

REPORT OF THE SALES AND INCOME TAX SUBCOMMITTEE

(Allison, Simrill, G.M. Smith, Hosey & Stavrinakis- Staff Contact: Katie Owen)

HOUSE BILL 3522

H. 3522 -- Reps. Stringer, Harrell, Bannister, Ballentine, Toole, G.M. Smith, Hardwick, Merrill, Edge, K.R. Crawford, Goldfinch, Putnam, Allison, Bingham, Daning, Delleney, Hamilton, Hardee, Henderson, Hiott, Horne, Lucas, Murphy, G.R. Smith and Sottile: A BILL TO AMEND SECTION 12-36-2120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES TAX EXEMPTIONS, SO AS TO DELETE VARIOUS EXEMPTIONS; TO PROVIDE THAT THE REVENUE GENERATED BY THIS ACT MUST BE CREDITED TO THE GENERAL RESERVE FUND; TO REENACT THE JOINT COMMITTEE ON TAXATION TO PROVIDE A COST BENEFIT ANALYSIS ON THE SALES TAX EXEMPTIONS; AND TO REPEAL SECTION 12-36-2130 RELATING TO THE STATE SALES TAX.

Summary of Bill:

This bill repeals certain sales tax exemptions. The bill requires whatever savings, or an amount equal to, to be deposited into the General Reserve Fund. The bill also reenacts the Joint Committee on Taxation to provide a cost benefit analysis on sales tax exemptions.

Introduced: 02/07/2013

Received by Ways and Means: 02/07/2013

Estimated Fiscal Impact:

AS AMENDED: This bill is expected to increase state General Fund sales and use tax revenue by an estimated \$8,020,229 in FY 13-14, after which, an amount equal to the repeal of specific sales and use tax exemptions amounting to an estimated \$8,020,229 would be required to be deposited in the General Reserve Fund in FY 13-14.

Subcommittee Recommendation:

Favorable with amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

[CLICK HERE to Edit Notes/Comments](#)

Statement of Estimated State Revenue Impact

Date: April 12, 2013 (As amended April 11, 2013 by the Sales & Income Tax Subcommittee)

Bill Number: H.B. 3522

Authors: Stringer, Harrell, Bannister, Ballentine, Toole, *et. al.*

Committee Requesting Impact: House Ways & Means Committee

Bill Summary

A bill to amend Section 12-36-2120, as amended, of the Code of Laws of South Carolina, 1976, relating to sales tax exemptions, so as to delete various exemptions; to provide that the revenue generated by this act must be credited to the General Reserve Fund; to reenact the Joint Committee on Taxation to provide a cost benefit analysis on the sales tax exemptions; and to repeal Section 12-36-2130 relating to the state sales tax.

REVENUE IMPACT ^{1/}

This bill, as amended, is expected to increase state General Fund sales and use tax revenue by an estimated \$8,020,229 in FY2013-14, after which, an amount equal to the repeal of specific sales and use tax exemptions amounting to an estimated \$8,020,229 would be required to be deposited in the General Reserve Fund in FY2013-14.

Explanation of Amendment (April 11, 2013) – By the Sales & Income Tax Subcommittee

This amendment would strike Sections 12-36-2120(25), (48), (49), and (58) to reinsert the formerly deleted sales and use tax exemptions in Section 1(A) of the bill. This amendment would add back four (4) previously repealed sales and use tax exemptions totaling an estimated \$2,550,379 in FY2013-14. This amended bill would repeal eighteen (18) sales tax items from Section 12-36-2120 amounting to an increase in sales tax revenue by an estimated \$8,020,229 in FY2013-14. Of this amount, General Fund revenue would be increased by \$5,346,819, the Education Improvement Act Fund would be increased by \$1,336,705, and the Homestead Exemption Fund would be increased by \$1,336,705 in FY2013-14. This section takes effect July 1, 2013.

Explanation of Bill filed February 7, 2013

This bill would delete specific sales and use tax exemptions from Section 12-36-2120 and repeal Section 12-36-2130 pertaining to the use tax. These changes would affect an estimated \$10,570,608 of sales and use tax revenue in FY2013-14. Items subject to a maximum sales tax cap limitation pursuant to Section 12-36-2110 are not affected by this bill. This bill has the intended effect of broadening the sales tax base by eliminating various sales and use tax exemptions, and depositing an amount equal to the repeal of these specific sales and use tax exemptions, or an estimated \$10,570,608, in the General Reserve Fund in FY2013-14. This bill is not revenue neutral.

Section 1. This section would delete various sales tax exemptions contained in Section 12-36-2120 and Section 12-36-2130, and direct the revenue generated to the General Reserve Fund. This bill would repeal twenty-two (22) sales tax items from Section 12-36-2120

Statement of Estimated State Revenue Impact

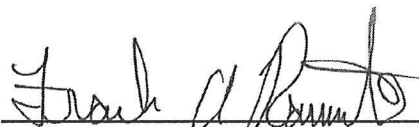
amounting to an increase in sales tax revenue by an estimated \$10,570,608 in FY2013-14. Of this amount, General Fund revenue would be increased by \$7,047,107, the Education Improvement Act Fund would be increased by \$1,761,772, and the Homestead Exemption Fund would be increased by \$1,761,772 in FY2013-14. This section takes effect July 1, 2013.

Section 2. This section would repeal Section 12-36-2130 that allows specific exemptions from the use tax, such as, purchases made by museums and exhibition rentals purchased or leased from sources outside of the state. Most museums exhibits and objects are obtained as "loans" from other museums or private donors and are not directly purchased by the museum. The repeal of this code section would increase sales and use tax revenue by an estimated \$36,000 in FY2013-14. Of this amount, General Fund revenue would be increased by \$24,000, the Education Improvement Act Fund would be increased by \$6,000, and the Homestead Exemption Fund would be increased by \$6,000 in FY2013-14.

Section 3. This section requires that the revenue generated pursuant to this Act must be credited to the General Reserve Fund in FY2013-14.

Section 4. This section reenacts the Joint Committee on Taxation as established by Act 334 of 2002, except for the provisions of Section 2-41-60, which contained specific reporting dates in 2006. This section requires the Joint Committee on Taxation to convene by September 1, 2012 to conduct a cost-benefit analysis on the sales tax exemptions contained in Section 12-36-2120. The committee shall submit a report detailing its findings to the Governor, the General Assembly, and be made available to the public. The committee shall review the sales tax exemptions as it deems necessary, but no later than five years after the initial review.

Section 5. Except as otherwise provided, this act takes effect upon approval by the Governor.



Frank A. Rainwater
Chief Economist

Analyst: Martin

¹¹ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact of Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

GOOD/LEE
APRIL 11, 2013

CLERK OF THE HOUSE

THE SALES AND INCOME TAX SUBCOMMITTEE PROPOSES THE
FOLLOWING AMENDMENT NO. TO H. 3522
(COUNCIL\NL\3522C001.NL.DG13):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE , AS AND IF AMENDED, SECTION 1A,
BY STRIKING SECTION 12-36-2120(25), (48), (49),
AND (58) AND INSERTING:**

**/ (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;

(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;

(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. /

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

South Carolina General Assembly
120th Session, 2013-2014

H. 3522

STATUS INFORMATION

General Bill

Sponsors: Reps. Stringer, Harrell, Bannister, Ballentine, Toole, G.M. Smith, Hardwick, Merrill, Edge, K.R. Crawford, Goldfinch, Putnam, Allison, Bingham, Daning, Delleney, Hamilton, Hardee, Henderson, Hiott, Horne, Lucas, Murphy, G.R. Smith and Sottile
Document Path: l:\council\bill\13\120dg13.docx

Introduced in the House on February 7, 2013

Currently residing in the House Committee on **Ways and Means**

Summary: Sales tax exemptions

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/7/2013	House	Introduced and read first time (House Journal-page 18)
2/7/2013	House	Referred to Committee on Ways and Means (House Journal-page 18)

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VERSIONS OF THIS BILL

2/7/2013

1
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9 **A BILL**

10
11 TO AMEND SECTION 12-36-2120, AS AMENDED, CODE OF
12 LAWS OF SOUTH CAROLINA, 1976, RELATING TO SALES
13 TAX EXEMPTIONS, SO AS TO DELETE VARIOUS
14 EXEMPTIONS; TO PROVIDE THAT THE REVENUE
15 GENERATED BY THIS ACT MUST BE CREDITED TO THE
16 GENERAL RESERVE FUND; TO REENACT THE JOINT
17 COMMITTEE ON TAXATION TO PROVIDE A COST
18 BENEFIT ANALYSIS ON THE SALES TAX EXEMPTIONS;
19 AND TO REPEAL SECTION 12-36-2130 RELATING TO THE
20 STATE SALES TAX.

21
22 Be it enacted by the General Assembly of the State of South
23 Carolina:

24
25 SECTION 1. A. Section 12-36-2120 of the 1976 Code, as last
26 amended by Act 235 of 2012, is further amended to read:

27
28 “Section 12-36-2120. Exempted from the taxes imposed by
29 this chapter are the gross proceeds of sales, or sales price of:

30 (1) tangible personal property or receipts of any business
31 which the State is prohibited from taxing by the Constitution or
32 laws of the United States of America or by the Constitution or laws
33 of this State;

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

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

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

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

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

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

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

17 (7) containers and labels used in:

18 (a) preparing agricultural, dairy, grove, or garden products
19 for sale; or

20 (b) preparing turpentine gum, gum spirits of turpentine, and
21 gum resin for sale.

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

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

27 (9) coal, or coke or other fuel sold to manufacturers, electric
28 power companies, and transportation companies for:

29 (a) use or consumption in the production of by-products;

30 (b) the generation of heat or power used in manufacturing
31 tangible personal property for sale. For purposes of this item,
32 'manufacturer' or 'manufacturing' includes the activities of a
33 processor;

34 (c) the generation of electric power or energy for use in
35 manufacturing tangible personal property for sale;

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

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

41 (i) the taxpayer invests at least seven hundred fifty
42 million dollars in real or personal property or both comprising or

1 located at a single manufacturing facility over a seven-year period;
2 and

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

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

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

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

19 To qualify for the exemptions provided for in subitems (e) and
20 (f), the taxpayer shall notify the department before the first month
21 it uses the exemption and shall make the required investment and
22 create the required number of full-time new jobs over the
23 seven-year period beginning on the date provided by the taxpayer
24 to the department in its notices. The taxpayer shall notify the
25 department in writing that it has met the seven hundred fifty
26 million dollar investment requirement and has created the three
27 thousand eight hundred full-time new jobs or, after the expiration
28 of the seven-year period, that it has not met the seven hundred fifty
29 million dollar investment requirement and created the three
30 thousand eight hundred full-time new jobs. The department may
31 assess any tax due on fuel purchased tax free pursuant to subitems
32 (e) and (f) but due the State as a result of the taxpayer's failure to
33 meet the seven hundred fifty million dollar investment requirement
34 and create the three thousand eight hundred full-time new jobs.
35 The running of the periods of limitations for assessment of taxes
36 provided in Section 12-54-85 is suspended for the time period
37 beginning with notice to the department before the taxpayer uses
38 the exemption and ending with notice to the department that the
39 taxpayer either has met or has not met the seven hundred fifty
40 million dollar investment requirement and created the three
41 thousand eight hundred full-time new jobs.

1 As used in subitems (e) and (f), 'taxpayer' includes a person
2 who bears a relationship to the taxpayer as described in Section
3 267(b) of the Internal Revenue Code.

4 (10)(a) meals or foodstuffs used in furnishing meals to school
5 children, if the sales or use are within school buildings and are not
6 for profit;

7 (b) meals or foodstuffs provided to elderly or disabled
8 persons at home by nonprofit organizations that receive only
9 charitable contributions in addition to sale proceeds from the
10 meals;

11 (c) food stuffs, either prepared or packaged for the homeless
12 or needy that are sold to nonprofit organizations, or food stuffs that
13 are subsequently sold or donated by a nonprofit organization to
14 another nonprofit organization. This subitem is only applicable to
15 food stuffs which are eligible for purchase under the USDA food
16 stamp program;

17 (d) meals or foodstuffs prepared or packaged that are sold to
18 public or nonprofit organizations for congregate or in-home
19 service to the homeless or needy or disabled adults over eighteen
20 years of age or individuals over sixty years of age. This subitem
21 only applies to meals and foodstuffs eligible for purchase under the
22 USDA food stamp program.

23 (11)(a) toll charges for the transmission of voice or messages
24 between telephone exchanges;

25 (b) charges for telegraph messages;

26 (c) carrier access charges and customer access line charges
27 established by the Federal Communications department or the
28 South Carolina Public Service department; and

29 (d) transactions involving automatic teller machines;

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

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

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

1 (15)(a) motor fuel, blended fuel, and alternative fuel subject to
2 tax under Chapter 28 of Title 12; however, gasoline used in
3 aircraft is not exempt from the sales and use tax;

4 (b) if the fuel tax is subsequently refunded under Section
5 12-28-710, the sales or use tax is due unless otherwise exempt, and
6 the person receiving the refund is liable for the sales or use tax;

7 (c) fuels used in farm machinery and farm tractors; and

8 (d) fuels used in commercial fishing vessels.

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

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

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

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

39 (19) electricity used by cotton gins, manufacturers, miners, or
40 quarriers to manufacture, mine, or quarry tangible personal
41 property for sale. For purposes of this item, 'manufacture' or
42 'manufacture' includes the activities of processors;

1 ~~(20) railroad cars, locomotives, and their parts, monorail cars,~~
2 ~~and the engines or motors that propel them, and their parts;~~
3 Reserved

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

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

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

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

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

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

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

33 (28)(a) medicine and prosthetic devices sold by prescription,
34 prescription medicines used to prevent respiratory syncytial virus,
35 prescription medicines and therapeutic radiopharmaceuticals used
36 in the treatment of rheumatoid arthritis, cancer, lymphoma,
37 leukemia, or related diseases, including prescription medicines
38 used to relieve the effects of any such treatment, free samples of
39 prescription medicine distributed by its manufacturer and any use
40 of these free samples;

41 (b) hypodermic needles, insulin, alcohol swabs, blood sugar
42 testing strips, monolet lancets, dextrometer supplies, blood glucose

1 meters, and other similar diabetic supplies sold to diabetics under
2 the authorization and direction of a physician;

3 (c) disposable medical supplies such as bags, tubing,
4 needles, and syringes, which are dispensed by a licensed
5 pharmacist in accordance with an individual prescription written
6 for the use of a human being by a licensed health care provider,
7 which are used for the intravenous administration of a prescription
8 drug or medicine, and which come into direct contact with the
9 prescription drug or medicine. This exemption applies only to
10 supplies used in the treatment of a patient outside of a hospital,
11 skilled nursing facility, or ambulatory surgical treatment center;

12 (d) medicine donated by its manufacturer to a public
13 institution of higher education for research or for the treatment of
14 indigent patients; and

15 (e) dental prosthetic devices;

16 (f) prescription drugs dispensed to Medicare Part A patients
17 residing in a nursing home are not considered sales to the nursing
18 home and are not subject to the sales tax;

19 (g) respiratory syncytial virus medicines; and

20 (h) visosupplementaion therapies sales.

21 (29) tangible personal property purchased by persons under a
22 written contract with the federal government when the contract
23 necessitating the purchase provides that title and possession of the
24 property is to transfer from the contractor to the federal
25 government at the time of purchase or after the time of purchase.
26 This exemption also applies to purchases of tangible personal
27 property which becomes part of real or personal property owned
28 by the federal government or, as provided in the written contract, is
29 to transfer to the federal government. This exemption does not
30 apply to purchases of tangible personal property used or consumed
31 by the purchaser;

32 ~~(30) office supplies, or other commodities, and services resold~~
33 ~~by the Division of General Services of the State Budget and~~
34 ~~Control Board to departments and agencies of the state~~
35 ~~government, if the tax was paid on the divisions original purchase;~~
36 Reserved

37 (31) vacation time sharing plans, vacation multiple ownership
38 interests, and exchanges of interests in vacation time sharing plans
39 and vacation multiple ownership interests as provided by Chapter
40 32 of, Title 27, and any other exchange of accommodations in
41 which the accommodations to be exchanged are the primary
42 consideration;

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

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

9 (34) fifty percent of the gross proceeds of the sale of a modular
10 home regulated pursuant to Chapter 43 of Title 23, both on-frame
11 and off-frame. For purposes of this item only, 'gross proceeds of
12 sale' equals the manufacturer's net invoice price of the modular
13 home sold, including all accessories built in to the modular home
14 at the time of delivery to the purchaser and not including freight or
15 deposit on returnable materials. The manufacturer shall collect the
16 tax and remit it to the Department of Revenue;

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

18 (36) tangible personal property where the seller, by contract of
19 sale, is obligated to deliver to the buyer, or to an agent or donee of
20 the buyer, at a point outside this State or to deliver it to a carrier or
21 to the mails for transportation to the buyer, or to an agent or donee
22 of the buyer, at a point outside this State;

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

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

27 (39) concession sales at a festival by an organization devoted
28 exclusively to public or charitable purposes, if:

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

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

33 For purposes of this item, a 'festival' does not include a
34 recognized state or county fair;

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

40 (41) items sold by organizations exempt under Section
41 12-37-220A(A)(3) and (4) and B (B)(5), (6), (7), (8), (12), (16),
42 (19), (22), and (24), if the net proceeds are used exclusively for
43 exempt purposes and no benefit inures to any individual. An

1 organization whose sales are exempted by this item is also exempt
2 from the retail license tax provided in Article 5 of this chapter;

3 ~~(42) depreciable assets, used in the operation of a business,~~
4 ~~pursuant to the sale of the business. This exemption only applies~~
5 ~~when the entire business is sold by the owner of it, pursuant to a~~
6 ~~written contract and the purchaser continues operation of the~~
7 ~~business; Reserved~~

8 (43) all supplies, technical equipment, machinery, and electricity
9 sold to motion picture companies for use in filming or producing
10 motion pictures. For the purposes of this item, 'motion picture'
11 means any audiovisual work with a series of related images either
12 on film, tape, or other embodiment, where the images shown in
13 succession impart an impression of motion together with
14 accompanying sound, if any, which is produced, adapted, or
15 altered for exploitation as entertainment, advertising, promotional,
16 industrial, or educational media; and a 'motion picture company'
17 means a company generally engaged in the business of filming or
18 producing motion pictures;

19 (44) electricity used to irrigate crops;

20 (45) building materials, supplies, fixtures, and equipment for the
21 construction, repair, or improvement of or that become a part of a
22 self-contained enclosure or structure specifically designed,
23 constructed, and used for the commercial housing of poultry or
24 livestock.

25 (46) War memorials or monuments honoring units or
26 contingents of the Armed Forces of the United States or of the
27 National Guard, including United States military vessels, which
28 memorials or monuments are affixed to public property;

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

32 ~~(48) solid waste disposal collection bags required pursuant to~~
33 ~~the solid waste disposal plan of a county or other political~~
34 ~~subdivision if the plan requires the purchase of a specifically~~
35 ~~designated containment bag for solid waste disposal; Reserved~~

36 ~~(49) postage purchased by a person engaged in the business of~~
37 ~~selling advertising services for clients consisting of mailing, or~~
38 ~~directing the mailing of, printed advertising material through the~~
39 ~~United States mail directly to the client's customers or potential~~
40 ~~customers or by a person to mail or direct the mailing of printed~~
41 ~~advertising material through the United States mail to a potential~~
42 ~~customer; Reserved~~

1 (50)(a) recycling property;
2 (b) electricity, natural gas, propane, or fuels of any type,
3 oxygen, hydrogen, nitrogen, or gasses of any type, and fluids and
4 lubricants used by a qualified recycling facility;
5 (c) tangible personal property which becomes, or will
6 become, an ingredient or component part of products manufactured
7 for sale by a qualified recycling facility;
8 (d) tangible personal property of or for a qualified recycling
9 facility which is or will be used (1) for the handling or transfer of
10 postconsumer waste material, (2) in or for the manufacturing
11 process, or (3) in or for the handling or transfer of manufactured
12 products;
13 (e) machinery and equipment foundations used or to be used
14 by a qualified recycling facility;
15 (f) as used in this item, 'recycling property', 'qualified
16 recycling facility', and 'postconsumer waste material' have the
17 meanings provided in Section 12-6-3460;
18 (51) material handling systems and material handling equipment
19 used in the operation of a distribution facility or a manufacturing
20 facility including, but not limited to, racks used in the operation of
21 a distribution facility or a manufacturing facility and either used or
22 not used to support a facility structure or part of it. To qualify for
23 this exemption, the taxpayer shall notify the department before the
24 first month it uses the exemption and shall invest at least thirty-five
25 million dollars in real or personal property in this State over the
26 five-year period beginning on the date provided by the taxpayer to
27 the department in its notices. The taxpayer shall notify the
28 department in writing that it has met the thirty-five million dollar
29 investment requirement or, after the expiration of the five years,
30 that it has not met the thirty-five million dollar investment
31 requirement. The department may assess any tax due on material
32 handling systems and material handling equipment purchased
33 tax-free pursuant to this item but due the State as a result of the
34 taxpayer's failure to meet the thirty-five million dollar investment
35 requirement. The running of the periods of limitations for
36 assessment of taxes provided in Section 12-54-85 is suspended for
37 the time period beginning with notice to the department before the
38 taxpayer uses the exemption and ending with notice to the
39 department that the taxpayer either has met or has not met the
40 thirty-five million dollar investment requirement.
41 ~~(52) Parts and supplies used by persons engaged in the business~~
42 ~~of repairing or reconditioning aircraft owned by or leased to the~~
43 ~~federal government or commercial air carriers. This exemption~~

1 does not extend to tools and other equipment not attached to or that
2 do not become a part of the aircraft. Reserved

3 (53) ~~motor vehicle extended service contracts and motor vehicle~~
4 ~~extended warranty contracts.~~ Reserved

5 (54) ~~clothing and other attire required for working in a Class~~
6 ~~100 or better as defined in Federal Standard 209E clean room~~
7 ~~environment.~~ Reserved

8 (55) ~~audiovisual masters made or used by a production company~~
9 ~~in making visual and audio images for first generation~~
10 ~~reproduction. For purposes of this item:~~

11 (a) ~~'Audiovisual master' means an audio or video film, tape,~~
12 ~~or disk, or another audio or video storage device from which all~~
13 ~~other copies are made.~~

14 (b) ~~'Production company' means a person or entity engaged~~
15 ~~in the business of making motion picture, television, or radio~~
16 ~~images for theatrical, commercial, advertising, or education~~
17 ~~purposes.~~ Reserved

18 (56) Machines used in research and development. 'Machines'
19 includes machines and parts of machines, attachments, and
20 replacements which are used or manufactured for use on or in the
21 operation of the machines, which are necessary to the operation of
22 the machines, and which are customarily used in that way.
23 'Machines used in research and development' means machines
24 used directly and primarily in research and development, in the
25 experimental or laboratory sense, of new products, new uses for
26 existing products, or improvement of existing products.

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

30 (i) clothing;

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

33 (iii) footwear;

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

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

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

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

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

1 (ii) sales of furniture;
2 (iii) a sale of an item placed on layaway or similar deferred
3 payment and delivery plan however described;
4 (iv) rental of clothing or footwear;
5 (v) a sale or lease of an item for use in a trade or business.
6 (c) Before July tenth of each year, the department shall
7 publish and make available to the public and retailers a list of those
8 articles qualifying for the exemption allowed by this item.
9 ~~(58) cooperative direct mail promotional advertising materials~~
10 ~~and promotional maps, brochures, pamphlets, or discount coupons~~
11 ~~by nonprofit chambers of commerce or convention and visitor~~
12 ~~bureaus who are exempt from income taxation pursuant to Internal~~
13 ~~Revenue Code Section 501(c) delivered at no charge by means of~~
14 ~~interstate carrier, a mailing house, or a United States Post Office to~~
15 ~~residents of this State from locations both inside and outside the~~
16 ~~State. For purposes of this item, 'cooperative direct mail~~
17 ~~promotional advertising materials' means discount coupons,~~
18 ~~advertising leaflets, and similar printed advertising, including any~~
19 ~~accompanying envelopes and labels which are distributed with~~
20 ~~promotional advertising materials of more than one business in a~~
21 ~~single package to potential customers, at no charge to the potential~~
22 ~~customer, of the businesses paying for the delivery of the material.~~
23 Reserved
24 (59) facilities for transmitting electricity that is transferred, sold,
25 or exchanged by electrical utilities, municipalities, electric
26 cooperatives, or political subdivisions to a limited liability
27 company which is subject to regulation under the Federal Power
28 Act (16 U.S.C. Section 791(a)) and which is formed to operate or
29 to take functional control of electric transmission assets as defined
30 in the Federal Power Act;
31 (60) a lottery ticket sold pursuant to Chapter 150 of Title 59;
32 ~~(61) copies of or access to legislation or other informational~~
33 ~~documents provided to the general public or any other person by a~~
34 ~~legislative agency when a charge for these copies is made~~
35 ~~reflecting the agency's cost of the copies. Funds received as~~
36 ~~revenue from the sale of materials or as reimbursements for the~~
37 ~~cost of providing certain supplies or services or refunds must be~~
38 ~~remitted to the State Treasurer as collected, but in no event later~~
39 ~~than twelve working days from the date of the receipt of any such~~
40 ~~funds. Reserved~~
41 (62) seventy percent of the gross proceeds of the rental or lease
42 of portable toilets. Reserved

1 (63) prescription and over-the-counter medicines and medical
2 supplies, including diabetic supplies, diabetic diagnostic
3 equipment, and diabetic testing equipment, sold to a health care
4 clinic that provides medical and dental care without charge to all of
5 its patients.

6 (64) Sweetgrass baskets made by artists of South Carolina using
7 locally grown sweetgrass.

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

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

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

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

22 (b) computer equipment, as defined in subitem (c) of this
23 item, used in connection with a manufacturing facility, where:

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

27 (ii) the taxpayer creates at least three thousand eight
28 hundred full-time new jobs at the facility during that seven-year
29 period.

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

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

42 (d) These exemptions apply from the start of the investment
43 in or construction of the technology intensive facility or the

1 manufacturing facility. The taxpayer shall notify the Department
2 of Revenue of its use of the exemption provided in this item on or
3 before the first sales tax return filed with the department after the
4 first such use. Upon receipt of the notification, the department
5 shall issue an appropriate exemption certificate to the taxpayer to
6 be used for qualifying purposes under this item. Within six
7 months after the fifth anniversary of the taxpayer's first use of this
8 exemption, the taxpayer shall notify the department in writing that
9 it has or has not met the investment and job requirements of this
10 item by the end of that five-year period. Once the department
11 certifies that the taxpayer has met the investment and job
12 requirements, all subsequent purchases of or investments in
13 computer equipment, including to replace originally deployed
14 computer equipment or to implement future expansions, likewise
15 shall qualify for the exemption described above, regardless of
16 when the taxpayer makes the investments.

17 (e) The department may assess any tax due on property
18 purchased tax free pursuant to this item but due the State if the
19 taxpayer subsequently fails timely to meet the investment and job
20 requirements of this item after being granted the exemption; for
21 purposes of determining whether the taxpayer has timely satisfied
22 the investment requirement, replacement computer equipment
23 counts toward the investment requirement to the extent that the
24 value of the replacement computer equipment exceeds the cost of
25 the computer equipment so replaced, but, provided the taxpayer
26 otherwise qualifies for the exemption, the full value of the
27 replacement computer equipment is exempt from sales and use tax.
28 The running of the periods of limitation within which the
29 department may assess taxes provided pursuant to Section
30 12-54-85 is suspended during the time period beginning with the
31 taxpayer's first use of this exemption and ending with the later of
32 the fifth anniversary of first use or notice to the department that the
33 taxpayer either has met or has not met the investment and job
34 requirements of this item;

35 (66) electricity used by a technology intensive facility as defined
36 in Section 12-6-3360(M)(14)(b) and qualifying for the sales tax
37 exemption provided pursuant to item (65) of this section, and the
38 equipment and raw materials including, without limitation, fuel
39 used by such qualifying facility to generate, transform, transmit,
40 distribute, or manage electricity for use in such a facility. The
41 running of the periods of limitation within which the department
42 may assess taxes pursuant to Section 12-54-85 is suspended during
43 the same time period it is suspended in item (65)(d) of this section.

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

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

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

14 To qualify for this exemption, the taxpayer shall notify the
15 department before the first month it uses the exemption and shall
16 make the required investment over the applicable time period
17 beginning on the date provided by the taxpayer to the department
18 in its notices. The taxpayer shall notify the department in writing
19 that it has met the investment requirement or, after the expiration
20 of the applicable time period, that it has not met the investment
21 requirement. The department may assess any tax due on
22 construction materials purchased tax free pursuant to this subitem
23 but due the State as a result of the taxpayer's failure to meet the
24 investment requirement. The running of the periods of limitations
25 for assessment of taxes provided in Section 12-54-85 is suspended
26 for the time period beginning with notice to the department before
27 the taxpayer uses the exemption and ending with notice to the
28 department that the taxpayer either has met or has not met the
29 investment requirement.

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

33 ~~(68) any property sold to the public through a sheriff's sale as~~
34 ~~provided by law.~~ Reserved

35 (69) {Reserved}

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

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

40 (c) currency.

41 The department shall prescribe documentation that must be
42 maintained by retailers claiming the exemption allowed by this

1 item. This documentation must be sufficient to identify each
2 individual sale for which the exemption is claimed.

3 (71) any device, equipment, or machinery operated by hydrogen
4 or fuel cells, any device, equipment, or machinery used to
5 generate, produce, or distribute hydrogen and designated
6 specifically for hydrogen applications or for fuel cell applications,
7 and any device, equipment, or machinery used predominantly for
8 the manufacturing of, or research and development involving
9 hydrogen or fuel cell technologies. For purposes of this item:

10 (a) 'fuel cells' means a device that directly or indirectly
11 creates electricity using hydrogen (or hydrocarbon-rich fuel) and
12 oxygen through an electro-chemical process; and

13 (b) 'research and development' means laboratory, scientific,
14 or experimental testing and development of hydrogen or fuel cell
15 technologies. Research and development does not include
16 efficiency surveys, management studies, consumer surveys,
17 economic surveys, advertising, or promotion, or research in
18 connection with literary, historical, or similar projects.

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

26 'Research district' means land owned by the State, a county, or
27 other public entity that is designated as a research district by the
28 University of South Carolina, Clemson University, the Medical
29 University of South Carolina, South Carolina State University, or
30 the Savannah River National Laboratory.

31 ~~(73) an amusement park ride and any parts, machinery, and~~
32 ~~equipment used to assemble, operate, and make up an amusement~~
33 ~~park ride or performance venue facility located in a qualifying~~
34 ~~amusement park or theme park and any related or required~~
35 ~~machinery, equipment, and fixtures located in the same qualifying~~
36 ~~amusement park or theme park.~~

37 ~~(a) To qualify for the exemption, the taxpayer shall meet the~~
38 ~~investment and job requirements provided in subsubitem (i) of~~
39 ~~subitem (b) over a five-year period beginning on the date of the~~
40 ~~taxpayer's first use of this exemption. The taxpayer shall notify~~
41 ~~the Department of Revenue of its intent to qualify and use this~~
42 ~~exemption and upon receipt of the notification, the department~~
43 ~~shall issue an appropriate exemption certificate to the taxpayer to~~

1 be used for qualifying purposes under this item. Within six
2 months after the fifth anniversary of the taxpayer's first use of this
3 exemption, the taxpayer shall notify the department, in writing,
4 that it has or has not met the investment and job requirements of
5 this item. If the taxpayer fails to meet the investment and job
6 requirements, the taxpayer shall pay to the State the amount of the
7 tax that would have been paid but for this exemption. The running
8 of the periods of limitations for assessment of taxes provided in
9 Section 12-54-85 is suspended for this time period beginning with
10 the taxpayer's first use of this exemption and ending with notice to
11 the department that the taxpayer has or has not met the investment
12 and job requirements of this item.

13 (b) For purposes of this item:

14 (i) 'Qualifying amusement park or theme park' means a
15 park that is constructed and operated by a taxpayer who makes a
16 capital investment of at least two hundred fifty million dollars at a
17 single site and creates at least two hundred fifty full-time jobs and
18 five hundred part-time or seasonal jobs.

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

26 (iii) 'Performance venue facility' means a facility for a live
27 performance, nonlive performance, including any animatronics and
28 computer-generated performance, and firework, laser, or other
29 pyrotechnic show.

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

36 (74) durable medical equipment and related supplies:

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

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

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

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

8 (76) sales of handguns as defined pursuant to Section
9 16-23-10(1), rifles, and shotguns during the forty-eight hours of
10 the Second Amendment Weekend. For purposes of this item, the
11 'Second Amendment Weekend' begins at 12:01 a.m. on the Friday
12 after Thanksgiving and ends at twelve midnight the following
13 Saturday.

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

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

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

32 (c) ~~The exemption provided in this item applies only to sales~~
33 ~~occurring during a period commencing at 12:01 a.m. on October 1,~~
34 ~~2009, and concluding at 12:00 midnight on October 31, 2009,~~
35 ~~(National 'Energy Efficiency Month') and every year thereafter~~
36 ~~until 2019.~~

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

42 (e) ~~Beginning with the February 15, 2009, forecast by the~~
43 ~~Board of Economic Advisors of annual general fund revenue~~

1 growth for the upcoming fiscal year, and annually after that, if the
2 forecast of that growth then and in any adjusted forecast made
3 before the beginning of the fiscal year equals at least five percent
4 of the most recent estimate by the board of general fund revenues
5 for the current fiscal year, then the exemption allowed by this item
6 shall be allowed for the applicable year. If the February fifteenth
7 forecast or adjusted forecast annual general fund revenue growth
8 for the upcoming fiscal year meets the requirement for the credit,
9 the board promptly shall certify this result in writing to the
10 department. Reserved

11 (78) machinery and equipment, building and other raw
12 materials, and electricity used in the operation of a facility owned
13 by an organization which qualifies as a tax exempt organization
14 pursuant to the Internal Revenue Code Section 501(c)(3) when the
15 facility is principally used for researching and testing the impact of
16 such natural hazards as wind, fire, water, earthquake, and hail on
17 building materials used in residential, commercial, and agricultural
18 buildings. To qualify for this exemption, the taxpayer shall notify
19 the department of its intent to qualify and shall invest at least
20 twenty million dollars in real or personal property at a single site in
21 this State over the three year period beginning on the date
22 provided by the taxpayer to the department in its notices. After the
23 taxpayer notifies the department of its intent to qualify and use the
24 exemption, the department shall issue an appropriate exemption
25 certificate to the taxpayer to be used for qualifying purposes.
26 Within six months of the third anniversary of the taxpayer's first
27 use of the exemption, the taxpayer shall notify the department in
28 writing that it has met the twenty million dollar investment
29 requirement or, that it has not met the twenty million dollar
30 investment requirement. The department may assess any tax due
31 on the machinery and equipment purchased tax free pursuant to
32 this item but due the State as a result of the taxpayer's failure to
33 meet the twenty million dollar investment requirement. The
34 running of the periods of limitations for assessment of taxes
35 provided in Section 12-54-85 is suspended for the time period
36 beginning with notice to the department before the taxpayer uses
37 the exemption and ending with notice to the department that the
38 taxpayer either has met or has not met the twenty million dollar
39 investment requirement. Reserved

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

1 (2) electricity used by a datacenter and eligible business
2 property to be located and used at the datacenter. This subsubitem
3 does not apply to sales of electricity for any other purpose, and
4 such sales are subject to the tax, including, but not limited to,
5 electricity used in administrative offices, supervisory offices,
6 parking lots, storage warehouses, maintenance shops, safety
7 control, comfort air conditioning, elevators used in carrying
8 personnel, cafeterias, canteens, first aid rooms, supply rooms,
9 water coolers, drink boxes, unit heaters and waste house lights.

10 (B) As used in this section:

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

14 (2) 'Computer equipment' means original or replacement
15 servers, routers, switches, power units, network devices, hard
16 drives, processors, memory modules, motherboards, racks, other
17 computer hardware and components, cabling, cooling apparatus,
18 and related or ancillary equipment, machinery, and components,
19 the primary purpose of which is to store, retrieve, aggregate,
20 search, organize, process, analyze, or transfer data or any
21 combination of these, or to support related computer engineering
22 or computer science research. This also includes equipment
23 cooling systems for managing the performance of the datacenter
24 property, including mechanical and electrical equipment, hardware
25 for distributed and mainframe computers and servers, data storage
26 devices, network connectivity equipment, and peripheral
27 components and systems.

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

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

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

37 (i) that provides infrastructure for hosting or data
38 processing services and that has power and cooling systems that
39 are created and maintained to be concurrently maintainable and to
40 include redundant capacity components and multiple distribution
41 paths serving the computer equipment at the facility. Although the
42 facility must have multiple distribution paths serving the computer

1 equipment, a single distribution path may serve the computer
2 equipment at any one time;

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

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

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

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

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

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

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

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

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

42 (2) Once the taxpayer meets the requirements of subitem
43 (B)(5), or at the end of the five-year period, the taxpayer shall

1 notify the Department of Revenue, in writing, whether it has or has
2 not met the requirements of subitem (B)(5). The taxpayer shall
3 provide the proof the department determines necessary to
4 determine that the requirements have been met.

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

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

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

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

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

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

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

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

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

40 (G) This subitem only applies to a datacenter that is certified
41 by the Department of Commerce pursuant to subitem (D)(1) prior
42 to January 1, 2032. However, this item shall continue to apply to a
43 taxpayer that is certified by December 31, 2031, for an additional

1 ten year period. Upon the end of the ten year period, this subitem
2 is repealed.

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

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

27

28 B. This section takes effect July 1, 2013.

29

30 SECTION 2. Section 12-36-2130 of the 1976 Code is repealed.

31

32 SECTION 3. The revenue generated pursuant to this Act must be
33 credited to the General Reserve Fund.

34

35 SECTION 4. A. The Joint Committee on Taxation, as
36 established by Act 334 of 2002, and contained in Chapter 41, Title
37 2, is reenacted under the same provisions as it was originally
38 enacted by Act 334 of 2002, except for the provisions of Section
39 2-41-60.

40

41 B. By September 1, 2013, the Joint Committee on Taxation shall
42 convene for the purpose of conducting a cost benefit analysis on
43 the provisions of Section 12-36-2120. The committee shall submit

1 a report to the Governor and the General Assembly detailing its
2 findings and recommendations. The report must be made available
3 to the public. The committee shall review the feasibility of the
4 exemptions as often as it deems appropriate, but no later than its
5 session every five years after the initial review.
6

7 SECTION 5. Except as otherwise provided this act takes effect
8 upon approval by the Governor.

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