

NEWBIE SEMINAR

Sales Taxes

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SALES TAXES

South Carolina imposes a "general" sales tax, equal to 6% of the gross proceeds of sales, upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

South Carolina Sales Taxes

- Sales and Use Tax
 - The State sales and use tax rate in South Carolina is 6%.
 - Some counties assess a local option sales tax and/or a capital project sales tax, which currently range from 1 to 2.5%.

SALES TAXES

The tax will therefore be applicable if:

- a person is engaged or continuing in the business of selling,
- the person is selling tangible personal property in South Carolina, and
- the sales of tangible personal property in South Carolina are retail.

The tax, if the above conditions are met, will be based upon the "gross proceeds" of sales.

MANUFACTURER'S SALES TAX EXEMPTIONS

South Carolina enjoys a lengthy list of sales tax exemptions for manufacturers

Sales Tax Exemptions for Manufacturers in SC

- Sales Tax Exemptions
 - South Carolina supports new and expanding industry with a wide range of valuable exemptions to the sales tax (state and local). These exemptions, found in SC Code § 12-36-120, include the following:
 - Machinery and equipment, and applicable repair parts, used in the production of tangible goods.
 - Materials that will become an integral part of the finished product.
 - Coal, coke, or other fuel for manufacturers, transportation companies, electric power companies, and processors.
 - Industrial electricity and other fuels used in manufacturing tangible personal property.
 - Research and development machinery and equipment.
 - Air, water and noise pollution control equipment.
 - Material handling equipment for manufacturing or distribution projects investing \$35 million or more in the state.
 - Packaging material.
 - Long distance telephone calls and access charges, including 800 services.
 - Construction materials used in the construction of a single manufacturing or distribution facility with a capital investment of at least \$100 million in an 18 month period.

MANUFACTURER'S SALES TAX EXEMPTIONS

Tangible Personal Property that is an “Ingredient or Component Part” or “Used Directly” in the Process

South Carolina does not tax the sale of tangible personal property to a manufacturer or compounder that is an ingredient or component part of the tangible personal property or products manufactured or compounded for sale, section 12-36-120(2).

MANUFACTURER'S SALES TAX EXEMPTIONS

Tangible Personal Property that is an “Ingredient or Component Part” or “Used Directly” in the Process

Further, South Carolina does not tax the sale of tangible personal property “used directly” in manufacturing, compounding, or processing tangible personal property for sale, section 12-36-120(3). An item is used directly if the materials or products so used come in direct contact with and contribute to bring about some chemical or physical change in the ingredient or component properties during the period in which the fabricating, converting or processing takes place, see DOR Reg. 117-302.1

MANUFACTURER'S SALES TAX EXEMPTIONS

Fuel

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

MANUFACTURER'S SALES TAX EXEMPTIONS

Recycling

12-36-2120(50) - The following items when used by a qualified recycling facility: recycling property, electricity, natural gas, fuels, gasses, fluids and lubricants, ingredients or component parts of manufactured products, property used for the handling or transfer of postconsumer waste or manufactured products or in or for the manufacturing process, and machinery and equipment foundations

MANUFACTURER'S SALES TAX EXEMPTIONS

Material Handling

12-36-2120(51) - Material handling systems and material handling equipment used in the operation of a distribution facility or a manufacturing facility of a taxpayer that invests at least \$35 million in South Carolina

MANUFACTURER'S SALES TAX EXEMPTIONS

Construction Materials

12-36-2120(67) - Construction material used in the construction of a single manufacturing or distribution facility, or one that serves both purposes, that invests at least \$100 million at a single site in South Carolina over an 18 month period. This exemption will be phased-in from July 1, 2007 - July 1, 2011. After July, 1, 2011, the exemption will be fully phased-in.

MANUFACTURER'S SALES TAX EXEMPTIONS

ELECTRICITY

The sale of electricity used by manufacturers, processors, miners, quarriers, or cotton gins to manufacture, mine, or quarry tangible personal property for sale is exempt from the tax under section 12-36-2120(19).

This exemption applies to electricity that provides lighting necessary for the operation of machines used in manufacturing tangible personal property for sale and 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.

MANUFACTURER'S SALES TAX EXEMPTIONS

ELECTRICITY

This exemption does not apply to sales of electricity used in administrative offices, supervisory offices, parking lots, storage warehouses, maintenance shops, safety control and comfort air conditioning.

MANUFACTURER'S SALES TAX EXEMPTIONS

MACHINE EXEMPTION

Section 12-36-2120(17) exempts machines used in manufacturing, processing, recycling, compounding, mining, or quarrying tangible personal property for sale.

MANUFACTURER'S SALES TAX EXEMPTIONS

MACHINE EXEMPTION – GENERAL RULE

A machine qualifies for the machine exemption if the machine meets the following three requirements:

1. The machine is used at a manufacturing facility whose purpose is manufacturing a product "for sale." It does not apply to machines used at a facility whose purpose may be retailing, wholesaling, or distributing. For example, machines used by an industrial baker manufacturing breads for sale may be exempt; however, similar machines used by a local retail bakery are not exempt;

MANUFACTURER'S SALES TAX EXEMPTIONS

MACHINE EXEMPTION – GENERAL RULE

The machine is used in, and serves an essential and indispensable component part of the manufacturing process and is used on an ongoing and continuous basis during the manufacturing process. Note: A machine "integral and necessary" to the manufacturer, such as a machine used solely for warehouse, distribution, or administrative purposes, is not exempt under the machine exemption since it is not "integral and necessary" to the manufacturing process;

MANUFACTURER'S SALES TAX EXEMPTIONS

MACHINE EXEMPTION – GENERAL RULE

The machine must be substantially used (not necessarily exclusively used) in manufacturing tangible personal property for sale, *i.e.*, more than one-third of a machine's use is for manufacturing.

MANUFACTURER'S SALES TAX EXEMPTIONS MACHINE EXEMPTION – GENERAL RULE

A machine meeting the above requirements may be exempt even if it does not have moving parts or is a fixture upon the real estate where it stands. However, buildings and parts of buildings, as well as other improvements which benefit the land generally and may serve other users of the land, are not exempt.

MANUFACTURER'S SALES TAX EXEMPTIONS

Machines Used Substantially in Manufacturing (Dual Usage Machines)

“Substantial” use, but not “exclusive” use, of a machine in the manufacture of tangible personal property for sale is required in order for the machine exemption to apply.

For example, the purchase of a forklift that is used substantially to move materials from from one stage of the production process to another (an exempt purpose) and also used to load trucks (a non-exempt purpose) is allowed the machine exemption from sales and use tax. In addition, purchases of parts for the forklift are also exempt from tax.

MANUFACTURER'S SALES TAX EXEMPTIONS

MACHINE EXEMPTION

Machines Owned by Someone Other Than a Manufacturer

Ownership of the machine by the manufacturer is not required to qualify for the machine exemption. The use of a machine determines whether it is exempt from sales and use tax.

MANUFACTURER'S SALES TAX EXEMPTIONS

EXAMPLES OF NON-EXEMPT MACHINES OR PARTS

- material handling machinery and/or mechanical conveyors up to the point where the materials go into process
- chemicals used to clean non-exempt machines, such as storage tanks, or the manufacturing facility
- paint used on exempt manufacturing machines to prevent machine corrosion
- machines used for maintenance purposes
- storage racks used for warehouse purposes
- warehouse machines used for warehouse purposes
- power lines bringing electricity into the plant

MANUFACTURER'S SALES TAX EXEMPTION POLLUTION ABATEMENT MACHINES

Section 12-36-2120(17) exempts pollution control machines qualify for the machine exemption when installed and operated for compliance with an order of an agency of the United States or of this state to prevent or abate air, water, or noise pollution caused or threatened by the operation of other exempt machines used in the mining, quarrying, compounding, processing, and manufacturing of tangible personal property for sale.

Sales Tax Exemptions: Datacenters in South Carolina

- Datacenters locating or expanding in South Carolina may be exempt from some sales and use taxes when the new or expanding facility meets certain investment and job creation requirements.
- To qualify under S.C. Code § 12-36-2120(79) a company must:
 - Be certified by the SC Department of Commerce as a qualifying datacenter.
 - Invest at least \$50 million (or a combined \$75 million with one or more other companies) in real or personal property at a single facility over a five year period.
 - Create at least 25 new jobs within a five year period with an average wage that is at least 150% of the state or county per capita wage, whichever is lower.
 - Maintain the 25 jobs for at least 3 years.
- The items that may be exempt from sales and use tax are: computer equipment, software and electricity directly used in datacenter operations.

MANUFACTURER'S SALES TAX EXAMPTIONS

PACKAGING

Section 12-36-120(4) exempts the sale of materials, containers, cores, labels, sacks, or bags that are used incident to the sale and delivery of tangible personal property are not subject to the tax.

“Materials” include 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.

MANUFACTURER'S SALES TAX EXAMPTIONS

PACKAGING

“Containers” include paper, plastic or cloth sacks, bags, boxes, bottles, cans, cartons, drums, barrels, kegs, carboys, cylinders, and crates.

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

Sales Tax Caps

- South Carolina Code § 12-6-2110 provides a \$300 maximum sales tax cap on the sale or lease of aircraft, motor vehicles, motorcycles, boats, recreational vehicles and other items.