

**Sales & Use Tax Exemptions
Fiscal Year 2008-2009**



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**SALES AND USE TAX EXEMPTIONS
FISCAL YEAR 2008-2009**

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Preface

In 2006, the South Carolina General Assembly passed Act 388 to form a Joint Sales Tax Exemption Review Committee. The committee is required to study and review South Carolina's Sales Tax Exemptions and recommend any changes to legislation based on their findings. The committee is required to hold its first meeting no later than 2010, and thereafter as the General Assembly deems appropriate, but not later than its session every ten years after the first review. To assist the committee in its work, we have prepared estimates of revenues associated with each exemption. These estimates are updates to those that we prepared in 2002 for the House *Ad Hoc* Tax and Revenue Policy Study Committee. In addition to these estimates, with the invaluable assistance of the Department of Revenue, we have included revenue rulings, revenue procedures, advisory opinions, and regulations from the South Carolina Department of Revenue.

Methodology

We have based these estimates upon information taken from public sources believed to be reliable. The sales and use tax estimates were compiled and computed by the Office of Research & Statistics.

The impact of and the ability to change certain exemptions may depend on Department of Revenue advisory opinions. South Carolina Department of Revenue Advisories and Rulings differ from South Carolina Department of Revenue Regulations in one important aspect. Advisories and Rulings do not hold the force of law. Revenue Regulations do hold the force of law, and have been promulgated by the South Carolina Department of Revenue and enacted by the South Carolina General Assembly.

A Revenue Ruling is an advisory opinion intended to provide guidance to the public and to Department personnel. It is issued to apply principles of law to a set of facts or general category of taxpayers. A Revenue Ruling does not have the force or effect of law. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

A Revenue Procedure is intended to provide procedural guidance to the general public and Department personnel. It is an advisory opinion issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

The purpose of a Private Letter Ruling is to provide guidance to a specific taxpayer at the taxpayer's request. It is an advisory opinion issued to a specific taxpayer by the Department to apply principles of law to a specific set of facts or a particular tax situation. It is the Department's opinion limited to the specific facts set forth, and is binding on agency personnel only with respect to the person to whom it was issued and only until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion, providing the representations made in the request reflect

An Information Letter is a written statement issued by the Department to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

Please note that regulations and rulings may be amended or superseded by law and court cases. All Department of Revenue opinions may be found at www.sctax.org.

The Sales Tax was enacted in 1951 in South Carolina. It has always been applicable to the gross proceeds of all retail sales, leases and rentals of tangible personal property, unless specifically exempted by legislation. The sales tax rates and the year the rate was enacted are shown below.

<u>Year Enacted</u>	<u>Sales Tax Rate</u>
1951	3 %
1969	4 %
1984	5 %
2006	6 %
2006	3 % Food Only
2007	0 % Food Only

A summary of major legislation since 1982 regarding the Sales Tax is as follows:

1. 1982- Act No. 466, Sec. 15
Casual Excise Tax Enacted
2. 1984- Act. No. 316
Accommodations Tax Enacted. An additional two percent sales tax levied on the rental of transient accommodations including campgrounds.
3. 1984- Act. No. 512
Beginning July 1, 1984 the maximum amount of sales and use tax required to be applied to each sale of a motor vehicle, motorcycle, boat, aircraft or self-propelled light construction equipment with compatible attachments limited to a maximum of 160 net engine horsepower will be \$300. Provides for a \$300 cap plus 1% over \$6,000 to be added to the sale of each mobile home. In addition, the sales tax rate was raised to 5%, with the 1% increase funding the Education Improvement Fund.
4. 2006- Act. No. 388
Beginning June 1, 2007 an additional one percent sales tax is levied on the gross proceeds of all retail sales and the revenues are allocated to the Homestead Exemption Fund for property tax relief. The additional penny is not levied against the purchases of food, the rental of transient accommodations, and the items subject to the maximum sales tax in Section 12-36-2110.
5. 2006- Act No. 388, Sec. 1
Beginning October 1, 2006, the sales & use tax on the gross proceeds of sales or sales price of unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons is three percent.

There is transferred from the general fund of the State to the EIA Fund in fiscal year 2006-2007 the revenue estimated by the Board of Economic Advisors to equal EIA revenue not received as a result of the two percent sales tax differential provided.

6. 2007- Act No. 115, Sec. 3

Beginning November 1, 2007, the sales & use tax on the gross proceeds of sales or sales price of unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons is zero percent.

For fiscal year 2007-2008 only, there must be transferred from the general fund of the State to the EIA Fund an amount estimated by the Board of Economic Advisors to equal the difference between EIA Fund revenues from the sales tax on food in fiscal year 2007-2008 and the amount of such revenue to the EIA Fund in fiscal year 2006-2007.

SOUTH CAROLINA SALES AND USE TAX EXEMPTIONS

MAXIMUM TAX AND EXEMPTIONS

SECTION 12-36-2110

Maximum tax on sale or lease of certain items; calculation of tax on manufactured homes; maximum tax on purchase of certain property by religious organizations; maximum tax on sale or use of machinery for research and development.

(A) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:

(1) **Aircraft**, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;

FY2008-09 Estimate \$1,215,000

(2) **Motor vehicle**;

FY2008-09 Estimate \$152,888,972

(3) **Motorcycle**;

FY2008-09 Estimate \$2,331,000

(4) **Boat**;

FY2008-09 Estimate \$4,954,212

(5) **trailer or semitrailer**, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Section 56-3-710 or a fire safety education trailer;

FY2008-09 Estimate \$825,527

(6) **recreational vehicle**, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or

FY2008-09 Estimate \$7,912,005

(7) Self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower. In the case of a lease, the total tax rate required by law applies on each payment until the total tax paid equals three hundred dollars. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days.

FY2008-09 Estimate \$2,930,080

Department of Revenue Advisory Opinions

Revenue Ruling 06-6: Barges-Maximum Tax Provision

Information Letter 05-13: Sale of a Motor Vehicle, Trailer, Semitrailer and Pole Trailer to a Nonresident

Revenue Ruling 04-13: Collection of Casual Excise Tax and Use Tax on Sale of a Motor Vehicle,
Motorcycle, Boat, Motor, Airplane, Trailer, etc.

Revenue Ruling 04-10: Personal Water-Maximum Tax Provisions

Information Letter 03-6: Sale of a Motor Vehicle, Trailer, Semitrailer and Pole Trailer to a Nonresident

Private Revenue Opinion 02-2: Lease of Motor Vehicles in IRC Section 1031 Transactions

Revenue Advisory Bulletin 00-03: All Terrain Vehicles and Legend Race Cars Maximum Tax Provisions

Information Letter 98-14: Light Construction Equipment-Certificate for Maximum Tax

Revenue Ruling 97-5: Sales of Travel Trailers to Nonresidents

Revenue Ruling 93-8: Sale of Horse Trailers and Stock Trailers

Revenue Ruling 92-12: Sale of Boats, Motors, and Boat Trailers

Revenue Ruling 92-10: Transfers Subject To the Casual Excise Tax

Revenue Ruling 92-2: Outboard Motors

Private Letter Ruling 89-18: Aircraft – Flight Instruction/Rentals

Technical Advice Memorandum 89-13: Light Construction Equipment-\$300 Cap

Private Letter Ruling 89-10: Sales of Horse/Cattle Trailers and Semitrailers-\$300 Cap

Technical Advice Memorandum 87-13: \$300 Sales/Use Tax Cap

South Carolina Department of Revenue Regulations

117-321.2. Dry Dock.

A dry dock is subject to the sales or use tax, whichever applies. A dry dock is not a “vessel” nor is it a “barge” exempted from the sales or use tax.

117-331. Airport Fixed Based Operators.

Airport fixed base operators do business in a number of ways. In addition to making sales of new and used aircraft, charter service is available, in some instances aircraft are available for lease or rental or flight instruction, and gasoline, lubricating oils and greases and repair services are generally sold.

Only aircraft purchased for resale or rental may be purchased tax free as for resale.

When an aircraft is withdrawn for use primarily in flight instruction or charter service a tax is due measured by the reasonable and fair market value (purchase price) of the aircraft and a tax is also due when the aircraft is subsequently sold.

Conversely, when an aircraft purchased for resale is regularly demonstrated for that purpose and also used for charter, instruction, or for the private use of the owner, the tax may be paid on the value of the aircraft (purchase price), or the tax base may be arrived at by multiplying the actual number of flight hours by fifty percent (50%) of the posted hourly solo rental rate. By electing to pay a tax on the value of the aircraft withdrawn for demonstration purposes a person may reduce his tax liability on a replacement demonstrator up to the amount realized on the sale of the used demonstrator.

In general, the following would be for application:

1. Sales. All sales of new and used aircraft are subject to the tax when delivered to customers in South Carolina. When aircraft are purchased for use outside this State the tax likewise applies unless the seller, as a condition of the sale, delivers the aircraft to customers at points outside this State. The most acceptable proof of transportation outside the state would be a trip ticket signed by the seller's delivery agent and showing also the signature and address of the person outside this State who received the delivered aircraft.
2. Rental of aircraft. Proceeds derived from lease or rental of aircraft are subject to the tax.
3. Flight instruction. Receipts from courses of instruction given by base operators to students seeking private, commercial, instrument and/or instructor's licenses are not subject to the sales tax. Included in such exempt services are receipts from dual and solo flights which are a part of a course of instruction.
4. Charter service. No tax is due on charges made for charter service. Additionally, no tax would be due on withdrawals of aircraft for use in charter flights originating and terminating in states other than South Carolina.
5. Sales of gasoline for use in aircraft are subject to the tax.
6. Sales of lubricating oils and greases are subject to the tax. Charges made for lubricating services are not taxable, the tax being paid on the value of the lubricant or grease used in furnishing this service.
7. Repair service.
 - a. No tax is due on the purchase or withdrawal of parts used to repair or recondition aircraft for sale. Likewise, no tax is due on repairs by a person electing to report use on the basis of flight hours.
 - b. No tax is due on parts withdrawn for use in replacing parts under written warranty contracts given without charge to the purchaser at the time of original purchase, provided the tax was paid on the sale of the part found to be defective or on the sale of the property of which the defective part was a component, and provided no charge for labor or materials is made to the warrantee.
 - c. All other proceeds derived from the sale of repair parts and service are subject to the tax; provided, however, that where a separation is made between the sale of the parts and the sale of the service, the tax is due only on the sale of the repair parts. The invoice to the customer must show this separation.
8. Rental of hanger or tie space. No tax.

12-36-2110(B)

For the sale of a **manufactured home**, as defined in Section 40-29-20, the tax is calculated as follows:

- (1) Subtract trade-in allowance from the sales price;
- (2) multiply the result from (1) by sixty-five percent;
- (3) If the result from (2) is no greater than six thousand dollars, multiply by five percent for the amount of tax due;
- (4) if the result from (2) is greater than six thousand dollars, the tax due is three hundred dollars plus two percent of the amount greater than six thousand dollars.

However, a manufactured home is exempt from any tax that may be due above three hundred dollars as a result of the calculation in item (4) if it meets these energy efficiency levels: storm or double pane glass windows, insulated or storm doors, a minimum thermal resistance rating of the insulation only of R-11 for walls, R-19 for floors, and R-30 for ceilings. However, variations in the energy efficiency levels for walls, floors, and ceilings are allowed and the exemption on tax due above three hundred dollars applies if the total heat loss does not exceed that calculated using the levels of R-11 for walls, R-19 for floors, and R-30 for ceilings. The edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Guide in effect at the time is the source for heat loss calculation. The dealer selling the manufactured home must maintain records, on forms provided by the State Energy Office, on each manufactured home sold which contains the above calculations and verifying whether or not the manufactured home met the energy efficiency levels provided for in this subsection. These records must be maintained for three years and must be made available for inspection upon request of the Department of Consumer Affairs or the State Energy Office.

The maximum tax authorized by this subsection does not apply to a single-family modular home regulated pursuant to Chapter 43, Title 23.

FY2008-09 Estimate \$26,600,899

Department of Revenue Advisory Opinions

Revenue Advisory Bulletin 00-02: Factory Fabricated Homes Built on Permanent Chassis

South Carolina Department of Revenue Regulations**117-335.1. Manufactured Homes.**

The basis upon which the tax is calculated on a manufactured home (as defined in Code Section 40-29-20) is only sixty-five percent of the "gross proceeds of sales" as defined in Code Section 12-36-90. The maximum tax due on the sale of a manufactured home is \$300 if the home meets certain energy efficient standards as set forth in Code Section 12-36-2110(B). If the home does not meet these energy efficient standards, then the maximum tax is \$300 plus 2% of the basis upon which the tax is calculated that exceeds \$6,000. A manufactured home is energy efficient if it meets the following energy efficiency levels as set forth in Code Section 12-36-2110(B): "storm or double pane glass windows, insulated or storm doors, a minimum thermal resistance rating of the insulation only of R-11 for walls, R-19 for floors, and R-30 for ceilings. However, variations in the energy efficiency levels for walls, floors, and ceilings are allowed and the exemption on tax due above three hundred dollars applies if the total heat loss does not exceed that calculated using the levels of R-11 for walls, R-19 for floors, and R-30 for ceilings. The edition of the American Society of Heating, Refrigerating, and Air Conditioning Engineers Guide in effect at the time is the source for heat loss calculation. The dealer selling the manufactured home must maintain records, on forms provided by the State Energy Office, on each manufactured home sold which contains the above calculations and verifying whether or not the manufactured home met the energy efficiency levels provided for in this subsection. These records must be maintained for three years and must be made available for inspection upon request of the Department of Consumer Affairs or the State Energy Office."

Local sales and use taxes that are administered and collected by the Department of behalf of local jurisdictions do not apply to manufactured homes.

The retail sale upon which the tax is based is the sale by the retailer to the consumer home buyer or contractor). See Code Section 12-36-2120(B).

117-335.3. Other Factory Fabricated Buildings.

Sales of portable classrooms and storage type manufactured buildings, recreational vehicles (RVs), travel trailers, campers, manufactured condominiums and units, and like tangible personal property are not considered sales of manufactured homes or modular homes.

117-335.4. Furniture and Appliance.

Furniture and appliances are not considered a part of a manufactured or modular home, unless they are built-ins. For example, televisions, counter appliances, sofas, chairs and tables, even though sold with a home, are not a part of the home. Because these items are not a part of the home, they are taxed separately from the home at 5%, plus any applicable local sales and use tax, of their sales price less any trade-in allowed. The amount upon which the tax is calculated on furniture and appliances that are not built ins is the amount listed in the sales contract for these items or the retail fair market value of these items if the amounts for these items are not listed in the contract or if the amounts listed in the contract do not reasonably represent the retail fair market value of these items.

Items such as disposals, built-in dishwashers, and built-in stoves are considered a part of the home and are not taxed separately from the home if installed at the time of the retail sale of the home.

12-36-2110(C)

For the sale of each **musical instrument**, or each piece of office equipment, purchased by a religious organization exempt under Internal Revenue Code Section 501(c)(3), the maximum tax imposed by this chapter is three hundred dollars. The musical instrument or office equipment must be located on church property and used exclusively for the organizations exempt purpose. The religious organization must furnish to the seller an affidavit on forms prescribed by the department. The affidavit must be retained by the seller.

FY2008-09 Estimate \$87,000

12-36-2110(D)

Repealed – Refer to Section 12-36-2121(56)

12-36-2110(E)

Equipment provided, supplied, or installed on a **firefighting vehicle** is included with the vehicle for purposes of calculating the maximum tax due under this section.

FY2008-09 Estimate \$870,000

Department of Revenue Advisory Opinions

Revenue Ruling 97-1: Sales of Fire Trucks and Fire Fighting Equipment

EXEMPTIONS FROM SALES TAX

Exempted from the taxes imposed by this chapter are the gross proceeds of sales, or sales price of:

12-36-2120(1)

tangible personal property or receipts of any business which the State is prohibited from taxing by the Constitution or laws of the United States of America or by the Constitution or laws of this State;

FY2008-09 Estimate \$0

Department of Revenue Advisory Opinions

Information Letter 03-25: Foreign Diplomats

Revenue Ruling 96-7: Federal Employee Travel

Revenue Ruling 93-13: Vehicle Declared a Total Loss by an Insurance Company

Revenue Ruling 92-15: State Government and its Political Subdivisions

Private Letter Ruling 92-3: Federal Government

12-36-2120(2)

tangible personal property sold to the federal government;

FY2008-09 Estimate \$253,000,000

Department of Revenue Advisory Opinions

Revenue Ruling 05-15: FEMA and Red Cross Financial Assistance - Hurricane Katrina

Revenue Advisory Bulletin 02-3: Federal Employee Credit Cards

Private Revenue Opinion 00-1: Federal Facility

Information Letter 98-8: Foreign Diplomats

Revenue Ruling 96-7: Federal Employee Travel

Private Letter Ruling 94-2: Federal Government – Savannah River Site

Private Letter Ruling 92-3: Federal Government

Private Revenue Ruling 90-12: XYZ Associates

Information Letter 89-10: Sales of Electricity and Communications to the Federal Government

South Carolina Department of Revenue Regulations

117-307.6. Accommodations Furnished to the Federal Government or Federal Government Employees. Charges for hotel and motel accommodations to a federal employee on official government business are exempt from sales tax pursuant to Code Section 12-36-2120 if the accommodations are purchased directly by the federal government.

Therefore, the 7% sales tax on accommodations is not applicable when:

1. The federal government is billed directly by the retailer;
2. The federal employee pays by government check; or,
3. The federal employee pays by government credit card and the federal government is billed directly by the credit card company.

Charges for hotel and motel accommodations to a federal employee on official government business are subject to the sales tax if the accommodations are purchased by the federal employee, even if the employee is reimbursed for the charges. This includes transactions in which:

1. The federal employee pays by personal check; or,
2. The federal employee pays by credit card, is billed directly by the credit card company, and is reimbursed by the federal government.

NOTE: The presentation by a federal employee of a tax exemption certificate issued by the federal government is not sufficient to exempt the transaction from the tax. In order to be tax exempt, a transaction involving a tax exemption certificate must also meet one of the above requirements.

12-36-2120(3)

(a) **textbooks, books, magazines, periodicals, newspapers, and access to on-line information systems** used in a course of study in primary and secondary schools and institutions of higher learning or for students' use in the school library of these schools and institutions;

(b) **books, magazines, periodicals, newspapers, and access to on-line information systems** sold to publicly supported state, county, or regional libraries;

Items in this category may be in any form, including microfilm, microfiche, and CD ROM; however, transactions subject to tax under Sections 12-36-910(B)(3) and 12-36-1310(B)(3) do not fall within this exemption;

FY2008-09 Estimate \$21,527,465

Department of Revenue Advisory Opinions

Private Revenue Opinion 02-3: Textbooks-Software

Revenue Ruling 94-11: School and Library Books-Printed Form or Alternative Forms

Revenue Ruling 92-15: State Government and its Political Subdivisions

Technical Advice Memorandum 90-6: Software-Textbooks

Private Letter Ruling 90-5: Textbooks

South Carolina Department of Revenue Regulations**117-316.1. Textbooks.**

The term "textbook" is construed to include only books purchased for and used in elementary schools, high schools and institutions of higher learning. Included within the definition of textbooks are school library books, encyclopedias and dictionaries. Also deemed textbooks when part of a prescribed course of study are workbooks, band and sheet music, plays, filmstrips, transparencies, motion picture films, audio tapes and records, recorded music and periodicals.

Examples of sales subject to the tax are test sheets, answer sheets, evaluation criteria, games, albums, pupil cumulative records, guide pamphlets, yearbooks, award certificates, diplomas, writing materials, art supplies, drafting supplies, easels, projectors, projector lamps and bulbs, projection screens and equipment carts or tables, magboards, flannel boards, laboratory supplies and equipment, biological supplies incidental to classroom instruction, athletic equipment, shop supplies and equipment, record players, recorders, computer instructional equipment, manipulated devices, charts, maps (including globes), map stands, raw film, blank tapes, and any and all other items of tangible personal property used in the classroom or office which do not qualify as "textbooks" as hereinabove defined.

117-316.2. Sale of Books to Libraries.

With respect to the exemption for books sold to legally established, public supported State, County and/or Regional libraries, the term "books" is construed to include filmstrips of a type in general use by elementary schools, high schools, and institutions of higher learning. Subject to the tax when purchased by libraries are all other properties such as furniture, fixtures, typewriters, projectors, turntables, globes, stationery, index cards, files, shelving, and visual aids.

12-36-2120(4)

livestock. “Livestock” is defined as domesticated animals customarily raised on South Carolina farms for use primarily as beasts of burden, or food, and certain mammals when raised for their pelts or fur. Animals such as dogs, cats, reptiles, fowls (except baby chicks and poults), and animals of a wild nature, are not considered livestock;

FY2008-09 Estimate \$58,877,400

South Carolina Department of Revenue Regulations**117-301.1. Livestock**

The sale of livestock is exempt from the tax under Code Section 12-36-2120(4). Livestock is defined as domesticated animals customarily raised in South Carolina farms for use primarily as beasts of burden or food. Livestock also means mammals raised for their pelts or furs.

The practical result of the above is to exempt from the tax horses, mules, cattle, swine, sheep, goats, rabbits, ostriches and any other animals raised as food for human consumption, domesticated fish produced for human consumption, and chinchillas.

Animals such as dogs, cats, reptiles, fowls (excepts baby chicks and poults), minnows, worms, fish (excepts those cultivated for human consumption), and animals of a wild nature are not considered livestock.

12-36-2120(5)

feed used for the production and maintenance of poultry and livestock;

FY2008-09 Estimate \$16,303,860

Department of Revenue Advisory Opinions

Private Letter Ruling 99-1: Sales of Feed for Horses

South Carolina Department of Revenue Regulations

117-301.2. Feed.

The sale of feed used in the production and maintenance of livestock, as defined Regulation 117-301.1, is exempt from the tax under Code Section 12-36-2120(5). Horse feed, rabbit feed used in the production and maintenance of rabbits for human consumption, and feed used in the production and maintenance of fry, fingerlings and fish are exempt.

12-36-2120(6)

insecticides, chemicals, fertilizers, soil conditioners, seeds, or seedlings, or nursery stock, used solely in the production for sale of farm, dairy, grove, vineyard, or garden products or in the cultivation of poultry or livestock feed;

FY2008-09 Estimate \$15,859,740

South Carolina Department of Revenue Regulations

117-301.3. Insecticides, Chemicals, Fertilizers, Soils Conditioners, Seeds and Seedlings.

Insecticides, chemicals, fertilizers, soils conditioners, seeds and seedlings used solely in the production for sale of farm, grove, vineyard or garden products are exempt under Code Section 12-36-2120(6). This exemption includes:

(a) explosives (chemicals) used solely in the production for sale of farm, grove, vineyard or garden products.

(b) medicines (chemicals) used solely in the production for sale of livestock.

(c) insecticides, chemicals, fertilizers, soils conditioners, seeds and seedlings used solely in the production for sale of timber and timber products, nursery products, and poultry and poultry products.

(d) insecticides and chemicals, including washing powder, soap, etc., used by dairy operators at the dairy barn in the production for sale of products of the dairy.

(e) bull semen used solely in the production for sale of livestock.

This exemption does not apply to liquid petroleum gas used for burning grass and weeds around farm crops.

12-36-2120(7)

containers and labels used in:

- (a) preparing agricultural, dairy, grove, or garden products for sale; or
- (b) preparing turpentine gum, gum spirits of turpentine, and gum resin for sale.

For purposes of this exemption, containers mean boxes, crates, bags, bagging, ties, barrels, and other containers;

FY2008-09 Estimate \$600,000

South Carolina Department of Revenue Regulations

117-301.4. Containers and Labels.

Containers and labels used in preparing agriculture products for sale and used in preparing turpentine gum, gum spirits of turpentine, and gum resins for sale are exempt under Code Section 12-36-2120(7). For the purposes of this exemption, "containers" means boxes, crates, bags, bagging, ties, barrels, and other containers.

This exemption applies to bags sold to:

- (a) wholesale grain and feed dealers for use as furnished containers of corn and oats.
- (b) cotton dealers or ginnermen for use as furnished containers of cotton seed.
- (c) produce dealers for use as furnished containers of potatoes, cabbage, etc.
- (d) peanut hullers for use as furnished containers of peanut kernels, hulls, and vines.
- (e) nurserymen for use as furnished containers of nursery stock.

Wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property are exempt under Code Section 12-36-2120(14).

The above exemptions do not apply to tobacco twine used by farmers incident to the curing of tobacco.

12-36-2120(8)

newsprint paper, newspapers, and religious publications, including the Holy Bible and the South Carolina Department of Agriculture's The Market Bulletin;

FY2008-09 Estimate \$12,053,089

Department of Revenue Advisory Opinions

Private Letter Ruling 98-1: Imaging Servicing

Private Letter Ruling 93-1: The XYZ-Advertising Publication

Information Letter 92-8: Religious Publications

South Carolina Department of Revenue Regulations

117-315. Newspapers and Newsprint Paper.

The following addresses the exemptions applicable to newspapers, newsprint paper, and newspaper publishers.

117-315.1. Newspapers.

Section 12-36-2120(8) exempts from the measure of the tax the gross proceeds of the sale of newspapers. In order to qualify as a newspaper the publication must meet at least the following requirements:

1. It must be commonly and ordinarily considered and accepted as a newspaper by the public it is intended to serve.
2. It must be published at stated short intervals--daily or weekly.
3. It must contain news of general interest and intelligence of current events.
4. It must be printed on newsprint paper.
5. It must not, when its successive issues are put together, constitute a book. Even though the publication may be devoted primarily to matters of specialized interest, such as mercantile, political, religious or sporting, if in addition it qualifies under all of the foregoing it is entitled to be classed as a newspaper.
6. Newspapers do not include magazines, periodicals, bulletins, and other publications.

117-315.2. Newsprint Paper.

Section 12-36-2120(8) also exempts from the measure of the tax the gross proceeds of the sale of newsprint paper. "Newsprint paper" is construed to include only that paper on which news is printed by a newspaper. This property is specifically exempted when so used.

117-315.3. Newspaper Publishers.

Newspapers are concerned with three distinct and separate activities in the production and publication of the finished product--a newspaper. While these operations may be interwoven in the overall production, for sales and use tax purposes, a separation must be made. These operations or phrases may be designated as follows:

1. News gathering
2. Composition and printing
3. Circulation

News is gathered by reporters, submitted by the public, and furnished from other news gathering sources through use of TWX and tape monitors. Pictures, mats, and engravings are secured by employees of the publisher, submitted by the public, purchased by the printing concern, or forwarded by wire from news gathering agencies.

Newspaper publishers customarily utilize machines and equipment with which to produce etchings from photographs. The etchings are forwarded to the composing room for assembly into page forms, (along with other type and engravings) in order to produce the newspaper mat.

Both the news and the advertising copy must go through what is known as the composing and stereotyping departments, where type is set by machines using what is known as type metal, then put together in page forms, and from there going to the stereotype department, where machines are used to imprint on what is known as newspaper mats, the type as set in the printing or compounding department. From this page mat a plate is cast by machine, using composition metal, which after being cast is attached to the printing machine or press cylinders and the matter thereon transferred to newsprint running through the machines. The metal used in producing the type and also in producing the plates is remelted and used over and over again, with the necessity of certain parts of it being from time to time refined. The mats used in making the plates necessary to complete the finished product are of no value after casting the original plate. Advertising mats may be retained for reuse in preparing subsequent issues.

Certain large size type is manufactured in the plant and all or most of the ordinary size type is manufactured in the plant.

In the preparation of type, etchings, plates, etc., a great deal of expensive and complicated machinery is used. In addition to linotype machines and other special machines for casting larger sized type, machines are used to fabricate "spacer" strips, saws and planners are used to prepare metal plates for the page forms, photographic machinery and equipment is used to prepare etchings, a complete foundry is maintained for melting, remelting and purifying the composition metal, together with other machinery.

Circulation may be effected by use of the mails, by newsboys, or other media.

It has been determined that the actual manufacturing process begins with machinery used in producing etchings (or plates) and ends with the machine used to bundle the finished newspaper for circulation. Excepted from the tax under these circumstances would be such machines as linotype and other machines used in preparing special type, machines used in transferring images from mats to flat metal plates, machines used in transferring images from these flat metal plates to newspaper mats, machines used in producing half round plates to be used on the printing presses, planners, saws, furnaces, mechanical conveyors and the actual printing press itself, together with the integrated conveyor thereon. Included also in this category would be the foundry machinery for melting and salvaging composition metal, machines used in making metal etchings, machinery used for preheating molds (mats) for casting and other like machinery.

Also exempted from the tax are such items as flecto sheets, seal tonic and toning alloys.

Newsprint paper, aside from being specifically exempted under the statute, is likewise an ingredient of the tangible personal property being manufactured for sale and is exempted from the tax. The same is true of ink which becomes an ingredient or component part of the property being manufactured for sale. Ink for any other purposes is subject to the tax.

Items subject to the tax under the above construction would consist of photographs, chemicals (except as otherwise noted) used in preparing etchings, news gathering equipment (such as tape monitors, TWX, and photo-transmission equipment); typewriters used in producing news copy by reporters, and of course, office supplies, equipment and machinery, together with any machines used in distribution of the finished product.

Engravings are exempted as parts or attachments to machines used in manufacturing, compounding or processing tangible personal property.

Newspaper mats have been exempted as constituting parts or attachments to machinery used in manufacturing tangible personal property. Note, however, that on purchases of advertising mats the department has held "... that such mats were exempt under the provisions of Section 12-36-2120 as being parts or attachments to machines used in manufacturing or processing tangible personal property for sale."

"However, the [department] held that catalogs or indices supplied in connection with such mat services would constitute the sale of tangible personal property and would therefore be subject to the tax."

A new process may make obsolete the linotype, or "hot process." Tape perforating machines, a computer and photo composing machinery are used to produce positive prints. These prints are affixed to page layouts, the layouts photographed and the resulting negatives used to make etchings. The etchings may then be used directly on the printing press in lieu of plates now produced by use of mats and type metal.

Tape perforating machines, computers and photo composing machines may be purchased tax-free when used as outlined above.

No tax is due on purchase of film and plates used in making etchings and engravings and chemicals which become a part of a finished etching or engraving. The exemption does not extend to film and chemicals used by reporters and other news gatherers.

Chemicals used directly in developing film and etching engravings for use by the publisher in manufacturing a newspaper may be purchased tax-free provided the machine in which the chemicals are used is exempted by Section 12-36-2120(17).

12-36-2120(9)

coal, or coke or other fuel sold to manufacturers, electric power companies, and transportation companies for:

- (a) use or consumption in the production of by-products;
- (b) the generation of heat or power used in manufacturing tangible personal property for sale. For purposes of this item, “manufacturer” or “manufacturing” includes the activities of a processor;
- (c) the generation of electric power or energy for use in manufacturing tangible personal property for sale; or
- (d) the generation of motive power for transportation. For the purposes of this exemption, “manufacturer” or “manufacturing” includes the activities of mining and quarrying;

FY2008-09 Estimate \$102,909,706

Department of Revenue Advisory Opinions

Private Letter Ruling 94-3: Materials Used in Road Construction

Revenue Ruling 94-2: Manufacturers and Construction Contractors

Technical Advice Memorandum 88-6: Fuel Used for Roasting of Coffee Beans

South Carolina Department of Revenue Regulations

117-302.3. Coal, Coke or Other Fuel.

Code Section 12-36-2120(9) directs that only certain classes of purchasers may buy free of the tax coal, coke or other fuel.

Coal, coke or other fuel sold to manufacturers, quarriers and miners for use in manufacturing, quarrying or mining tangible personal property for sale or for the production of by-products or for the generation of electric power or energy for use in manufacturing tangible personal property for sale.

Coal, coke or other fuel sold to manufacturers, quarriers, miners, or processors for the generation of heat or power used in manufacturing, quarrying, mining, or processing tangible personal property for sale.

This exemption applies to fuel used to control plant atmosphere as to temperature and/or moisture content, in the quality control of tangible personal property being manufactured or processed for sale.

12-36-2120(10)

- (a) **meals or foodstuffs** used in furnishing meals to school children, if the sales or use are within school buildings and are not for profit;
- (b) **meals or foodstuffs** provided to elderly or disabled persons at home by nonprofit organizations that receive only charitable contributions in addition to sale proceeds from the meals;
- (c) **food stuffs**, either prepared or packaged for the homeless or needy that are sold to nonprofit organizations, or food stuffs that are subsequently sold or donated by a nonprofit organization to another nonprofit organization. This subitem is only applicable to food stuffs which are eligible for purchase under the USDA food stamp program;
- (d) **meals or foodstuffs** prepared or packaged that are sold to public or nonprofit organizations for congregate or in-home service to the homeless or needy or disabled adults over eighteen years of age or individuals over sixty years of age. This subitem only applies to meals and foodstuffs eligible for purchase under the USDA food stamp program.

FY2008-09 Estimate \$7,043,478

Department of Revenue Advisory Opinions

Private Letter Ruling 95-4: Food Services
Private Letter Ruling 94-6: Meals Sold to School Children
Private Letter Ruling 94-4: Food Service for Educational Institutions
Revenue Ruling 93-9: Educational and Medical Institutions
Private Letter Ruling 90-10: Meals-Nursing Care/Hospital Facilities

South Carolina Department of Revenue Regulations**117-305.1. Educational Institutions.**

Colleges and universities sell or provide meals and other foods in a variety of ways.

Meals are provided to students in a cafeteria under a board plan. Under such plans, students will purchase all their meals (breakfast, lunch and dinner) for an entire semester or year at the beginning of the school year. This is usually done at the same time students pay their tuition and other fees. Typically, the student who signs up for one of the board plans is given a card that is used by the student to obtain the meals.

In addition, students who participate in a limited board plan may purchase individual meals sold by the college or university in the cafeteria. For example, one board plan may furnish meals to students Monday through Friday. A student under this limited plan may from time to time choose to purchase an individual meal in the cafeteria on Saturday or Sunday.

Employees, visitors and students who do not participate in a board plan may also purchase meals sold by the college or university in the cafeteria. Generally, these meals are purchased on an individual basis; however, some colleges and universities sell tickets that entitles the purchaser to several meals.

Also, colleges and universities may sell meals and food to students and others at canteens, snack bars, and other places around the campus. In addition, food may be sold at concession stands at sporting and theatrical events.

Finally, colleges and universities may contract with food service companies to sell or furnish meals on campus. Under such contracts, the food service company will either be an agent of the institution or will sell the meals to the institution, who has sold the meals to the students via a board plan.

Meals Served Under Board Plan

1. Sales to an educational institution of unprepared food products, for use in furnishing meals under a board plan, are retail sales subject to the sales tax or the use tax.

2. Sales to a food service company of unprepared food products, for use in furnishing meals under a board plan, are retail sales subject to the sales tax or the use tax if the food service company is the agent of the educational institution.

3. Sales by food service companies of meals to an educational institution or directly to the students, as part of a board plan, are retail sales subject to the sales or the use tax if the food service company is merely under contract with the educational institution and is not the agent of the educational institution.

For additional information concerning sales by, and purchases from, suppliers (including information on resale certificates), see sections 117-305.3 and 117-305.4 below.

Cash or Other Food Sales, Not Under a Board Plan

1. Sales by an educational institutions of meals and other foods (including the purchase of tickets that entitles the purchaser to several meals), other than those furnished under a board plan, are retail sales subject to the sales tax or the use tax.

2. Sales of meals and other foods by a food service company as the agent of an educational institution, other than those furnished under a board plan, are retail sales subject to the sales tax or the use tax.

3. Sales of meals and other foods by a food service company, other than those furnished under a board plan, are retail sales of the food service company subject to the sales or the use tax.

For additional information concerning sales by, and purchases from, suppliers (including information on resale certificates), see sections 117-305.3 and 117-305.4 below.

117-305.5. Exemption Meals Sold to School Children.

Meals sold within school buildings, not for profit, to school children are exempted from the sales tax by Section 12-36-2120(10). This exemption is construed to include only sales of meals to pupils of kindergartens, grammar and high schools, either public or private, where it can be shown that there is no profit therefrom and where the sales are made within the school building. Schools operating school lunch programs are required to obtain a retail license and remit the tax on all sales of meals to persons other than school children.

Meals sold by any public or private educational institution or their agent, other than those exempted by Section 12-36-2120(10), described above, are subject to the sales tax when a separate charge per meal is made to the consumer. This includes cash sales, sales at special events and meals sold by commissaries at such institutions. Tax on these sales must be remitted by the institution to the department based on gross proceeds.

Educational institutions operating boarding facilities where meals and beverages are furnished without a separate charge being made or where a lump sum charge is made by the month or by the term are deemed to be the users or consumers of the prepared meals if same are purchased or acquired, or the users or consumers of the unprepared food products if such educational institutions or their agents purchase such products and prepare the meal. The seller of such prepared meals shall be required to report and remit the tax due on the gross proceeds of such prepared meals to the educational institution. The seller of unprepared food products to an educational institution or its agent purchasing such products and preparing the meals shall be required to report and remit the tax due on the gross proceeds of such raw foodstuffs.

Sales to consumers of prepared meals, foodstuffs or beverages on educational institution premises by an entity other than the educational institution or its agent, are sales at retail and the seller is required to obtain a retail license for each location, and report and remit the tax due on the gross proceeds of such sales.

[Note: See Code Section 12-36-110 for the application of the tax to vending machine sales.]

12-36-2120(11)

- (a) **toll charges** for the transmission of voice or messages between telephone exchanges;
- (b) **charges** for telegraph messages;
- (c) **carrier access charges** and customer access line charges established by the Federal Communications department or the South Carolina Public Service department; and
- (d) transactions involving **automatic teller machines**;

FY2008-09 Estimate \$73,649,975

Department of Revenue Advisory Opinions

Revenue Ruling 06-8: Communications – Ways or Means for the Transmission of the Voice or Messages and Other Communications

Private Letter Ruling 06-2: Early Termination Fee – Taxable Communications Services

Private Letter Ruling 05-4: Communications Towers and Associated Buildings

Information Letter 04-27: Internet Access/Electronic Commerce Moratorium

Revenue Ruling 04-4: Telephone Calling Cards

Private Letter Ruling 03-2: DSL Internet Access

Revenue Ruling: 03-1: Universal Service Fund Surcharge

Private Revenue Opinion 00-5: Communications Towers & Buildings

Private Letter Ruling 93-1: The XYZ-Advertising Publication

Private Letter Ruling 88-15: Clearing House for Telephone Receivables

South Carolina Department of Revenue Regulations

117-329. Communications.

The gross proceeds accruing or proceeding from the business of providing or furnishing the ways or means for transmission of the voice or messages is construed to mean all charges for local service, including charges for equipment furnished by the seller or supplier of such service and all receipts for local calls made from coin operated telephones.

Not subject to the tax are: amortization charges for installing facilities beyond prescribed limits, restoration of service charges, attachment privileges to poles, charges for colored telephones and retractable cords (a one-time charge), charges on a cost basis for dial service between exchanges, toll charges between telephone exchanges (long distance), charges for all telegrams (local or otherwise), and charges representing Federal Communications taxes (excise taxes).

12-36-2120(12)

water sold by public utilities, if rates and charges are of the kind determined by the Public Service Commission, or water sold by nonprofit corporations organized pursuant to Chapter 36 of Title 33;

FY2008-09 Estimate \$27,283,200

Department of Revenue Advisory Opinions

Private Letter Ruling 93-1: The XYZ-Advertising Publication

12-36-2120(13)

fuel, lubricants, and supplies for use or consumption aboard ships in intercoastal trade or foreign commerce. This exemption does not exempt or exclude from the tax the sale of materials and supplies used in fulfilling a contract for the painting, repair, or reconditioning of ships and other watercraft;

FY2008-09 Estimate \$1,527,097

South Carolina Department of Revenue Regulations**117-303.3. Furnishing Laundry Services, Etc. to Ships.**

The gross proceeds accruing or proceeding from the business of providing or furnishing any laundering, dry cleaning, dyeing or pressing service, to ships for use or consumption aboard such ships in intercoastal trade or foreign commerce are exempt from the tax by reason of Code Section 12-36-2120(13).

117-309.7. Ship Chandlers.

Ship chandlers sell marine supplies to operators of all kinds of watercraft and to others. The sale or sales by ship chandlers of fuel, lubricants and supplies for use aboard ships plying on the high seas engaged in trade or commerce between South Carolina ports and ports of other states and foreign countries are not subject to the tax. All other sales made by ship chandlers, not for resale, are taxable with the exception of tangible personal property delivered to a ship from a bonded warehouse in the custody and under supervision of the United States customs officials, who deliver such properties aboard ships to a locked compartment on which a custom seal is placed, which seal by federal rule cannot be broken until the vessel has passed the 12 mile limit.

117-321.1. Sales of Fuel, Lubricants and Mechanical Supplies.

Code Section 12-36-2120 exempts from payment of sales or use taxes the sale or use of fuels, lubricants and supplies for use or consumption aboard ships in intercoastal trade between ports of the state of South Carolina and ports in other states of the United States or its possessions, or in foreign commerce between ports in the state of South Carolina, and ports in foreign countries; provided, however, that nothing herein shall be construed to exempt or exclude from the tax herein levied, that gross proceeds of the sale or sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft.

It will be noted that the exemption does not apply to sales to fishing craft, tugs, vessels, or other watercraft not used in trade or commerce between South Carolina ports and ports of other states or foreign countries.

This exemption has been held to include any waters on the seacoast which are without the boundaries of the low water mark and would include waters of sea in small harbors and roadstands enclosed by narrow headlands and promontories. This ruling has been interpreted not to include the inland waterway.

You will note that the proviso contained in the section outlined above renders subject to the tax the sale or use of materials and supplies to any person for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, etc. Any person under contract for the purposes as outlined above must pay to his supplier sales or use tax, whichever is applicable, on the purchases of tangible personal property for use in fulfilling such a contract unless such person is engaged in a dual type business in which case the tax applies on the withdrawal for use.

12-36-2120(14)

wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property;

FY2008-09 Estimate \$24,974,700

Department of Revenue Advisory Opinions

Private Revenue Opinion 00-2: Bags Used in Shipping Goods in Process

Revenue Ruling 95-6: Purchases by Restaurants

Revenue Ruling 92-3: Purchases by Restaurants

Private Letter Ruling 88-20: Containers

South Carolina Department of Revenue Regulations

117-302.2. Containers.

The sale of materials, containers, cores, labels, sacks or bags used incident to the sale and delivery of tangible personal property or used by manufacturers, processors, or compounders in shipping tangible personal property are not subject to sales and use taxes.

“Materials” is defined to include, among other things, wrapping paper, twine, strapping, nails, staples, wire, lumber, cardboard, adhesives, tape, waxed paper, plastic materials, aluminum foils, and pallets used in packaging tangible personal property incident to its sales and delivery and used by manufacturers, processors, or compounders in shipping tangible personal property.

“Containers” is defined to include, but are not limited to, such items as, paper, plastic or cloth sacks, bags, boxes, bottles, cans, cartons, drums, barrels, kegs, carboys, cylinders, and crates.

“Cores” is defined to include spools, spindles, cylindrical tubes and the like on which tangible personal property is wound.

This exclusion applies to:

(a) labels affixed to manufactured articles to identify such products only when such labels are passed on to the ultimate consumer of such products.

(b) excelsior, cellulose wadding, paper stuffing, sawdust and other packing materials used to protect products in transit. Also excluded from the exemption are materials such as strapping and dunnage to temporarily brace or block tangible personal property within trucks and railroad cars as a protection during shipment.

(c) hogsheads, when used by a manufacturer, compounder or processor for the purpose of packaging tobacco for shipment or sale.

This exclusion does not apply to:

(a) address stickers and shipping tags.

(b) materials such as dry ice and rust preventives used to preserve property during shipment.

117-312.1. Containers and Packaging Materials, Sales of to Licensed Retailers.

Licensed retailers purchase free of sales or use taxes wrapping paper, wrapping twine, paper bags and containers for use incident to the delivery of tangible personal property sold by them. They also purchase tax-free materials used in packaging personal property sold by them.

The list below, while illustrative of items falling within the exemption or exclusion, is not exhaustive:

Souffle cups, butter chips, paper cups, paper plates, boxes and crates and glazed tissue used to package articles of food.

It will be seen that items such as straws, napkins, wooden or paper spoons and forks do not meet the requirements outlined above and, hence, must bear the tax. Such items are rather in the nature of supplies used or consumed by the retailer in the operation of his or its business.

117-312.2. Containers, Beverage Boxes and Crates.

Especially designed crates and boxes of the type used by distributors of soft drinks or milk products retained by the purchaser of such products for reuse by the distributor thereof may be purchased free of sales or use taxes.

The exemption extends to materials used in repairing such crates and boxes.

117-312.3. Packaging Materials.

Section 12-36-120 excludes from the measure of the sales or use taxes the gross proceeds of the sale of "... materials, containers, cores, labels, sacks or bags used incident to the sale and delivery of tangible personal property, or used by manufacturers, processors, and compounders in shipping tangible personal property."

The term "materials" is deemed to include, among other things, wrapping paper, twine, strapping, nails, staples, wire, lumber, cardboard, adhesives, tape, waxed paper, plastic materials, aluminum foils, and pallets used in packaging tangible personal property for shipment or sale; also excelsior, cellulose wadding, paper stuffing, sawdust and other packing materials used to protect products in transit. Materials such as dry ice and rust preventives used to preserve property during shipment do not come within the exemption. Also excluded from the exemption are materials such as strapping and dunnage (e.g. lumber used to block up equipment for shipment) to temporarily brace or block tangible personal property within trucks and railroad cars as a protection during shipment.

"Containers" include, but are not limited to, such items as, paper, plastic or cloth sacks, bags, boxes, bottles, cans, cartons, drums, barrels, kegs, carboys, cylinders, and crates.

The term "cores" is defined to include spools, spindles, cylindrical tubes and the like on which tangible personal property is wound.

Labels affixed to manufactured articles to identify such products are exempted from the tax only when such labels are passed on to the ultimate consumer of such products.

117-312.4. Advertising Materials.

Printed advertising materials and/or price lists placed into cartons or packages with tangible personal property being packaged for shipment or sale are subject to the sales or use tax.

117-318.5. Gift Wrapping Charges.

The gross proceeds proceeding or accruing from charges for gift wrapping of tangible personal property sold at retail are subject to the sales and/or use tax.

12-36-2120(15)

- (a) **motor fuel**, blended fuel, and alternative fuel subject to tax under Chapter 28 of Title 12; however, gasoline used in aircraft is not exempt from the sales and use tax;
- (b) if the **fuel tax** is subsequently refunded under Section 12-28-710, the sales or use tax is due unless otherwise exempt, and the person receiving the refund is liable for the sales or use tax;
- (c) fuels used in **farm machinery and farm tractors**; and
- (d) fuels used in commercial **fishing vessels**.

FY2008-09 Estimate \$499,687,500

Department of Revenue Advisory Opinions

Revenue Ruling 05-3: Aviation Gasoline

Revenue Ruling 97-12: Aviation Gasoline

Private Letter Ruling 89-18: Aircraft-Flight Instructions/Rentals

Technical Advice Memorandum 88-14: Federal Excise Tax on Tires and Fuels

Private Letter Ruling 88-10: Fuel Used in Tugs

South Carolina Department of Revenue Regulations

117-301.6. Fuel.

Fuel used in farm machinery and farm tractors used in planting, cultivating, or harvesting farm crops and fuel used to cure agricultural products is exempt under Code Sections 12-36-2120(15) and 12-36-2120(18). This applies to fuel used in curing grain in grain elevators for storage or sale.

12-36-2120(16)

farm machinery and their replacement parts and attachments, used in planting, cultivating or harvesting farm crops, including bulk coolers (farm dairy tanks) used in the production and preservation of milk on dairy farms, and machines used in the production of poultry and poultry products on poultry farms, when such products are sold in the original state of production or preparation for sale. This exemption does not include automobiles or trucks;

FY2008-09 Estimate \$7,278,240

Department of Revenue Advisory Opinions

Revenue Ruling 05-4: Trailers, Semitrailers, and Pole Trailers

Revenue Ruling 99-3: Farm Trailers

Private Letter Ruling 89-16: Farm Equipment-Exemption

South Carolina Department of Revenue Regulations**117-301.5. Farm Machinery.**

The sale of farm machinery that is used in planting, cultivating or harvesting farms crops for sale is exempt under Code Section 12-36-2120(16). This exemption also applies to replacement parts and attachments. For purposes of this exemption, the terms “planting,” “cultivating,” and “harvesting” are defined as follows:

“Planting” includes all necessary steps in the preparation of the soil prior to, and including, the planting and sowing of the seed.

“Cultivating” includes the loosening of the soil around growing plants, control of moisture content in the soil, and weed and pest control.

“Harvesting” begins with the gathering of the crop and ends when the crop is placed in a temporary or permanent storage area. It also includes the additional preparation for storage or sale of certain crops such as the curing of tobacco, grains, and peanuts and the grading and packaging of peaches, cucumbers, tomatoes, etc.

The sale of bulk coolers (farm dairy tanks) used in the production and preservation of milk on dairy farms and machines used in the production of poultry and poultry products on poultry farms when such products are sold in the original state of production or preparation for sale are also exempt under Code Section 12-36-2120(16).

The following machines qualify for this exemption:

(a) machinery used in constructing terraces, drainage and irrigation ditches, dikes used to control the water level in cultivated fields, and land clearing prior to cultivation of the soil.

(b) machinery specially designed for irrigation purposes, including pumps, pipes, spigots, etc., when sold for use in the cultivation of farm crops.

(c) farms wagons used in planting, cultivating or harvesting farm crops.

(d) pasteurizing machines, cooling machines, mechanical separators, homogenizing machines and bottling machines used by dairies in the production of milk for sale. Milking machines do not come within the exemption for farm machinery.

(e) machines used in the production of poultry and poultry products for sale when incorporated into and made a part of an automated system. This includes automated bulk feed bins placed either inside or outside the building when such bins are connected to automatic feeding systems; the auger conveying feed from bulk feed bins to the automated feeder system; roll-up curtains (hand crank and motorized) to control light and room temperature; automatic chain feeders; auger and pan feeders; automatic waterers, valves, and accessories, brooders-all types, winching systems used to raise and lower brooders to control room temperature and also to facilitate cleaning; electric debeakers; egg washing machinery; egg grading machinery; egg candling machinery; time clocks for controlling lights or machinery; automated

nests only; belt gathering systems for nests; laying cages when a part or attachment to an automated feeding and/or watering system; mechanically operated feed carts; bulk feed bodies (the vehicles on which these bodies are mounted are subject to the tax as well as nonmechanized carts); automatic clean-out systems for cage houses; small tractor or Bobcat used for clean-out of poultry houses; machinery used to cool eggs; humidifiers for egg rooms; auxiliary power generators; ventilation equipment for poultry houses (to include fans and motorized shutter assemblies); electric heat tapes (water warmers); monorail system for use in conveying eggs in process; automatic medication proportioners; incubators; scales used in loading mixing buggies to gauge the amount of feed per chicken; electric shockers and wire over automatic troughs; (electrified wire fences would be subject to the tax unless exempt under Section 12-36-2120(45)); vibrators; infrared brooders (heat lamps used primarily to brood quail); and incinerators.

Examples of properties not exempted from the tax under Section 12-36-2120(16) are building materials, fencing and fence posts, hand tools, range waterers and feeders (unless completely mechanized), egg baskets and stackers, hand trucks and nonmechanized egg carts, dollies, brooding paper and guards, nesting materials, boots, gloves, hand-operated sprayers and powder dusters, mouse traps (all types), leg bands, wing bands, and nest eggs. (Note: Some of these items may be exempt under Section 12-36-2120(45).)

(f) animal and motor drawn or operated implements such as plows, harrows, hay rakes, mowers, cultivators, and planters.

(g) machinery used in planting, cultivating, and harvesting timber products.

(h) tobacco curers (not including flues and furnaces).

(i) a flatbed trailer or a stock trailer used for hauling farm crops (i.e. hay, corn, peaches) if the flatbed trailer or stock trailer is used substantially in planting, cultivating, or harvesting such farm crops for sale in their original state of production or preparation for sale.

(j) animal and motor drawn or operated tobacco transplanters.

(k) portable power saws for use in planting, cultivating, or harvesting farm crops may be purchased free of the tax. The term "farm crops" includes forest products or products of the forests.

(l) skidders used in logging operations, when used either by sawmills or by contract loggers.

(m) machinery purchased by operators of commercial fisheries and used directly in fishing operations, such as motor operated watercraft and nets attached to booms or cranes for lowering into the sea bed.

(n) machinery purchased by commercial crabbers and used directly in crabbing operations, such as motors, mechanical capstans, and crab traps when such traps are hoisted by capstans.

This exemption does not apply to:

(a) automobiles and trucks.

(b) machinery used in constructing fences and buildings and repairing machinery and equipment.

(c) farm implements which are not animal and motor drawn or operated, such as hoes, pitchforks, and shovels.

(d) tobacco thermometers.

(e) a flatbed trailer or a stock trailer used for hauling tractors, harvesting equipment or cattle or for hauling farm crops from a storage area to market or to a buyer.

(f) tobacco transplanters which are not animal and motor drawn or operated.

(g) greenhouses.

12-36-2120(17)

machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale. “Machines” include the parts of machines, attachments, and replacements used, or manufactured for use, on or in the operation of the machines and which (a) are necessary to the operation of the machines and are customarily so used, or (b) are necessary to comply with the order of an agency of the United States or of this State for the prevention or abatement of pollution of air, water, or noise that is caused or threatened by any machine used as provided in this section. This exemption does not include automobiles or trucks. As used in this item “recycling” means a process by which materials that otherwise would become solid waste are collected, separated, or processed and reused, or returned to use in the form of raw materials or products, including composting, for sale. In applying this exemption to machines used in recycling, the following percentage of the gross proceeds of sale, or sales price of, machines used in recycling are exempt from the taxes imposed by this chapter:

Fiscal Year of Sale	Percentage
Fiscal year 1997-98	fifty percent
After June 30, 1998	one hundred percent;

FY2008-09 Estimate \$63,077,125

Department of Revenue Advisory Opinions

Revenue Procedure 05-1: Governmental Wastewater Treatment Facilities Application for Exemption or Refund

Revenue Ruling 04-7: Sales and Use Tax Machine Exemption:

Springs Industries, Inc. v. SCDOR (99-ALJ-17-0153-CC)

Anonymous Taxpayer v. SCDOR (02-ALJ-17-0350-CC)

Private Letter Ruling 99-3: Ethylene Concentrate and Generator Used to Ripen Produce at Warehouse

Revenue Ruling 98-19: Computer Aided Designs Systems and Computer Aided Manufacturing Systems

Private Letter Ruling 95-8: Pollution Control Machine

Revenue Ruling 94-2: Manufacturers and Construction Contractors

Technical Advice Memorandum 94-3: Computer System

Private Letter Ruling 94-1: Property Shipped Overseas

Private Letter Ruling 93-7: Machines and Equipment Stored and Repaired in South Carolina

Revenue Ruling 92-11: Manufacturers and Construction Contractors

Private Letter Ruling 92-10: Manufacturing Machine – Sale/Leaseback

Private Letter Ruling 92-9: Chimney Stack

Revenue Ruling 91-8: Water Treatment Plants

Private Letter Ruling 91-1: High Purity Water Treatment System

South Carolina Department of Revenue Regulations

117-302.5. Machines.

(A) Introduction:

Machines used in manufacturing, processing, compounding, mining, or quarrying tangible personal property for sale, and the replacement parts and attachments to such machines, are exempt from the sales and use tax under Code Section 12-36-2120(17). Materials or equipment which might constitute a machine or machinery when not used for manufacturing, processing, compounding, mining, or quarrying tangible personal property for sale are not exempted.

(B) General Guidance:

(1) A “machine used in manufacturing ... tangible personal property for sale” is exempt from the sales and use tax. For purposes of this regulation subsection (117-302.5), manufacturing includes processing, compounding, mining and quarrying.

A machine qualifies for the exemption under Code Section 12-36-2120(17) if the machine is integral and necessary to the manufacturing process and the product being manufactured is being manufactured “for sale.” A machine, which includes every mechanical device or combination of mechanical powers, parts, attachments and devices to perform some function and produce a certain effect or result, is integral and necessary to the manufacturing process if it meets all of the following:

(a) The machine is used at a manufacturing facility. This exemption only applies to machines used at a facility whose purpose is that of manufacturing a product “for sale.” It does not apply to machines used at a facility whose purpose is retailing, wholesaling, distributing, or some other non-manufacturing purposes. For example, machines used by a large industrial baker in manufacturing breads, cakes, and pies for sale may be purchased tax free; however, similar machines used by a “Ma & Pa” bakery on Main Street may not be purchased tax free since they are used at a facility whose purpose is retailing.

(b) The machine is used in, and serves as an essential and indispensable component part of the manufacturing process, and is used on an ongoing and continuous basis during the manufacturing process. A machine is not a part of the manufacturing process merely because it is integral and necessary to the manufacturer. For example, machines used for warehouse, distribution, or administrative purposes are integral and necessary to the manufacturer, but not part of the manufacturing process.

(c) The machine must be substantially “used in manufacturing ... tangible personal property for sale.” The statute does not require that the machine be used exclusively in manufacturing; however, incidental manufacturing use will not qualify for the exemption. For purposes of the exemption, more than one-third of a machine’s use in manufacturing is substantial.

Machines that meet the above requirements do not lose the exemption because they do not have moving parts or because they are fixtures upon the real estate where they stand. However, buildings and parts of buildings, as well as other improvements which benefit the land generally and may serve other users of the land, do not come within the exemption.

(2) Machine Parts:

Parts of machines, attachments, and replacements used, or manufactured for use, on or in the operation of machines are also exempt, provided the parts, attachments or replacements are used on or in the operation of such machines, manufactured for use on or in the operation of such machines, integral and necessary to the operation of such machines, and must be customarily so used. These restrictions are interpreted to mean that the part or attachment must be purchased in the form in which it will be used by the manufacturer without any fabrication or alteration by him, except the usual and customary minor adjustment, (except as stated in “Building of Machines”) and that it is a standard part or attachment customarily used and, further, that the machine or machinery on which it is used would not do the work for which it was designed if it were not used. This, of course, exempts all parts and attachments without which the machine would do no work, and, in addition, it exempts parts and attachments designed to increase the efficiency of the machine.

(3) Building of Machines:

Manufacturers, and contractors building machines for manufacturers are entitled to purchase at wholesale, free of the sales or use tax, materials used by them in the building of machines for the purpose of manufacturing tangible personal property for sale. It should be noted that only those materials are exempt to manufacturers or their contractors, which are used by them in building machines for the purpose of manufacturing tangible personal property for sale. This ruling would not be applicable to tangible personal property for use as building materials from which there is erected a “building.” (See section on “Buildings” below.)

(4) Conveyances:

(a) The general rule with reference to material handling machinery and/or mechanical conveyors is that such machinery is subject to the tax up to the point where the materials go into process. The machine feeding the first processing machine(s) is exempt. The last machine to come within the exemption is that

machine which discharges the finished product from the last machine used in the process. Material handling machinery used for transporting (in process) material from one process stage to another comes within the exemption. Warehouse machinery used only for warehouse purposes, loading and unloading, storing, transporting raw materials and finished products, etc., is subject to the tax, unless exempt under the provisions of Code Section 12-36-2120(51). If material handling machinery is customarily used for a dual purpose, that is partly for an exempt purpose and partly for a taxable purpose, and is not otherwise exempt under the provisions of Code Section 12-36-2120(51), the machinery may be purchased free of the tax under the machine exemption (Code Section 12-36-2120(17)) provided the exempt use represents a substantial portion of its use.

For example, the following conveyances are exempt:

- (i) Wheeled conveyances known as “print screen truck” used by a textile manufacturer in the movement of print screens from a holding area to the exempt print machines, to the print screen washing machine, and back to the holding area racks after the style or pattern is changed and the print screen is washed.
- (ii) Warehouse machines (e.g., forklifts) that are used substantially to feed raw material into or onto the first processing machine in the manufacturing process area in addition to being used in loading, unloading, storing, and transporting raw materials from the warehouse to the manufacturing area, or transporting finished products from the manufacturing area to the warehouse.
- (b) Conveyances are subject to the tax up to the point where the materials go into the process. The last machine to come within the exemption is that machine which discharges the finished product from the last machine used in the process. Under this rule, the following conveyors are subject to the tax:
 - (i) Conveyors used solely by the taxpayer in the warehousing of raw materials and finished goods.
 - (ii) Conveyors which are not integral and necessary to the manufacturing process.
 - (iii) Piping leading to and from storage tanks.
 - (iv) Piping, pumps, and well connections installed for use by a manufacturer to supply the manufacturing plant with water necessary for the manufacture of tangible personal property.
 - (v) Warehouse machines that are used for warehouse purposes, such as loading, unloading, storing, transporting raw materials from the warehouse to the manufacturing area, or transporting finished products from the manufacturing area to the warehouse.

(5) Chemicals:

(a) Chemicals, including greases, oils, lubricants, and coolants, used in an exempt manufacturing machine that are essential to the functioning of the exempt machine during the manufacturing process are integral, necessary, and indispensable to the manufacturing process and are exempt as part of the machine. For example, the following are situations in which chemicals, greases, oils, lubricants, and coolants are exempt as part of an exempt machine:

- (i) Chemicals, greases, oils (motor oils, gear oils, chain oils), lubricants, and coolants used in an exempt manufacturing machine when such items are integral and necessary to the manufacturing process, such as those that are essential in ensuring the functioning of the machine during the manufacturing process, and the use of such items is an ongoing, continuous activity.
- (ii) Chemicals used in an exempt pollution control machine to abate or prevent pollution when such chemicals are integral and necessary to the manufacturing process, such as the treating of wastewater or otherwise preventing or abating pollution, and the use of such chemicals is an ongoing, continuous activity.
- (iii) Chemicals used to clean the exterior or interior of an exempt manufacturing machine when the cleaning is integral and necessary to the manufacturing process, such as those that are essential in ensuring the quality of the product is maintained, and the use of such chemicals is an ongoing, continuous activity.
- (iv) Chemicals used to prevent corrosion in an exempt manufacturing machine, such as an exempt boiler, when such chemicals are integral and necessary to the manufacturing process, such as those that are essential in ensuring the functioning of the machine during the manufacturing process, and the use of such chemicals is an ongoing, continuous activity.

(b) Situations in which the chemicals would not qualify as a part under the machine exemption and would therefore be subject to the sales and use tax, include:

(i) Chemicals used to clean non-exempt machines, such as storage tanks.

(ii) Chemicals used to clean floors, walls, and other parts of the manufacturing facility.

(iii) Paint used on exempt manufacturing machines to prevent corrosion of the machines is not exempt from the tax as a machine used in manufacturing tangible personal property for sale. (Note: This is different from the chemicals used to prevent corrosion in exempt machines, such as exempt boilers, since the painting of the machine is not an ongoing, continuous activity. It is a maintenance activity. The chemicals, unlike the paint, are integral and necessary to the operation of the machines since they are essential in ensuring the functioning of the machine during the manufacturing process and are used on an ongoing, continuous basis.)

(iv) Chemicals, greases, oils (motor oils, gear oils, chain oils), lubricants, and coolants used in an exempt manufacturing machine when such items are not integral and necessary to the manufacturing process, such as those that are not essential in ensuring the functioning of the machine during the manufacturing process. For example, grease used on a part that has been removed from an exempt manufacturing machine when such grease has been placed on the part to protect it while it is in storage and not being used is subject to the tax since the grease is not integral and necessary to the functioning of the part or the machine during the manufacturing process.

(6) Maintenance:

Maintenance machines used at a manufacturing facility are not exempt from the tax as a machine used in manufacturing tangible personal property for sale.

Machines that are used to maintain non-exempt machines (machines that are not integral and necessary to the manufacturing process), or are not used on an ongoing, continuous basis to maintain exempt manufacturing machines (machines that are integral and necessary to the manufacturing process) are maintenance machines and are not exempt from the tax as machines used in manufacturing tangible personal property for sale.

The following machines are maintenance machines and therefore subject to the sales and use tax:

(a) Pressure washing machines and ultrasonic cleaning machines used to clean non-exempt machines or parts, such as storage tanks.

(b) Machines used to clean floors and other parts of realty (e.g., machines used in removing sawdust from the floor of a sawmill).

(c) Machines, such as maintenance machines, which are not integral and necessary to the manufacturing process.

(d) Machines, such as pressure washing machines and ultrasonic cleaning machines, used to clean exempt manufacturing machines or parts when the cleaning of the exempt manufacturing machine or part is not integral and necessary to the manufacturing process, such as those that are not essential in ensuring the functioning of the exempt machine or part during the manufacturing process or those that are not essential in ensuring the quality of the product is maintained. In addition, if the cleaning is not an ongoing, continuous activity, then the machines are not integral and necessary to the manufacturing process.

(7) Storage:

Machines used at a manufacturing facility for storage are not exempt from the tax as a machine used in manufacturing tangible personal property for sale. For example, the following machines are for storage and therefore taxable:

(a) Racks used to store raw materials or finished goods.

(b) Storage tanks used to store raw materials, gasses, or water.

(c) Racks and tanks used to store a finished product while it cures.

Note: See example of exempt warehouse machines in Section (B)(4)(a)(ii).

(8) Buildings:

A building which houses a manufacturing process, and the various parts of such a building, are not exempt from the tax as a machine, or a part or attachment to a machine, used in manufacturing tangible personal property for sale. For example, the following parts of a building are not exempt:

(a) Paint or sealant used to seal the floor or walls of the manufacturing area of a building to provide chemical resistance in the event of a spill.

(b) Paint used on the floor of the textile manufacturing area of a building to facilitate the threading of machines so that employees can more easily see the thread.

(c) Paint used on exempt manufacturing machines to prevent corrosion of the machines.

Note: Paint is not integral and necessary to the operation of the manufacturing machines. This is different from the chemicals used to prevent corrosion in exempt machines, such as exempt boilers. Such chemicals, unlike the paint, are exempt when such chemicals are integral and necessary to the functioning of the exempt machine during the manufacturing process and the use of these chemicals to prevent corrosion is an ongoing, continuous activity. Paint is not integral and necessary to the functioning of the machine “during the manufacturing process” and painting the machine is not an ongoing continuous activity.

(d) Foundations (consisting of pilings, pile caps, elevated slab, and slab on grade) of a building in which exempt manufacturing machines are the plant manufacturing process or system as a whole.

(e) Structural steel, steel decking, and checker plate of a building in which exempt manufacturing machines are housed.

(f) Hangers and supports used in a manufacturing building to route exempt process piping from one area of the manufacturing process to another area of the manufacturing process via pipe racks and cable trays.

(g) Architectural roofing and siding enclosing a manufacturing building housing exempt manufacturing machines.

(h) Pipe, valves, fittings, etc., regardless of size, which are purchased by paper manufacturers specifically for use in drinking water lines, fire protection lines, or for transmission of water from source to water treatment plant, or from water treatment plant itself.

(i) Piping furnished and installed along with pump houses and well connections by a contractor when intended for use by a paper manufacturer to supply his plant with the water necessary to the manufacturer of paper.

(j) Power lines bringing electricity into the plant.

(k) All wires, fixtures, etc., used in lighting.

(9) Administrative Machines, Furniture, Equipment and Supplies:

Administrative machines, furniture, equipment, and supplies, such as office computers used for word processing, recordkeeping, employee payroll, customer billing, purchasing, accounting, and similar purposes, office furniture, office supplies, such as pens, pencils, paper, and similar items, educational material, or items used for the personal comfort, convenience, or use of employees, are not machines used in the process of manufacturing tangible personal property for sale and are not exempt from the tax.

(10) Protective Clothing

Protective clothing worn by an employee working in the area in which the manufacturing process occurs does not qualify as a machine and is not exempt from the tax as a machine used in manufacturing tangible personal property for sale under Section 12-36-2120(17). However, “clothing and other attire required for working in a Class 100 or better as defined in Federal Standard 209E clean room environment” is exempt under the provisions of Section 12-36-2120(54).

(C) Other Examples of Exempt Manufacturing Machines and Machine Parts:

The following are additional examples of machines or machines parts exempt from the tax, provided they are (1) used at a manufacturing facility, (2) used in, and serve an essential and indispensable component part of the manufacturing process, and are used on an ongoing and continuous basis during the manufacturing process, and (3) used substantially in manufacturing tangible personal property for sale:

(1) Buffing machines used to buff the cot of an exempt textile spinning machine to maintain the yarn quality at a consistent level.

(2) Traveling water screens used to filter water from a river, lake, or other water source at a water treatment plant processing water for sale.

(3) Quality control machines used in a lab at a manufacturing facility to test sample products being manufactured for sale.

- (4) Pressure washing machines and ultrasonic cleaning machines, used to clean exempt manufacturing machines or parts, when the cleaning of the exempt manufacturing machine or part is to ensure the functioning of the exempt machine or part during the manufacturing process or to ensure the quality of the product is maintained.
- (5) Machines or machine parts used in removing sawdust from saws in a sawmill that are either attached to the sawing mechanism or are essential in ensuring the quality of the product is maintained.
- (6) Trucks too large to be lawfully used upon the highways of this state, when used in quarry pits for transporting rock or granite from the blasting site to the crushing machine.
- (7) Sand handling and sand condition machines used by manufacturers for conditioning and transporting, while in process, and for use in mold making.
- (8) Tanks which are a part of the chain of processing operations.
- (9) Patterns which become parts or attachments for molding machines when purchased by a manufacturer for his use.
- (10) Machines used in making molds from sand for use in manufacturing tangible personal property for sale.
- (11) Machines used in measuring, or weighing, and packaging by manufacturers to put the product in condition for sale on the open market for the purpose for which it was produced.
- (12) Transformers, capacitors and voltage regulators used in manufacturing and processing tangible personal property for sale, used by producers or distributors of electricity which process the electricity, and all transformers used by other manufacturers as a part of their manufacturing machinery.
- (13) Machines used by cotton ginner in their processing operations.
- (14) Pasteurizing machines, cooling machines, mechanical separators, homogenizing machines and bottling machines used by dairies in processing milk for sale. The machine exemption does not extend to cover milking machines.
- (15) Boiler tubes used in repairing boilers used to furnish heat or power used in manufacturing tangible personal property for sale.
- (16) Machines used by persons in the business of producing scrap iron and other metals from junk for resale to steel mills and/or foundries, such as hydraulic baling presses (to compress sheet steel into bales), cranes (to feed scrap metals to baling press), and alligator shears (to cut scrap steel to predetermined sizes).
- (17) Machines used by dental laboratories in manufacturing for sale plates, bridgework, artificial teeth and other prosthetic devices.
- (18) Machines used in processing and manufacturing by electric power companies including all producing stationary machines in an electric power generating house, stationary, processing machines located in substation houses and transformers, pole or otherwise.
- (19) Starters, switches, circuit breakers and other electrical equipment which are parts of, or attachments of machines, come within the machine exemption. In order to be exempt this equipment must be either attached directly to the machine or be immediately adjacent thereto. Switchboards and control boards and cabinets controlling the general electrical supply system are not considered to be parts or attachments of machines used in manufacturing. (Note, however, that, switchboards, automatic or manually operated, which serve to operate exempt machinery may be classified a part or attachment thereto, provided, same are attached thereto or located within the same structure or compound.) The general rule is that power distribution machinery for operating machines used in manufacturing tangible personal property which starts at the main switch within the factory building or compound is exempt.
- (20) Machines used in the wood preserving process by persons engaged in the business of treating lumber or lumber products (wood preserving) which they own and treat for sale.
- (21) Gas pressure regulators located in the lead off from the gas main.
- (22) Machines used in the meatpacking process by meatpackers whose activities include the curing of meats and the production of animal by-products such as lard, sausages, or tankage.
- (23) Machines used by ice manufacturers in manufacturing ice for sale.

- (24) Machines used to condition air (including humidification systems) for quality control during the manufacturing process of tangible personal property made from natural fibers and synthetic materials. This exemption applies to the pipes and duct used to distribute the processed air to the production areas within the plant.
- (25) Recording instruments attached to manufacturing machines.
- (26) Machines used by a manufacturer in the tire recapping process.
- (27) Machines used by municipalities in processing or compounding water for sale.
- (28) Belting purchased for use on a particular machine used in manufacturing tangible personal property for sale even though such belting may not be purchased to the exact length required.
- (29) Machines purchased by persons in the business of collecting old and used paper (waste paper) for the purpose of grading, sorting and packaging the same for sale or resale to paper mills.
- (30) Insulation for pipe coverings, tank coverings, and boiler insulation purchased by a paper manufacturer from the vendor in its final prefabricated form for a specific insulation job, provided it does not have to be cut and fitted at the paper mill. Certain fabrication is permissible around valve openings, pipe openings at pipe joints, etc. Note, where insulation is purchased in blocks, such blocks are to be considered as taxable, except as noted above with respect to the purchase of material in building a machine used in manufacturing tangible personal property for sale.
- (31) Electrical equipment used as direct controls of machinery used in manufacturing is considered as part of manufacturing machinery.
- (32) Machines used for the generation of electricity, such as boilers, engines, condensers, generators, and transformers and their attachments.

117-302.6. Pollution Control Machines.

Code Section 12-36-2120(17) exempts from the sales or use tax the gross proceeds of the sale of machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property and the term "machine" includes parts of such machines, attachments and replacements therefor which are used or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and which are customarily so used ..." Frequently, these machines cannot be operated when the same pollute beyond regulated levels and in compliance with orders of agencies of the United States or of this state to abate or prevent pollution caused or threatened by the operation of such machines it is necessary to install other machines that are designed and operated exclusively for the purpose of abating or preventing this pollution. The purpose of this regulation is to classify the machines, their parts or attachments, as machines used in mining, quarrying, compounding, processing or manufacturing of tangible personal property when the same are installed and operated for compliance with an order of an agency of the United States or of this state to prevent or abate pollution caused or threatened by the operation of other machines used in the mining, quarrying, compounding, processing and manufacturing of tangible personal property.

The term "machine" as defined in Section 12-36-2120(17) shall include machines, their parts and attachments, when the same are necessary to comply with the order of an agency of the United States or of this state for the prevention or abatement of pollution that is caused or threatened by any machines used in the mining, quarrying, compounding, processing and manufacturing of tangible personal property. Any person engaged in the business of mining, quarrying, compounding, processing and manufacturing of tangible personal property shall furnish the department a certified statement from the ordering agency that any machine for which the exemption is claimed is necessary to prevent or abate pollution caused or threatened by the operation of other machines that are used in the mining, quarrying, compounding, processing or manufacturing of tangible personal property.

The order referred to herein must be issued by the agency of the United States or of this state that is primarily charged with the duty of preventing or abating the pollution.

117-309.12. Sellers of Oxygen, Propane or Butane.

Gases such as oxygen, etc., sold to hospitals, medical doctors, dentists, and others for professional use are subject to the sales or use tax, whichever may apply.

Sales of propane or butane gases or any similar gas, unless an otherwise exempt sale to a manufacturer or compounder, are subject to sales or use tax, whichever may apply.

Gas pressure regulators purchased by a seller of propane gas for use by such seller on storage tanks furnished to customers come within the exemption found at Section 12-36-2120(17). The proceeds derived from the sale or lease of such regulators to customers are subject to the tax.

117-315.3. Newspaper Publishers.

Newspapers are concerned with three distinct and separate activities in the production and publication of the finished product--a newspaper. While these operations may be interwoven in the overall production, for sales and use tax purposes, a separation must be made. These operations or phrases may be designated as follows:

1. News gathering
2. Composition and printing
3. Circulation

News is gathered by reporters, submitted by the public, and furnished from other news gathering sources through use of TWX and tape monitors. Pictures, mats, and engravings are secured by employees of the publisher, submitted by the public, purchased by the printing concern, or forwarded by wire from news gathering agencies.

Newspaper publishers customarily utilize machines and equipment with which to produce etchings from photographs. The etchings are forwarded to the composing room for assembly into page forms, (along with other type and engravings) in order to produce the newspaper mat.

Both the news and the advertising copy must go through what is known as the composing and stereotyping departments, where type is set by machines using what is known as type metal, then put together in page forms, and from there going to the stereotype department, where machines are used to imprint on what is known as newspaper mats, the type as set in the printing or compounding department. From this page mat a plate is cast by machine, using composition metal, which after being cast is attached to the printing machine or press cylinders and the matter thereon transferred to newsprint running through the machines. The metal used in producing the type and also in producing the plates is remelted and used over and over again, with the necessity of certain parts of it being from time to time refined. The mats used in making the plates necessary to complete the finished product are of no value after casting the original plate. Advertising mats may be retained for reuse in preparing subsequent issues.

Certain large size type is manufactured in the plant and all or most of the ordinary size type is manufactured in the plant.

In the preparation of type, etchings, plates, etc., a great deal of expensive and complicated machinery is used. In addition to linotype machines and other special machines for casting larger sized type, machines are used to fabricate "spacer" strips, saws and planners are used to prepare metal plates for the page forms, photographic machinery and equipment is used to prepare etchings, a complete foundry is maintained for melting, remelting and purifying the composition metal, together with other machinery.

Circulation may be effected by use of the mails, by newsboys, or other media.

It has been determined that the actual manufacturing process begins with machinery used in producing etchings (or plates) and ends with the machine used to bundle the finished newspaper for circulation. Excepted from the tax under these circumstances would be such machines as linotype and other machines used in preparing special type, machines used in transferring images from mats to flat metal plates, machines used in transferring images from these flat metal plates to newspaper mats, machines used in producing half round plates to be used on the printing presses, planners, saws, furnaces, mechanical conveyors and the actual printing press itself, together with the integrated conveyor thereon. Included also in this category would be the foundry machinery for melting and salvaging composition metal, machines used in making metal etchings, machinery used for preheating molds (mats) for casting and other like machinery.

Also exempted from the tax are such items as flecto sheets, seal tonic and toning alloys.

Newsprint paper, aside from being specifically exempted under the statute, is likewise an ingredient of the tangible personal property being manufactured for sale and is exempted from the tax. The same is true of ink which becomes an ingredient or component part of the property being manufactured for sale. Ink for any other purposes is subject to the tax.

Items subject to the tax under the above construction would consist of photographs, chemicals (except as otherwise noted) used in preparing etchings, news gathering equipment (such as tape monitors, TWX, and photo-transmission equipment); typewriters used in producing news copy by reporters, and of course, office supplies, equipment and machinery, together with any machines used in distribution of the finished product.

Engravings are exempted as parts or attachments to machines used in manufacturing, compounding or processing tangible personal property.

Newspaper mats have been exempted as constituting parts or attachments to machinery used in manufacturing tangible personal property. Note, however, that on purchases of advertising mats the department has held "... that such mats were exempt under the provisions of Section 12-36-2120 as being parts or attachments to machines used in manufacturing or processing tangible personal property for sale."

"However, the [department] held that catalogs or indices supplied in connection with such mat services would constitute the sale of tangible personal property and would therefore be subject to the tax."

A new process may make obsolete the linotype, or "hot process." Tape perforating machines, a computer and photo composing machinery are used to produce positive prints. These prints are affixed to page layouts, the layouts photographed and the resulting negatives used to make etchings. The etchings may then be used directly on the printing press in lieu of plates now produced by use of mats and type metal.

Tape perforating machines, computers and photo composing machines may be purchased tax-free when used as outlined above.

No tax is due on purchase of film and plates used in making etchings and engravings and chemicals which become a part of a finished etching or engraving. The exemption does not extend to film and chemicals used by reporters and other news gatherers.

Chemicals used directly in developing film and etching engravings for use by the publisher in manufacturing a newspaper may be purchased tax-free provided the machine in which the chemicals are used is exempted by Section 12-36-2120(17).

117-328. Radio and TV Stations.

Code Section 12-36-2120(26) exempts from the tax the sale of "all supplies, technical equipment, machinery and electricity sold to radio and television stations, and cable television systems, for use in producing, broadcasting or distributing programs. For the purpose of this exemption, radio, and television stations, and cable television systems are deemed to be manufacturers."

In light of the last sentence hereinabove, another statutory exemption (Code Section 12-36-2120(17)) is available. It reads that there is exempted from the measure of the tax levied, assessed or payable, "The gross proceeds of the sale of ... machines used in ... compounding, processing and manufacturing of tangible personal property; provided that the term 'machines,' as used in this article, shall include the parts of such machines, attachments and replacements therefor which are used, or manufactured for use, on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used; but this exemption shall not include automobiles or trucks ..."

An AM radio station is defined as a broadcasting station licensed by the Federal Communications Commission for the transmission of radiotelephone emissions primarily intended to be received by the general public and operated on a channel in the band 535-1605 kc/s. An FM radio station, including non-commercial educational radio stations, would come within the same definition except that it is operated on a channel in the band 88.1-107.9 mc/s. A television broadcasting station would also come within the same definition except that it is licensed to transmit both visual and aural radiotelephone emissions and is to be operated in the 54-890 mc/s frequency.

Sales of electricity to radio and television stations for use directly in producing programs and in broadcasting, and to provide necessary lighting therefor, are exempted from the sales and/or use tax. Also, electricity to operate air conditioning machinery necessary to the operation of exempt technical equipment and machinery and for live telecast is exempt from the tax.

Sales of electricity for any other purpose are subject to the tax, such as, but not limited to, electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control, comfort air conditioning, elevators, housekeeping equipment and machinery, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes and unit heaters.

The exemption applies to all purchases or rentals of supplies for use directly in the preparation of programs and in broadcasting, to include flash bulbs, paper supplies, stage properties when customarily re-used, such as stock articles of furniture and equipment, props (including materials from which props are fabricated), film, recording tape, artists supplies, chemicals for use in developing films, syndicated and feature films, phonograph records, transcriptions, script services, sheet music, syndicated tape and transcribed programs.

The term “technical equipment and machinery” is defined as specialized equipment and machinery peculiar to the industry when purchased for use directly in preparing programs or broadcasting. The term shall likewise include replacement parts and attachments therefor, and power wiring or cable connecting exempt technical equipment and machinery when such wiring is not built into and a part of a building or structure.

Examples of exempt technical equipment and machinery used in programming are timers, splicers, viewers, sound readers, projectors, screens, editing tables and lighting boards, darkroom equipment and machinery used for developing film for use in preparing programs, and cameras, recorders and mobile equipment and machinery (not including automobiles and trucks) used by station employees in newsgathering and in transmission.

Examples of studio technical equipment and machinery are: For radio stations, turntables, microphones, audio consoles, tape recorders, headphones and speech input equipment.

For television stations, all of the foregoing, and in addition, video switching equipment, cameras, film chains, slide projectors, film projectors, studio lighting and studio dimmer or light control boards.

Transmission equipment consists of AM, FM, and TV transmitters complete, to include coaxial cables or transmission lines connecting antennas to transmitters.

Antenna equipment consists of the antenna proper, not including towers and lights. (Note, however, when the tower is the antenna, as in AM radio, it is deemed to be exempt technical equipment.)

Purchases of broadcast testing machinery used primarily for the purpose of maintaining audio or visual transmission quality are not subject to the tax.

Machines, including typewriters, purchased for use primarily in producing program logs are exempted from the tax.

Machinery purchased for use in fabricating backdrops or props is not subject to the tax.

Subject to the tax are purchases of standard or stock articles of office equipment, such as desks, chairs, typewriters, billing machines, filing cabinets, film storage cabinets and general office supplies used in billing customers and for general office use; machinery, equipment and supplies (not including, however, tubes and replacement parts) for use in repairing technical equipment or machinery; and all purchases of building materials for use in constructing a building or structure, to include soundproofing materials for studios, radio or television towers (except as indicated hereinabove), plumbing fixtures, pipe, wiring, structural foundations (even though for exempt equipment or machinery) and air conditioning ductwork. (Note, however, that air conditioning machinery necessary to the production of live telecast and for the proper functioning of exempt technical equipment and machinery is not subject to the tax.)

12-36-2120(18)

fuel used exclusively to cure **agricultural products**;

FY2008-09 Estimate \$750,000

South Carolina Department of Revenue Regulations

117-301.6. Fuel.

Fuel used in farm machinery and farm tractors used in planting, cultivating, or harvesting farm crops and fuel used to cure agricultural products is exempt under Code Sections 12-36-2120(15) and 12-36-2120(18). This applies to fuel used in curing grain in grain elevators for storage or sale.

12-36-2120(19)

electricity used by cotton gins, manufacturers, miners, or quarriers to manufacture, mine, or quarry tangible personal property for sale. For purposes of this item, “manufacture” or “manufacture” includes the activities of processors;

FY2008-09 Estimate \$87,573,840

Department of Revenue Advisory Opinions

Private Letter Ruling 94-3: Materials Used in Road Construction

Revenue Ruling 94-2: Manufacturers and Construction Contractors

Private Letter Ruling 90-14: Electricity Used at a Wool Combing Plant

South Carolina Department of Revenue Regulations**117-302.4. Electricity.**

Electricity used by manufacturers, miners, quarriers, and processors to manufacture, mine, quarry, or process tangible personal property for sale is exempt from the tax under Code Section 12-36-2120(19).

Sales of electricity to manufacturers, miners, quarriers, and processors for use in operating machines manufacturing, mining, quarrying, or processing tangible personal property for sale and electricity to provide lighting necessary to the operation of such machines are exempted from the sales and use tax.

This exemption applies to electricity used to control plant atmosphere as to temperature and/or moisture content, in the quality control of tangible personal property being manufactured or processed for sale.

Sales of electricity for any other purpose are subject to the tax, such as but not limited to, electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control, comfort air conditioning, elevators used in carrying personnel, housekeeping equipment and machinery, machines used in manufacturing tangible personal property not for sale, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes, unit heaters and waste house lights.

12-36-2120(20)

railroad cars, locomotives, and their parts, monorail cars, and the engines or motors that propel them, and their parts;

FY2008-09 Estimate \$352,710

South Carolina Department of Revenue Regulations**117-311.6. Railroads, Lumber Used for Repairing Railroad Cars.**

Lumber especially fabricated for use in repairing railroad cars is entitled to be purchased free of the tax under Section 12-36-2120(20), which exempts, among other things, from payment of sales or use taxes, railroad cars or locomotives and the parts thereof.

117-311.1. Railroad Companies, Sales to.

Some railroads maintain storehouses, in South Carolina for the temporary storage of materials and supplies. Some of these materials and supplies are for use in South Carolina and some are for use in other states. Frequently, when materials are shipped to such storehouses, the railroad does not know what materials are for use in South Carolina, and what are for use in other states. Because of the impracticability of determining what proportion of such materials and supplies is subject to the tax at the time of their purchase, and because of the inequity of imposing the tax on the total purchase of such materials and supplies, the railroad may apply for a certificate under the provisions of Section 12-36-2510, which allows such railroad to purchase materials and supplies at wholesale, and to remit the use tax on the materials and supplies withdrawn for use or consumption within this state.

117-311.4. Railroad Companies--Machines.

Machines and machinery when sold to or used by railroad companies in maintaining, repairing, or reconditioning their equipment are subject to the sales or use tax, whichever may apply. The machine exemption is not construed as applying to machines or machinery purchased for use by railroad companies in maintenance operations.

117-311.6. Railroads, Lumber Used for Repairing Railroad Cars.

Lumber especially fabricated for use in repairing railroad cars is entitled to be purchased free of the tax under Section 12-36-2120(20), which exempts, among other things, from payment of sales or use taxes, railroad cars or locomotives and the parts thereof.

117-311.7. Railroads, Motor Oil Used in Diesel Engines.

Motor oil of the type used in the operation of a diesel engine for lubricating purposes does not qualify for fuel exemption even though it may be entirely consumed in such operation.

12-36-2120(21)

vessels and barges of more than fifty tons burden;

FY2008-09 Estimate \$169,546

12-36-2120(22)

materials necessary to assemble **missiles** to be used by the **Armed Forces of the United States**;

FY2008-09 Estimate Classified

12-36-2120(23)

farm, grove, vineyard, and garden products, if sold in the original state of production or preparation for sale, when sold by the producer or by members of the producers immediate family;

FY2008-09 Estimate \$412,400

Department of Revenue Advisory Opinions

Technical Advice Memorandum 88-20: Products of the Farm, Grove, Vineyard and Garden

South Carolina Department of Revenue Regulations

117-301.9. Sales by Farmers.

Sales of farm products are exempt if sold in their original state of production and sold by the farmer or a member of the farmer's immediate family. This exemption not only applies to sales of farm products by individuals; it also applies to sales by corporations and other entities. The exemption applies to food products, ornamental plants, timber, and grass sod.

The exemption is not applicable if the farmer processes his product beyond the usual and customary preparation for sale. For example, where a farmer also operates a processing plant, he cannot claim the exemption for sales of these processed products.

12-36-2120(24)

supplies and machinery used by laundries, cleaning, dyeing, pressing, or garment or other textile rental establishments in the direct performance of their primary function, but not sales of supplies and machinery used by coin-operated laundromats;

FY2008-09 Estimate \$3,261,287

Department of Revenue Advisory Opinions

Revenue Ruling 89-1: Uniform and Linen Rental Company-Laundering Supplies and Equipment

Revenue Ruling 88-7: Coin-Operated Laundromats

Technical Advice Memorandum 88-4: Farm Sales

South Carolina Department of Revenue Regulations**117-303.2. Rug and Carpet Cleaning.**

Persons operating places of business for the purpose of cleaning and/or dyeing of rugs must be licensed and must report and pay the sales tax measured by the gross proceeds derived from this cleaning or dyeing service. Such persons would be entitled to the exemptions found at Section 12-36-2120(24).

A person performing what is commonly referred to as janitorial service, that is washing windows, blinds, floors, rugs, upholstery, all or part thereof, in the home or place of business of his customers, is not liable for the license, but must pay the tax on all items of tangible personal property used in the performance of these services. This would also be true of a person whose sole business is the cleaning of rugs and carpets in the home or place of business of his respective customers.

Where a person or company operates in a dual capacity, which is to say, cleaning and dyeing of rugs in his own business establishment and also cleaning of rugs and carpets in the home or place of business of his customer, he would be liable for the license and the tax measured by the gross proceeds of the entire business, unless he can separate the two. Where he can satisfactorily separate the two, he should pay the tax on all supplies, machinery, equipment, etc., used in his house to house cleaning but would be entitled to the statutory exemptions at his plant and would he owe the tax there on the gross proceeds from his cleaning and dyeing operations.

12-36-2120(25)

motor vehicles (excluding trucks) or motorcycles, which are required to be licensed to be used on the highways, sold to a resident of another state, but who is located in South Carolina by reason of orders of the **United States Armed Forces**. This exemption is allowed only if within ten days of the sale the vendor is furnished a statement from a commissioned officer of the Armed Forces of a higher rank than the purchaser certifying that the buyer is a member of the Armed Forces on active duty and a resident of another state or if the buyer furnishes a leave and earnings statement from the appropriate department of the armed services which designates the state of residence of the buyer;

FY2008-09 Estimate \$2,225,000

Department of Revenue Advisory Opinions

Private Letter Ruling 90-11: Nonresident Military Sales Tax Exemption

Private Letter Ruling 90-2: Military Exemption-Autos

Private Letter Ruling 89-9: Nonresident Military Tax Exemption Certificates

Information Letter 88-8: Automobile Dealers-Military Exemption Certificates

12-36-2120(26)

all supplies, technical equipment, machinery, and electricity sold to radio and television stations, and cable television systems, for use in producing, broadcasting, or distributing programs. For the purpose of this exemption, radio stations, television stations, and cable television systems are deemed to be manufacturers;

FY2008-09 Estimate \$9,150,000

South Carolina Department of Revenue Regulations**117-328. Radio and TV Stations.**

Code Section 12-36-2120(26) exempts from the tax the sale of “all supplies, technical equipment, machinery and electricity sold to radio and television stations, and cable television systems, for use in producing, broadcasting or distributing programs. For the purpose of this exemption, radio, and television stations, and cable television systems are deemed to be manufacturers.”

In light of the last sentence hereinabove, another statutory exemption (Code Section 12-36-2120(17)) is available. It reads that there is exempted from the measure of the tax levied, assessed or payable, “The gross proceeds of the sale of ... machines used in ... compounding, processing and manufacturing of tangible personal property; provided that the term ‘machines,’ as used in this article, shall include the parts of such machines, attachments and replacements therefor which are used, or manufactured for use, on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used; but this exemption shall not include automobiles or trucks ...”

An AM radio station is defined as a broadcasting station licensed by the Federal Communications Commission for the transmission of radiotelephone emissions primarily intended to be received by the general public and operated on a channel in the band 535-1605 kc/s. An FM radio station, including non-commercial educational radio stations, would come within the same definition except that it is operated on a channel in the band 88.1-107.9 mc/s. A television broadcasting station would also come within the same definition except that it is licensed to transmit both visual and aural radiotelephone emissions and is to be operated in the 54-890 mc/s frequency.

Sales of electricity to radio and television stations for use directly in producing programs and in broadcasting, and to provide necessary lighting therefor, are exempted from the sales and/or use tax. Also, electricity to operate air conditioning machinery necessary to the operation of exempt technical equipment and machinery and for live telecast is exempt from the tax.

Sales of electricity for any other purpose are subject to the tax, such as, but not limited to, electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control, comfort air conditioning, elevators, housekeeping equipment and machinery, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes and unit heaters.

The exemption applies to all purchases or rentals of supplies for use directly in the preparation of programs and in broadcasting, to include flash bulbs, paper supplies, stage properties when customarily re-used, such as stock articles of furniture and equipment, props (including materials from which props are fabricated), film, recording tape, artists supplies, chemicals for use in developing films, syndicated and feature films, phonograph records, transcriptions, script services, sheet music, syndicated tape and transcribed programs.

The term “technical equipment and machinery” is defined as specialized equipment and machinery peculiar to the industry when purchased for use directly in preparing programs or broadcasting. The term shall likewise include replacement parts and attachments therefor, and power wiring or cable connecting exempt technical equipment and machinery when such wiring is not built into and a part of a building or structure.

Examples of exempt technical equipment and machinery used in programming are timers, splicers, viewers, sound readers, projectors, screens, editing tables and lighting boards, darkroom equipment and machinery used for developing film for use in preparing programs, and cameras, recorders and mobile

equipment and machinery (not including automobiles and trucks) used by station employees in newsgathering and in transmission.

Examples of studio technical equipment and machinery are: For radio stations, turntables, microphones, audio consoles, tape recorders, headphones and speech input equipment.

For television stations, all of the foregoing, and in addition, video switching equipment, cameras, film chains, slide projectors, film projectors, studio lighting and studio dimmer or light control boards.

Transmission equipment consists of AM, FM, and TV transmitters complete, to include coaxial cables or transmission lines connecting antennas to transmitters.

Antenna equipment consists of the antenna proper, not including towers and lights. (Note, however, when the tower is the antenna, as in AM radio, it is deemed to be exempt technical equipment.)

Purchases of broadcast testing machinery used primarily for the purpose of maintaining audio or visual transmission quality are not subject to the tax.

Machines, including typewriters, purchased for use primarily in producing program logs are exempted from the tax.

Machinery purchased for use in fabricating backdrops or props is not subject to the tax.

Subject to the tax are purchases of standard or stock articles of office equipment, such as desks, chairs, typewriters, billing machines, filing cabinets, film storage cabinets and general office supplies used in billing customers and for general office use; machinery, equipment and supplies (not including, however, tubes and replacement parts) for use in repairing technical equipment or machinery; and all purchases of building materials for use in constructing a building or structure, to include soundproofing materials for studios, radio or television towers (except as indicated hereinabove), plumbing fixtures, pipe, wiring, structural foundations (even though for exempt equipment or machinery) and air conditioning ductwork. (Note, however, that air conditioning machinery necessary to the production of live telecast and for the proper functioning of exempt technical equipment and machinery is not subject to the tax.)

12-36-2120(27)

all plants and animals sold to any publicly supported zoological park or garden or to any of its nonprofit support corporations;

FY2008-09 Estimate \$4,290

12-36-2120(28)

- (a) **medicine and prosthetic devices** sold by prescription, prescription medicines used to prevent respiratory syncytial virus, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the effects of any such treatment, free samples of prescription medicine distributed by its manufacturer and any use of these free samples;
- (b) hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar **diabetic supplies** sold to diabetics under the authorization and direction of a physician;
- (c) **disposable medical supplies** such as bags, tubing, needles, and syringes, which are dispensed by a licensed pharmacist in accordance with an individual prescription written for the use of a human being by a licensed health care provider, which are used for the intravenous administration of a prescription drug or medicine, and which come into direct contact with the prescription drug or medicine. This exemption applies only to supplies used in the treatment of a patient outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center;
- (d) **medicine donated** by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients; and
- (e) **dental** prosthetic devices;
- (f) prescription drugs dispensed to Medicare Part A patients residing in a nursing home are not considered sales to the nursing home and are not subject to the sales tax.”

FY2008-09 Estimate \$268,860,458

Department of Revenue Advisory Opinions

Private Letter Ruling 05-3: Medical Device Implant
 Private Letter Ruling 05-1: Radioactive Implant Seeds
 Private Letter Ruling 04-5: Medical Device Implant
 Private Letter Ruling 03-3: XYZ Ventilator System
 Revenue Ruling 03-2: Medicines, Prosthetic Devices and Other Medical Supplies
 Revenue Opinion 02-5: Medicines Sold by the South Carolina Department of Health and Environmental Control Central Pharmacy
 Revenue Advisory Bulletin 01-10: Medicines and Insecticides Sold to Veterinarians
 Private Revenue Opinion 01-4: Enteral Nutrition Formulas, Total Parenteral Nutritional Solutions, and Disposable Medical Supplies
 Revenue Ruling 98-9: Medical Products-Artery Disease
 Revenue Ruling 96-4: Nuclear Pharmacies-Radioactive Isotopes
 Private Letter Ruling 95-6: Blood Glucose Meters
 Private Letter Ruling 93-5: Medicine-Code Section 12-36-2120 (28)
 Private Letter Ruling 92-8: Guided Tissue Regeneration Device
 Private Letter Ruling 92-4: Electrical Devices Sold by Prescription
 Revenue Ruling 91-19: Dental Prosthetic Devices-Dental Labs
 Information Letter 90-2: Dental Prosthetic Devices
 Revenue Ruling 90-1: Dental Prosthetic Devices
 Information Letter 89-11: Dental Prosthetic Devices
 Technical Advice Memorandum 88-23: Sales by Veterinarians
 Private Letter Ruling 88-2: Prosthetic Devices Sold to Hospitals, Clinics & Doctors

South Carolina Department of Revenue Regulations

117-308.1. Professional Services.

Receipts from the performance of professional services are not subject to the sales tax.

The property used incidental to the performance of such services by licensed medical doctors, dentists, doctors of veterinary medicine, oculists, optometrists, lawyers, accountants, civil engineers, and other licensed professional men is subject to tax on its sale to such persons.

Note however, that a doctor, etc., may in addition to rendering a service, also be in the business of making sales of tangible personal property. For instance, a doctor may sell medicines.

In those cases where professional men are regularly engaged in the business of selling tangible personal property at retail, they must obtain a retail license and remit the taxes due on such sales.

117-308.2. Dentists.

Dentists use and consume equipment, supplies, and medicines in rendering professional service, which equipment, supplies and medicines, etc., are taxable at the time of its purchase by the dentists. Note: Sales of dental prosthetic devices to dentists are exempt from the tax.

117-308.3. Doctors.

Doctors are the consumers of the supplies, medicines, office furniture and fixtures and special tools and equipment they use in the practice of their profession. Sales of such supplies and equipment to doctors are retail sales and subject to the sales tax.

It is only when a doctor has a stock of drugs from which he makes numerous and substantial retail sales that he is required to have a retail license and to remit sales tax directly to the department.

117-309.12. Sellers of Oxygen, Propane or Butane.

Gases such as oxygen, etc., sold to hospitals, medical doctors, dentists, and others for professional use are subject to the sales or use tax, whichever may apply.

Sales of propane or butane gases or any similar gas, unless an otherwise exempt sale to a manufacturer or compounder, are subject to sales or use tax, whichever may apply.

Gas pressure regulators purchased by a seller of propane gas for use by such seller on storage tanks furnished to customers come within the exemption found at Section 12-36-2120(17). The proceeds derived from the sale or lease of such regulators to customers are subject to the tax.

117-332. Medicines, Prosthetic Devices and Hearing Aids.

Code Section 12-36-2120(28) exempts from the sales and use taxes:

- (a) medicines and prosthetic devices sold by prescription, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the effects of any such treatment, and free samples of prescription medicine distributed by its manufacturer and any use of these free samples;
- (b) hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics under the authorization and direction of a physician;
- (c) medicine donated by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients; and
- (d) dental prosthetic devices.

To assist in the administration of this exemption, the Department has adopted definitions for the terms “medicine” and “prosthetic devices” as follows:

“Medicine”—a substance or preparation used in treating disease.

“Prosthetic Device”—an artificial device to replace a missing part of the body.

The sale of prescription lenses that replace a missing part of the eye are exempted from the tax, as for example eyeglasses prescribed for a person whose natural lenses have been surgically removed.

Eyeglasses, contact lens, hearing aids and orthopedic appliances, such as braces, wheelchairs and orthopedic custom-made shoes, do not come within the exemption at Code Section 12-36-2120(28). However, sales of hearing aids are exempt pursuant to Code Section 12-36-2120(38).

Hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolelet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics are only exempt if sold pursuant to the written authorization and direction of a physician.

12-36-2120(29)

tangible personal property purchased by persons under a written **contract with the federal government** when the contract necessitating the purchase provides that title and possession of the property is to transfer from the contractor to the federal government at the time of purchase or after the time of purchase. This exemption also applies to purchases of tangible personal property which becomes part of real or personal property owned by the federal government or, as provided in the written contract, is to transfer to the federal government. This exemption does not apply to purchases of tangible personal property used or consumed by the purchaser;

FY2008-09 Estimate \$0

Department of Revenue Advisory Opinions

Revenue Ruling 04-9: Federal Government Construction Contracts

12-36-2120(30)

office supplies, or other commodities, and services resold by the **Division of General Services** of the State Budget and Control Board to departments and agencies of the state government, if the tax was paid on the divisions original purchase;

FY2008-09 Estimate \$0

Department of Revenue Advisory Opinions

Revenue Ruling 92-15: State Government and its Political Subdivisions

South Carolina Department of Revenue Regulations

117-304. Sales to, or Purchases by, the State, Counties, Municipalities and Other Political Subdivisions of the State.

Sales of tangible personal property by the State, counties, municipalities and other political subdivisions of the State (e.g. schools, sheriff offices, municipal housing authorities, welfare agencies) are subject to the sales tax, unless such sales fall within the provisions of Regulation 117-304.1 (transfers by State agencies to other agencies, counties or municipalities at cost) or are otherwise exempt. (See Code Sections 12-36-2120 and 12-36-2130 for the exemptions.)

Sales to, or purchases by, the State, counties, municipalities, and other local political subdivisions (e.g. schools, sheriff offices, municipal housing authorities, welfare agencies) of tangible personal property are subject to the sales and use tax, unless such sales fall within the provisions of Regulation 117-304.1 (transfers by State agencies to other agencies, counties or municipalities at cost) or are otherwise exempt. (See Code Sections 12-36-2120 and 12-36-2130 for the exemptions.)

“Tangible personal property” includes laundry and dry cleaning services, electricity, certain communications services, accommodation services and certain other services that are subject to the sales and use taxes under Chapter 36 of Title 12. Therefore, transactions with the State or its political subdivision involving these services are subject to the sales and use tax, unless such sales fall within the provisions of Regulation 117-304.1 (transfers by State agencies to other agencies, counties or municipalities at cost) or are otherwise exempt.

117-304.1. Transfers Between Agencies and Between the State and its Political Subdivisions.

An agency of the State of South Carolina is not deemed to be engaged in the business of selling tangible personal property at retail when transferring tangible personal property to another agency of the State or to a county or to a municipality if the consideration for the transfer only reimburses the transferring agency for its cost and expenses in conveying the property; provided transferring agency has paid tax on the initial purchase of the tangible personal property.

Where, however, a State agency sells tangible personal property to persons other than another State agency, county, or municipality for use or consumption, such sales shall be considered retail sales subject to the tax. The agency making the sale is required to be licensed as a retailer under the terms and provisions of the sales and use tax law.

12-36-2120(31)

vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration;

FY2008-09 Estimate \$5,316,000

Department of Revenue Advisory Opinions

Revenue Ruling 98-5: Exchange Agreements – Membership Accommodations and Timeshare Resorts

South Carolina Department of Revenue Regulations

117-307.5. Certain Exchanges of Accommodations Exempt from the Tax.

Code Section 12-36-2120(31) exempts from the sales tax on accommodations the gross proceeds accruing or proceeding from “vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration.”

12-36-2120(32)

natural and liquefied petroleum gas and electricity used exclusively in the **production** of poultry, livestock, swine, and milk;

FY2008-09 Estimate \$1,300,000

South Carolina Department of Revenue Regulations

117-301.7. Electricity and Gas.

The following sales of electricity and gas are exempt:

(a) sales of electricity and natural and liquefied petroleum gas to farmers for use in the production of livestock or milk (Code Section 12-36-2120(32)).

(b) sales of electricity for irrigating farms crops (Code Section 12-36-2120(44)).

Sale of electricity and gas to farmers for other uses are taxable.

12-36-2120(33)

electricity, natural gas, fuel oil, kerosene, LP gas, coal, or any other combustible heating material or substance used for residential purposes. Individual sales of kerosene or LP gas of twenty gallons or less by retailers are considered used for residential heating purposes;

FY2008-09 Estimate \$188,223,345

Department of Revenue Advisory Opinions

Private Ruling 04-4: Rental Fee for LP Gas Storage Tank

Private Letter Ruling 98-4: Propane Gas-Residential Use

Revenue Ruling 92-4: Electricity Used at Apartment Complexes

Revenue Ruling 89-5: Electricity Used for Residential Purposes at Charleston Air Force Base

South Carolina Department of Revenue Regulations

117-323. Exemption of the Gross Proceeds of the Sale of Combustible Heating Material or Substances Used for Residential Purposes.

Section 12-36-2120(33) exempts the gross proceeds of the sale of electricity, natural gas, fuel oil, coal or any other such combustible heating material or substance used for residential purposes.

For the purposes of the exemption, the term “residential purposes” as used in Section 12-36-2120(33), is construed to mean any space or area occupied by one or more individuals with the intent that such space or area serves as a residence, house, dwelling or abode. Included in the exemption are single family houses, duplexes, condominium units, apartments and mobile homes of a permanent type used by a person or persons as a place of residence, house, dwelling or abode. All sales to such locations would be exempt.

Electricity, natural gas, fuel oil, coal or any other type of combustible heating materials centrally metered or delivered to a central storage tank (or area) to duplexes, condominium units, apartments or mobile homes of a permanent type, and billed as such, would be considered as used for residential purposes and exempt.

Excluded from the exemption are hotels, motels, dormitories, nursing homes, summer camps, resort lodges and other dwellings of a temporary or transient nature. All sales to such locations would be taxable.

12-36-2120(34)

fifty percent of the gross proceeds of the sale of a **modular home** regulated pursuant to Chapter 43 of Title 23, both on-frame and off-frame. For purposes of this item only, “gross proceeds of sale” equals the manufacturer’s net invoice price of the modular home sold, including all accessories built in to the modular home at the time of delivery to the purchaser and not including freight or deposit on returnable materials. The manufacturer shall collect the tax and remit it to the Department of Revenue;

FY2008-09 Estimate \$1,890,000

Department of Revenue Advisory Opinions

Revenue Advisory Bulletin 00-02: Factory Fabricated Homes Built on Permanent Chassis
Private Letter Ruling 97-6: Sale of ABC Mobile Park
Technical Advice Memorandum 91-2: Modular Homes

South Carolina Department of Revenue Regulations**117-335.2. Modular Homes.**

The basis upon which the tax is calculated on a modular home (as regulated in Chapter 43 of Title 23) is only fifty percent of the “gross proceeds of sales” as defined in Code Section 12-36-2120(34). A modular home regulated under Chapter 43 of Title 23 cannot be considered a manufactured home, even if the home meets the definitional requirements of a manufactured home in Code Section 40-29-20.

The maximum tax provisions do not apply to modular homes. Local sales and use taxes that are administered and collected by the Department of behalf of local jurisdictions do apply to modular homes. The retail sale upon which the tax is based is the sale by the manufacturer to either the modular home dealer or home buyer, whichever is applicable. See Code Section 12-36-2120(34).

117-335.3. Other Factory Fabricated Buildings.

Sales of portable classrooms and storage type manufactured buildings, recreational vehicles (RVs), travel trailers, campers, manufactured condominiums and units, and like tangible personal property are not considered sales of manufactured homes or modular homes.

117-335.4 Furniture and Appliance.

Furniture and appliances are not considered a part of a manufactured or modular home, unless they are built-ins. For example, televisions, counter appliances, sofas, chairs and tables, even though sold with a home, are not a part of the home. Because these items are not a part of the home, they are taxed separately from the home at 5%, plus any applicable local sales and use tax, of their sales price less any trade-in allowed. The amount upon which the tax is calculated on furniture and appliances that are not built ins is the amount listed in the sales contract for these items or the retail fair market value of these items if the amounts for these items are not listed in the contract or if the amounts listed in the contract do not reasonably represent the retail fair market value of these items.

Items such as disposals, built-in dishwashers, and built-in stoves are considered a part of the home and are not taxed separately from the home if installed at the time of the retail sale of the home.

12-36-2120(35)

motion picture film sold or rented to or by theaters;

FY2008-09 Estimate \$2,825,765

12-36-2120(36)

tangible personal property where the seller, by contract of sale, is obligated to deliver to the buyer, or to an agent or donee of the buyer, at a point **outside this State** or to deliver it to a carrier or to the mails for transportation to the buyer, or to an agent or donee of the buyer, at a point outside this State;

FY2008-09 Estimate \$0

Department of Revenue Advisory Opinions

Revenue Ruling 05-4: Trailers, Semitrailers, and Pole Trailers

Private Letter Ruling 04-3: Sales Between Related Entities

Information Letter 03-6: Sale of a Motor Vehicle, Trailer, Semitrailer, and Pole Trailer to a Nonresident

Revenue Ruling 03-3: Gifts – Multistate Transactions

Information Letter 98-17: Sale of a Motor Vehicles, Trailers, Semitrailers, and Pole Trailers to
Nonresidents

Revenue Ruling 94-2: Manufacturers and Construction Contractors

Revenue Ruling 91-9: Lease or Rental of Tangible Personal Property

Private Letter Ruling 88-21: Catalogs Printed in South Carolina

12-36-2120(37)

petroleum asphalt products, commonly used in paving, purchased in this State, which are transported and consumed out of this State;

FY2008-09 Estimate \$614,000

Department of Revenue Advisory Opinions

Private Letter Ruling 94-3: Materials Used in Road Construction

12-36-2120(38)

hearing aids, as defined by Section 40-25-20 (5);

FY2008-09 Estimate \$2,148,568

12-36-2120(39)

concession sales at a festival by an organization devoted exclusively to public or charitable purposes, if:

(a) all the net proceeds are used for those purposes;

(b) in advance of the festival, its organizers provide the department, on a form it prescribes, information necessary to ensure compliance with this item.

For purposes of this item, a “festival” does not include a recognized state or county fair;

FY2008-09 Estimate \$475,000

12-36-2120(40)

containers and chassis, including all parts, components, and attachments, sold to international shipping lines which have a contractual relationship with the South Carolina State Ports Authority and which are used in the import or export of goods to and from this State;

FY2008-09 Estimate \$550,000

12-36-2120(41)

items sold by organizations exempt under Section 12-37-220A (3) and (4) and B (5), (6), (7), (8), (12), (16), (19), (22), and (24), if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual. An organization whose sales are exempted by this item is also exempt from the retail license tax provided in Article 5 of this chapter;

FY2008-09 Estimate \$6,725,000

Department of Revenue Advisory Opinions

Revenue Ruling 06-2: Use Tax Information for Individuals, Businesses and Nonprofits

Revenue Ruling 04-8: Fundraising Events by Nonprofit Organizations

Revenue Procedure 03-6: Exemption Certificates-Sales by Certain Nonprofit Organizations

Private Revenue Opinion 01-5: Events Conducted by a Nonprofit Religious Foundation

Information Letter 92-8: Religious Publications

12-36-2120(42)

depreciable assets, used in the operation of a business, pursuant to the sale of the business. This exemption only applies when the entire business is sold by the owner of it, pursuant to a written contract and the purchaser continues operation of the business;

FY2008-09 Estimate \$125,000

Department of Revenue Advisory Opinions

Revenue Advisory Bulletin 01-1: Sales Tax Exemption for Depreciable Assets When an Entire Business is Sold

12-36-2120(43)

all supplies, technical equipment, machinery, and electricity sold to motion picture companies for use in filming or producing **motion pictures**. For the purposes of this item, “motion picture” means any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media; and a “motion picture company” means a company generally engaged in the business of filming or producing motion pictures;

FY2008-09 Estimate \$42,179

Department of Revenue Advisory Opinions

Revenue Ruling 05-7: Motion Picture Production Company Exemption

12-36-2120(44)

electricity used to irrigate crops;

FY2008-09 Estimate \$53,340

South Carolina Department of Revenue Regulations

117-301.7. Electricity and Gas.

The following sales of electricity and gas are exempt:

(a) sales of electricity and natural and liquefied petroleum gas to farmers for use in the production of livestock or milk (Code Section 12-36-2120(32)).

(b) sales of electricity for irrigating farms crops (Code Section 12-36-2120(44)).

Sale of electricity and gas to farmers for other uses are taxable.

12-36-2120(45)

building materials, supplies, fixtures, and equipment for the construction, repair, or improvement of or that become a part of a self-contained enclosure or structure specifically designed, constructed, and used for the **commercial housing of poultry or livestock**.

FY2008-09 Estimate \$63,000

Department of Revenue Advisory Opinions

Revenue Ruling 95-11: Commercial Housing of Poultry and Livestock

Information Letter 95-1: Administrative Pronouncement: Wood Chips Used in Poultry Houses

South Carolina Department of Revenue Regulations

117-301.8. Building Materials, Supplies, Fixtures and Equipment for Commercial Housing of Poultry and Livestock.

Sales of building material, supplies, fixture, and equipment used in the construction, repair, or improvement a commercial housing of poultry or livestock, or that becomes part of a self-contained enclosure or structure designed, constructed and used for the commercial housing of poultry or livestock, are exempt under Code Section 12-36-2120(45).

This exemption applies to:

(a) wood chips for use on the floors of self-contained enclosures or structures specifically designed, constructed, and used for the commercial housing of poultry.

(b) fencing and fencing supplies when used to surround an area on all sides in order to protect livestock or poultry raised or maintained for commercial purposes. The exemption is applicable when the fencing and fencing supplies are used within a building such as a barn or a chicken house or used to surround a field that is specifically set aside and used for livestock or poultry that is raised or maintained for commercial purposes.

(c) watering tubs, feed troughs, and hay feeders placed within a fenced in area specifically set aside and used for livestock or poultry, provided the livestock and poultry within the enclosure are being raised or maintained for commercial purposes.

The exemption does not apply to fencing and fencing supplies used to surround a field where crops are grown.

12-36-21220(46)

War memorials or monuments honoring units or contingents of the Armed Forces of the United States or of the National Guard, including United States military vessels, which memorials or monuments are affixed to public property;

FY2008-09 Estimate \$50,000

Department of Revenue Advisory Opinions

Revenue Ruling 92-15: State Government and its Political Subdivisions

12-36-2120(47)

tangible personal property sold to charitable hospitals predominantly serving children exempt under Section 12-37-220, where care is provided without charge to the patient.

FY2008-09 Estimate \$50,000

Department of Revenue Advisory Opinions

Revenue Ruling 03-2: Medicine, Prosthetic Devices, and Other Medical Supplies

12-36-2120(48)

solid waste disposal collection bags required pursuant to the solid waste disposal plan of a county or other political subdivision if the plan requires the purchase of a specifically designated containment bag for solid waste disposal;

FY2008-09 Estimate \$38,979

12-36-2120(49)

postage purchased by a person engaged in the business of selling **advertising services** for clients consisting of mailing, or directing the mailing of, printed advertising material through the United States mail directly to the client's customers or potential customers or by a person to mail or direct the mailing of printed advertising material through the United States mail to a potential customer;

FY2008-09 Estimate \$825,000

12-36-2120(50)

(a) **recycling property**;

(b) electricity, natural gas, propane, or fuels of any type, oxygen, hydrogen, nitrogen, or gasses of any type, and fluids and lubricants used by a qualified recycling facility;

(c) tangible personal property which becomes, or will become, an ingredient or component part of products manufactured for sale by a qualified recycling facility;

(d) tangible personal property of or for a qualified recycling facility which is or will be used (1) for the handling or transfer of postconsumer waste material, (2) in or for the manufacturing process, or (3) in or for the handling or transfer of manufactured products;

(e) machinery and equipment foundations used or to be used by a qualified recycling facility;

(f) as used in this item, "recycling property", "qualified recycling facility", and "postconsumer waste material" have the meanings provided in Section 12-6-3460;

FY2008-09 Estimate \$2,827,022

12-36-2120(51)

material handling systems and material handling equipment used in the operation of a distribution facility or a manufacturing facility including, but not limited to, racks used in the operation of a distribution facility or a manufacturing facility and either used or not used to support a facility structure or part of it. To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall invest at least thirty-five million dollars in real or personal property in this State over the five-year period beginning on the date provided by the taxpayer to the department in its notices. The taxpayer shall notify the department in writing that it has met the thirty-five million dollar investment requirement or, after the expiration of the five years, that it has not met the thirty-five million dollar investment requirement. The department may assess any tax due on material handling systems and material handling equipment purchased tax-free pursuant to this item but due the State as a result of the taxpayer's failure to meet the thirty-five million dollar investment requirement. The running of the periods of limitations for assessment of taxes provided in Section 12-54-85 is suspended for the time period beginning with notice to the department before the taxpayer uses the exemption and ending with notice to the department that the taxpayer either has met or has not met the thirty-five million dollar investment requirement.

FY2008-09 Estimate \$1,400,000

Department of Revenue Advisory Opinions

Revenue Ruling 97-6: Material Handling Systems and Material Handling Equipment

12-36-2120(52)

Parts and supplies used by persons engaged in the business of **repairing or reconditioning aircraft** owned by or leased to the federal government or commercial air carriers. This exemption does not extend to tools and other equipment not attached to or that do not become a part of the aircraft.

FY2008-09 Estimate \$561,567

12-36-2120(53)

motor vehicle **extended service contracts** and motor vehicle **extended warranty contracts**.

FY2008-09 Estimate \$1,188,000

Department of Revenue Advisory Opinions

Revenue Ruling 06-9: Warranty, Maintenance and Similar Service Contracts

12-36-2120(54)

clothing and other attire required for working in a Class 100 or better as defined in Federal Standard 209E clean room environment.

FY2008-09 Estimate \$40,000

12-36-2120(55)

audiovisual masters made or used by a production company in making visual and audio images for first generation reproduction. For purposes of this item:

(a) “Audiovisual master” means an audio or video film, tape, or disk, or another audio or video storage device from which all other copies are made.

(b) “Production company” means a person or entity engaged in the business of making motion picture, television, or radio images for theatrical, commercial, advertising, or education purposes.

FY2008-09 Estimate \$60,000

12-36-2120(56)

Machines used in research and development. “Machines” includes machines and parts of machines, attachments, and replacements which are used or manufactured for use on or in the operation of the machines, which are necessary to the operation of the machines, and which are customarily used in that way. “Machines used in research and development” means machines used directly and primarily in research and development, in the experimental or laboratory sense, of new products, new uses for existing products, or improvement of existing products.

FY2008-09 Estimate \$2,640,000

12-36-2120(57)

(a) sales taking place during a period beginning **12:01 a.m. on the first Friday in August and ending at twelve midnight the following Sunday of:**

(i) clothing;

(ii) clothing accessories including, but not limited to, hats, scarves, hosiery, and handbags;

(iii) footwear;

(iv) school supplies including, but not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators;

(v) computers, printers and printer supplies, and computer software;

(vi) bath wash clothes, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs and mats, pillows, and pillow cases.

(b) The exemption allowed by this item does not apply to:

(i) sales of jewelry, cosmetics, eyewear, wallets, watches;

(ii) sales of furniture;

(iii) a sale of an item placed on layaway or similar deferred payment and delivery plan however described;

(iv) rental of clothing or footwear;

(v) a sale or lease of an item for use in a trade or business.

(c) Before July tenth of each year, the department shall publish and make available to the public and retailers a list of those articles qualifying for the exemption allowed by this item.

FY2008-09 Estimate \$2,900,000

Department of Revenue Advisory Opinions

Revenue Ruling 05-10: Sales Tax Holiday

Revenue Ruling 05-9: Sales Tax Holiday

12-36-2120(58)

cooperative direct mail promotional advertising materials and promotional maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus who are exempt from income taxation pursuant to Internal Revenue Code Section 501© delivered at no charge by means of interstate carrier, a mailing house, or a United States Post Office to residents of this State from locations both inside and outside the State. For purposes of this item, “cooperative direct mail promotional advertising materials” means discount coupons, advertising leaflets, and similar printed advertising, including any accompanying envelopes and labels which are distributed with promotional advertising materials of more than one business in a single package to potential customers, at no charge to the potential customer, of the businesses paying for the delivery of the material.

FY2008-09 Estimate \$800,000

12-36-2120(59)

facilities for transmitting electricity that is transferred, sold, or exchanged by electrical utilities, municipalities, electric cooperatives, or political subdivisions to a limited liability company which is subject to regulation under the Federal Power Act (16 U.S.C. Section 791(a)) and which is formed to operate or to take functional control of electric transmission assets as defined in the Federal Power Act;

FY2008-09 Estimate \$0

12-36-2120(60)

a lottery ticket sold pursuant to Chapter 150 of Title 59;

FY2008-09 Estimate \$47,564,188

12-36-2120(61)

copies of or access to legislation or other informational documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency's cost of the copies. Funds received as revenue from the sale of materials or as reimbursements for the cost of providing certain supplies or services or refunds must be remitted to the State Treasurer as collected, but in no event later than twelve working days from the date of the receipt of any such funds.

FY2008-09 Estimate \$5,000

Department of Revenue Advisory Opinions

Revenue Ruling 94-1: Legislative Agencies

12-36-2120(62)

seventy percent of the gross proceeds of the rental or lease of **portable toilets**.

FY2008-09 Estimate \$332,976

Department of Revenue Advisory Opinions

Revenue Advisory Bulletin 01-5: Rental of Portable Toilets

12-36-2120(63)

prescription and over-the-counter medicines and medical supplies, including diabetic supplies, diabetic diagnostic equipment, and diabetic testing equipment, sold to a health care clinic that provides medical and dental care **without charge to all of its patients.**

FY2008-09 Estimate \$229,700

12-36-2120(64)

Sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass.

FY2008-09 Estimate \$30,000

12-36-2120(65)

(a) **computer equipment**, as defined in subitem (b) of this item, used in connection with a technology intensive facility as defined in Section 12-6-3360(M)(14)(b), where:

(i) the taxpayer invests at least three hundred million dollars in real or personal property or both comprising or located at the facility over a five-year period;

(ii) the taxpayer creates at least one hundred new jobs at the facility during that five-year period, and the average cash compensation of at least one hundred of the new jobs is one hundred fifty percent of the per capita income of the state according to the most recently published data available at the time the facility's construction starts; and

(iii) at least sixty percent of the three hundred million dollars minimum investment consists of computer equipment.

(b) For the purposes of this item, "computer equipment" means original or replacement servers, routers, switches, power units, network devices, hard drives, processors, memory modules, motherboards, racks, other computer hardware and components, cabling, cooling apparatus, and related or ancillary equipment, machinery, and components, the primary purpose of which is to store, retrieve, aggregate, search, organize, process, analyze, or transfer data or any combination of these, or to support related computer engineering or computer science research.

© This exemption applies from the start of the investment in or construction of the facility as defined in subitem (a). The taxpayer shall notify the Department of Revenue of its use of the exemption provided in this item on or before the first sales tax return filed with the department after the first such use. Upon receipt of the notification, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes under this item. Within six months after the fifth anniversary of the taxpayer's first use of this exemption, the taxpayer shall notify the department in writing that it has or has not met the investment and job requirements of this item by the end of that five-year period. Once the department certifies that the taxpayer has met the investment and job requirements, all subsequent purchases of or investments in computer equipment, including to replace originally deployed computer equipment or to implement future expansions, likewise shall qualify for the exemption described above, regardless of when the taxpayer makes the investments.

(d) The department may assess any tax due on property purchased tax free pursuant to this item but due the State if the taxpayer subsequently fails timely to meet the investment and job requirements of this item after being granted the exemption; for purposes of determining whether the taxpayer has timely satisfied the investment requirement, replacement computer equipment counts toward the investment requirement to the extent that the value of the replacement computer equipment exceeds the cost of the computer equipment so replaced, but, provided the taxpayer otherwise qualifies for the exemption, the full value of the replacement computer equipment is exempt from sales and use tax. The running of the periods of limitation within which the department may assess taxes provided pursuant to Section 12-54-85 is suspended during the time period beginning with the taxpayer's first use of this exemption and ending with the later of the fifth anniversary of first use or notice to the department that the taxpayer either has met or has not met the investment and job requirements of this item;

FY2008-09 Estimate \$0

12-36-2120(66)

electricity used by a technology intensive facility as defined in Section 12-6-3360 (M) (14) (b) and qualifying for the sales tax exemption provided pursuant to item (65) of this section, and the equipment and raw materials including, without limitation, fuel used by such qualifying facility to generate, transform, transmit, distribute, or manage electricity for use in such a facility.

FY2008-09 Estimate \$0

12-36-2120(67)

effective July 1, 2011, construction materials used in the construction of a single manufacturing and distribution facility with a capital investment of at least one hundred million in real and personal property in the State over an eighteen-month period. The taxpayer must provide notice of the exemption, and the Department of Revenue may assess taxes owing in the manner provided in Section 12-36-2120 (51).

FY2008-09 Estimate \$14,160,000

Department of Revenue Advisory Opinions

Private Letter Ruling 91-6: Prefabricated Structural Components

Revenue Ruling 89-16: Out-of-State Retailers' Liability for Use Tax

12-36-2120(68)

any property sold to the public through a **sheriff's sale** as provided by law.

FY2008-09 Estimate \$331,872

12-36-2120(69)

the sale or renewal of a warranty, maintenance, or similar service contract for tangible personal property if the sale or purchase of the tangible personal property covered by the contract is exempt or excluded from the tax imposed by this chapter.

FY2008-09 Estimate \$0

12-36-2120(70)

gold, silver, or platinum bullion, or any combination of this bullion;

FY2008-09 Estimate \$82,860

12-36-2120(71)

any device, equipment, or machinery operated by hydrogen or fuel cells, any device, equipment, or machinery used to generate, produce, or distribute hydrogen and designated specifically for hydrogen applications or for fuel cell applications, and any device, equipment, or machinery used predominantly for the manufacturing of, or research and development involving hydrogen or fuel cell technologies. For purposes of this item:

FY2008-09 Estimate \$0

12-36-2120(72)

any building materials used to construct a new or renovated building or any machinery or equipment located in a research district. However, the amount of the sales tax that would be assessed without the exemption provided by this section must be invested by the taxpayer in hydrogen or fuel cell machinery or equipment located in the same research district within twenty-four months of the purchase of an exempt item.

FY2008-09 Estimate \$1,200,000

12-36-2120(73)

an amusement park ride and any parts, machinery, and equipment used to assemble, operate, and make up an amusement park ride or performance venue facility located in a qualifying amusement park or theme park and any related or required machinery, equipment, and fixtures located in the same qualifying amusement park or theme park.

FY2008-09 Estimate \$3,900,000

12-36-2120(74)

durable **medical equipment** and related supplies:

FY2008-09 Estimate \$2,370,831

Department of Revenue Advisory Opinions

Revenue Ruling 07-4: Exemption for Unprepared Food – November 1, 2007

12-36-2120(75)

unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons. However, the exemption allowed by this item applies only to the state sales and use tax imposed pursuant to this chapter."

FY2008-09 Estimate \$354,140,625

Department of Revenue Advisory Opinions

Revenue Ruling 06-5: Sale Tax Rate Reduction for Unprepared Foods

Temporary Revenue Ruling 06-5: Sale Tax Rate Reduction for Unprepared Foods

EXEMPTIONS FROM USE TAX

Exempted from the use tax imposed by Article 13 of this chapter are the sales prices of:

SECTION 12-36-2130 (1)

property the **gross proceeds of sales** of which are required to be included in the measure of the tax imposed by the provisions of Article 9 of this chapter and on which the tax has been paid by its seller or retailer.

Included with Sales Tax

Department of Revenue Advisory Opinions

Revenue Ruling 98-18: Catawba Indian Claims Settlement Act

12-36-2130(2)

tangible personal property and exhibition rentals purchased or leased from sources outside this State by charitable, eleemosynary, or governmental organizations operating museums if the property purchased or leases entered into are directly related to museum purposes.

FY2008-09 Estimate \$51,000

DISCOUNT FOR TIMELY PAYMENT OF TAX

SECTION 12-36-2610

When a sales or use tax return required by Section 12-36-2570 and a local sales and use tax law administered and collected by the department on behalf of a local jurisdiction is filed and the taxes due on it are paid in full on or before the final due date, including any date to which the time for making the return and paying the tax has been extended pursuant to the provisions of Section 12-54-70, the taxpayer is allowed a discount as follows:

- (1) on taxes shown to be due by the return of less than one hundred dollars, three percent;
- (2) on taxes shown to be due by the return of one hundred dollars or more, two percent.

In no case is a discount allowed if the return, or the tax on it is received after the due date, pursuant to Section 12-36-2570, or after the expiration of any extension granted by the department. The discount permitted a taxpayer under this section may not exceed three thousand dollars during any one state fiscal year. However, for taxpayers filing electronically, the discount may not exceed three thousand one hundred dollars. A person making sales into this State who cannot be required to register for sales and use tax under applicable law but who nevertheless voluntarily registers to collect and remit use tax on items of tangible personal property sold to customers in this State is entitled to a discount on returns filed as otherwise provided in this section not to exceed ten thousand dollars during any one state fiscal year.

FY2008-09 Estimate \$22,075,772

SALES AND USE TAXES COMPOSED OF TWO COMPONENTS

The taxes imposed by Sections 12-36-910, 12-36-920(B), 12-36-1310, and 12-36-1320 are composed of two taxes as follows:

SECTION 12-36-2620

(1) **a four percent tax**, which must be credited as provided in Section 59-21-1010(A), and
(2) **a one percent tax**, which must be credited as provided in Section 59-21-1010(B). The one percent tax specified in this item does not apply to sales to an individual eighty-five years of age or older purchasing tangible personal property for his own personal use, if at the time of sale, the individual requests the one percent exclusion from tax and provides the retailer with proof of age.

FY2008-09 Estimate \$5,473,960

PROVISIONS CONTAINED IN ANNUAL APPROPRIATIONS ACT

Proviso 72.86

(GP: Respiratory Syncytial Virus Prescription Sales and Use Tax Exemption) The effective date of the exemption from sales and use tax of **prescription medicines used to prevent respiratory syncytial virus** shall be January 1, 1999. No refund of sales and use taxes may be claimed as a result of this provision.

FY2008-09 Estimate \$2,128,317

Proviso 72.97

(GP: Viscosupplementation Therapies Sales and Use Tax Exemption) For the current fiscal year only, sales and use taxes on **viscosupplementation therapies** shall be suspended. No refund or forgiveness of tax may be claimed as a result of this provision.

FY2008-09 Estimate \$397,113

TOTAL OF SALES & USE TAX EXEMPTIONS

FY2008-09 Estimate \$2,753,712,595

Sales & Use Tax Exemptions FY2008-09 Summary Table
Appendix A

SALES AND USE TAX EXEMPTIONS FY2008-2009

Line	Code Section	Year Enacted	Description of Exemption	Exemption Estimate (Dollars)	Subtotal (Dollars)
1	12-36-2110		Maximum Sales Tax Caps		
2	A	1984	Motor vehicles, motorcycles, boats, airplanes, trailer or semitrailer pulled by a truck, horse trailers, recreational vehicles, and self-propelled light construction equipment	173,056,796	
3	(A)(1)		Airplanes		1,215,000
4	(A)(2)		Motor Vehicles		152,868,972
5	(A)(3)		Motorcycles		2,331,000
6	(A)(4)		Boats		4,954,212
7	(A)(5)		Semitrailers and Horse Trailers		825,527
8	(A)(6)		Recreational Vehicles		7,912,005
9	(A)(7)		Self-propelled light construction equipment with a maximum of 160 net engine horsepower		2,930,080
10	B		Sale of Manufactured Homes	26,600,899	
11	C		The sale of musical instruments or office equipment purchased by religious organizations	87,000	
12	D		Repealed: Machines used in research and development (refer to Section 12-36-2120(56))	Repealed	
13	E		Equipment provided, supplied, or installed on a firefighting vehicle	870,000	
14					
15	12-36-2120		Exemptions From Sales Tax		
16	(1)	1951	Exemptions prohibited by the US or SC Constitutions	0	
17	(2)	1984	Tangible personal property sold to the federal government	253,000,000	
18	(3)	1951	Publications and on-line access used in a course of study in all schools or for students' use in the school library	21,527,465	
19	(4)	1951	Sale of livestock used primarily as beasts of burden and livestock that provide, food, pelts, or fur.	58,877,400	
20	(5)	1951	Feed for production and maintenance of poultry and livestock	16,303,860	
21	(6)	1951	Insecticides, chemicals, fertilizers, soil conditioners, seeds, seedlings, or nursery stock, used in production of farm products, or in the cultivation of poultry or livestock feed.	15,859,740	
22	(7)	1951	Containers and labels used for preparing agriculture, dairy, grove, garden, turpentine and gum resin for sale	600,000	
23	(8)	1951	Newsprint paper, newspapers, religious publications, and Dept. of Agriculture's "Market Bulletin"	12,053,099	
24			Newsprint paper		5,058,823
25			Newspaper sales		6,983,466
26			Market Bulletin		10,800
27	(9)	1951	Coal, coke, or fuel sold to manufacturers, electric power companies, and transportation companies	102,909,706	
28			Electric Utility		51,595,731
29			Other Industry		51,313,975
30			Transportation		0
31	(10)	1951	Meals or foodstuffs used in school meals, for the elderly, disabled, homeless, or needy.	7,043,478	
32	(11)	1986	Toll charges for transmission of messages and transactions	73,649,975	
33	(A)		Voice messages between telephone exchanges (long distance)		45,766,650
34	(B)		Telegraph messages		negligible
35	(C)		Carrier and customer access charges established by FCC or SC Public Service Commission		22,883,325
36	(D)		Automatic teller machine transactions		5,000,000
37	(12)	1951	Water sold by public utilities, if rates and charges are the kind determined by the Public Service Commission or sold by a nonprofit corporation falling under Chapter 36 of Title 33	27,283,200	
38	(13)	1951	Vessel Bunkering	1,527,097	
39	(14)	1951	Wrapping paper, twine, bags, and containers for sale and delivery of tangible personal property	24,974,700	
40	(15)	1988	Fuel under Chapter 28 Title 12	499,687,500	
41	(A)		On-Highway		470,600,700

SALES AND USE TAX EXEMPTIONS FY2008-2009

Line	Code Section	Year Enacted	Description of Exemption	Exemption Estimate (Dollars)	Subtotal (Dollars)
42	(A)		Off-Highway		29,086,800
43	(C)		Farm machinery and tractors		4,421,850
44	(D)		Commercial fishing vessels		12,739,950
45			Construction		9,931,500
46			Military		1,993,500
47	(16)	1951	Farm machinery and replacement parts and attachments used in planting, cultivating or harvesting farm crops, preservation of milk on dairy farms, poultry products on poultry farms, when sold in the original state of production or preparation for sale.	7,278,240	
48	(17)	1951	Machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale	63,077,125	
49	(18)	1951	Fuel to cure agriculture products	750,000	
50			Cure Tobacco		
51			Cure Corn		
52			Cure Peanuts		
53	(19)	1951	Electricity for cotton gins, manufacturers, miners, or quarries for the sale of tangible personal property	87,573,840	
54	(20)	1951	Railroad cars, locomotives and their parts, monorail cars, and engines or motors that propel them, and parts	352,710	
55	(21)	1951	Vessels and barges more than 50 tons burden	169,546	
56	(22)	1990	Missile assembly materials used by the Armed Forces of the US	Classified	
57	(23)	1951	Farm, grove, vineyard and garden products sold in original state of production or preparation for sale, when sold by the producer or members of the producers immediately family	412,400	
58	(24)	1986	Supplies and equipment bought by laundries, dry cleaners, and carpet cleaners	3,261,287	
59	(25)	1985	Out of state residents of the US Armed Forces vehicle purchases when by reason of orders is located in SC	2,225,000	
60	(26)	1993	Supplies, technical equipment, machinery, and electricity sold to television and radio stations, and cable television systems	9,150,000	
61	(27)	1990	Plants and animal sales to public zoo's or gardens or its nonprofit support corporations	4,290	
62	(28)	1976	Medicine and prosthetic devices sold by prescription, radiopharmaceuticals used in treatment of cancer and other related diseases, free samples donated by manufacturer, and medicines used to prevent respiratory syncytial virus	585,340,273	
63	(A)		Medicine and prosthetic devices		568,543,886
64	(B)		Diabetic supplies		15,533,652
65	(C)		Disposable medical supplies used in the treatment of patient outside of a hospital or skilled nursing facility		143,280
66	(D)		Prescriptions donated to SC medical schools		44,000
67	(E)		Dental prosthetics		1,075,455
68	(29)	1996	Sale of tangible personal property by persons under written contract with the federal government where the property is later transferred to the federal government	0	
69	(30)	1978	Supplies, commodities, and services resold by Div. of General Services of SCB&CB to department and state agencies, if the tax was paid on the divisions original purchase	0	
70	(31)	1979	Vacation time sharing plans, vacation multiple ownership interests, and exchanges of interests in vacation time sharing plans and vacation multiple ownership interests as provided by Chapter 32 of Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration	5,316,000	
71	(32)	1979	Natural and liquefied petroleum gas and electricity used exclusively in the production of poultry, livestock, swine, and milk	1,300,000	
72	(33)	1979	Electricity or any combustible heating material or substance use for residential purposes	188,223,345	
73			Electricity		149,226,240
74			Natural Gas		26,250,545
75			Kerosene		2,692,127
76			Fuel Oil		1,066,673
77			Coal		0
78			LP Gas		8,987,760

SALES AND USE TAX EXEMPTIONS FY2008-2009

Line	Code Section	Year Enacted	Description of Exemption	Exemption Estimate (Dollars)	Subtotal (Dollars)
79	(34)	1980	Modular homes 50% of gross proceeds of the sale	1,890,000	
80	(35)	1983	Motion picture film sold or rented to or by theaters	2,825,765	
81	(36)	1983	Tangible personal property sold out of state	0	
82	(37)	1983	Petroleum asphalt products, used in paving, purchased in this state, which are transported and consumed out of state	614,000	
83	(38)	1985	Hearing aids	2,148,568	
84	(39)	1986	Concession sales at a festival by an organization devoted exclusively to public or charitable purposes	475,000	
85	(40)	1988	Containers and chassis including parts sold to international shipping lines in contract with SCSA and used for import and export of goods to and from South Carolina	550,000	
86	(41)	1989	Organizations exempt under 12-37-220(A), (3-4), and B(5-8), (12), (16), (19), (22), and (24) if the net proceeds are used exclusively for exempt purposes and no benefit inures to any individual	6,725,000	
87	(42)	1989	Depreciable assets used in the operation of a business pursuant to the sale of the business, when the entire business is sold by the owner	125,000	
88	(43)	1991	All supplies, technical equipment, machinery, and electricity sold to motion picture companies for use in filming or producing a motion picture	42,179	
89	(44)	1991	Electricity to irrigate crops	53,340	
90	(45)	1991	Building materials, supplies, fixtures, and equipment for the construction repair or improvement of commercial housing of poultry or livestock	63,000	
91	(46)	1991	War memorials or monuments affixed to public property	50,000	
92	(47)	1994	Tangible personal property sold to charitable hospitals serving children where care is provided without charge	50,000	
93	(48)	1994	Solid waste disposal collection bags when the county or political subdivision requires the purchase of a specific bag for solid waste disposal	38,979	
94	(49)	1994	Postage paid by a person engaged in the business of selling advertising services for clients	825,000	
95	(50)	1995	Recycling property	2,827,022	
96	(51)	1996	Material handling systems and equipment used in distribution facilities	1,400,000	
97	(52)	1996	Parts and supplies used by business for repairing aircraft owned or leased by commercial carriers	561,567	
98	(53)	1996	Motor vehicle extended service contracts and warranties	1,188,000	
99	(54)	1999	Clothing and attire for working in a Class 100 or better clean room environment	40,000	
100	(55)	2000	Audiovisual masters	60,000	
101	(56)	2000	Machines used in research and development	2,640,000	
102	(57)	2000	Sales tax holiday in August	2,900,000	
103	(58)	2000	Cooperative direct mail promotional advertising materials, and maps, brochures, pamphlets, or discount coupons by nonprofit chambers of commerce or convention and visitor bureaus, delivered to residents of SC from locations inside or outside the State	800,000	
104	(59)	2001	Facilities for transmitting electricity that is transferred, sold, or exchanged to a limited liability company controlling electric transmission assets	0	
105	(60)	2001	Lottery tickets	47,564,188	
106	(61)	2002	Copies of or access to legislation or other information documents provided to the general public or any other person by a legislative agency when a charge for these copies is made reflecting the agency's cost of the copies	5,000	
107	(62)	2003	Seventy percent of portable toilet gross rental sales or leases	332,976	
108	(63)	2005	Prescriptions and over the counter medicines and supplies sold to charitable clinics	229,700	
109	(64)	2005	Sweet grass baskets made by SC artists	30,000	
110	(65)	2006	Computer equipment used in a technology intensive facility	0	
111	(66)	2006	Electricity used by a technology intensive facility	0	
112	(67)	2006	Sales tax on construction materials of a single manufacturing or distribution facility with a capital investment of at least \$100 million in real and personal property at a single site.	14,160,000	
113	(68)	2006	Any property sold to the public through a sheriff's sale as provided by law	331,872	
114	(69)	2006	The sale or renewal of a warranty, maintenance, or similar service contract if the sale of the personal property is exempt from tax under Chapter 36	0	
115	(70)	2007	Gold, silver, or platinum bullion; legal tender coins and currency	82,860	
116	(71)	2007	Any device, equipment, or machinery operated by hydrogen fuel cells, or used to generate, produce, or distribute hydrogen	0	

SALES AND USE TAX EXEMPTIONS FY2008-2009

Line	Code Section	Year Enacted	Description of Exemption	Exemption Estimate (Dollars)	Subtotal (Dollars)
117	(72)	2007	Building materials used to construct a new or renovated building or any machinery or equipment located in a research district	1,200,000	
118	(73)	2007	Amusement park rides and any parts, machinery, and equipment to assemble and operate a ride or performance venue	3,900,000	
119	(74)	2007	Durable medical equipment which is paid by state or federal Medicaid funds	2,370,831	
120	(75)	2007	Unprepared food that may be purchased with United States Department of Agriculture food coupons	354,140,625	
121					
122	12-36-2130				
123	(1)		Use Tax Exemption		
124	(2)		Purchases made by museums	Included with Sales Tax 51,000	
125					
126	12-36-2610		Discount for timely filed payment of tax, maximum discount of \$10,000 for voluntarily registered out-of-state retailers and \$3,000 for all other retailers (\$3,100 for retailers filing by EFT)	22,075,772	
127					
128	12-36-2620				
129	(2)		1% sales tax exemption for those 85 years and older	5,473,960	
130					
131			Provisos		
132	72.86	2005	Respiratory syncytial virus medicines	2,128,317	
133	72.97	2006	Viscosupplementation therapies sales	397,113	
134					
135			Total Sales and Use Tax Exemptions	\$2,753,712,595	