**A** **BILL**

TO ENACT THE SOUTH CAROLINA JOB CREATION AND COMPETITIVENESS ACT OF 2022, BY REPEALING CHAPTER 6 AND CHAPTER 20, TITLE 12 OF THE 1976 CODE, RELATING TO THE SOUTH CAROLINA INCOME TAX ACT AND CORPORATE LICENSE FEES, BY ADDING CHAPTER 7 TO TITLE 12, RELATING TO INCOME TAX, TO PROVIDE THAT SOUTH CAROLINA TAXABLE INCOME FOR INDIVIDUALS, ESTATES, AND TRUSTS IS EQUAL TO THE THREE AND ONE HALF PERCENT OF THE DIFFERENCE BETWEEN THE FEDERAL TAXABLE INCOME OF THE TAXPAYER AND THE STATE STANDARD DEDUCTION, TO PROVIDE FOR THE STATE STANDARD DEDUCTION, TO PROVIDE FOR AN EARNED INCOME TAX CREDIT, TO PROVIDE FOR INCOME TAXES PAID TO ANOTHER STATE, AND TO PROVIDE FOR THE TECHNICAL ASPECTS OF THE DEPARTMENT OF REVENUE IMPLEMENTING THIS CHAPTER; AND TO AMEND SECTION 12-36-2120 OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE SALES AND USE TAX TO REPEAL CERTAIN EXEMPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited and referred to as the “South Carolina Job Creation and Competitiveness Act of 2022.”

SECTION 2. (A) Chapter 6, Title 12 of the 1976 Code, relating to the South Carolina Income Tax Act, is repealed.

(B) Chapter 20, Title 12 of the 1976 Code, relating to Corporate License Fees, is repealed.

SECTION 3. Title 12 is amended by adding:

“Chapter 7

Income Tax

Article 1

Section 12-7-10. The Department of Revenue shall administer and enforce the taxes imposed by this chapter. The department shall make and publish rules and regulations, consistent with this chapter, necessary to enforce its provisions. These rules and regulations have the force of law.

Section 12-7-20. For the purposes of this chapter:

(1) "Taxpayer" includes an individual, trust, estate, partnership, association, or any other entity subject to the tax imposed by this chapter or required to file a return.

(2) "Resident individual" means an individual domiciled in this State. A "nonresident individual" means an individual other than a resident individual or a part‑year resident.

(3) "Part‑year resident" means an individual who is a resident individual for only a portion of the tax year.

(4) "Pass‑through businesses entities" means sole proprietorships, partnerships, and "S" corporations, including limited liability companies taxed as sole proprietorships, partnerships, or "S" corporations.

(5) "Resident estate" means the estate of a decedent who was domiciled in this State at death. "Nonresident estate" means an estate other than a resident estate.

(6) "Resident trust" means a trust administered in this State. "Nonresident trust" is a trust other than a resident trust.

(7) "Resident beneficiary" means a beneficiary of an estate or trust who is a resident individual, resident estate, resident trust, resident partnership, or resident corporation. "Nonresident beneficiary" means a beneficiary other than a resident beneficiary.

(8) "Resident partner" means a partner who is a resident individual, resident estate, resident trust, or resident corporation or resident partnership during the taxable year. "Nonresident partner" means a partner other than a resident partner.

Section 12-7-30. (A) A tax is imposed at the rate of three and one-half percent on the South Carolina taxable income of individuals, estates, and trusts and any other entity.

(B) For purposes of Internal Revenue Code Section 641(c), an electing small business trust is taxed at the same rate provided for in subsection (A).

(C) An income tax is imposed annually at the same rate provided for in subsection (A) on the South Carolina taxable income of an organization described in Internal Revenue Code Sections 501 through 528 (Exempt Organizations) and 1381 (Cooperatives) as computed under Internal Revenue Code Sections 501(b) (unrelated business income), 528(d) (taxable income of homeowners' associations), and 1382 and 1383 (taxation of cooperatives).

Section 12-7-40. (A) South Carolina taxable income for individuals is equal to the individual taxpayer’s federal taxable income as determined pursuant to the Internal Revenue Code and the state standard deduction subject to the modifications contained in item (1) and (2) of this subsection, Section 12-7-50, and Section 12-7-60.

(1) The state standard deduction for an individual filing an income tax return pursuant to Section 12-7-310(1)(a) is twelve thousand dollars.

(2) The state standard deduction for an individual filing an income tax return pursuant to Section 12-7-310(1)(b) is twenty four thousand dollars.

(B) South Carolina taxable income for all other filers pursuant to this chapter is the taxpayer’s federal taxable income.

Section 12-7-50. (A) There is allowed as a nonrefundable credit against the tax imposed pursuant to Section 12‑7‑30 on a full‑year resident individual taxpayer an amount equal to one hundred twenty‑five percent of the federal earned income tax credit (EITC) allowed the taxpayer pursuant to Internal Revenue Code Section 32.

(B) Notwithstanding the calculation to determine the amount of the credit allowed pursuant to subsection (A), the credit allowed pursuant to this section shall be equal to the amount of the credit allowed in 2018.

Section 12-7-60. (A)(1) Resident individuals are allowed a credit against the taxes imposed by this chapter for income taxes paid to another state on income from sources within that state which is taxed under both this chapter and the laws of that state regardless of the taxpayer's residence.

(2) The credit allowed is the lesser of:

(a) the product of the fraction in which the numerator is total South Carolina income which is subject to income tax in another state and the denominator is total federal income adjusted by the modifications provided in Section 12-7-40 and Section 12-7-50, multiplied by South Carolina income tax before the credit allowed by this section; or

(b) the income tax actually paid to the other state on income taxed under this chapter.

(3) A copy of the income tax return filed with the other state must be filed with the South Carolina tax return at the time credit is claimed. If the credit is claimed because of a deficiency assessment notice, a copy of the notice and a receipt showing the payment must be filed.

(B) If a taxpayer is refunded or credited taxes paid to another state for which a credit has been allowed under this section, then a tax equal to that portion of the credit allowed is due and payable from the taxpayer within sixty days from the date the refund or the notice of the credit is received. If the amount of the tax is not paid within sixty days of receipt or notice, the taxpayer is subject to penalties and interest for failure to pay provided in Chapter 54 of this title.

(C) If a taxpayer is considered a resident of this State and is also considered a resident of another state under the laws of the other state, then the department may, at its discretion, allow a credit against South Carolina income taxes for those taxes paid to the other state on income taxed under this chapter.

Section 12-7-70. The following business entities are exempt from the tax imposed pursuant to this chapter:

(1) corporations;

(2) business entities taxed using the rates of a corporation for federal income tax purposes, transacting, conducting, or doing business within this State or having income within this State, regardless of whether these activities are carried on in intrastate, interstate, or foreign commerce;

(3) pass‑through business entities as defined in Section 12-7-20(4);

(4) partnerships as defined in Section 33-41-210;

(5) banks as defined in Section 12‑11‑10;

(6) building and loan associations as defined in Section 12‑13‑10;

(7) insurance companies;

(8) nonprofit corporations organized pursuant to Chapter 36 of Title 33 for the purpose of providing water supply and sewage disposal or a combination of those services; and

(9) organizations exempt from income taxes pursuant to Section 33‑49‑120.

Article 3

Section 12-7-310. Income tax returns must be filed by the following:

(1)(a) an individual not listed in subitem (c) who has a gross income for the taxable year of at least the federal exemption amount plus the applicable basic standard deduction, plus any deduction the taxpayer qualifies for pursuant to Section 12‑7‑40(A) and whose filing status is:

(i) single, surviving spouse, or head of household; or

(ii) married, filing separately, and whose spouse does not itemize deductions.

(b) an individual not listed in (c) who files a joint return and whose combined gross income for the taxable year, is more than the sum of twice the exemption amount plus the applicable basic standard deduction if the individual and spouse had the same household at the close of the taxable year, plus any deduction the taxpayer qualifies for pursuant to Section 12‑7‑40(A). If the individual or spouse is sixty‑five or older, the standard deduction is increased as provided in Internal Revenue Code Section 63(c)(3) and 63(f)(1).

(c) an individual listed below whose gross income exceeds the federal personal exemption amount:

(i) an individual making a return under Internal Revenue Code Section 443(a)(1) for less than twelve months because of a change in the individual's annual accounting period;

(ii) an individual described in Internal Revenue Code Section 63(c)(5) (Certain Dependents) who has unearned income in excess of the amount provided in Internal Revenue Code Section 63(c)(5)(A), or who has total gross income in excess of the standard deduction; or

(iii) an individual for whom the standard deduction is zero.

(d) a nonresident individual with South Carolina gross income greater than the personal exemption amount provided in Internal Revenue Code Section 151(d).

(e) for purposes of this subsection:

(i) "basic standard deduction" is as defined in Internal Revenue Code Section 63(c);

(ii) "exemption amount" is as defined in Internal Revenue Code Section 151(d). In the case of an individual described in Internal Revenue Code Section 151(d)(2), the exemption amount is zero.

(2) an estate with a nonresident beneficiary or with gross income for the taxable year of six hundred dollars or more.

(3) a trust with a nonresident beneficiary, any taxable income, or with gross income of six hundred dollars or more regardless of the amount of taxable income.

(4) an estate of an individual under Chapters 7 or 11 of Title 11 of the United States Code relating to bankruptcy with gross income for the taxable year of two thousand seven hundred dollars or more.

(5) Every exempt organization operating in this State subject to tax under Section (12‑6‑540).

(6) a political organization within the meaning of Internal Revenue Code Section 527(e)(1) and every fund treated under Internal Revenue Code Section 527(g) as if it constituted a political organization, which has political organization taxable income within the meaning of Internal Revenue Code Section 527(c)(1) for the taxable year.

(7) a homeowners association within the meaning of Internal Revenue Code Section 528(c)(1) which has homeowners association taxable income within the meaning of Internal Revenue Code Section 528(d) for the taxable year.

(8) an entity other than those described in items (1) through (7) having South Carolina taxable income during the taxable year.

Section 12-7-320. The income tax return of a trade or business carried on by an estate or trust must be made by the fiduciary and must show the taxable income of the estate or trust and the distribution of income to the beneficiaries. Under rules or regulations prescribed by the department, one of two or more joint fiduciaries may file a single return.

Section 12-7-330. Every trust institution maintaining a common trust fund shall make a return under oath for each taxable year. The return shall contain the items of gross income and the deductions allowed by law, the names and addresses of the participants, and the proportionate share of taxable income for each participant.

Section 12-7-340. (A) An information return must be filed by all individuals who make payments to another individual, corporation, or partnership in the amount of eight hundred dollars or more of rent, salaries, wages, emoluments, or determinable gain, profit, or income.

(B) The return shall provide the recipient's name, address, and the amount of the payments.

(C) Providing the department with information required to be provided to the Internal Revenue Service or participating in the department agreement with the Internal Revenue Service to allow combined federal and state reporting of information returns constitutes compliance with this section.

(D) The provisions of this section do not apply to personal service compensation paid to individuals on which withholding taxes are required and reported as provided in Article 13 of Chapter 8.

Section 12-7-350. Returns must be in a form prescribed by the department. The department shall prepare blank forms for the returns to be furnished upon request. Failure to receive or secure the form does not relieve a taxpayer from the obligation to make a return.

Section 12-7-360. (A) Returns of taxpayers, except as otherwise provided, must be filed on or before the fifteenth day of the fourth month following the taxable year.

(B) Returns of organizations exempt under Internal Revenue Code Section 501 reporting unrelated business income must be filed on or before the fifteenth day of the fifth month following the taxable year.

(C) Information returns must be filed on or before the fifteenth day of the third month of each year.

(D) Returns filed electronically have the same due dates as provided in this section.

Section 12-7-370. (A) The department may allow an extension of time not to exceed six months for filing returns under this chapter. A taxpayer requesting an extension of time for filing, on or before the date that the return or annual report is due, shall submit a tentative return and pay the full amount of the tax.

(B) When a taxpayer is not required to make a payment of tax at the time of the extension, and the taxpayer has been granted an extension of time to file a federal income tax return, the taxpayer is not required to apply to the department for an extension of time to file the South Carolina return. The department shall accept a copy, if applicable, of a properly filed federal extension attached to the South Carolina return when filed. Taxes shown to be due on a return required pursuant to this chapter must be paid at the time the return is due to be filed, without regard to an extension of time granted for filing the return.

(C) An extension must not be granted to a taxpayer who has been granted an extension for a previous period and has not fulfilled the requirements of the previous period.

Section 12-7-380. When an income tax return is required under this chapter, the taxpayer shall pay the tax due with the return to the department at the time for filing the return determined without regard to any extensions of time for the filing. Nothing in this section eliminates the requirement for making estimated tax payments.

Section 12-7-390. (A) If the federal taxable income of a husband and wife are determined on separate federal returns, their South Carolina taxable income must be separately reported and taxed.

(B) If both a husband and wife are residents, and if their federal taxable income is determined on a joint federal return, their South Carolina taxable income must be reported and taxed on the basis of a joint South Carolina income tax return.

(C)(1) If both husband and wife are nonresidents or if the husband or wife is a resident and the other is a nonresident, and if their federal taxable income is determined on a joint federal return, their South Carolina taxable income must be reported and taxed on the basis of a joint South Carolina income tax return except as provided in subitem (2).

(2) If a nonresident taxpayer is a resident of a state which does not allow a resident of South Carolina to file a joint return with a spouse, the nonresident taxpayer shall file a separate South Carolina income tax return from the spouse. The nonresident taxpayer shall calculate taxable income on a federal return as a married person filing separately to determine how the separate federal taxable income is calculated.

(D) If neither a husband nor wife files a federal return, their South Carolina taxable income must be determined on a separate basis unless both elect to have their South Carolina taxable income determined on a joint basis by filing a joint South Carolina tax return.

Section 12-7-400. If a custodial parent releases claim to the personal exemption authorized in Internal Revenue Code Section 152, then the noncustodial parent's South Carolina income tax return must include a copy of the written declaration of the custodial spouse releasing the exemption as provided in Internal Revenue Code Section 152(e)(2).

Section 12-7-410. (A) A person who is an income tax preparer as defined in Internal Revenue Code Section 7701(a)(36) and who performs the same services with respect to South Carolina income tax returns or claims for refund shall include with his signature on the South Carolina return or claim for refund his taxpayer identification number as prescribed by Internal Revenue Code Section 6109 and applicable regulations.

(B) Failure to comply with the provisions of this section results in a penalty as provided in Section 12‑54‑47.

Section 12-7-420. For purposes of a return filed pursuant to this chapter, all amounts may be rounded by the department or the taxpayer to the nearest whole dollar. An amount of fifty cents or more may be rounded to the next dollar. An amount of less than fifty cents may be eliminated.

Article 5

Section 12-7-510. A certificate of compliance from the department to the effect that a tax has been paid, that a return has been filed, or that information has been supplied as required by the provisions of this chapter is prima facie evidence that the tax has been paid, that the return has been filed, or that the information has been supplied.

Section 12-7-520. Income taxes may be paid with an uncertified check, but if a check is not paid by the bank on which it is drawn, the taxpayer remains liable for the payment of the tax and for all legal penalties as if the check had not been tendered.

Section 12-7-530. The department may require a taxpayer to provide copies of returns filed with the Internal Revenue Service and verify the information contained on the returns.

Section 12-7-540. (A) A federal or state income tax overpayment due to a person who is deceased at the time of the refund is the sole and separate property of the surviving spouse irrespective of the deceased's filing status on the return.

(B) A refund by the United States or any state directly to the surviving spouse operates as a complete acquittal and discharge of liability from suit, claim, or demand of any nature by any heir, distributee, or creditor of the decedent, or by any other person.

Section 12-7-550. The department, with the approval of the State Fiscal Accountability Authority, may expend from the revenue collected under this chapter additional money necessary to ensure the adequate administration and enforcement of this chapter.

Section 12-7-560. The failure to do an act required by or under the provisions of this chapter is deemed an act committed in the county of residence of the person failing to do the act.

Section 12-7-570. For purposes of the nonrecognition of gain under Section 1031 of the Internal Revenue Code and comparable provisions of state law, the conveyance by timber deed of the right to cut standing timber for a period of time exceeding thirty years is considered a conveyance of a real property interest, and as such, under the laws of this State, is a like‑kind exchange with other similar conveyances of a real property interest or with conveyances of similar investment real property owned in fee simple.

Section 12-7-580. For South Carolina income tax purposes, an individual whose state of residency changes as a result of the boundary clarification from North Carolina to South Carolina or from South Carolina to North Carolina, as contained in the amendments to Section 1‑1‑10, effective January 1, 2017, must be treated as though the individual moved to or from South Carolina on January 1, 2017.

ARTICLE 7

Section 12-7-700. (A) A taxpayer's taxable year under this chapter must be the same as the taxpayer's taxable year for federal income tax purposes.

(B) If a taxpayer's taxable year is changed for federal income tax purposes, then the taxable year for South Carolina income tax purposes is changed. The taxpayer shall provide the department with a copy of the written permission received from the Internal Revenue Service.

(C) If a change in taxable year results in a taxable year of less than twelve months, South Carolina income tax must be computed in the manner provided in Internal Revenue Code Sections 443(b) (Computation of Tax on Change of Annual Accounting Period) and 443(c) (Adjustment in Deduction for Personal Exemption).

Section 12-7-710. (A) A taxpayer's method of accounting under this chapter must be the same as for federal income tax purposes.

(B) If a taxpayer's method of accounting is changed for federal income tax purposes:

(1) The method of accounting for South Carolina income tax purposes is changed. The taxpayer shall provide the department with a copy of the written permission received from the Internal Revenue Service. When written permission is not required to change a method of accounting, the taxpayer shall provide the department with a copy of the election or statement provided to the Internal Revenue Service.

(2) Additional South Carolina income or deductions which result from adjustments that are necessary because of a change in the method of accounting are included in or deducted from income as provided in the Internal Revenue Code.

Section 12-7-720. (A) South Carolina estimated tax payments must be made in a form prescribed by the department in accordance with Internal Revenue Code Sections 6654 and 6655 except that:

(1) the small amount provisions in Internal Revenue Code Sections 6654(e)(1) and 6655(f) are one hundred dollars;

(2) income for the first installment for corporations is annualized using the first three months of the taxable year;

(3)(a) The due dates of the installment payments for calendar year taxpayers other than corporations are:

First quarter April 15th;

Second quarter June 15th;

Third quarter September 15th; and

Fourth quarter January 15th of the following taxable year.

(b) The due dates of the installment payments for calendar year corporations are:

First quarter April 15th;

Second quarter June 15th;

Third quarter September 15th; and

Fourth quarter December 15th.

(c) In applying the estimated tax payment provisions to a taxable year beginning on a date other than January 1, the month that corresponds to the months specified above must be substituted.

(B) Payments required by this section are considered payments on account of income taxes imposed by this chapter for the taxable year designated.

(C) To the extent that estimated tax payments and withholdings are in excess of the taxpayer's income tax and license fee liability as shown on the income tax return, the taxpayer may claim a:

(1) refund; or

(2) credit for estimated tax for the succeeding taxable year.

Section 12-7-730. In the case of sickness, absence, or other disability or good cause, the department may in its discretion allow further time for filing and paying estimated taxes.

Section 12-7-740. No interest, penalties, or other sanctions may be imposed on the active duty income of members of the National Guard and Reserves activated as a result of the conflict in Iraq and the war on terrorism with regard to underpayment of state estimated individual income tax payments of the active duty income if the federal government is unable to withhold state income taxes due on such pay.

SECTION 4. Section 12-36-2120 of the 1976 Code is amended to read:

Section 12-36-2120. Exempted from the taxes imposed by this chapter are the gross proceeds of sales, or sales price of:

(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;

(2) tangible personal property sold to the federal government;

~~(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;~~

~~(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;~~

~~(5)~~ ~~feed used for the production and maintenance of poultry and livestock;~~

~~(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;~~

~~(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;~~

~~(8) newsprint paper, newspapers, and religious publications, including the Holy Bible and the South Carolina Department of Agriculture's The Market Bulletin;~~

~~(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;~~

~~(d)~~ ~~the generation of motive power for transportation. For the purposes of this exemption, "manufacturer" or "manufacturing" includes the activities of mining and quarrying;~~

~~(e)~~ ~~the generation of motive power for test flights of aircraft by the manufacturer of the aircraft where:~~

~~(i)~~  ~~the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility over a seven‑year period; and~~

~~(ii)~~ ~~the taxpayer creates at least three thousand eight hundred full‑time new jobs at the single manufacturing facility during that seven‑year period; or~~

~~(f)~~ ~~the transportation of an aircraft prior to its completion from one facility of the manufacturer of the aircraft to another facility of the manufacturer of the aircraft, not including the transportation of major component parts for construction or assembly, or the transportation of personnel. This exemption only applies when:~~

~~(i)~~  ~~the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at a single manufacturing facility over a seven‑year period; and~~

~~(ii)~~ ~~the taxpayer creates at least three thousand eight hundred full‑time new jobs at the single manufacturing facility during that seven‑year period.~~

~~To qualify for the exemptions provided for in subitems (e) and (f), the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment and create the required number of full‑time new jobs over the seven‑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 seven hundred fifty million dollar investment requirement and has created the three thousand eight hundred full‑time new jobs or, after the expiration of the seven‑year period, that it has not met the seven hundred fifty million dollar investment requirement and created the three thousand eight hundred full‑time new jobs. The department may assess any tax due on fuel purchased tax free pursuant to subitems (e) and (f) but due the State as a result of the taxpayer's failure to meet the seven hundred fifty million dollar investment requirement and create the three thousand eight hundred full‑time new jobs. 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 seven hundred fifty million dollar investment requirement and created the three thousand eight hundred full‑time new jobs.~~

~~As used in subitems (e) and (f), "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.~~

(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;

(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;

(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, Title 33;

~~(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;~~

~~(14) wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property;~~

(15)(a) motor fuel, blended fuel, and alternative fuel subject to tax under Chapter 28, 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;~~

~~(d)~~ ~~fuels used in commercial fishing vessels;~~

~~(e)~~ ~~natural gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139, who will compress it to produce compressed natural gas, or cool it to produce liquefied natural gas, for use as a motor fuel and remit the motor fuel user fees as required by law; and~~

~~(f)~~ ~~liquefied petroleum gas sold to a person with a miscellaneous motor fuel user fee license pursuant to Section 12‑28‑1139, who will use the liquefied petroleum gas as a motor fuel and remit the motor fuel user fees as required by law;~~

(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;

(17) machines used in manufacturing, processing, agricultural packaging, 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; |

~~(18)~~ ~~fuel used exclusively to cure agricultural products;~~

~~(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;~~

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

(21) vessels and barges of more than fifty tons burden;

(22) materials necessary to assemble missiles to be used by the Armed Forces of the United States;

(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;

(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;

(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;

(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;

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

(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;

(e) dental prosthetic devices; and

(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;

(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;

(30) office supplies, or other commodities, and services resold by the Division of General Services of the Department of Administration to departments and agencies of the state government, if the tax was paid on the divisions original purchase;

~~(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, Title 27, and any other exchange of accommodations in which the accommodations to be exchanged are the primary consideration;~~

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

(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;

(34) fifty percent of the gross proceeds of the sale of a modular home regulated pursuant to Chapter 43, 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;

~~(35) motion picture film sold or rented to or by theaters;~~

(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;

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

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

~~(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;~~

(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;

(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;

(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;

~~(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;~~

(44) electricity used to irrigate crops;

~~(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.~~

(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;

(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.

(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;

(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;

(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;

(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;

(52) parts and supplies used by persons engaged in the business of repairing or reconditioning aircraft. This exemption does not extend to tools and other equipment not attached to or that do not become a part of the aircraft;

~~(53)~~ ~~motor vehicle extended service contracts and motor vehicle extended warranty contracts;~~

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

~~(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;~~

(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;

(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;

(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(c) 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;

(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;

(60) a lottery ticket sold pursuant to Chapter 150, Title 59;

(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;

~~(62)~~ ~~seventy percent of the gross proceeds of the rental or lease of portable toilets;~~

(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;

~~(64)~~ ~~sweetgrass baskets made by artists of South Carolina using locally grown sweetgrass;~~

~~(65)(a)~~ ~~computer equipment, as defined in subitem (c) 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 full‑time jobs at the facility during that five‑year period, and the average cash compensation of at least one hundred of the new full‑time 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)~~ ~~computer equipment, as defined in subitem (c) of this item, used in connection with a manufacturing facility, where:~~

~~(i)~~ ~~the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven‑year period; and~~

~~(ii)~~ ~~the taxpayer creates at least three thousand eight hundred full‑time new jobs at the facility during that seven‑year period.~~

~~As used in this subitem, "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code.~~

~~(c)~~ ~~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.~~

~~(d)~~ ~~These exemptions apply from the start of the investment in or construction of the technology intensive facility or the manufacturing facility. 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.~~

~~(e)~~ ~~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;~~

~~(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. The running of the periods of limitation within which the department may assess taxes pursuant to Section 12‑54‑85 is suspended during the same time period it is suspended in item (65)(d) of this section;~~

~~(67)~~ e~~ffective July 1, 2011, construction materials used in the construction of a new or expanded single manufacturing or distribution facility, or one that serves both purposes, with a capital investment of at least one hundred million dollars in real and personal property at a single site in the State over an eighteen‑month period, or effective November 1, 2009, construction materials used in the construction of a new or expanded single manufacturing facility where:~~

~~(i)~~ ~~the taxpayer invests at least seven hundred fifty million dollars in real or personal property or both comprising or located at the facility over a seven‑year period; and~~

~~(ii)~~ ~~the taxpayer creates at least three thousand eight hundred full‑time new jobs at the facility during that seven‑year period.~~

~~To qualify for this exemption, the taxpayer shall notify the department before the first month it uses the exemption and shall make the required investment over the applicable time 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 investment requirement or, after the expiration of the applicable time period, that it has not met the investment requirement. The department may assess any tax due on construction materials purchased tax free pursuant to this subitem but due the State as a result of the taxpayer's failure to meet the 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 investment requirement.~~

~~As used in this subitem, "taxpayer" includes a person who bears a relationship to the taxpayer as described in Section 267(b) of the Internal Revenue Code;~~

(68) any property sold to the public through a sheriff's sale as provided by law;

(69) [Reserved]

(70)(a) gold, silver, or platinum bullion, or any combination of this bullion;

(b) coins that are or have been legal tender in the United States or other jurisdiction; and

(c) currency.

The department shall prescribe documentation that must be maintained by retailers claiming the exemption allowed by this item. This documentation must be sufficient to identify each individual sale for which the exemption is claimed;

~~(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:~~

~~(a)~~ ~~"fuel cells" means a device that directly or indirectly creates electricity using hydrogen (or hydrocarbon‑rich fuel) and oxygen through an electro‑chemical process; and~~

~~(b)~~ ~~"research and development" means laboratory, scientific, or experimental testing and development of hydrogen or fuel cell technologies. Research and development does not include efficiency surveys, management studies, consumer surveys, economic surveys, advertising, or promotion, or research in connection with literary, historical, or similar projects;~~

(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.

"Research district" means land owned by the State, a county, or other public entity that is designated as a research district by the University of South Carolina, Clemson University, the Medical University of South Carolina, South Carolina State University, or the Savannah River National Laboratory;

~~(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.~~

~~(a)~~ ~~To qualify for the exemption, the taxpayer shall meet the investment and job requirements provided in subitem (b)(i) over a five‑year period beginning on the date of the taxpayer's first use of this exemption. The taxpayer shall notify the Department of Revenue of its intent to qualify and use this exemption and 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. If the taxpayer fails to meet the investment and job requirements, the taxpayer shall pay to the State the amount of the tax that would have been paid but for this exemption. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for this time period beginning with the taxpayer's first use of this exemption and ending with notice to the department that the taxpayer has or has not met the investment and job requirements of this item.~~

~~(b)~~ ~~For purposes of this item:~~

~~(i)~~  ~~"Qualifying amusement park or theme park" means a park that is constructed and operated by a taxpayer who makes a capital investment of at least two hundred fifty million dollars at a single site and creates at least two hundred fifty full‑time jobs and five hundred part‑time or seasonal jobs.~~

~~(ii)~~ ~~"Related or required machinery, equipment, and fixtures" means an ancillary apparatus used for or in conjunction with an amusement park ride or performance venue facility, or both, including, but not limited to, any foundation, safety fencing and equipment, ticketing, monitoring device, computer equipment, lighting, music equipment, stage, queue area, housing for a ride, electrical equipment, power transformers, and signage.~~

~~(iii)~~ ~~"Performance venue facility" means a facility for a live performance, nonlive performance, including any animatronics and computer‑generated performance, and firework, laser, or other pyrotechnic show.~~

~~(iv)~~ ~~"Taxpayer" means a single taxpayer or, collectively, a group of one or more affiliated taxpayers. An "affiliated taxpayer" means a person or entity related to the taxpayer that is subject to common operating control and that is operated as part of the same system or enterprise. The taxpayer is not required to own a majority of the voting stock of the affiliate;~~

(74) durable medical equipment and related supplies:

(a) as defined under federal and state Medicaid and Medicare laws;

(b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the sale or use tax; and

(c) sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in this State;

(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;

(76) sales of handguns as defined pursuant to Section 16‑23‑10(1), rifles, and shotguns during the forty‑eight hours of the Second Amendment Weekend. For purposes of this item, the "Second Amendment Weekend" begins at 12:01 a.m. on the Friday after Thanksgiving and ends at twelve midnight the following Saturday;

~~(77)~~ ~~energy efficient products purchased for noncommercial home or personal use with a sales price of two thousand five hundred dollars per product or less.~~

~~(a)~~ ~~For the purposes of this exemption, an "energy efficient product" is any energy efficient product for noncommercial home or personal use consisting of any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's energy‑saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each agency's ENERGY STAR program, and gas, oil, or propane water heaters with an energy factor of 0.80 or greater and electric water heaters with an energy factor of 2.0 or greater.~~

~~(b)~~ ~~This exemption shall not apply to purchases of energy efficient products purchased for trade, business, or resale.~~

~~(c)~~ ~~The exemption provided in this item applies only to sales occurring during a period commencing at 12:01 a.m. on October 1, 2009, and concluding at 12:00 midnight on October 31, 2009, (National "Energy Efficiency Month") and every year thereafter until 2019.~~

~~(d)~~ ~~Each year until 2019, the State Energy Office shall prepare an annual report on the fiscal and energy impacts of the October first through October thirty‑first exemption and submit the report to the General Assembly no later than January first of the following year.~~

~~(e)~~ ~~Beginning with the February 15, 2009, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually after that, if the forecast of that growth then and in any adjusted forecast made before the beginning of the fiscal year equals at least five percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then the exemption allowed by this item shall be allowed for the applicable year. If the February fifteenth forecast or adjusted forecast annual general fund revenue growth for the upcoming fiscal year meets the requirement for the credit, the board promptly shall certify this result in writing to the department;~~

(78) machinery and equipment, building and other raw materials, and electricity used in the operation of a facility owned by an organization which qualifies as a tax exempt organization pursuant to the Internal Revenue Code Section 501(c)(3) when the facility is principally used for researching and testing the impact of such natural hazards as wind, fire, water, earthquake, and hail on building materials used in residential, commercial, and agricultural buildings. To qualify for this exemption, the taxpayer shall notify the department of its intent to qualify and shall invest at least twenty million dollars in real or personal property at a single site in this State over the three‑year period beginning on the date provided by the taxpayer to the department in its notices. After the taxpayer notifies the department of its intent to qualify and use the exemption, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes. Within six months of the third anniversary of the taxpayer's first use of the exemption, the taxpayer shall notify the department in writing that it has met the twenty million dollar investment requirement or, that it has not met the twenty million dollar investment requirement. The department may assess any tax due on the machinery and equipment purchased tax free pursuant to this item but due the State as a result of the taxpayer's failure to meet the twenty 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 twenty million dollar investment requirement;

(79)(A)(1) original or replacement computers, computer equipment, and computer hardware and software purchases used within a datacenter; and

(2) electricity used by a datacenter and eligible business property to be located and used at the datacenter. This subsubitem does not apply to sales of electricity for any other purpose, and such sales are subject to the tax, including, 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, cafeterias, canteens, first aid rooms, supply rooms, water coolers, drink boxes, unit heaters and waste house lights.

(B) As used in this section:

(1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(2) "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 also includes equipment cooling systems for managing the performance of the datacenter property, including mechanical and electrical equipment, hardware for distributed and mainframe computers and servers, data storage devices, network connectivity equipment, and peripheral components and systems.

(3) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(4) "Concurrently maintainable" means capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment.

(5) "Datacenter" means a new or existing facility at a single location in South Carolina:

(i) that provides infrastructure for hosting or data processing services and that has power and cooling systems that are created and maintained to be concurrently maintainable and to include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. Although the facility must have multiple distribution paths serving the computer equipment, a single distribution path may serve the computer equipment at any one time;

(ii)(a) where a taxpayer invests at least fifty million dollars in real or personal property or both over a five year period; or

(b) where one or more taxpayers invests a minimum aggregate capital investment of at least seventy‑five million dollars in real or personal property or both over a five year period;

(iii) where a taxpayer creates and maintains at least twenty‑five full‑time jobs at the facility with an average cash compensation level of one hundred fifty percent of the per capita income of the State or of the county in which the facility is located, whichever is lower, according to the most recently published data available at the time the facility is certified by the Department of Commerce;

(iv) where the jobs created pursuant to subitem (B)(5)(iii) are maintained for three consecutive years after a facility with the minimum capital investment and number of jobs has been certified by the Department of Commerce; and

(v) which is certified by the Department of Commerce pursuant to subitem (D)(1) under such policies and procedures as promulgated by the Department of Commerce.

(6) "Eligible business property" means property used for the generation, transformation, transmission, distribution, or management of electricity, including exterior substations and other business personal property used for these purposes.

(7) "Multiple distribution paths" means a series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths.

(8) "Redundant capacity components" means components beyond those required to support the computer equipment.

(C)(1) To qualify for the exemption allowed by this item, a taxpayer, and the facility in the case of a seventy‑five million dollar investment made by more than one taxpayer, shall notify the Department of Revenue and Department of Commerce, in writing, of its intention to claim the exemption. For purposes of meeting the requirements of subitems (B)(5)(ii) and (B)(5)(iii) , capital investment and job creation begin accruing once the taxpayer notifies each department. Also, the five‑year period begins upon notification.

(2) Once the taxpayer meets the requirements of subitem (B)(5), or at the end of the five‑year period, the taxpayer shall notify the Department of Revenue, in writing, whether it has or has not met the requirements of subitem (B)(5). The taxpayer shall provide the proof the department determines necessary to determine that the requirements have been met.

(D)(1) Upon notifying each department of its intention to claim the exemption pursuant to subitem (C)(1), and upon certification by the Department of Commerce, the taxpayer may claim the exemption on eligible purchases at any time during the period provided in Section 12‑54‑85(F), including the time period prior to subitem (B)(5)(iv) being satisfied.

(2) For purposes of this section, the running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for:

(i) the time period beginning with notice to each department pursuant to subitem (C)(1) and ending with notice to the Department of Revenue pursuant to subitem (C)(2); and

(ii) during the three year job maintenance requirement pursuant to subitem (B)(5)(iv).

(E) Any subsequent purchase of or investment in computer equipment, computer hardware and software, and computers, including to replace originally deployed computer equipment or to implement future expansions, likewise shall qualify for the exemption provided in this subitem, regardless of when the taxpayer makes the investments.

(F)(1) If a taxpayer receives the exemption for purchases but fails to meet the requirements of subitem (B)(5) at the end of the five‑year period, the department may assess any state or local sales or use tax due on items purchased.

(2) If a taxpayer meets the requirements of subitem (B)(5), but subsequently fails to maintain the number of full‑time jobs with the required compensation level at the facility, as previously required pursuant to subitem (B)(5)(iii), the taxpayer is:

(i) not allowed the exemption for items described in subitem (A)(1) until the taxpayer meets the previous qualifying jobs requirements pursuant to subitem (B)(5)(iii); and

(ii) allowed the exemption for electricity pursuant to subitem (A)(2), but the exemption only applies to a percentage of the sale price, calculated by dividing the number of qualifying jobs by twenty‑five.

(G) This subitem only applies to a datacenter that is certified by the Department of Commerce pursuant to subitem (D)(1) prior to January 1, 2032. However, this item shall continue to apply to a taxpayer that is certified by December 31, 2031, for an additional ten year period. Upon the end of the ten year period, this subitem is repealed;

(80)(a) effective on July first immediately following a forecast meeting the requirements of subitem (b), injectable medications and injectable biologics, so long as the medication or biologic is administered by or pursuant to the supervision of a physician in an office which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services (CMS) certified kidney dialysis facility. For purposes of this exemption, "biologics" means the products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms;

(b) Beginning with the February 15, 2013, forecast by the Board of Economic Advisors of annual general fund revenue growth for the upcoming fiscal year, and annually thereafter until the conditions of this item are met, if the forecast of that growth equals at least two percent of the most recent estimate by the board of general fund revenues for the current fiscal year, then on July first, the exemption described in subitem (a) shall apply to fifty percent of the gross proceeds of sales of the described items. Beginning the next July first, the exemption shall apply to one hundred percent of the gross proceeds of sales of the described items. If the February fifteenth forecast meets the requirement for a rate reduction, the board promptly shall certify this result in writing to the Department of Revenue.

(81) construction materials used by an entity organized under Section 501(c)(3) of the Internal Revenue Code as a nonprofit corporation to build, rehabilitate, or repair a home for the benefit of an individual or family in need. For purposes of this item, "an individual or family in need" means an individual or family, as applicable, whose income is less than or equal to eighty percent of the county median income.

(82) children's clothing sold to a private charitable organization exempt from federal and state income tax, except for private schools, for the sole purpose of distribution by that organization to needy children. For purposes of this item:

(a) "clothing" means those items exempt from sales and use tax pursuant to item (57)(a)(i) and (iii) of this section; and

(b) "needy children" means children eligible for free meals under the National School Lunch Program of the United States Department of Agriculture.

(83) any item subject to the fee set forth in Section 56‑3‑627.”

SECTION 5. This act takes effect upon approval by the Governor and applies to tax years beginning after 2022.

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