and use tax.
- Note: The sale of clothing is subject to the sales and use tax except for clothing used in a Class 100 or better clean room environment or clothing sold during the sales tax holiday that is not used in a trade or business. Neither of these exemptions apply to a commercial beekeeper. See Code Section 12-36-2120(54) and (57).

Sales by Beekeepers and Sales of Beekeeper Products – Exemptions and Exclusions

12. Q. Is the sale of honey bees exempt from sales and use tax?
- A. Yes. The sale of honey bees is exempt from sales and use tax. Code Section 12-36-2120(4).
13. Q. Is the sale of honey by a beekeeper exempt from sales and use tax?
- A. The sale of honey by the original producer (commercial beekeeper) or a member of the producer's immediate family when sold in its "original state of production or preparation for sale" is exempt from state and local sales and use tax. The exemption does not apply if the commercial beekeeper processes the honey beyond the usual and customary preparation for sale. For example, if a commercial beekeeper mixes flavors with the honey, such as chocolate, then the beekeeper has processed the honey beyond its original

state of production and the exemption in Code Section 12-36-2120(23) does not apply. See Regulation 117-301.9, “Sales by Farmers.”

However, the sale of honey by someone other than the producer (commercial beekeeper) or the producer’s immediate family, or the sale of honey that has been processed by the producer beyond its original state of production, is exempt as “unprepared food” from the state sales and use tax when sold for home consumption. The sale may be subject to local sales and use tax unless the local sales and use tax law specifically exempts the sale of unprepared food when sold for home consumption.¹ Code Section 12-36-2120(75) and Regulation 117-337. For example, the sale of honey at a local farmers market or grocery store by someone other than the beekeeper, or the sale by the commercial beekeeper of chocolate honey, qualifies for the state sales and use tax exemption for unprepared food when sold for home consumption.

14. Q. Is the sale of candles, lotions, or cosmetics that contain wax from honey bees exempt from sales and use tax?

A. The retail sale of candles, lotions, or cosmetics that contain wax from honey bees are subject to sales and use tax, whether sold by the commercial beekeeper or another retailer. However, the wholesale sale of these products by a commercial beekeeper are excluded from sales and use tax. See Code Section 12-36-120 defining a wholesale sale.

Administrative Issues – Use of Exemption Certificates

15. Q. How can a commercial beekeeper purchase agricultural supplies exempt from the sales and use tax?

A. The Department has an exemption certificate specifically for farmers to use in purchasing items exempt from sales and use tax. The exemption certificate is Form ST-8F, “Agricultural Exemption Certificate.”

A commercial beekeeper can provide a retailer this exemption certificate to purchase one of the items listed on the form tax free. This shifts the liability for the tax to the commercial beekeeper. If such beekeeper uses an item for a non-exempt purpose, the commercial beekeeper is liable for the tax, plus any applicable penalties and interest.

The ST-8F provides many exemptions, but the following exemptions applicable to commercial beekeepers listed on the ST-8F are: food for honey bees (feed for livestock), chemicals (medicine), building materials for the commercial housing of honey bees, certain fuels, containers, and labels.

Note: The ST-8F can be used by a noncommercial beekeeper only for the purchase of food used in the production or maintenance of honey bees.

¹ See SC Information Letter #21-6 or a successor document for guidance in determining applicable local sales and use taxes by county on unprepared food.

16. Q. How can a commercial beekeeper purchase processing machines or agricultural packaging machines exempt from the sales and use tax?

A. The Department has an exemption certificate that can be used by commercial beekeepers to purchase processing machines or agricultural packaging machines exempt from the sales and use tax. The exemption certificate to be used is Form ST-8, "Exemption Certificate." This shifts the liability for the tax to the commercial beekeeper. If such beekeeper uses the item for a non-exempt purpose, the commercial beekeeper is liable for the tax, plus any applicable penalties and interest. The ST-8 provides other exemptions that are not applicable to commercial beekeepers.

Note: The ST-8 cannot be used by a noncommercial beekeeper.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

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Columbia, South Carolina

Taxability of Purchases by Beekeepers
Summary of Exemptions and Exclusions
 See Revenue Ruling #21-9

| Items Purchased by Beekeeper | Code Section and Regulation | When Item is Purchased by a “Commercial Beekeeper” | When Item is Purchased by a “Noncommercial Beekeeper” |
|--|--|--|---|
| Honey Bees (Livestock) | Section 12-36-2120(4) Reg. 117-301.1 | Exempt | Exempt |
| Food for Honey Bees e.g., sugar, syrup, and other food used in the maintenance of bees | Section 12-36-2120(5) Reg. 117-301.2 | Exempt | Exempt |
| Building Materials to House Honey Bees for Commercial Use e.g., pre-made bee houses and frames, hive bottoms, stands, lumber, hardware, paint, and other component parts that become part of a bee house | Section 12-36-2120(45) Reg. 117-301.8 | Exempt | Taxable |
| Chemicals (Including Medicine) | Section 12-36-2120(6) Reg. 117-301.3 | Exempt | Taxable |
| Medicine Sold by Prescription to Treat Honey Bees | Section 12-36-2120(28)(a) Reg. 117-332 | Exempt | Exempt |
| Machines Used to Process or Package Honey for Sale e.g., honey extractor machine, honey bottling and packaging machine, and processing tanks. It does not include trucks or storage tanks. | Section 12-36-2120(17) Reg. 117-302.5(B) | Exempt | Taxable |
| Tools and Supplies “Used Directly” in Processing Bees and Bee Products for Sale e.g., honeycomb knife to cut wax and strainer, cheese cloth, or filter to remove debris. | Section 12-36-120(3) Reg. 117-302.1 | Exempt | Taxable |
| Electricity Used in Processing Honey and Bee Products for Sale | Section 12-36-2120(19) Reg. 117-302.4 | Exempt | Taxable |
| Fuel Used in Processing Honey and Bee Products for Sale | Section 12-36-2120(9) Section 12-36-2120(15)(c) Reg. 117-302.3 | Exempt | Taxable |
| Containers and Labels Used to Package Honey and Bee Products for Sale e.g., glass jars, plastic containers, jar lids, labels, container labels, and cardboard boxes to package products for sale | Section 12-36-2120(7) Reg. 117-301.4 | Exempt | Taxable |
| Specialized Clothing and Protective Equipment e.g., hoods, veils, suits, gloves, and boots | No applicable exemption | Taxable | Taxable |