

TRAC
PROPERTY TAX REPORT

SECTION 12-11-30. Income tax to be instead of other taxes; exceptions.

The income tax provided for in this chapter is instead of all other taxes on banks, except the use tax, the deed recording fee, and taxes on real and personal property. The real and personal property of a bank is taxed in the place where it is located.

SECTION 12-13-50. Tax shall be in lieu of other taxes; exceptions.

The income tax provided in this chapter shall be in lieu of any and all other taxes on such associations, except use taxes, deed recording fees, and taxes on real and personal property. The real and personal property of any such association shall be taxed in the place where it may be located, the same as the real property of individuals.

CHAPTER 37.

ASSESSMENT OF PROPERTY TAXES

ARTICLE 1.

GENERAL PROVISIONS

ARTICLE 3.

PROPERTY TAX; EXEMPTIONS

SECTION 12-37-210. Property which is taxable.

All real and personal property in this State, personal property of residents of this State which may be kept or used temporarily out of the State, with the intention of bringing it into the State, or which has been sent out of the State for sale and not yet sold, and all moneys, credits and investments in bonds, stocks, joint-stock companies or otherwise of persons resident in this State shall be subject to taxation.

SECTION 12-37-220. General exemption from taxes.

(A) Pursuant to the provisions of Section 3 of Article X of the State Constitution and subject to the provisions of Section 12-4-720, there is exempt from ad valorem taxation:

(1) all property of the State, counties, municipalities, school districts, Water and Sewer Authorities and other political subdivisions, if the property is used exclusively for public purposes, and it shall be the duty of the Department of Revenue and county assessor to determine whether such property is used exclusively for public purposes;

(2) all property of all schools, colleges, and other institutions of learning and all charitable institutions in the nature of hospitals and institutions caring for the infirmed, the handicapped, the aged, children and indigent persons, except where the profits of such institutions are applied to private use except this exemption for hospitals does not extend beyond the buildings and institutions actually used for hospital purposes;

- (3) all property of all public libraries, churches, parsonages, and burying grounds, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property;
- (4) all property of all charitable trusts and foundations which are recognized as exempt under Section 501(c)(3) of the IRC used exclusively for charitable and public purposes, but this exemption for real property does not extend beyond the buildings and premises actually occupied by the owners of the real property and used exclusively for charitable and public purposes;
- (5) all household goods and furniture used in the home of the owner of such goods and furniture, such to include built-in equipment such as ranges, dishwashers and disposals, but this exemption shall not apply to household goods used in hotels, time shares, rooming houses, apartments, or other places of business;
- (6) all inventories of manufacturers, except manufactured articles which have been offered for sale at retail or which have been available for sale at retail. Fuel, including but not limited to uranium, special nuclear material, nuclear fuel, fossil fuel, coal, cellulose, wood or solid, liquid or gaseous hydrocarbons, held by a public utility, an affiliated interest of such public utility as defined in Section 58-27-2090 or a subsidiary of such public utility, or held by a corporation, entity or trust for the use and benefit of such public utility under orders or regulations of the Public Service Commission, shall be deemed to be inventories of manufacturers;
- (7) forty percent of all new manufacturing establishments located in any of the counties of this State after July 1, 1977, for five years from the time of establishment and all additions to the existing manufacturing establishments located in any of the counties of this State for five years from the time each such addition is made if the cost of such addition is fifty thousand dollars or more. Such additions shall include additional machinery and equipment installed in the plant. ~~Provided, however, that the exemptions authorized in this item for manufacturing establishments, and additions thereto, shall not include exemptions from school taxes or municipal taxes but shall include only county taxes. Provided, further, that all manufacturing establishments and all additions to existing manufacturing establishments exempt under statutes in effect February 28, 1978, shall be allowed their exemptions provided for by statute until such exemptions expire;~~
- (8) all facilities or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement, or control of water, air, or noise pollution, both internal and external, required by the state or federal government and used in the conduct of their business. At the request of the Department of Revenue, the Department of Health and Environmental Control shall investigate the property of any manufacturer or company, eligible for the exemption to determine the portion of the property that qualifies as pollution control property. Upon investigation of the property, the Department of Health and Environmental Control shall furnish the Department of Revenue with a detailed listing of the property that qualifies as pollution control property. For equipment that serves a dual purpose of production and pollution control, the value eligible for the ad valorem exemption is the difference in cost between this equipment and equipment of similar production capacity or capability without the ability to control pollution. For the purposes of this item, twenty percent of the cost of any piece of machinery and equipment placed in service in a greige mill qualifies as internal air and noise pollution control property and is exempt from property taxes. "Greige mill" means all textile processes from opening through fabric formation before dyeing and finishing;
- (9) a homestead exemption for persons sixty-five years of age and older, for persons permanently and totally disabled and for blind persons in an amount to be determined by the General Assembly of the fair market value of the homestead under conditions prescribed by the General Assembly by general law;
- (10) intangible personal property.
- (11) all property of public benefit corporations established by a county or municipality used exclusively for economic development purposes which serve a governmental purpose as defined in Section 115 of the U.S. Internal Revenue Code.
- (B) In addition to the exemptions provided in subsection (A), the following classes of property are exempt from ad valorem taxation subject to the provisions of Section 12-4-720:

- (1)(a) The house owned by an eligible owner in fee or jointly with a spouse.
- (b) The house owned by a qualified surviving spouse acquired from the deceased spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house.
- (c) When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the beneficiary's domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b).
- (d) The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item.
- (e) As used in this item:
- (i) "eligible owner" means:
- (A) a veteran of the armed forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;
- (B) a former law enforcement officer as further defined in Section 23-23-10, who is permanently and totally disabled as a result of a law enforcement service-connected disability;
- (C) a former firefighter, including a volunteer firefighter as further defined in Chapter 80 of Title 40, who is permanently and totally disabled as a result of a firefighting service-connected disability;
- (ii) "permanently and totally disabled" means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death;
- (iii) "qualified surviving spouse" means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the armed forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23-23-10 and Chapter 80 of Title 40 who at the time of death owned the house in fee or jointly with the now surviving spouse, if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life;
- (iv) "house" means a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12-43-220(c).
- (2)(a) The dwelling house in which he resides and a lot not to exceed one acre of land owned in fee or for life, or jointly with a spouse, by a paraplegic or hemiplegic person, is exempt from all property taxation provided the person furnishes satisfactory proof of his disability to the Department of Revenue. The exemption is allowed to the surviving spouse of the person so long as the spouse does not remarry, resides in the dwelling, and obtains the fee or a life estate in the dwelling. To qualify for the exemption, the dwelling house must be the domicile of the person who qualifies for the exemption. For purposes of this item, a hemiplegic person is a person who has paralysis of one lateral half of the body resulting from injury to the motor centers of the brain. For the purposes of this exemption, "paraplegic" or "hemiplegic" includes a person with Parkinson's Disease, Multiple Sclerosis, or Amyotrophic Lateral Sclerosis, which has caused the same ambulatory difficulties as a person with paraparesis or hemiparesis. A doctor's statement is required stating that the person's disease has caused these same ambulatory difficulties. A surviving spouse of a person receiving the exemption under this subsection is not allowed the exemption.
- (b) When a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemption provided in subitem (a) and the beneficiary uses the dwelling as his domicile, the dwelling is exempt from property taxation in the amount and manner as dwellings are exempt pursuant to subitem (a).
- (3) Two private passenger vehicles owned or leased by any disabled veteran designated by the veteran for which special license tags have been issued by the Department of Motor Vehicles under the provisions of

Sections 56-3-1110 to 56-3-1130 or, in lieu of the license, if the veteran has a certificate signed by the county service officer or the Veterans Administration of the total and permanent disability which must be filed with the Department of Motor Vehicles.

(4) All property of any kind of a nonprofit corporation created for the purpose of providing water supply or sewage disposal, or a combination of such services, organized pursuant to Chapter 36 of Title 33.

(5) All property of the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, Fleet Reserve Association, and the Marine Corps League or any similar Veterans Organization chartered by the Congress of the United States, whether belonging to the department or to any of the posts in this State when used exclusively for the purpose of such organization and not used for any purpose other than club rooms, offices, meeting places, or other activities directly in keeping with the policy stated in the National Constitution of such organization, and such property is devoted entirely to its own uses and not held for "pecuniary profit". For the purposes of this item "pecuniary profit" refers to income received from the sale of alcoholic beverages to persons other than bona fide members and their bona fide guests, or any income, any part of which inures to the benefit of any private individual. Where any structure or parcel of land is used partly for the purposes of such organization and partly for such pecuniary profits, the area for pecuniary profits shall be assessed separately and that portion shall be taxed.

(6) All property owned and used or occupied by any Young Women's Christian Association, Young Men's Christian Association or the Salvation Army in this State and used for the purpose of or in support of such organizations but the exemption herein provided shall not apply to such portions of any such property rented for purposes not related to the functions of the organization.

(7) All property owned and used or occupied by The Boy Scouts of America or The Girl Scouts of America and used exclusively for the purposes of these organizations. The exemption allowed by this item also extends to property not owned by these organizations but which is used exclusively by them for scouting purposes.

~~(8) Properties of whatever nature or kind owned within the State and used or occupied by the South Carolina Association of Future Farmers of America so long as such properties are used exclusively to promote vocational education or agriculture, better business methods and more effective organization for farming or to encourage thrift or provide recreation for persons studying agriculture or home economics in the public schools.~~

(9) All wearing apparel of the person required to make a return and of the family of such person.

~~(10) Notwithstanding any other provisions of law, the property of telephone companies and rural telephone cooperatives operating in this State used in providing rural telephone service, which was exempt from property taxation as of December 31, 1973, shall be exempt from such property taxation; provided, however, that the amount of property subject to ad valorem taxation of any such company or cooperative in any tax district shall not be less than the net amount to which the tax millage was applied for the year ending December 31, 1973. Any property in any tax district added after December 31, 1973, shall likewise be exempt from property taxation in the proportion that the exempt property of such company or cooperative as of December 31, 1973, in that tax district was to the total property of such company or cooperative as of December 31, 1973, in that tax district.~~

(11)(a) All property of nonprofit housing corporations devoted exclusively to providing below-cost housing for the aged or for handicapped persons or for both aged and handicapped persons as authorized by Section 202 of the Housing Act of 1959 and regulated in part by 24 CFR Part 885.

(b) All property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for elderly persons or households as authorized by Section 202 of the Housing Act of 1959 as amended under Section 801 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 889.

(c) All property of nonprofit housing corporations devoted exclusively to providing below-cost supportive housing for persons with disabilities as authorized by Section 811 of the National Affordable Housing Act of 1990 and regulated in part by 24 CFR Part 890.

- (d) all property of nonprofit housing corporations devoted exclusively to providing rental or cooperative housing and related facilities for elderly or handicapped persons or families of low or moderate income as authorized by Section 515 of Title V of the Housing Act of 1949.
- (e) All property of nonprofit housing corporations or solely-owned instrumentalities of these corporations which is devoted to providing housing to low or very low income residents. A nonprofit housing corporation must satisfy the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service to qualify for this exemption.
- (12) The property of any fraternal society, corporation or association, when the property is used primarily for the holding of its meetings and the conduct of its business and no profit or benefit therefrom shall inure to the benefit of any private stockholders or individuals.
- (13) All agricultural products owned by the producer in this State.
- (14) All farm machinery and equipment including self-propelled farm machinery and equipment used for commercial farming except for motor vehicles licensed for use on the highways. For the purpose of this section "self-propelled farm machinery and equipment" means farm machinery or equipment which contains within itself the means for its own locomotion. For purposes of this item, farm equipment includes greenhouses.
- (15) All livestock and live poultry.
- (16)(a) The property of any religious, charitable, eleemosynary, educational, or literary society, corporation, or other association, which are recognized as exempt under Section 501(c)(3) of the IRC, when the property is used by it primarily for the holding of its meetings and the conduct of the business of the society, corporation, or association and no profit or benefit therefrom inures to the benefit of any private stockholder or individual.
- (b) The property of any religious, charitable, or eleemosynary society, corporation, or other association when the property is acquired for the purpose of building or renovating residential structures on it for not-for-profit sale to economically disadvantaged persons. The total properties for which the religious, charitable, or eleemosynary society, corporation, or other association may claim this exemption in accordance with this paragraph may not exceed fifty acres per county within the State.
- (c) The exemption allowed pursuant to subitem (a) of this item extends to real property owned by an organization described in subitem (a) and which qualifies as a tax exempt organization pursuant to Internal Revenue Code Section 501(c)(3), when the real property is held for a future use by the organization that would qualify for the exemption allowed pursuant to subitem (a) of this item or held for investment by the organization in sole pursuit of the organization's exempt purposes and while held this real property is not rented or leased for a purpose unrelated to the exempt purposes of the organization and the use of the real property does not inure to the benefit of any private stockholder or individual. Real property donated to the organization which receives the exemption allowed pursuant to this subitem is allowed the exemption for no more than three consecutive property tax years. If real property acquired by the organization by purchase receives the exemption allowed pursuant to this subitem and is subsequently sold without ever having been put to the exempt use, the exemption allowed pursuant to this subitem is deemed terminated as of December thirty-first preceding the year of sale and the property is subject to property tax for the year of sale to which must be added a recapture amount equal to the property tax that would have been due on the real property for not more than the four preceding years in which the real property received the exemption allowed pursuant to this subitem. The recapture amount is deemed property tax for all purposes for payment and collection.
- (17) Personal property in transit with "no situs" status as defined in Article 7 of Chapter 37 of Title 12 and subject to the record keeping requirements and penalties prescribed in that article shall not be subject to ad valorem taxation.
- (18) Real property leased on a nonprofit basis, to a state agency, county, municipality or other political subdivision so long as it is used for a general public purpose; provided, however, this exemption shall not apply to property used for office space or warehousing.

- (19) All property owned by volunteer fire departments and rescue squads used exclusively for the purposes of these departments and squads. Property leased to a department or squad by an entity itself exempt from property tax is exempt in the same manner that property owned by these departments and squads is exempt.
- (20) All property of nonprofit museums which is used exclusively for such purpose.
- (21) All property leased to and operated by the South Carolina Public Service Authority for the generation or transmission of electric power shall be deemed for all tax purposes to be property of the Authority and exempt from ad valorem taxes.
- (22) All community owned recreation facilities opened to the general public and operated on a nonprofit basis.
- (23) Notwithstanding any other provision of law, property heretofore exempt from ad valorem taxation by reason of the imposition upon such property or the owner of such property of a tax other than an ad valorem tax pursuant to the provisions of Section 12-11-30, Section 12-13-50 or Section 12-21-1080 shall continue to be entitled to such exemption.
- (24) All property of nonprofit or eleemosynary community theater companies, symphony orchestras, county and community arts councils and commissions and other such companies, which is used exclusively for the promotion of the arts.
- (25) All personal property loaned or leased on a nonprofit basis to a state agency, county, municipality, or other political subdivision, or to an organization exempt from federal income tax under Internal Revenue Code Section 501 through 514 as defined in item (11) of Section 12-6-40(A), for at least thirty days during the tax year, so long as such personal property is used solely for the purpose of public display and not for the use of such state agency, county, municipality, or other political subdivision, or exempt organization.
- (26) Two private passenger vehicles owned or leased by recipients of the Medal of Honor.
- (27) Two personal motor vehicles, owned or leased either solely or jointly by persons required to use wheelchairs, who qualify for special license tags under the provisions of Section 56-3-1910.
- (28) All carnival equipment owned, leased, or used by a foreign corporation or other nonresident of this State, not physically present within State for an aggregate of more than six months of the tax year, and having paid an ad valorem or like tax in at least one other state.
- (29) Two private passenger vehicles or trucks, not exceeding three-quarter ton, owned or leased by and licensed and registered in the name of any member or former member of the armed forces who was a prisoner of war (POW) in World War I, World War II, the Korean Conflict, or the Vietnam Conflict and who is a legal resident of this State. This exemption also extends to the surviving spouse of a qualified former POW for the lifetime or until the remarriage of the surviving spouse.
- (30) All inventories.
- (31) All real property of churches which extends beyond the buildings and premises actually occupied by the churches which own the real property if no profit or benefit from any operation on the churches' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the churches' real property. This exemption does not change any exemption provided for churches or other entities in item (3) of subsection A of this section and item (c), Section 3 of Article X of the Constitution of this State but is an additional exemption for churches as provided in this item.
- (32) ~~Forty percent of a~~ All new corporate headquarters, corporate office facilities, distribution facilities, and all additions to existing corporate headquarters, corporate office facilities, or distribution facilities located in South Carolina, established or constructed, or placed in service, after June 27, 1988, are exempt from ~~nonschool county~~ ad valorem taxes for a period of five years from the time of establishment, construction, or being placed in service if the cost of the new construction or additions is fifty thousand dollars or more and seventy-five or more new jobs which are full-time or one hundred fifty or more substantially equivalent jobs are created in South Carolina. For the purpose of this exemption, the term:

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

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

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

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

(4) "staff employee" or "staff member" means executive, administrative, or professional worker. At least eighty percent of an executive employee's business functions must involve the management of the enterprise and directing the work of at least two employees. An executive employee has the authority to hire and fire or has the authority to make recommendations related to hiring, firing, advancement, and promotion decisions, and an executive employee must customarily exercise discretionary powers. An administrative employee is an employee who is not involved in manual work and whose work is directly related to management policies or general business operations. An administrative employee must customarily exercise discretion and independent judgment. A professional employee is an employee whose primary duty is work requiring knowledge of an advanced type in a field of science or learning. This knowledge is characterized by a prolonged course of specialized study. The work must be original and creative in nature, and the work cannot be standardized over a specific period of time. The work must require consistent exercise of discretion;

(5) "region" or "regional" means a geographic area comprised of either:

(a) at least five states, including South Carolina, or

(b) two or more states, including South Carolina, if the entire business operations of the corporation are performed within fewer than five states;

(6) "corporate office facility" means the location where corporate managerial, professional, technical, and administrative personnel are domiciled and employed, and where corporate financial, personnel, legal, technical, support services, and other business functions are handled. Support services include, but are not limited to, claims processing, data entry, word processing, sales order processing, and telemarketing;

(7) "distribution facility" has the meaning provided pursuant to Section 12-6-3360(M)(8).

Certification of the required investment and the number of new jobs which are full-time or substantially equivalent and which are created must be provided by the South Carolina Department of Revenue to the appropriate local tax officials.

(33) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55-11-500.

(a) All personal property including aircraft of an air carrier which operates an air carrier hub terminal facility in this State for a period of ten consecutive years from the date of qualification, if its qualifications are maintained. An air carrier hub terminal facility is defined in Section 55-11-500.

(b) All aircraft, including associated personal property, owned by a company owning aircraft meeting the requirements of Section 55-11-500(a)(3)(i) without regard to the other requirements of Section 55-11-500. An aircraft qualifying for the exemption allowed by this subitem may not be used by the operator of the aircraft as the basis for an exemption pursuant to subitem (a) of this item.

(34) The facilities of all new enterprises engaged in research and development activities located in any of the counties of this State, and all additions valued at fifty thousand dollars or more to existing facilities of enterprises engaged in research and development are exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to item (7) of subsection (A) of Section 12-37-220. These additions include machinery and equipment installed in an existing manufacturing or research and development facility. For purposes of this section, facilities of enterprises engaged in research and development activities are facilities devoted directly and primarily to research and development, in the experimental or laboratory sense, of new products, new uses for existing products, or improvement of existing products. To be eligible for the exemption allowed by this section, the facility or its addition must be devoted primarily to research and development as defined in this section. The exemption does not include facilities used in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising, promotion, or research in connection with literary, historical, or similar projects.

~~(35) Property exempt under subsection A(5) of this section when located in a time share unit.~~

(36) After the easement is granted, land subject to a perpetual easement donated to this State under the South Carolina Scenic Rivers Act of Chapter 29 of Title 49.

(37) one personal motor vehicle owned or leased by a legal guardian of a minor who is blind or required to use a wheelchair when the vehicle is used to transport the minor.

(38)(a) Watercraft and motors which have an assessment of not more than fifty dollars.

(b) By ordinance, a governing body of a county may exempt from the property tax, forty-two and 75/100 percent of the fair market value of a watercraft and its motor. This exemption for a watercraft motor applies whether the motor is located in, attached to, or detached from the watercraft. This exemption does not apply to a boat or watercraft classified for property tax purposes as a primary or secondary residence pursuant to Section 12-37-224.

~~(39) the governing body of a municipality may by ordinance exempt from municipal ad valorem taxes for not more than five years property located in the municipality receiving the exemptions from county ad valorem taxes allowed pursuant to items (32) and (34) of this subsection.~~

(40) watercraft trailers.

(41) Economic development property during the exemption period as provided in Chapter 44 of Title 12.

(42) Property held in trust under the provisions of Chapter 18 of Title 51 and all real property of charitable trusts and foundations held for historic preservation of forts and battlegrounds which extends beyond the buildings and premises actually occupied by the charitable trusts and foundations which own the real property if no profit or benefit from any operation on the charitable trusts' and foundations' real property inures to the benefit of any private stockholder or individual and no income producing ventures are located on the charitable trusts' and foundations' real property. This exemption does not change any exemption provided for charitable trusts and foundations in item (4) of subsection (A) of this section and item (d), Section 3, Article X of the Constitution of this State but is an additional exemption for charitable trusts and foundations for historic preservation, as provided in this item.

(43) The dwelling home and a lot not to exceed one acre of land owned in fee or for life or jointly with a spouse by a resident of this State who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, ~~or the Vietnam Conflict, or the Iraq or Afghanistan conflict.~~ The exemption is allowed to the surviving spouse under the same terms and conditions governing the exemption for surviving spouses pursuant to item (1) of this subsection. A person applying for this exemption must provide the evidence of eligibility the department requires.

(44) Subject to the approval by resolution of the county governing body, property and improvements subject to a nonresponsible party voluntary cleanup contract for which a certificate of completion has

been issued by the Department of Health and Environmental Control pursuant to Article 7, Chapter 56 of Title 44, the Brownfields Voluntary Cleanup Program, is exempt from ad valorem taxation in the same manner and to the same extent as the exemption allowed pursuant to subsection (A)(7) of this section. This exemption applies beginning with the taxable year in which the certificate of completion is issued.

~~(45) a private passenger motor vehicle leased by a member of the armed forces of the United States stationed in this State when that service member's home of record is in another state and the leased vehicle is registered in South Carolina.~~

(46) a private passenger motor vehicle leased to a governmental entity that would be exempt pursuant to subsection (A)(1) of this section if the governmental entity owned the vehicle.

(47)(a) Effective for property tax years beginning after 2006 and to the extent not already exempt pursuant to Section 12-37-250, one hundred percent of the fair market value of owner-occupied residential property eligible for and receiving the special assessment ratio allowed owner-occupied residential property pursuant to Section 12-43-220(c) is exempt from all property taxes imposed for school operating purposes but not including millage imposed for the repayment of general obligation debt.

(b) Notwithstanding any other provision of law, property exempted from property tax in the manner provided in this item is considered taxable property for purposes of bonded indebtedness pursuant to Section 15 of Article X of the Constitution of this State.

(c) The exemptions allowed by this item may not be deleted or reduced except by a legislative enactment receiving a recorded rollcall vote of at least a two-thirds majority of the membership of each house of the General Assembly.

(48) a motor vehicle licensed and registered as an antique motor vehicle pursuant to Article 23, Chapter 3 of Title 56.

(49) Real property not subject to property tax, leased by a state agency, county, municipality, other political subdivision, or other state entity to an entity that would not be subject to property tax if the entity owned the property.

(50) All fire sprinkler system equipment and the value attached thereto that is installed on a commercial or residential structure when the installation is not required by law, regulation, or code until there is an assessable transfer of interest as determined by Section 12-37-3150.

(51) one hundred percent of the value of an improvement to real property consisting of a newly constructed detached single family home offered for sale by a residential builder or developer through the earlier of:

(a) the property tax year in which the home is sold or otherwise occupied; or

(b) the property tax year ending the sixth December thirty-first after the home is completed and a certificate of occupancy, if required, is issued thereon.

In lieu of other exemption application requirements, the owner of property eligible for the exemption allowed by this item shall obtain the exemption by notifying the county assessor and county auditor by written affidavit no later than thirty days after the certificate of occupancy is issued and no later than January thirty-first in subsequent exemption eligibility years that the property is of the type eligible for the exemption and unoccupied and if found in order, the exemption is allowed for the applicable property tax year. If the unsold residence is occupied at any time before eligibility for the exemption ends, the owner shall so notify the auditor and assessor and the exemption ends as provided in subitem (a) of this item.

(C) Upon approval by the governing body of the county, the five-year partial exemption allowed pursuant to subsections (A)(7), (B)(32), and (B)(34) is extended to an unrelated purchaser who acquires the facilities in an arms-length transaction and who preserves the existing facilities and existing number of jobs. The partial exemption applies for the purchaser for five years if the purchaser otherwise meets the exemption requirements.

(D) If a church acquires ownership of real property which will be exempt under this section when owned by the church, the transferor's liability for property taxes on the property ceases on the church acquiring

the property, and any exemptions provided in this section then apply, subject to the requirements of Section 12-4-720. The property taxes accruing up to the date of the acquisition by the church, if any, must be paid to the county where the property is located within thirty days of the acquisition date. If the millage has not yet been set for the year when the acquisition occurs, the county auditor shall apply the previous year's millage in determining any taxes owed. If the millage has been determined, the auditor shall apply the current year's millage in determining any taxes owed. All taxes, assessments, penalties, and interest on the property acquired by a church are a first lien on the property taxed, the lien attaching December thirty-first of the year immediately preceding the calendar year during which the tax is levied.

(E) If an entity owns property a portion of which qualifies for an exemption under subsections (A)(4) or (B)(16)(a) of this section and a portion of which is leased to one or more separate entities and that property would be exempt under subsections (A)(4) or (B)(16) of this section if the entity leasing the property owned the property, then any portion of the property that is leased to such entity is exempt from property taxes.

SECTION 12-37-230. Payments of services rendered in lieu of taxes by nonprofit housing corporations exempt under Section 12-37-220.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under Section 12-37-220, the county or the municipality or both are authorized to ~~contract with~~ charge such corporation for reasonable fees for payments of services rendered by the county or municipality.

SECTION 12-37-235. Fees for fire protection for property exempt under Section 12-37-220.

Each county and municipality in this State may charge the owners of all real property exempt from ad valorem taxation under the provisions of items (2), except property of the State, counties, municipalities, school districts and other political subdivisions where such property is used exclusively for public purposes, ~~(3), except public libraries, and (4) of Section 12-37-220 of the 1976 Code,~~ which is located within their respective boundaries, reasonable fees for fire protection; provided, that no fees may be charged by a county for protection or service provided to such owners by a municipality.

All such fees shall be based on the protection and services provided and which are maintained in whole or in part by funds from ad valorem taxes. No fees shall exceed the amount of taxes that would be levied on any of the subject property for any one service if the subject property were subject to ad valorem taxation.

SECTION 12-37-240. Payments in lieu of taxes by nonprofit housing corporations exempt under act of General Assembly.

When any nonprofit housing corporation owns property within a county or municipality which is exempted from ad valorem taxes under an act of the General Assembly, the county or municipality or both are authorized to ~~contract with~~ charge such corporation reasonable fees for payments in lieu of taxes for services rendered by the county or municipality.

ARTICLE 5.

LIABILITY FOR TAXES; RETURNS

SECTION 12-37-610. Persons liable for taxes and assessments on real property.

Each person is liable to pay taxes and assessments on the real property that, as of December thirty-first of the year preceding the tax year, he owns in fee, for life, or as trustee, as recorded in the public records for

deeds of the county in which the property is located, or on the real property that, as of December thirty-first of the year preceding the tax year, he has care of as guardian, executor, or committee or may have the care of as guardian, executor, trustee, or committee.

SECTION 12-37-670. Listing new structures for taxation; due date of additional property taxes.

(A) No new structure must be listed or assessed for property tax until it is substantially completed and fit for the use for which it is intended.

(B)(1) A county governing body by ordinance may provide that previously untaxed improvements to real property must be listed for taxation with the county assessor of the county in which it is located by the first day of the next calendar quarter after a certificate of occupancy is issued for the structure. A new structure must not be listed or assessed until it is substantially completed and fit for the use for which it is intended, as evidenced by the issuance of the certificate of occupancy or the structure actually is occupied if no certificate is issued.

(2) When an ordinance allowed pursuant to this subsection is enacted, additional property tax attributable to improvements listed with the county assessor accrues beginning on the listing date and is due and payable when taxes are due on the property for that property tax year. This additional tax is due and payable without regard to any tax receipt issued for that parcel for the tax year that does not reflect the value of the improvements.

(3) If a county governing body elects by ordinance to impose the provisions of this subsection, this election also is binding on all municipalities within the county imposing ad valorem property taxes.

SECTION 12-37-712. Access to marina and airport records and premises.

A marina or airport must provide immediate access to its business records and premises to city, county, and state tax authority employees for the purpose of making a property tax assessment. For the purposes of this section, "marina" or "airport" means a facility that provides mooring or dry storage for watercraft or private passenger aircraft on a leased or rental basis, and "business records" means only the name and billing address of the person leasing or renting space for a boat or aircraft in a marina or airport, as well as the make, model, and year, if available, together with a copy of any leases and fuel sales records.

SECTION 12-37-714. Boats and airplanes with situs in State; boat or motor under contract for repairs.

In addition to any other provisions of law subjecting boats, ~~and~~ boat motors and private passenger aircraft not subject to taxation under Article 19 to property tax in this State:

(1) A boat, including its motor if separately taxed and private passenger aircraft, used in interstate commerce having a tax situs in this State and at least one other state is subject to property tax in this State. The value of such a boat or aircraft must be determined based on the fair market value of the boat or aircraft multiplied by a fraction representing the number of days present in this State. The fraction is determined by dividing the number of days the boat or aircraft was present in this State by three hundred sixty-five days. A boat or aircraft used in interstate commerce must be physically present in this State for thirty days in the aggregate in a property tax year to become subject to ad valorem taxation.

(2) A boat or aircraft, including its motor if the motor is separately taxed, which is not currently taxed in this State and is not used exclusively in interstate commerce, is subject to property tax in this State if it is present within this State for sixty consecutive days or for ninety days in the aggregate in a property tax year. Upon an ordinance passed by the local governing body, a county may subject a boat, including its motor if the motor is separately taxed, or aircraft to property tax if it is within this State for ninety days in the aggregate, regardless of the number of consecutive days. Also, upon an ordinance passed by the local governing body, a county may increase the number of days in the aggregate a boat, including its motor if the motor is taxed separately or aircraft, must be in this State to be subject to property tax to one hundred

eighty days in a property tax year, regardless of the number of consecutive days. Upon written request by a tax official, the owner must provide documentation or logs relating to the whereabouts of the boat or aircraft in question. Failure to produce requested documents creates a rebuttable presumption that the boat in question is taxable within this State."

Boats and watercraft, classification as primary or secondary residence for property tax

(3) When a boat, or motor if separately taxed, is subject to a written contract for repairs and located in a marine repair facility in this State, the time periods provided pursuant to items (1) and (2) of this section are tolled.

SECTION 12-37-930. Valuation of property; depreciation allowances for manufacturer's machinery and equipment; department may permit adjustment in allowance.

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used. The fair market value for vehicles, watercraft, and aircraft must be based on values derived from a nationally recognized publication of vehicle valuations, ~~except that the value may not exceed ninety-five percent of the prior year's value.~~ However, acreage allotments or marketing quota allotments for a commodity established under a program of the United States Department of Agriculture is classified as incorporeal hereditaments and the market value of real property to which they are attached may not include the value, if any, of the acreage allotment or marketing quota. Fair market value of manufacturer's machinery and equipment used in the conduct of the manufacturing business, excluding vehicles, watercraft, and aircraft required to be registered or licensed by a state or federal agency, must be determined by reducing the original cost by an annual allowance for depreciation as stated in the following schedule.

SECTION 12-37-950. Valuation of certain leasehold estates as real estate.

Preamble. This Section was enacted to equalize the annual tax burden carried by private businesses using exempt property with that of similar businesses using nonexempt property. See 10 USCA §2667, United States v. City of Detroit, 355 U.S. 466 (1958).

When any leasehold, license to use, or similar estate is conveyed for a definite term by any grantor whose property is exempt from taxation to a grantee whose property is not exempt, the leasehold estate shall be valued for property tax purposes as real estate, and the grantee shall be required to file a property tax return under the provisions of this Chapter.

ARTICLE 19.

AIRCRAFT

SECTION 12-37-2410. Definitions.

As used in this article:

(a) "Aircraft" means any contrivance, used or designed for navigation or flight through the air.

- (b) "Airline company" means any person who undertakes, directly or indirectly, to engage in the regularly scheduled transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation.
- (c) "Operated" or "operation" means landings or takeoffs of aircraft by any airline company as defined herein.
- (d) "Department" means the South Carolina Department of Revenue.
- (e) "Person" means any individual, corporation, firm, partnership, company or association, and includes a guardian, trustee, executor, administrator, receiver, conservator or any person acting in a fiduciary capacity therefor.
- (f) "Plane hours" means and includes for each type of model of aircraft all hours in flight and all hours on the ground.

SECTION 12-37-2420. Required tax returns.

All airline companies operating in the State shall make an annual property tax return on or before the 15th day of April in each year for the preceding calendar or fiscal year of their flight equipment to the department. Each type and model of flight equipment shall be separately returned, valued and apportioned as herein provided.

Provided, However, That the first report of airline companies shall be filed on or before October 15, 1976 and any tax due shall be paid by December 31, 1976.

SECTION 12-37-2430. Valuation of aircraft.

The department shall annually assess, adjust, equalize, and apportion the valuation of all aircraft of each airline company of a type or model operated in this State by such airline company by such type or model. Such aircraft shall be valued by the department at fair market value.

SECTION 12-37-2440. Ratios for valuation of aircraft.

The valuation of such aircraft apportioned to this State shall be determined by the department to be the proportion of the total valuation of such aircraft determined on the basis of the arithmetical average of the following two ratios:

- (a) The ratio which the total time scheduled on the ground within this State of such aircraft during the preceding calendar or fiscal year bears to the total time scheduled on the ground within and without this State of such aircraft during the preceding calendar or fiscal year.
- (b) The ratio which the total mileage scheduled within this State of such aircraft operated in this State during the preceding calendar or fiscal year bears to the total mileage scheduled within and without this State of such aircraft during the preceding calendar or fiscal year.

SECTION 12-37-2450. Tax levy.

The department shall annually make a tax levy against the value so assessed and determined to exist in the State at a rate which will equal the average rates of levy for all purposes in the several taxing districts of the State for the current year, and such tax levy shall be due and payable to the department before December 31st of each year.

SECTION 12-37-2460. Disposition of tax proceeds.

The proceeds collected under this article shall be paid into the general fund of the State.

SECTION 12-37-2470. Penalty for failure to file return or to pay tax.

If any person fails to file a return or to pay a tax, if one is due, on or before the time required by or under the provisions of this article, the tax shall be increased by ten percent, and, in addition thereto, interest at the rate of one-half of one percent per month shall be added to the tax.

SECTION 12-37-2490. Effect of other ad valorem taxes upon aircraft of airline companies.

The ad valorem taxation authorized by this article shall be in lieu of all other ad valorem taxes upon the aircraft of airline companies.

ARTICLE 21.

MOTOR VEHICLES

SECTION 12-37-2610. Tax year for motor vehicles.

The tax year for licensed motor vehicles begins with the last day of the month in which a license required by Section 56-3-110 is issued and ends on the last day of the month in which the license expires or is due to expire, unless the license is for a period of two years. In that case the tax year for motor vehicles for the first year of the two-year licensing period begins with the last day of the month in which a license required by law is issued and ends on the last day of the month on the next anniversary of the issue date of the license. For the second year of the two-year licensing period the tax year for motor vehicles begins with the last day of the month on the anniversary of the issue date of the license and ends on that last day of the month in which the license expires or is due to expire. No license may be issued for motor vehicles until the ad valorem tax is paid for the year for which the license is to be issued. Motor vehicles registered under the International Registration Plan may pay ad valorem property taxes on a semiannual basis. The provisions of this section do not apply to sales of motor vehicles by a licensed motor vehicle dealer that do not involve the transfer of a license plate. Notice of the sales must be furnished to the department along with other documents necessary for the registration and licensing of the vehicle concerned. The notice must be received by the department as a prerequisite to the registration and licensing of the vehicle and must include the name and address of the purchaser, the vehicle identification number, and the year and model of the vehicle. The notice must be an original and one copy, and the copy must be provided by the department to the auditor of the county in which the vehicle is taxable. All ad valorem taxes on a vehicle are due and payable one hundred twenty days from the date of purchase. The notice and the time in which to pay the tax applies to motor vehicles that are serviced and delivered by a licensed motor vehicle dealer for the benefit of an out-of-state dealer.

SECTION 12-37-2680. Determination of assessed value of vehicle.

The assessed value of the vehicle must be determined as of the first day of the month preceding the beginning of the tax year for the vehicles. The assessed values must be published in guides or manuals by the South Carolina Department of Revenue and provided to the auditor of each county as often as may be necessary to provide for current values. When the value of any vehicle is not set forth in the guide or manual the auditor shall determine the value from other available information.

~~**SECTION 12-37-2720.** Exception as to motor vehicles held for sale by dealers.~~

~~The provisions of this article shall not apply to motor vehicles which are a part of the inventory held for sale by licensed motor vehicle dealers and which are operated on the highways under a dealer tag.~~

SECTION 12-37-2721. Exemptions from motor vehicle tax.

The provisions of this article do not apply to motor vehicles owned and licensed by motor vehicle dealers and operated on the highway with education license plates pursuant to Section 56-3-2320.

CHAPTER 43.

COUNTY EQUALIZATION AND REASSESSMENT

ARTICLE 3.

PROGRAMS; UNIFORM ASSESSMENT RATIOS

SECTION 12-43-210. Uniform and equitable assessments; rules and regulations.

(A) All property must be assessed uniformly and equitably throughout the State. The South Carolina Department of Revenue may promulgate regulations to ensure equalization which must be adhered to by all assessing officials in the State.

(B) No reassessment program may be implemented in a county unless all real property in the county, including real property classified as manufacturing property, is reassessed in the same year.

SECTION 12-43-220. Classifications shall be equal and uniform; particular classifications and assessment ratios; procedures for claiming certain classifications; roll-back taxes.

Except as otherwise provided, the ratio of assessment to value of property in each class shall be equal and uniform throughout the State. All property presently subject to ad valorem taxation shall be classified and assessed as follows:

(a)(1) All real and personal property owned by or leased to manufacturers and utilities and used by the manufacturer or utility in the conduct of the business must be taxed on an assessment equal to ten and one-half percent of the fair market value of the property.

(2) Real property owned by or leased to a manufacturer and used primarily for research and development is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a). The term "research and development" means basic and applied research in the sciences and engineering and the design and development of prototypes and processes.

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

(4) Real property owned by or leased to a manufacturer and used exclusively for warehousing and wholesale distribution is not considered used by a manufacturer in the conduct of the business of the manufacturer for purposes of classification of property pursuant to this item (a).

(b) All inventories of business establishments shall be taxed on an assessment equal to six percent of the fair market value of such property and all power driven farm machinery and equipment except motor vehicles registered with the Department of Motor Vehicles owned by farmers and used on agricultural lands as defined in this article shall be taxed on an assessment equal to five percent of the fair market

value of such property; provided, that all other farm machinery and equipment and all livestock and poultry shall be exempt from ad valorem taxes.

(c)(1) The legal residence and not more than five acres contiguous thereto, when owned totally or in part in fee or by life estate and occupied by the owner of the interest, and additional dwellings located on the same property and occupied by immediate family members of the owner of the interest, are taxed on an assessment equal to four percent of the fair market value of the property. For residential real property deeded in part in fee or by life estate after January 1, 2006, and occupied by an owner or owners of interest the assessment ration allowed by this item applies to the interest in the real property deeded to the owner-occupant. The fair market value to which the 4% assessment ratio applies shall be measured by the fraction of ownership interest of the owner-occupant. If residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the assessment ratio allowed by this item applies if the trustee certifies to the assessor that the property is occupied as a residence by the income beneficiary of the trust. When the legal residence is located on leased or rented property and the residence is owned and occupied by the owner of a residence on leased property, even though at the end of the lease period the lessor becomes the owner of the residence, the assessment for the residence is at the same ratio as provided in this item. If the lessee of property upon which he has located his legal residence is liable for taxes on the leased property, then the property upon which he is liable for taxes, not to exceed five acres contiguous to his legal residence, must be assessed at the same ratio provided in this item. If this property has located on it any rented mobile homes or residences which are rented or any business for profit, this four percent value does not apply to those businesses or rental properties. For purposes of the assessment ratio allowed pursuant to this item, a residence does not qualify as a legal residence unless the residence is determined to be the domicile of the owner-applicant.

(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner-occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. A residence which has been qualified as a legal residence for any part of the year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12-37-251 for the entire year, and for the homestead exemption under Section 12-37-250, if otherwise eligible, for the entire year.

(ii) This item does not apply unless the owner of the property or the owner's agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. In the application the owner or his agent must certify to the following statement:

"Under penalty of perjury I certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that I do not claim to be a legal resident of a jurisdiction other than South Carolina for any purpose; and

(B) that neither I nor any other member of my household is residing in or occupying any other residence which I or any member of my immediate family has qualified for the special assessment ratio allowed by this section."

(iii) For purposes of subitem (ii)(B) of this item, "a member of my household" means:

(A) the owner-occupant's spouse, except when that spouse is legally separated from the owner-occupant; and

(B) any child under the age of eighteen years of the owner-occupant claimed or eligible to be claimed as a dependent on the owner-occupant's federal income tax return.

(iv) In addition to the certification, the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant and the applicant must provide proof the assessor requires including, but not limited to:

(A) a copy of the owner-occupant's most recently filed South Carolina individual income tax return;

(B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant;

(C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.

If the assessor determines the owner-occupant ineligible, the six percent property tax assessment ratio applies and the owner-occupant may appeal the classification as provided in Chapter 60 of this title.

(v) A member of the armed forces of the United States on active duty who is a legal resident of and domiciled in another state is nevertheless deemed a legal resident and domiciled in this State for purposes of this item if the member's permanent duty station is in this State. A copy of the member's orders filed with the assessor is considered proof sufficient of the member's permanent duty station.

(vi) No further applications are necessary from the current owner while the property for which the initial application was made continues to meet the eligibility requirements. If a change in ownership or use occurs, the owner who had qualified for the special assessment ratio allowed by this section shall notify the assessor of the change in classification within six months of the change. Another application is required by the new owner to qualify the residence for future years for the four percent assessment ratio allowed by this section.

(vii) If a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, a penalty is imposed equal to one hundred percent of the tax paid, plus interest on that amount at the rate of one-half of one percent a month, but in no case less than thirty dollars nor more than the current year's taxes. This penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.

(viii) Failure to file within the prescribed time constitutes abandonment of the owner's right for this classification for the current tax year, but the local taxing authority may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing before the first penalty date.

(3) Notwithstanding any other provision of law, a taxpayer may apply for a refund of property taxes overpaid because the property was eligible for the legal residence assessment ratio. The application must be made in accordance with Section 12-60-2560. The taxpayer must establish that the property in question was in fact his legal residence and where he was domiciled. A county council, by ordinance, may allow refunds for the county government portion of property taxes for such additional past years as it determines advisable.

(4) A legal residence qualifying for the four percent assessment ratio provided by this item must have an assessed value of not less than one hundred dollars.

(5) To qualify for the four percent assessment ratio, the owner-occupant of a legal residence that is being purchased under a contract for sale or a bond for title must record the contract for sale or the bond for title in the office of the register of mesne conveyances or the clerk of court in those counties where the office of the register of mesne conveyances has been abolished.

For purposes of this subsection, a contract for sale or a bond for title is the sale of real property by a seller, who finances the sale and retains title to the property solely as security for the debt.

(6) Notwithstanding any other provision of law, a purchaser who purchases a residential property intending that the property shall become the purchaser's primary residence, but subject to vacation rentals as provided for in Title 27, Chapter 50, Article 2 for no longer than ninety days, may apply for the four percent assessment ratio when the purchaser actually occupies the property. If the owner actually occupies the residence within ninety days of acquiring ownership, the four percent assessment ratio, if the owner is otherwise qualified, applies retroactively to the date ownership was acquired.

(7) Notwithstanding any other provision of law, the owner-occupant of a legal residence is not disqualified from receiving the four percent assessment ratio allowed by this item if the taxpayer's residence meets the requirements of Internal Revenue Code Section 280A(g) as defined in Section 12-6-40(A) and the taxpayer otherwise is eligible to receive the four percent assessment ratio.

(d)(1) Agricultural real property which is actually used for such agricultural purposes shall be taxed on an assessment equal to:

(A) Four percent of its fair market value for such agricultural purposes for owners or lessees who are individuals or partnerships and certain corporations which do not:

- (i) Have more than ten shareholders.
- (ii) Have as a shareholder a person (other than an estate) who is not an individual.
- (iii) Have a nonresident alien as a shareholder.
- (iv) Have more than one class of stock.

(B) Six percent of its fair market value for such agricultural purposes for owners or lessees who are corporations, except for certain corporations specified in (A) above.

(2)(A) "Fair market value for agricultural purposes", when applicable to land used for the growth of timber, is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents of the lands for timber growth or by capitalization of typical net income of similar soil in the region or a reasonable area of the region from the sale of timber, not including the timber growing thereon, and when applicable to land used for the growth of other agricultural products the term is defined as the productive earning power based on soil capability to be determined by capitalization of typical cash rents or by capitalization of typical net annual income of similar soil in the region or a reasonable area of the region, not including the agricultural products thereon. Soil capability when applicable to lands used for the growth of timber products means the capability of the soil to produce such timber products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term, when applicable to lands used for the growth of other agricultural products, means the capability of the soil to produce typical agricultural products of the region considering any natural deterrents to the potential capability of the soil as of the current assessment date. The term "region" means that geographical part of the State as determined by the department to be reasonably similar for the production of the agricultural products. After average net annual earnings have been established for agricultural lands, they must be capitalized to determine use-value of the property based on a capitalization rate which includes:

1. an interest component;
2. a local property tax differential component;
3. a risk component;
4. an illiquidity component.

Each of these components of the capitalization rate must be based on identifiable factors related to agricultural use of the property. The interest rate component is the average coupon (interest) rate applicable on all bonds which the Federal Land Bank of Columbia, which serves South Carolina farmers, has outstanding on July first of the crop-years being used to estimate net earnings and agricultural use-value. Implementation of the provisions contained in this section is the responsibility of the department.

(B)(i) For tax year 1988 and subsequent tax years, fair market value for agricultural purposes must be determined by adjusting the applicable base year value by an amount equal to the product of multiplying the applicable base year value by a percentage factor obtained through the formula provided in this item. For tax year 1988, the applicable base year is 1981. The fair market value for agricultural purposes determined for the 1991 tax year is effective for all subsequent years.

(ii) The percentage factor provided in this item is derived from the most recent edition of the United States Department of Agriculture publication "AGRICULTURAL LAND VALUES AND MARKETS", specifically, from "Table 1--Farm Real Estate Values: Indexes of the average value per acre of land and buildings.. ." as listed for this State. The formula to determine the applicable percentage factor is the index of the year of change less the index of the base year with the resulting amount being divided by the index of the base year and rounded to the nearest whole number. For purposes of the formula, the base year is the last year in which values were adjusted under this item.

(3) Agricultural real property does not come within the provisions of this section unless the owners of the real property or their agents make a written application therefor on or before the first penalty date for taxes due for the first tax year in which the special assessment is claimed. The application for the special assessment must be made to the assessor of the county in which the agricultural real property is located, on forms provided by the county and approved by the department and a failure to apply constitutes a waiver of the special assessment for that year. The governing body may extend the time for filing upon a showing satisfactory to it that the person had reasonable cause for not filing on or before the first penalty date. No additional annual filing is required while the use of the property remains bona fide agricultural and the ownership remains the same. The owner shall notify the assessor within six months of a change in use. For failure to notify the assessor of a change in use, in addition to any other penalties provided by law, a penalty of ten percent and interest at the rate of one-half of one percent a month must be paid on the difference between the amount that was paid and the amount that should have been paid, but not less than thirty dollars nor more than the current year's taxes.

(4) When real property which is in agricultural use and is being valued, assessed, and taxed under the provisions of this article, is applied to a use other than agricultural, it is subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation and the assessment authorized hereunder and the taxes that would have been paid or payable had the real property been valued, assessed, and taxed as other real property in the taxing district, in the current tax year (the year of change in use) and each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed as herein provided. If in the tax year in which a change in use of the real property occurs the real property was not valued, assessed, and taxed under this article, then the real property is subject to roll-back taxes for each of the five tax years immediately preceding in which the real property was valued, assessed, and taxed hereunder. In determining the amounts of the roll-back taxes chargeable on real property which has undergone a change in use, the assessor shall for each of the roll-back tax years involved ascertain:

(A) the fair market value without consideration of the standing timber of such real property under the valuation standard applicable to other real property in the same classification;

(B) the amount of the real property assessment for the particular tax year by multiplying such fair market value by the appropriate assessment ratio provided in this article;

(C) the amount of the additional assessment on the real property for the particular tax year by deducting the amount of the actual assessment on the real property for that year from the amount of the real property assessment determined under (B) of this section;

(D) the amount of the rollback for that tax year by multiplying the amount of the additional assessment determined under (C) of this section by the property tax rate of the taxing district applicable for that tax year.

(E) The Department shall provide by regulation for a more detailed definition of when real property is put to use other than agricultural to be used by county assessors in determining when roll back taxes are due. Such regulation shall be designed to provide uniform guidelines for assessors to use to determine when agricultural property has been put to a use other than agricultural and shall consider such factors as the filing of plats, or advertising for sale, of residential, commercial or industrial lots, and the construction of, or filing for, permits for roads, water, sewer or other amenities not associated with agricultural use.

(5) Any other provision of law to the contrary notwithstanding, a dockside facility whose primary use is the landing and processing of seafood is considered agricultural real property.

~~(6) Any property which becomes exempt from property taxes under Section 12-37-220(A)(1) or any economic development property which becomes exempt under Section 12-37-220(B) is not subject to rollback taxes.~~

(e) All other real property not herein provided for shall be taxed on an assessment equal to six percent of the fair market value of such property.

(f) Except as specifically provided by law, all other personal property must be taxed on an assessment of ten and one-half percent of fair market value of the property, except that commercial fishing boats, and

commercial tugboats and pilot boats must be taxed on an assessment of five percent of fair market value. As used in this item “commercial fishing boats” means boats used exclusively for commercial fishing, shrimping, or crabbing and (1) licensed by the Department of Natural Resources, or (2) on or from which is used commercial fishing equipment licensed by the Department of Natural Resources. As used in this item, “commercial tugboats” shall mean boats used exclusively for harbor and ocean towing, documented with the U.S. Coast Guard, constructed of steel, and being at least seventy-nine feet in length and having a gross tonnage of at least ninety-nine tons. As used in this item, “pilot boats” shall mean boats used exclusively for pilotage and operated exclusively by state pilots who are licensed by the Commissioners of Pilotage pursuant to Chapter 15 of Title 54 and Chapter 136 of the regulations issued pursuant thereto.

(g) All real and personal property owned by or leased to companies primarily engaged in the transportation for hire of persons or property and used by such companies in the conduct of such business and required by law to be assessed by the department shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property.

The department shall apply an equalization factor to real and personal property owned by or leased to transportation companies for hire as mandated by federal legislation.

Notwithstanding any other provision of this article, on June 3, 1975, if it is found that there is a variation between the ratios being used and those stated in this section, the county may provide for a gradual transition to the ratios as herein provided for over a period not to exceed seven years; provided, however, that all property within a particular classification shall be assessed at the same ratio, provided, further, however, that all property enumerated in subsection (a) shall be assessed at the ratio provided in such subsection and the property enumerated in subsections (b), (c), (d), (e), (f), and (g) shall be increased or decreased to the ratios set forth in this article by a change in the ratio of not less than one-half of one percent per year nor more than one percent per year. Provided, however, that notwithstanding the provisions of this section, a county may, at its discretion, immediately implement the assessment ratios contained in subsections (b), (c), (d), (e), and (f). Provided, however, that livestock shall not be subject to ad valorem taxation unless such livestock is physically located within the State for a period in excess of nine months. Provided, that this section shall not apply to farm animals and farm equipment in use on a farm in those counties which do not tax such property as of June 3, 1975.

Provided, however, all agricultural or forest land within easements granted to public bodies, agencies, railroads, or utilities for rights of way of thirty feet in width or greater shall be assessed at the same cropland value per acre as soil class 7 in schedule 1 of R 117-126 of the State Department of Revenue. In order to receive such assessment the landowner must apply to the tax assessor of the county where the easement is located, with documentation of the existence, location, and amount of acreage contained in the easement.

As used in this section, fair market value with reference to real property means fair market value determined in the manner provided pursuant to Article X of the Constitution of this State, Section 12-37-930 and Article 25, Chapter 37 of this title.

SECTION 12-43-230. Treatment of agricultural real property, mobile home and lessee improvements to real property; department shall prescribe regulations.

(a) For the purposes of this article, unless otherwise required by the context, the words “agricultural real property” shall mean any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man’s use and disposed of by marketing or other means. It includes but is not limited to such real property used for agriculture, grazing, horticulture, forestry, dairying and mariculture. In the event at least fifty percent of a real property tract shall qualify as “agricultural real property”, the entire tract shall be so classified, provided no other business for profit is being operated thereon. The term “agricultural real property” shall include real property used to provide free housing for

farm laborers provided such housing is located on the tract of land that qualifies as agricultural real property.

The department shall provide by regulation for a more detailed definition of “agricultural real property” consistent with the general definition set forth in this section, to be used by county assessors in determining entitlement to special assessment under this article. Such regulations shall be designed to exclude from the special assessment that real property which is not bona fide agricultural real property for which the tax relief is intended.

(b) For the purposes of this article all mobile homes in this State and all improvements to leased real property made by the lessee shall be considered real property and shall be classified and assessed for ad valorem taxation in accordance with the provisions of Section 12-43-220. “Mobile homes” is defined as a portable unit designed and built to be towed on its own chassis, comprised of a frame and wheels, connected to utilities, and designed without a permanent foundation for year-round residential use. A mobile home may contain parts that may be folded or collapsed when being towed, and expanded on site to provide additional space. The term “mobile home” shall also include units in two or more separately towable components designed to be joined into one integral unit for use, and capable of being again separated into the components for repeated towing. It may also include two units which may be joined, on site, into a single residential unit.

(c) The department may further provide by regulation for definitions not inconsistent with general law for real property and personal property in order that such property must be assessed uniformly throughout the State.

(d) For purposes of this article, “homeowners’ association property” means real and personal property owned by a homeowners’ association if:

(1) property owned by the homeowners’ association is held for the use, benefit, and enjoyment of members of the homeowners’ association;

(2) each member of the homeowners’ association has an irrevocable right to use and enjoy on an equal basis, property owned by the homeowners’ association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the homeowners’ association; and

(3) each irrevocable right to use and enjoy property owned by the homeowners’ association is appurtenant to taxable real property owned by a member of the homeowners’ association.

Subject to making the appropriate application pursuant to this subsection, a homeowners’ association may designate one or any number of its qualifying tracts or parcels as homeowners’ association property for purposes of the special valuation contained in Section 12-43-227.

As used in this subsection, “homeowners’ association” means an organization which is organized and operated to provide for the acquisition, construction, management, and maintenance of property.

Homeowners’ association property does not come within the provisions of this subsection unless the owners of the real property or their agents make a written application for it on or before the first penalty date for taxes due for the first tax year in which the special valuation is claimed. The application may be with respect to one or any number of tracts or parcels owned by the homeowners’ association. The application for the special valuation must be made to the assessor of the county in which the special valuation property is located, on forms provided by the county and approved by the department which includes the reporting of nonqualified gross receipts, and failure to apply constitutes a waiver of the special valuation for that year. No additional annual filing is required while the property remains homeowners’ association property and the ownership remains the same, unless the nonqualified gross receipts within the meaning of Section 12-43-227 for the most recent completed tax year either (i) exceed the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application by ten percent or more or (ii) are less than ninety percent of the amount of nonqualified gross receipts with respect to the property reported on the most recently filed application. In that case, the owners of the real property or their agents must make additional written application with respect to the property and report the change in nonqualified gross receipts.

SECTION 12-43-232. Requirements for agricultural use.

In addition to all other requirements for real property to be classified as agricultural real property, the property must meet the following requirements:

(1)(a) If the tract is used to grow timber, the tract must be five ten acres or more. ~~Tracts of timberland of less than five acres which are contiguous to or are under the same management system as a tract of timberland which meets the minimum acreage requirement are treated as part of the qualifying tract.~~ Tracts of timberland of less than ten acres which are not contiguous to, but are under the same management system and directly support the timber operations of the qualifying tract also qualify. A tract of land which houses tractors or other farm equipment, fertilizers, herbicides or other supplies used at the qualifying timber tract would directly support the timber operations. A tract of land which contains a personal residence, or is purchased for purposes of resale within a two year period, does not meet the direct support test. Tracts of timberland of less than five ten acres are eligible to be agricultural real property when they are owned in combination with other tracts of nontimberland agricultural real property that qualify as agricultural real property. For the purposes of this item, tracts of timberland must be devoted actively to growing trees for commercial use. The assessor may consider whether deed or other restrictions, including local land use ordinances, prevent the commercial harvesting of timber.

(b) A tract which meets the acreage requirement of subitem (a) of this item devoted to growing Christmas trees is considered timberland. A Christmas tree tract not meeting the acreage requirement qualifies as agricultural property if the landowner reports gross income from Christmas trees that meets the income test provided in item (3) of this section, mutatis mutandis.

(2) For tracts not used to grow timber as provided in item (1) of this section, the tract must be ten acres or more. Nontimberland tracts of less than ten acres which are contiguous to other such tracts which, when added together, meet the minimum acreage requirement, are treated as a qualifying tract. For purposes of this item (2) only, contiguous tracts include tracts with identical owners of record separated by a dedicated highway, street, or road or separated by any other public way.

(3)(a) Nontimberland tracts not meeting the acreage requirement of item (2) qualify as agricultural real property if the person making the application required pursuant to Section 12-43-220(d)(3) earned at least ~~one~~ five thousand dollars of gross farm income for at least three of the five taxable years preceding the year of the application and files a Schedule F on their Federal Income Tax Return. The assessor may require the applicant (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service ~~and~~ (ii) to provide the Agriculture Stabilization and Conservation Service (ASCS) farm identification number of the tract and allow verification with the ASCS office; ~~and (iii) the Schedule F to their Federal Income Tax Return.~~

(b) An owner making an initial application required pursuant to Section 12-43-220(d)(3) for a nontimberland tract of less than ten acres may claim the property as agricultural real property for each year for the first five years of operation if he earned at least ~~one~~ five thousand dollars of gross farm income in at least three of the first five years. The assessor may require the new owner (i) to give written authorization consistent with privacy laws allowing the assessor to verify farm income from the Department of Revenue or the Internal Revenue Service ~~and~~ (ii) to provide the Agriculture Stabilization and Conservation Service (ASCS) farm identification number of the tract and allow verification with the ASCS office; ~~and (iii) their Schedule F to their Federal Income Tax Return.~~

If the new owner fails to meet the income requirements in the five-year period, the tract is not considered agricultural real property and is subject to the rollback tax.

(c) Real property idle under a federal or state land retirement program or property idle pursuant to accepted agricultural practices is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(d) Unimproved real property subject to a perpetual conservation easement as provided in Chapter 8 of Title 27 is agricultural real property if the property otherwise would have qualified as agricultural real property subject to satisfactory proof to the assessor.

(e) A nontimberland tract that does not meet the acreage or income requirements of this section to be classified as agricultural real property must nevertheless be classified as agricultural real property if the current owner or an immediate family member of the current owner has owned the property for at least the ten years ending January 1, 1994, and the property is classified as agricultural real property for property tax year 1994.

The property must continue to be classified as agricultural real property until the property is applied to some other use or until the property is transferred to other than an immediate family member, whichever occurs first. For purposes of this subitem, "immediate family" is a person related to the current owner within the third degree of consanguinity or affinity and a trust all of whose noncontingent beneficiaries are related to the grantor of the trust within the third degree of consanguinity or affinity.

(4) In the case of rented or leased agricultural real property, either the lessor or the lessee shall meet the requirements of this section.

(5)(a) On the application required pursuant to Section 12-43-220(d)(3), the owner or his agent shall certify substantially as follows: Subject to the penalty provided in Section 12-43-340, either:

(i) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property as of January first of the current tax year"; or

(ii) "I certify that the property which is the subject of this application meets the requirements to qualify as agricultural real property and for the special assessment ratio for certain agricultural real property as of January first of the current tax year".

(b) If it is determined that the property for which the certification was made did not meet the requirements to qualify for agricultural use classification at the time the certification was made, the property which is the subject of the certification is denied agricultural use value for the property tax year or years in question and in lieu of the rollback tax, the tax on the property for each tax year in question must be recalculated using fair market value, the appropriate assessment ratio, and the appropriate millage. There must be deducted from the recalculated tax liability any taxes paid for the year and the penalties provided pursuant to Section 12-45-180 must be added to the balance due. Interest at the rate of one percent a month must be added to the unpaid taxes calculated from the last penalty date. Additional property tax revenues derived from the operation of this section changing agricultural use property to some other use must be used only for the purpose of rolling back property tax millage.

SECTION 12-43-233. Agritourism uses.

(A) In addition to and incidental to the uses required for real property to be classified as agricultural real property pursuant to Sections 12-43-220(d), 12-43-230(a), and 12-43-232, and subject to the restrictions contained in Section 12-43-220, and applicable regulations, uses of tracts of agricultural real property for "agritourism" purposes is deemed an agricultural use of the property to the extent agritourism is not the primary reason any tract is classified as agricultural real property but is supplemental and incidental to the primary purposes of the tract's use for agriculture, grazing, horticulture, forestry, dairying, and mariculture. These supplemental and incidental agritourism uses are not an "other business for profit" for purposes of Section 12-43-230(a). For purposes of this section, agritourism uses include, but are not limited to: wineries, educational tours, education barns, on-farm historical reenactments, farm schools, farm stores, living history farms, on-farm heirloom plants and animals, roadside stands, agricultural processing demonstrations, on-farm collections of old farm machinery, agricultural festivals, on-farm theme playgrounds for children, on-farm fee fishing and hunting, pick your own, farm vacations, on-farm pumpkin patches, farm tours, horseback riding, horseback sporting events and training for horseback sporting events, cross-country trails, on-farm food sales, agricultural regional themes, hayrides, mazes, crop art, harvest theme productions, native ecology preservations, on-farm picnic grounds, dude ranches, trail rides, Indian mounds, earthworks art, farm animal exhibits, bird-watching, stargazing, nature-based attractions, and ecological-based attractions.

(B) The Department of Revenue by regulation may further define those uses qualifying as agritourism and appropriate definitions for “supplemental and incidental” as used in this section.

SECTION 12-43-340. Agricultural use application; false statement.

It is unlawful for a person knowingly and wilfully to make a false statement on the application required pursuant to Section 12-43-220(d)(3) to a county assessor for the classification of property as agricultural real property or for the special assessment ratio for certain agricultural real property. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than ~~two hundred~~ one thousand dollars.