CHAPTER 117

Department of Revenue

(Statutory Authority: 1976 Code §§ 12–4–320, 12–4–520, 12–7–70, 12–9–130, 12–19–130, 12–21–10, 12–21–120, 12–21–1090, 12–21–1840, 12–21–2810, 12–21–2798, 12–23–40, 12–27–820, 12–29–20, 12–33–70, 12–36–2120, 12–37–11, 12–37–910, 12–43–210 to 12–43–310, 38–5–430, 52–15–370, 61–9–850)

Article 10
Administrative Matters

(Statutory Authority: 1976 § 12–4–320)

117–200. Recordkeeping.

Code Section 12–54–210 requires all taxpayers to keep books and records as the South Carolina Department of Revenue may prescribe. Code Section 12–54–100 authorizes the Department to examine the books and records of a taxpayer to ascertain the correctness of any return or tax liability. The following concerns the recordkeeping requirements of a taxpayer.

117–200.1. Retention of Books and Records and the Use of Microfilm Reproduction of Books and Records.

A person applying for or holding a license administered by the Department; liable for any tax, fee, or surcharge administered by the Department; or required to file any return or statement with the Department shall keep books, papers, memoranda, and records sufficient to establish the right to obtain or hold a license; any amount required to be shown on any return or statement; or any tax, fee or surcharge due, whether such amount due is paid with the filing of a return, electronically, or in any other manner. For purposes of this subsection, a return includes information returns or reports.

Such books or records are required to be kept at all times available for inspection by agents or auditors of the Department, and shall be retained for at least four years after the return was filed or due to be filed, whichever is later.

Only on prior written approval of the Department may microfilm reproductions of supporting records of details, such as but not limited to documents of original entry, purchase orders, invoices, checks, vouchers and payroll records, be retained in lieu of actual documents and then only when the following conditions are met:

1. The taxpayer will retain microfilm copies as long as the contents thereof may become material in the administration of any law by the Department;

2. The taxpayer will provide appropriate facilities for preservation of the films and for the ready inspection and location of the particular records, including a projector for viewing the records in the event inspection is necessary; and

3. The taxpayer will be ready to make any transcripts of the information contained on the microfilm which may be required.

117–200.2. Model Recordkeeping and Retention.

(A) The purpose of this regulation is to define the requirements imposed on taxpayers for the maintenance and retention of books, records, and other sources of information under Code Section 12–54–210. It is also the purpose of this regulation to address these requirements where all or a part

of the taxpayer's records are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems.

(B) For the purposes of this regulation, these terms shall be defined as follows:

(1) "Database management system" means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database.

(2) "Electronic data interchange" or "EDI technology" means the computer-to-computer exchange of business transactions in a standardized structured electronic format.

(3) "Hardcopy" means any documents, records, reports, or other data printed on paper.

(4) "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hardcopy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

(5) "Storage-only imaging system" means a system of computer hardware and software that provides for the storage, retention, and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hardcopy or as an optical image.

(6) "Taxpayer" as used in this regulation means a person who is liable for a tax or who is responsible for collecting and remitting a tax. "Taxpayer" includes any licensee and any applicant for a license, issued by or administered by the Department.

(7) "Department" means the South Carolina Department of Revenue.

(C)(1) Pursuant to Code Section 12–54–210, a taxpayer shall maintain all records that are necessary to a determination of the correct tax liability under laws administered by the Department. All required records must be made available on request by the Department or its authorized representatives as provided for in Code Sections 12–54–100 and 12–4–330(A).

(2) If a taxpayer retains records required to be retained under this regulation in both machine-sensible and hardcopy formats, the taxpayer shall make the records available to the Department in machine-sensible format upon request of the Department pursuant to Code Sections 12–54–100 and 12–4–330(A).

(3) Nothing in this regulation shall be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hardcopy documents or reproductions thereof, in whole or in part, whether or not such taxpayer also has retained or has the capability to retain records on electronic or other storage media in accordance with this regulation. However, this provision shall not relieve the taxpayer of the obligation to comply with this subsection.

(D)(1) Machine-sensible records used to establish tax compliance shall contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the Department upon request. A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under the law are met.

(2) At the time of an examination, the retained records must be capable of being retrieved and converted to a standard record format.

(3) Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes.

(E)(1) Where a taxpayer uses electronic data interchange processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the Department to interpret the coded information.

(2) The taxpayer may capture the information necessary to satisfy section (E)(1) at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer

using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the Department. In this example, the taxpayer need not retain its EDI transaction for tax purposes.

(F) The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this law.

(G)(1) Upon the request of the Department, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records.

(2) The taxpayer shall be capable of demonstrating:

(a) the functions being performed as they relate to the flow of data through the system;

(b) the internal controls used to ensure accurate and reliable processing; and,

(c) the internal controls used to prevent unauthorized addition, alteration, or deletion of retained records

(3) The following specific documentation is required for machine-sensible records retained pursuant to this regulation:

(a) record formats or layouts;

(b) field definitions (including the meaning of all codes used to represent information);

(c) file descriptions (e.g., data set name);

(d) detailed charts of accounts and account descriptions.

(H)(1) It is recommended but not required that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. [The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995 edition.]

(2) The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records.

(I)(1) The manner in which the Department is provided access to machine-sensible records as required in subsection (C)(2) of this regulation may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer.

(2) Such access will be provided in one or more of the following ways:

(a) The taxpayer may arrange to provide the Department with the hardware, software, and personnel resources to access the machine-sensible records;

(b) The taxpayer may arrange for a third party to provide the hardware, software, and personnel resources necessary to access the machine-sensible records;

(c) The taxpayer may convert the machine-sensible records, including copies of files, to a standard record format specified by the Department on a magnetic medium that is agreed to by the Department;

(d) The taxpayer and the Department may agree on other means of providing access to the machine-sensible records.

(J)(1) In conjunction with meeting requirements of subsection (D), the taxpayer may create files solely for the use of the Department. For example, if a database management system is used, it is consistent with this regulation for the taxpayer to create and retain a file that contains the transaction-level detail from the data-base management system and that meets the requirements of subsection (D).

The taxpayer should document the process that created the separate file to show the relationship between that file and the original records.

(2) A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under the law or this regulation.

(K)(1) For purposes of storage and retention, taxpayers may convert hardcopy documents received or produced in the normal course of business and required to be retained under this regulation to microfilm, microfiche or other storage-only imaging systems and may discard the original hardcopy documents provided the conditions of this regulation are met. Documents that may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details such as sales invoices, purchase invoices, exemption certificates, and credit memoranda.

(2) Microfilm, microfiche, and other storage-only imaging systems shall meet the following requirements:

(a) Documentation establishing the procedures for converting the hardcopy documents to microfilm, microfiche, or other storage-only imaging systems must be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance.

(b) Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available for the period they are required to be retained.

(c) Upon request by the Department, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche, or other storage-only imaging systems.

(d) When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers.

(e) All data sorted on microfilm, microfiche, or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record.

(f) There is no substantial evidence that the microfilm, microfiche, or other storage-only imaging system lacks authenticity or integrity.

(L)(1) Except as otherwise provided in this regulation, the provisions of this regulation do not relieve taxpayers of the responsibility to retain hardcopy records that are created or received in the ordinary course of business as required by existing law and regulations. Hardcopy records may be retained on a recordkeeping medium as provided in subsection (K) of this regulation.

(2) If hardcopy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hardcopy records need not be created.

(3) Hardcopy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this regulation. Such details include those listed in subsection (E)(1).

(4) Computer printouts that are created for validation, control, or other temporary purposes need not be retained.

(5) Nothing in this regulation shall prevent the Department from requesting hardcopy printouts in lieu of retained machine-sensible records at the time of examination.

(M) The Department may allow a taxpayer to use other methods of maintaining and providing records that are received, created, maintained, or generated through various computer, electronic, and imaging processes and systems where such is in the best interest of the state.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–201. Supplying of Identifying Numbers.

Any person required to make a return, statement, or document to the South Carolina Department of Revenue shall include in such return, statement, or other document such identifying numbers as may be prescribed for securing proper identification of such person.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–202. Definitions; Reimbursement for Costs Incurred in Complying with Summons.

Section 1. For purposes of this regulation the words terms and phrases when used herein shall have the meaning ascribed thereto.

(a) A "taxpayer" is a person, firm, corporation or other entity with respect to whose income, sales or business the summons is issued.

(b) A "third party" is the person, firm, corporation or other entity upon whom the summons is served, other than:

1. a taxpayer; or

2. an officer, employee, agent, accountant, or attorney of a taxpayer who, at the time the summons is served, is acting as such.

(c) "Third party records" are books, papers, records or other information in which the taxpayer has no proprietary interest at the time the summons is served.

(d) "Directly incurred costs" are those incurred solely, immediately and necessarily as a consequence of searching for, reproducing or transporting records in order to comply with a summons. Proportionate allocation of fixed costs (overhead, equipment depreciation, etc.) is not considered to be directly incurred. However, where a third party's records are stored at an independent storage facility that charges the third party a fee to search for, reproduce or transport particular records requested, such fees are considered to be directly incurred by the summoned third party.

(e) "Search Costs" include only the amount of time incurred in locating and retrieving records or information.

(f) "Reproduction Costs" are those incurred in making copies or duplicates of summoned documents, transcripts and other similar material.

(g) "Transportation Costs" are limited to:

1. Costs incurred to transport personnel to locate and retrieve records or information requested; and

2. Costs incurred solely by the need to convey the summoned material to the place of examination.

Section 2. A third party in compliance with a summons is entitled to payment as herein provided for directly incurred costs for searching, reproducing or transporting such party's records, books or papers. The payment shall be in accordance with the following:

1. For reproduction costs

(a) ten (10) cents for each page reproduced;

(b) the actual cost of each photograph, film, or other material reproduced.

2. For search costs

The amount of Five (5) Dollars per hour;

3. For transportation costs

The actual costs.

No payment will be made, however, until the third party satisfactorily complies with the summons and submits an itemized bill reflecting a specific accounting for the search, reproduction and transportation costs. The payment shall be made only to third parties and not to the taxpayer.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

Article 11
Sales and Use Tax Regulations

(Statutory Authority: 1976 Code § 12–4–320)

117–300. Retail License.

As a condition precedent to doing business in this state, every retailer shall obtain a retail license for each retail outlet.

117–300.1. Doing Business in South Carolina.

Every retailer making sales of tangible personal property for storage, use or other consumption in this state, who:

1. Maintains a place of business;
2. Qualifies to do business;
3. Solicits and receives purchases or orders by agent or salesman

must obtain from the department a retail license.

117–300.2. Vending and other Coin-Operated Machines Dispensing Tangible Personal Property.

For the purpose of determining the licenses required by persons engaged in the business of operating vending or coin-operated machines dispensing cigarettes and soft drinks in closed containers in this state, each point from which the service for such machines or other tangible personal property originates, shall be considered to be a retail outlet and a retail license must be obtained for each such point of service.

117–300.3. Operation of Deceased Licensed Retailer's Business by Personal Representative of His Estate.

The personal representative of the estate of a deceased licensed retailer may, upon filing with the department a certified copy of Letters Testamentary or Letters of Administration, as the case may be, and upon the approval of the department, continue the operation of the business covered by the license for purposes only of administering the estate.

117–300.4. Application for Transfer.

A licensed retailer may, upon written application and approval by the department, have transferred his retail dealer's license from one location to another without incurring additional license tax liability. This rule is for application only in cases where there is an abandonment of the licensed business location and a simultaneous moving to a new location. The licensed retailer making application for transfer must surrender his license of original issue and indicate on the license the address of his new location.

117–300.5. Fairs, Carnivals, Concessionaires at Athletic Stands and Other Public Exhibitions.

Operators of fairs, carnivals and concessionaire at athletic stands and other public exhibitions sell tangible personal property from booths which they operate. These sales are subject to the tax which must be remitted by the operator who controls or directs the management of such booths. The single retail license shall cover sales of tangible personal property made from all stands under the immediate management or control of each operator. A separate license will not be required for each change of location provided the operator furnishes the department an itinerary giving a schedule of locations and dates.

Persons conducting games of chance or skills at fairs, carnivals, circuses and other public exhibitions who deliver merchandise as prizes are deemed consumers of such articles. Property for use as outlined above purchased from without the state is subject to the tax based upon the reasonable and fair market value thereof at the time and place where used. The term "reasonable and fair market value" shall mean the retail selling price of the particular property involved in the absence of affirmative proof to the contrary. The taxable event in such cases occurs at the time of withdrawal of such property for use as prizes or gifts. Purchases in this state, of tangible personal property to be

used as gifts or prizes, are subject to the sales tax. The purchaser thereof must pay his supplier the tax.

117–300.6. Partnership.

(A) A partnership engaged in the business of selling tangible personal property at retail, and therefore required to be licensed under the provisions of Article 5, Chapter 36 of Title 12, must obtain a new retail license, or retail licenses if the partnership has multiple retail locations, if:

1. The partnership incorporates.

2. A single partner takes over the business and operates it as a sole proprietorship.

3. The partnership is terminated (no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership) and a new partnership is begun.

4. The partnership is otherwise required to obtain a new Taxpayer Identification Number ("TIN"). (See SC Regulation 117–201.)

Note: If the retailer moves its retail business to a new location, then the retailer must notify the Department of the move prior to the move. Upon notification, the Department will issue a corrected retail license at no charge for the new location.

(B) A new retail license, or retail licenses if the partnership has multiple retail locations, is not required if:

1. The partnership merely changes its name.

2. The partnership has a change in ownership but is not required to obtain a new Taxpayer Identification Number ("TIN"). (See SC Regulation 117–201.) However, if there is a change of general partners, the Department advises the partnership to either advise the Department of the change in general partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or a new retail license is not obtained, it will be presumed that the persons listed in records of the Department of Revenue as the general partner or partners are liable for any sales or use taxes the partnership fails to pay (unless the retail license of record indicates the partnership is a registered LLP pursuant to Code Section 33–41–1120). Since the partnership is not required to obtain a new retail license under this circumstance, the payment of the application fee for a retail license, as prescribed in Code Section 12–36–510, is not required to be paid for a retail license obtained in order to ensure that only proper persons are listed as the general partner or partners in the records of the Department of Revenue.

(C) The term "partnership" includes a limited liability company ("LLC") that is taxed for South Carolina income tax purposes as a partnership.

Note: Unlike other types of partnerships, a general partner in a limited liability partnership ("LLP") is not liable for debts, obligations and liabilities chargeable to the partnership while the partnership is a registered LLP. (See Code Section 33–41–370.)

A partner in an LLP and a member of an LLC may, however, be individually and personally liable for withholding taxes, state and local sales and use taxes, or both as a "withholding agent" (withholding tax), a "responsible person" (state and local sales and use taxes), or both under the provisions of Code Section 12–8–2010 and Code Section 12–54–195.

(D) The conversion of a partnership to a registered LLP pursuant to Article 13 of Chapter 41 of Title 33 is a partnership-to-partnership conversion and the organization is still considered to be the same entity for South Carolina tax purposes and is not required to obtain a new retail license. However, the Department advises the resulting LLP to either advise the Department of the change in general partners or partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or partners or a new retail license is not obtained, it will be presumed that the general partner or partners are liable for any sales or use taxes the LLP fails to pay. Since the resulting LLP is not required to obtain a new retail license, the payment of the application fee for a retail license, as prescribed in Code Section 12–36–510, is not required to be paid for a retail license obtained as a result of the conversion of a partnership to an LLP.

(E) The conversion of a partnership to an LLC taxed as a partnership pursuant to Code Section 33–44–902 is treated as a partnership-to-partnership conversion and the organization is still considered to be the same entity for South Carolina tax purposes and is not required to obtain a new retail license.

See Code Section 33–44–903 which confirms that a partnership that has been converted into an LLC is the same entity that existed before conversion and all property owned by the converting partnership vests in the LLC.

However, the Department advises the resulting LLC to either advise the Department of the change in general partners or partners or obtain a new retail license for each retail location. If the Department is not advised of the change in general partners or partners or a new retail license is not obtained, it will be presumed that the general partner or partners are liable for any sales or use taxes the LLC fails to pay (unless the retail license of record indicates the partnership is a registered LLP pursuant to Code Section 33–41–1120). Since the resulting LLC is not required to obtain a new retail license, the payment of the application fee for a retail license, as prescribed in Code Section 12–36–510, is not required to be paid for a retail license obtained as a result of the conversion of a partnership to an LLC taxed as a partnership.

(F) The provisions of this regulation apply to the retail licensing requirements under the sales and use tax law (Chapter 36 of Title 12) and do not apply to the alcoholic beverage licensing provisions of Title 61. For information as to when a person must obtain a new alcoholic beverage license, see Code Section 61–2–140 and the various other licensing provisions of Title 61.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; State Register Volume 31, Issue No. 2, eff February 23, 2007.

117–301. Agriculture.

The South Carolina sales and use tax law provides many exemptions from the tax for the agriculture industry. The exemptions are found in Code Section 12–36–2120 and include exemptions for livestock, feed, insecticides, chemicals, fertilizers, containers, labels, machinery, fuel, electricity, gas, and building materials. In order to obtain an exemption, all provisions of the exemption must be met. This regulation will explain these exemptions in more detail.

In many of the subsections of this regulation, examples of items exempt and not exempt are provided. These examples are not all inclusive.

117–301.1. Livestock

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

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

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

117–301.2. Feed.

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

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

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

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

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

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

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

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

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

117–301.4. Containers and Labels.

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

This exemption applies to bags sold to:

(a) wholesale grain and feed dealers for use as furnished containers of corn and oats.

(b) cotton dealers or ginners for use as furnished containers of cotton seed.

(c) produce dealers for use as furnished containers of potatoes, cabbage, etc.

(d) peanut hullers for use as furnished containers of peanut kernals, hulls, and vines.

(e) nurserymen for use as furnished containers of nursery stock.

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

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

117–301.5. Farm Machinery.

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

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

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

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

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

The following machines qualify for this exemption:

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

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

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

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

(e) machines used in the production of poultry and poultry products for sale when incorporated into and made a part of an automated system. This includes automated bulk feed bins placed either inside or outside the building when such bins are connected to automatic feeding systems; the auger conveying feed from bulk feed bins to the automated feeder system; roll-up curtains (hand crank and

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

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

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

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

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

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

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

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

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

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

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

This exemption does not apply to:

(a) automobiles and trucks.

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

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

(d) tobacco thermometers.

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

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

(g) greenhouses.

117–301.6. Fuel.

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

117–301.7. Electricity and Gas.

The following sales of electricity and gas are exempt:

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

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

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

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

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

This exemption applies to:

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

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

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

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

117–301.9. Sales by Farmers.

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

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

117–301.10. Hatcheries.

The hatchery operator may purchase under his retail license hatchery eggs for use in hatching baby chicks for sale. Hatchery eggs may be sold free of the tax to a hatchery operator not having a retail license, provided, the seller thereof takes from such operator a certificate that the property is for resale either in the original form or as baby chicks or as full grown chickens. Hatcheries engaged in the business of hatching baby chicks for others from eggs grown by those other persons (custom hatching) are rendering a service which is not subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–302. Manufacturers, Processors, Compounders, Miners, and Quarries.

Manufacturers, processors, compounders, miners, and quarries enjoy several exclusions and exemptions from the sales and use taxes. The exclusions can be found in Code Section 12–36–120 and includes containers, ingredients and component parts, and items used directly in manufacturing, compounding or processing tangible personal property for sale. The exemptions can be found in Code Section 12–36–2120 and include exemptions for coal, coke, fuel, electricity, and machines. This regulation will explain these exclusions and exemptions in more detail.

In many of the subsections of this regulation, examples are provided. These examples are not all inclusive.

117–302.1. Ingredients and Component Parts and Items Used Directly.

Purchases of tangible personal property are not subject to the tax under Code Section 12–36–120 if the tangible personal property:

(a) becomes an ingredient or component part of tangible personal property manufactured or compounded for sale; or,

(b) is used directly in manufacturing, compounding or processing tangible personal property for sale. By "used directly" is meant that 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. It is not necessary that such materials or products be used up or entirely consumed, provided there is a compliance with the requirements set forth herein.

These exclusions apply to:

(a) odorants purchased by gas companies and used in compounding gas for sale.

(b) chemicals, such as soda, ash, alum, chlorine, etc., used in treating water for sale by municipalities and others engaged in the business of processing or compounding water for sale.

(c) refrigerants used by manufacturers to produce ice for sale.

(d) acetylene, oxygen, and other gases sold to manufacturers or compounders which enter into and become an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale, or which are used directly in fabricating, converting, or processing the materials or products being manufactured or compounded for sale.

(e) plates attached by the manufacturer to his product for identification purposes and which become a part of the product.

These exclusions do not apply to sales of acetylene, oxygen, and other gases for use by repairman, welders, dentists, junk dealers, and others are subject to the sales or use tax, whichever applies.

117–302.2. Containers.

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

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

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

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

This exclusion applies to:

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

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

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

This exclusion does not apply to:

(a) address stickers and shipping tags.

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

117–302.3. Coal, Coke or Other Fuel.

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

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

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

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

117–302.4. Electricity.

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

Sales of electricity to manufacturers, miners, quarriers, and processors for use in operating machines manufacturing, mining, quarrying, or processing tangible personal property for sale and electricity to provide lighting necessary to the operation of such machines are exempted from the sales and use tax. This exemption applies to electricity used to control plant atmosphere as to temperature and/or moisture content, in the quality control of tangible personal property being manufactured or processed for sale.

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

117–302.5. Machines.

(A) Introduction:

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

(B) General Guidance:

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

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

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

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

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

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

(2) Machine Parts:

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

(3) Building of Machines:

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

(4) Conveyances:

(a) The general rule with reference to material handling machinery and/or mechanical conveyors is that such machinery is subject to the tax up to the point where the materials go into process. The machine feeding the first processing machine(s) is exempt. The last machine to come within the exemption is that machine which discharges the finished product from the last machine used in the process. Material handling machinery used for transporting (in process) material from one process stage to another comes within the exemption. Warehouse machinery used only for warehouse purposes, loading and unloading, storing, transporting raw materials and finished products, etc., is subject to the tax, unless exempt under the provisions of Code Section 12–36–2120(51). If material handling machinery is customarily used for a dual purpose, that is partly for an exempt purpose and partly for a taxable purpose, and is not otherwise exempt under the provisions of Code Section 12–36–2120(51), the machinery may be purchased free of the tax under the machine exemption (Code Section 12–36–2120(17)) provided the exempt use represents a substantial portion of its use.

For example, the following conveyances are exempt:

(i) Wheeled conveyances known as "print screen truck" used by a textile manufacturer in the movement of print screens from a holding area to the exempt print machines, to the print screen washing machine, and back to the holding area racks after the style or pattern is changed and the print screen is washed.

(ii) Warehouse machines (e.g., forklifts) that are used substantially to feed raw material into or onto the first processing machine in the manufacturing process area in addition to being used in loading, unloading, storing, and transporting raw materials from the warehouse to the manufacturing area, or transporting finished products from the manufacturing area to the warehouse.

(b) Conveyances are subject to the tax up to the point where the materials go into the process. The last machine to come within the exemption is that machine which discharges the finished

product from the last machine used in the process. Under this rule, the following conveyors are subject to the tax:

(i) Conveyors used solely by the taxpayer in the warehousing of raw materials and finished goods.

(ii) Conveyors which are not integral and necessary to the manufacturing process.

(iii) Piping leading to and from storage tanks.

(iv) Piping, pumps, and well connections installed for use by a manufacturer to supply the manufacturing plant with water necessary for the manufacture of tangible personal property.

(v) Warehouse machines that are used for warehouse purposes, such as loading, unloading, storing, transporting raw materials from the warehouse to the manufacturing area, or transporting finished products from the manufacturing area to the warehouse.

(5) Chemicals:

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

(i) Chemicals, greases, oils (motor oils, gear oils, chain oils), lubricants, and coolants used in an exempt manufacturing machine when such items are integral and necessary to the manufacturing process, such as those that are essential in ensuring the functioning of the machine during the manufacturing process, and the use of such items is an ongoing, continuous activity.

(ii) Chemicals used in an exempt pollution control machine to abate or prevent pollution when such chemicals are integral and necessary to the manufacturing process, such as the treating of wastewater or otherwise preventing or abating pollution, and the use of such chemicals is an ongoing, continuous activity.

(iii) Chemicals used to clean the exterior or interior of an exempt manufacturing machine when the cleaning is integral and necessary to the manufacturing process, such as those that are essential in ensuring the quality of the product is maintained, and the use of such chemicals is an ongoing, continuous activity.

(iv) Chemicals used to prevent corrosion in an exempt manufacturing machine, such as an exempt boiler, when such chemicals are integral and necessary to the manufacturing process, such as those that are essential in ensuring the functioning of the machine during the manufacturing process, and the use of such chemicals is an ongoing, continuous activity.

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

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

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

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

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

(6) Maintenance:

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

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

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

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

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

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

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

(7) Storage:

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

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

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

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

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

(8) Buildings:

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

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

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

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

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

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

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

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

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

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

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

(j) Power lines bringing electricity into the plant.

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

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

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

(10) Protective Clothing

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

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

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

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

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

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

(4) Pressure washing machines and ultrasonic cleaning machines, used to clean exempt manufacturing machines or parts, when the cleaning of the exempt manufacturing machine or part is to ensure the functioning of the exempt machine or part during the manufacturing process or to ensure the quality of the product is maintained.

(5) Machines or machine parts used in removing sawdust from saws in a sawmill that are either attached to the sawing mechanism or are essential in ensuring the quality of the product is maintained.

(6) Trucks too large to be lawfully used upon the highways of this state, when used in quarry pits for transporting rock or granite from the blasting site to the crushing machine.

(7) Sand handling and sand condition machines used by manufacturers for conditioning and transporting, while in process, and for use in mold making.

(8) Tanks which are a part of the chain of processing operations.

(9) Patterns which become parts or attachments for molding machines when purchased by a manufacturer for his use.

(10) Machines used in making molds from sand for use in manufacturing tangible personal property for sale.

(11) Machines used in measuring, or weighing, and packaging by manufacturers to put the product in condition for sale on the open market for the purpose for which it was produced.

(12) Transformers, capacitors and voltage regulators used in manufacturing and processing tangible personal property for sale, used by producers or distributors of electricity which process the electricity, and all transformers used by other manufacturers as a part of their manufacturing machinery.

(13) Machines used by cotton ginners in their processing operations.

(14) Pasteurizing machines, cooling machines, mechanical separators, homogenizing machines and bottling machines used by dairies in processing milk for sale. The machine exemption does not extend to cover milking machines.

(15) Boiler tubes used in repairing boilers used to furnish heat or power used in manufacturing tangible personal property for sale.

(16) Machines used by persons in the business of producing scrap iron and other metals from junk for resale to steel mills and/or foundries, such as hydraulic baling presses (to compress sheet steel into bales), cranes (to feed scrap metals to baling press), and alligator shears (to cut scrap steel to predetermined sizes).

(17) Machines used by dental laboratories in manufacturing for sale plates, bridgework, artificial teeth and other prosthetic devices.

(18) Machines used in processing and manufacturing by electric power companies including all producing stationary machines in an electric power generating house, stationary, processing machines located in substation houses and transformers, pole or otherwise.

(19) Starters, switches, circuit breakers and other electrical equipment which are parts of, or attachments of machines, come within the machine exemption. In order to be exempt this equipment must be either attached directly to the machine or be immediately adjacent thereto. Switchboards and control boards and cabinets controlling the general electrical supply system are not considered to be parts or attachments of machines used in manufacturing. (Note, however, that, switchboards, automatic or manually operated, which serve to operate exempt machinery may be classified a part or attachment thereto, provided, same are attached thereto or located within the same structure or compound.) The general rule is that power distribution machinery for operating machines used in manufacturing tangible personal property which starts at the main switch within the factory building or compound is exempt.

(20) Machines used in the wood preserving process by persons engaged in the business of treating lumber or lumber products (wood preserving) which they own and treat for sale.

(21) Gas pressure regulators located in the lead off from the gas main.

(22) Machines used in the meatpacking process by meatpackers whose activities include the curing of meats and the production of animal by-products such as lard, sausages, or tankage.

(23) Machines used by ice manufacturers in manufacturing ice for sale.

(24) Machines used to condition air (including humidification systems) for quality control during the manufacturing process of tangible personal property made from natural fibers and synthetic materials. This exemption applies to the pipes and duct used to distribute the processed air to the production areas within the plant.

(25) Recording instruments attached to manufacturing machines.

(26) Machines used by a manufacturer in the tire recapping process.

(27) Machines used by municipalities in processing or compounding water for sale.

(28) Belting purchased for use on a particular machine used in manufacturing tangible personal property for sale even though such belting may not be purchased to the exact length required.

(29) Machines purchased by persons in the business of collecting old and used paper (waste paper) for the purpose of grading, sorting and packaging the same for sale or resale to paper mills.

(30) Insulation for pipe coverings, tank coverings, and boiler insulation purchased by a paper manufacturer from the vendor in its final prefabricated form for a specific insulation job, provided it does not have to be cut and fitted at the paper mill. Certain fabrication is permissible around valve openings, pipe openings at pipe joints, etc. Note, where insulation is purchased in blocks, such blocks are to be considered as taxable, except as noted above with respect to the purchase of material in building a machine used in manufacturing tangible personal property for sale.

(31) Electrical equipment used as direct controls of machinery used in manufacturing is considered as part of manufacturing machinery.

(32) Machines used for the generation of electricity, such as boilers, engines, condensers, generators, and transformers and their attachments.

117–302.6. Pollution Control Machines.

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

The term "machine" as defined in Section 12–36–2120(17) shall include machines, their parts and attachments, when the same are necessary to comply with the order of an agency of the United States or of this state for the prevention or abatement of pollution that is caused or threatened by any machines used in the mining, quarrying, compounding, processing and manufacturing of tangible personal property.

Any person engaged in the business of mining, quarrying, compounding, processing and manufacturing of tangible personal property shall furnish the department a certified statement from the ordering agency that any machine for which the exemption is claimed is necessary to prevent or abate pollution caused or threatened by the operation of other machines that are used in the mining, quarrying, compounding, processing or manufacturing of tangible personal property.

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

117–302.7. Outside Signs, Furnished.

Outside signs furnished by a manufacturer to his customers, when such signs are furnished without cost to the customers, are subject to sales or use tax when purchased by the manufacturer. These signs are not purchased to be resold nor are they purchased as a component of the property manufactured for sale by the manufacturer.

117–302.8. Patterns, Sales.

Certain manufacturers in the operation of their businesses purchase for their customers patterns which are used by the manufacturers in the production of property for sale to their customers. When such patterns are received by the manufacturers, they are then sold to the manufacturers' customers. The manufacturers purchase these patterns at wholesale and sell them to their customers at retail. The manufacturers' sale to their customers are subject to tax even though the customer is a nonresident of South Carolina and even though the pattern, after use by the manufacturer in South Carolina, may be shipped to the customer outside the state.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004; State Register Volume 30, Issue No. 2, eff February 24, 2006.

117–303. Laundry, Launderette, Cleaning, Dyeing or Pressing Establishments.

Code Sections 12–36–910 and 12–36–1310 impose the sales and use taxes on the "gross proceeds accruing or proceeding from the business of providing or furnishing any laundering, dry cleaning, dyeing, or pressing service, but does not apply to the gross proceeds derived from coin-operated laundromats and dry cleaning machines."

The gross proceeds accruing or proceeding from the business of providing or furnishing "any laundering, dry cleaning, dyeing or pressing service," is construed to mean all charges made by such businesses including charges for repairing, altering, storing, pick-up, and delivery of the product so laundered, dry cleaned, dyed or pressed.

Code Section 12–36–2120(24) exempts from the sales and use taxes "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."

A machine exempted from the tax under Code Section 12–36–2120(24) is construed to mean any machine used in the "production line" of such laundry, launderette, cleaning, dyeing or pressing establishment, beginning with the marking of the garment for identification and ending with the wrapping or preparation of the garment for return to customer and any machine used in the cleaning production line of a garment or textile rental establishment for the purpose of cleaning garments and textiles for rent to customers.

Supplies are determined to mean supplies, including fuel, that are necessary to work with or on the garment in order to perform the primary function of the laundry, launderette, cleaning, dyeing or pressing business or supplies, including fuel, used in the cleaning production line of a garment or textile rental establishment for the purpose of cleaning garments and textiles for rent to customers. The exemption for supplies does not include equipment such as desks, chairs, typewriters, adding machines, cash registers, change machines, counters, delivery equipment, or any administrative or advertising supplies or equipment.

117–303.1. Retailers' License-Laundries, Launderettes, Cleaning, Dyeing or Pressing Establishments.

Each pickup and/or delivery point shall constitute a separate branch or establishment of the business.

117–303.2. Rug and Carpet Cleaning.

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

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

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

117–303.3. Furnishing Laundry Services, Etc. to Ships.

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

117–303.4. Cleaning, Glazing, Dyeing and Storing Furs.

The gross proceeds accruing or proceeding from the cleaning, glazing and/or dyeing of furs are subject to the tax. Charges for storage, as such, when made separate and apart from any charges for cleaning, glazing and/or dyeing of furs are excluded from the measure of the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

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

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

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

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

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

An agency of the State of South Carolina is not deemed to be selling tangible personal property at retail when transferring tangible personal property to another agency of the State or to a county or to a municipality if the consideration for the transfer only reimburses the transferring agency for its cost and expenses in conveying the property; provided transferring agency has paid tax on the initial purchase of the tangible personal property. In addition, the provisions of Code Section 12–36–910(B)(4) do not apply to a State agency that manufactures tangible personal property within the State and uses or consumes the property in the State if the State agency paid tax on the cost of the tangible personal property incorporated into the item the agency manufactured for its own use or consumption.

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 32, Issue No. 6, eff June 27, 2008.

117–305. Meals.

Depending on the institution, meals to students, patients, guests, visitors, passengers, and other customers may be handled in a variety of ways. The following will address the application of the sales and use tax to these various transactions and institutions.

117–305.1. Educational Institutions.

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

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

In addition, students who participate in a limited board plan may purchase individual meals sold by the college or university in the cafeteria. For example, one board plan may furnish meals to students

Monday through Friday. A student under this limited plan may from time to time choose to purchase an individual meal in the cafeteria on Saturday or Sunday.

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

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

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

Meals Served Under Board Plan

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

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

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

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

Cash or Other Food Sales, Not Under a Board Plan

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

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

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

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

117–305.2. Medical Institutions.

Medical institutions, such as hospitals, infirmaries, and nursing homes, may sell or provide meals and other foods in a variety of ways.

As part of the professional medical services provided, patients are furnished meals during their stay at the institution.

Meals and other foods are also sold to employees, visitors and others in cafeterias, canteens, and snack bars.

As with colleges and universities, medical institutions may contract with food service companies to sell or furnish meals at the hospital, infirmary, etc., either as agents or on some other basis.

Meals and Other Food Served to Patients as part of Medical Care

1. Sales to a medical institution of unprepared food products, for use in furnishing meals and other food to patients as part of their medical care, are retail sales subject to the sales tax or the use tax.

2. Sales to a food service company of unprepared food products, for use in furnishing meals and other food to patients as part of their medical care, are retail sales subject to the sales tax or the use tax if the food service company is the agent of the medical institution.

3. Sales by food service companies of meals to a medical institution, for use in furnishing meals and other food to patients as part of their medical care, are retail sales subject to the sales or the use tax if the food service company is merely under contract with the medical institution and is not the agent of the medical institution.

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

Meals and Other Food Served or Sold to Employees, Visitors and Others (Cafeterias, Canteens, Snack Bars, Etc.)

1. Sales by a medical institution of meals and other foods, other than those furnished to patients as part of their medical care, are retail sales subject to the sales or the use tax.

2. Sales of meals and other foods by a food service company as the agent of a medical institution, other than those furnished to patients as part of their medical care, are retail sales of the medical institution subject to the sales tax or the use tax.

3. Sales of meals and other foods by a food service company, other than those furnished to patients as part of their medical care, are retail sales of the food service company subject to the sales or the use tax.

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

117–305.3. Educational and Medical Institutions and Food Service Companies Making Both Retail Sales and Withdrawing for Use from the Same Stock of Goods.

Educational and medical institutions and food service companies that are making both retail sales and withdrawing for use from the same stock of goods are to purchase at wholesale all of the goods so sold or used. They will then report retail sales based on gross proceeds of sales and withdrawals for use based on the property's fair market value. In order for this provision to apply, the educational or medical institution must have a substantial number of retail sales. To comply with this provision, educational and medical institutions should present to their suppliers a Form ST-8A—Resale Certificate. This will allow the suppliers to sell these goods at wholesale to the educational or medical institution.

117–305.4. Suppliers Selling Unprepared Food Products to Educational and Medical Institutions and to Food Service Companies.

Educational and medical institutions and food service companies are purchasing unprepared food products at retail for use in preparing meals under a board plan. Therefore, businesses selling unprepared food products to these institutions and companies should sell such products at retail, unless the purchaser provides them a Form ST-8A—Resale Certificate. Receipt of the resale certificate will allow suppliers to sell these goods at wholesale, free of the tax, to these educational and medical institutions and food service companies.

Educational and medical institutions and food service companies should not provide their suppliers a resale certificate, Form ST-8A, unless they will be re-selling the product or are doing so to comply with the provisions of SC Regulation 117–324.

117–305.5. Exemption Meals Sold to School Children.

Meals sold within school buildings, not for profit, to school children are exempted from the sales tax by Section 12–36–2120(10). Further, foodstuffs sold to schools which are used in furnishing meals to school children are also exempted from the sales and use tax by Section 12–36–2120(10). This exemption is construed to include only sales of meals to pupils of kindergartens, grammar and high schools, either public or private, and sales of foodstuffs to schools which are used in furnishing meals for pupils of kindergartens, grammar and high schools, either public or private, where it can be shown that the sale or use of the meals or foodstuffs occurs within the school building and there is not a profit from such sale or use. Schools operating school lunch programs are required to obtain a retail license and remit the tax on all sales of meals to persons other than school children.

Meals sold by any public or private educational institution or their agent, other than those exempted by Section 12–36–2120(10), described above, are subject to the sales tax when a separate charge per meal is made to the consumer. This includes cash sales, sales at special events and meals sold by

commissaries at such institutions. Tax on these sales must be remitted by the institution to the department based on gross proceeds.

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

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

117–305.6. Meals Furnished Employees, Restaurants.

Meals served by employers to their employees as part of the latters' compensation are not taxable sales. Where, however, a separate charge is made for the same by the employer and either paid for by the employee or deducted from his wages, the transaction is a sale subject to tax.

117–305.7. Meals Served by Railroads, Airlines, Etc.

Sales of meals, drinks, etc., by railroads, airlines, pullman, steamships, or other transportation companies within this state are subject to the sales tax.

Meals, etc., served by such transportation companies as a part of the transportation service, for which no separate charge is made, are not required to be reported as retail sales by the companies. In such instances the companies are considered to be the consumers of the foods, etc., served and will be required to pay tax thereon to the suppliers.

117–305.8. Meals Served by Boarding Houses.

Food furnished by operators of boarding houses is not considered to be sold at retail when the charge for such food is a lump sum covering meals for a week or for a month when such food is not offered for sale to the general public. The supplier of foodstuffs is liable for the sales tax on sales to the operator at the time of the sale to him. The boarding house operator is considered to be the user of the materials he purchases.

Note, however, in instances where the boarding house operator is liable for the license and the tax under Section 12–36–920 he is liable for the tax measured by his gross proceeds of sales of meals plus gross proceeds derived from the rental or charges for rooms, lodgings, or accommodations furnished to transients. In this instance the properties which become a component of the meals prepared for sale are purchased at wholesale, tax-free. All other items of tangible personal property, such as heating and cooking fuels, furniture, linens, appliances, radios, and television sets are subject to the tax at the time of purchase by the boarding house operator.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4731, eff May 26, 2017.

117–306. Repairs.

Materials used in repairing, for taxing purposes, fall into the following classes:

(a) Materials which pass to the repairman's customers and which do not lose their identity when used by the repairman and which are a substantial part of their repair job (such as auto repair parts, radio tubes, and condensers) are sold at retail by the repairman. He must report sales tax on such sales, including tax on the service incidental thereto. He may, however, if making separate agreements to sell the repair parts and to perform the labor and service required, remit tax only upon the price of the parts if his records and his invoices clearly show a separation of the amounts received from sales of parts and from the rendering of services.

(b) Materials which pass to the repairman's customer but which lose their identity when used by the repairman or which are inconsequential in amount; such as paint, solder, and tack; are considered to have been used or consumed by the repairman and are taxable at the time of sale to him.

(c) Materials which are used or consumed by the repairman and which do not pass on to his customer are supplies and taxable when sold to the repairman.

(d) Materials which fall in class (b) or (c) are purchased at wholesale for use by a repairman who, in addition to using such materials as a repairman, sells the same kinds of materials for use by others. These materials become subject to the sales tax upon their withdrawal for use by the repairman. Note, however, that a repairman is not to be considered a vendor unless he carries a stock of goods and sells outright therefrom a substantial amount. If the repairman makes only isolated sales or "accommodation" sales, he is not to be licensed as a seller under the sales tax law, in which case his supplier is liable for the tax.

In all instances materials are taxable when sold to repairmen for use in making repairs where such materials lose their identity as a result of such use. For instance, solder used in welding, paint used in automobile refinishing, thread used in mending clothing, cloth used in reupholstering. In all instances where the shape or composition of the repair material is materially changed, such altered or changed material is considered to have been used or consumed by the repairman, and, for that reason, subject to tax when sold to him. No tax on this material is to be collected by the repairman from his customer.

In instances where repair materials and repair parts are passed to the repairman's customers without change, except necessary and customary minor adjustments, such parts or materials may be purchased at wholesale by the repairman licensed under the law. The repairman is then liable for sales tax on such sales of materials and parts to his customers.

117–306.1. Repairs to Machines.

(a) When repairs to machines require only service or service with the use of an inconsequential amount of materials, the amount received is not subject to tax.

(b) When material and service are used in making repairs to machines exempted under the machine exemption and when the materials used consist of standard replacement parts customarily used on such machines, neither service nor materials are subject to tax.

(c) When material and service are used in repairing machines not exempted and when there is no separation in the billing, both materials and services are to be included in gross proceeds of sales.

(d) When material and service are used in repairing taxable machines with service and materials shown separately, the material only is subject to the tax.

(e) Materials are taxable in any event when sold to repairmen for use in making repairs where such materials lose their identity as a result of such use. For instance, paint, solder, lumber, and sheet metal.

117–306.2. Automobile Repair Shops.

Materials which pass to the repairman's customer and which do not lose their identity when used by the repairman and which are a substantial part of the repair job (such as automobile parts, accessories, tires, tubes and batteries) are sold at retail by the repairman. He must report sales tax on such sales, including tax on the service incidental thereto. He may, however, if making separate agreements to sell the repair parts and to perform the labor and services required, remit tax only upon the price of the parts if his records and his invoices clearly show a separation of the amounts received from sales of parts and from the rendering of services.

Materials which pass to the repairman's customer but which lose their identity when used by the repairman or which are inconsequential in amount (such as paint, solder and upholstery tacks) are considered to have been used or consumed by the repairman and are taxable at the time of sale to him.

The painting of automobiles is a service by the painter. Receipts from such painting are not taxable. The paint, supplies, etc., used or consumed by the painter are taxable when sold to him.

Materials which are used or consumed by the repairman and which do not pass on to his customer (such as tools, equipment, paint remover, upholstery cleaner and tire cleaner) are taxable when sold to the repairman.

117–306.3. Jewelry Repairmen.

The jewelry repairmen is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible personal property used by him in rendering such services. Consequently, the sales by the supply house to the jewelry repairman of articles of machinery and equipment and of such supplies as springs, crystals, jewel staffs, gold, silver solder and other materials used incident to the repair operation are sales at retail within the meaning of the sales and use tax law. Receipts of the jewelry repairman from watch, clock or other jewelry repair are not subject to the tax.

The sales of watches, clocks, watch bands, watch chains, and other items of jewelry or property of like nature constitutes sales of tangible personal property and as such bear the tax. The repairman making sales of such property is required to hold a retail license and to remit directly to the department the tax on such sales.

117–306.4. Shoe Repairmen.

The shoe repairman is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible property used by him in rendering such services. Consequently, the sale to the shoe repairman of articles of machinery and equipment and such supplies as sole leather, rubber heels, thread, nails and other findings for use in connection with rendering such services are sales at retail within the meaning of the sales and use tax law.

The sale of shoe laces, second hand shoes, package products and other like property constitutes sales of tangible personal property and as such bear the tax. The repairman making sales of such property is required to hold a retail license and to remit directly to the department the tax on such sales.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–307. Hotels, Motels, and Similar Facilities.

Code Section 12–36–920 imposes a sales tax upon accommodations and "additional guest charges." The term "additional guest charge" means an amount which is added to the guest's room charge for a specific amenity or service for the guest.

Therefore, charges for rooms, lodgings and accommodations are taxed at 7%, while other charges for other services provided at the hotel, when over and above the services customarily provided with the room, are taxed at 6% as an "additional guest charge." However, if an "additional guest charge" would be taxed under other provisions of the sales and use tax law (Chapter 36 of Title 12), then such charges are not taxed as an "additional guest charge."

It should therefore be noted that the determination as to what services, if any, are over and above the services customarily provided with the room must be based on all of the facts and circumstances.

The burden of proof that a charge is an additional guest charge, and not part of the price for the room, rests with the taxpayer. Failure to prove that a particular charge is for a service that is over and above the services customarily provided with the room will subject the charge to the 7% tax rate.

117–307.1. Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities.

The following questions and answers are intended to provide guidance with respect to the provisions of Code Section 12–36–920.

Telephone Charges

1.Q. If a hotel charges $100.00 for a room, and that price includes the room and use of the phone for local calls, what tax rate applies to the $100.00?

A. The $100.00 charge would be subject to a tax rate of 7%. The use of the phone is a part of the services offered and provided with the room for the $100.00. Therefore, it is not an additional guest charge.

2.Q. If a hotel charges $80.00 per day for a room, and the customer is also charged $5.00 per day for the availability of the phone for local calls, what tax rate applies to each of the charges?

A. The $80.00 room charge and the $5.00 telephone charge are taxed at 7%. The availability of a phone is a part of the services offered and provided with a room. The $5.00 is charged whether or

not the guest uses the phone. Therefore, it is not an additional guest charge when the charge is based on a per day rate.

3.Q. If a hotel charges $80.00 per day for a room, and the customer is also charged $1.00 per local phone call, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%. Each $1.00 phone charge is taxed at 6%. The availability of a phone is a part of the services offered and provided with a room; however, the use of the phone for a local call is over and above the services customarily provided with the room. Guests expect to pay a charge for each local call made from the room phone. Therefore, the $1.00 is an additional guest charge when the charge is based on a per call basis.

4.Q. If a hotel charges $80.00 for a room, and the customer is also charged $20.00 for various long distance calls made, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%, while the remaining charges for the long distance calls are taxed at 6% as additional guest charges. The Department, in Decision #92–11 held that the charges for long distance telephone calls were not otherwise taxed under Chapter 36 and were therefore taxable as additional guest charges.

Maid Service

5.Q. If a hotel charges $100.00 for a room, and that price includes maid service, what tax rate applies to the $100.00?

A. The $100.00 charge would be subject to a tax rate of 7%. Since the maid service is a service provided with the room, it is not an additional guest charge.

6.Q. If a hotel charges $80.00 for a room, and the customer also must pay a mandatory $20.00 charge for maid service, which may or may not be separately stated, what tax rate applies to each of the charges?

A. The $80.00 room charge and the $20.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the room. The fact that it may be separately charged does not necessarily make the charge an additional guest charge. In this case the maid service is mandatory, and therefore, the actual charge for the room is $100.00 which is taxed at 7%.

7.Q. If a rental agency charges $800.00 per week for a condominium unit, and the customer also must pay a mandatory $50.00 charge for maid service at the end of the week, what tax rate applies to each of the charges?

A. The $800.00 weekly unit charge and the $50.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the unit. The fact that it may be separately charged does not necessarily make the charge an additional guest charge. The maid service is mandatory, and therefore, the actual charge for the unit is $850.00, which is taxed at 7%.

8.Q. If a rental agency charges $800.00 per week for a condominium unit, and the customer is required to leave the unit in a clean condition, what tax rate applies to each of the charges if the customer has the option to have the rental agency clean the unit at the end of the week for $50.00?

A. The $800.00 weekly unit charge is taxed at 7% and the $50.00 maid service charge is taxed at 6%. The $50.00 optional maid service is provided over and above the services provided with the unit. The $50.00 is therefore an additional guest charge subject to the tax at 6%.

9.Q. If a rental agency charges $800.00 per week for a condominium unit, a mandatory $50.00 charge for maid service at the end of the week, and the customer has the option to receive daily maid service for $20.00 a day, what tax rate applies to each of the charges?

A. The $800.00 weekly unit charge and the $50.00 maid service charge are taxed at 7%. The maid service is part of the services provided with the unit. The maid service is mandatory, and therefore, the actual charge for the unit is $850.00, which is taxed at 7%. The $20.00 optional maid service is provided over and above the services provided with the unit. The $20.00 is therefore an additional guest charge subject to the tax at 6%.

In-room Movies

10.Q. If a hotel charges $100.00 for a room, and that price includes the in-room movies at no extra charge, what tax rate applies to the $100.00?

A. The $100.00 charge would be subject to a tax rate of 7%. The availability of in-room movies is a part of the services offered and provided with the room for the $100.00. Therefore, it is not an additional guest charge.

11.Q. If a hotel charges $80.00 per day for a room, and the customer is also charged a mandatory fee of $5.00 per day for in-room movies (whether or not the guest watches any movies), what tax rate applies to each of the charges?

A. The $80.00 room charge and the mandatory $5.00 in-room movie charge are taxed at 7%. The availability of in-room movies is a part of the services offered and provided with a room. The $5.00 is charged whether or not the guest watches the movies. Therefore, it is not an additional guest charge when the charge is based on a per day rate and the guest is charged whether or not the movies are watched.

12.Q. If a hotel charges $80.00 per day for a room, and the customer is also charged $7.00 for each in-room movie he watched, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%. The $7.00 movie charge is taxed at 6%. The availability of in-room movies is a part of the services offered and provided with a room; however, the charge for viewing a movie is over and above the customary charge for the room. Guests expect to pay a charge for each movie viewed. Therefore, the $7.00 is an additional guest charge when the charge is based on a separate charge for watching the movie. The tax on this additional guest charge is the liability of the hotel, regardless of whether or not service is being provided by a third party or the hotel itself.

Meals

13.Q. If a hotel charges $100.00 for a room, and that price includes a continental breakfast for the guest, what tax rate applies to the $100.00?

A. The $100.00 charge is taxed at 7%. Since the continental breakfast is provided with the room, it is not an additional guest charge. (The withdrawal of the food from the hotel's inventory is subject to the sales tax based on its fair market value. See Code Section 12–36–90 and Code Section 12–36–110.)

14.Q. If a hotel charges $100.00 for a room, and also charges the guest a separately stated $20.00 "club" fee, what tax rate applies to each of the charges? (The "club" fee, for that extra $20.00, provides the guest access to a buffet meal that is not available to other guests.)

A. The Department, in Decision #92–32, held that the separately stated charge of $20.00 was not part of the charge for the room but a retail sale of the meal to the guest. Therefore, the charges are taxed as follows: 7% tax applies to the $100.00 charge for the room and 6% tax applies to the $20.00 charge for the meal. The meal is not taxed as an additional guest charge under Code Section 12-36-920(B) since it is otherwise taxed at 6% under Chapter 36—Code Section 12–36–910 and Code Section 12–36–1110.

Linens

15.Q. If a rental agency charges $800.00 per week for a condominium unit, and the customer has the option to rent linens for $50.00 for the week, what tax rate applies to each of the charges?

A. The $800.00 weekly unit charge is taxed at 7%. The rental of the linens is optional and not part of the services provided with the unit for the $800.00 charge. The $50.00 rental of the linens is not an additional guest charge since the rental charge for the linens is a sale of tangible personal property and is otherwise taxed at 6% under Chapter 36—Code Section 12–36–910 and Code Section 12–36–1110.

Golf and Other Tourist Packages

16.Q. If a hotel has a "golf package" for $100.00 per night, and the customer is entitled to a room at the hotel, one round of golf at a golf course at no extra charge, and a meal at no extra charge, what tax rate applies?

A. The $100 charge would be subject to the 7% tax, except any portion forwarded to the golf course for payment of the green fee and any portion forwarded to the restaurant for payment of the meal. However, see the one exception in the "Note" in Example #1.

The following examples best explain this answer:

Example #1: The hotel receives $100 from the guest for the golf package. The hotel pays the golf course $30 for the guest's green fee and pays the restaurant $5 for the guest's meal.

The hotel would be liable for the 7% tax on $65 ($100 - $35). The golf course would be liable for the 5% admissions tax on $30 and the restaurant would be liable for 6% sales tax on the sale of the meal. This calculation must be made on a guest by guest basis. In other words, the 7% tax due will be determined for each guest by multiplying 7% by the total charge for the package less the portion forwarded to the golf course for payment of the green fee and the portion forwarded to the restaurant for payment of the meal.

Note: If the hotel's guest is unable to play golf that day ("No-Show") (but still received the meal), and under terms of the golf package the guest will not be required to pay the "green fee portion" of the package, the hotel would be liable for the 7% tax on the amount it received from the guest less the amount paid by the hotel to the restaurant. For example, if the hotel determined that the "green fee portion" of the $100 package was $30 and required the guest to only pay $70 for that day, then the hotel would be liable for the 7% tax on $65 and the restaurant would be liable the 6% sales tax on the sale of meal.

If the hotel's guest is unable to play golf that day ("No-Show") (but still received the meal), and under terms of the golf package the guest must still pay the hotel the full $100, the hotel would be liable for the 7% tax on the "accommodations portion" of the package. The golf course would not be liable for the 5% admissions tax since the guest did not play golf and the golf course did not receive an admissions fee from the hotel. However, the hotel is liable for the 6% tax on the other portion of the $100 paid by the guest since it now represents an additional guest charge for the service of making the golf arrangements that were not used. This additional guest charge will be equal to the green fee that the hotel would have had to pay to the golf course. In other words, if the hotel would have been required to pay $30 had the guest played golf, then the additional guest charge would be $30. As such, the hotel would be liable for the 7% tax on $65 and the 6% tax (as an additional guest charge for the service) on $30 and the restaurant would be liable for the 6% sales tax on the sale of the meal.

Example #2: The hotel receives $100 from the guest for the golf package. The hotel pays the restaurant $5 for the guest's meal. The hotel has an agreement with the golf course to pay the golf course $30 for the guest's green fee. When a guest does play golf, the hotel pays the $30; however, the hotel will receive money back from the golf course at a later date to help pay for the hotel's advertisements of its golf packages.

The hotel would be liable for the 7% tax on $65 ($100 - $35). The golf course would be liable for the 5% admissions tax on $30 and the restaurant would be liable for the 6% sales tax on the sale of the meal. The fact that the hotel will receive a portion of the money back in the future does not affect the taxation of the charges. It is merely an expense of the golf course that is paid to the hotel.

Notes: 1. To ensure the 7% tax is not circumvented by sending most of the package charge to the golf course and then later having a large portion of it returned to the hotel as "advertising," the amount paid to the golf course and returned to the hotel to pay for advertising must be reasonable and supported by the books and records of both taxpayers. Otherwise, the Department will assess taxes according to a reasonable breakdown of room charges, green fees, and meal charges.

2. Other tourist packages, such as tennis, honeymoon, and entertainment packages, handled in a similar manner would be taxed in the manner described above for golf packages.

Bike Rentals

17.Q. If a hotel charges $100.00 per night for a room, and the customer has the option to rent a bike to travel around the resort area for $10.00 a day, what tax rate applies to each of the charges?

A. The $100.00 hotel charge is taxed at 7%. The rental of the bike is optional and not part of the services provided with the room for the $100.00 charge. The $10.00 is not an additional guest charge since the rental charge for the bike is a sale of tangible personal property and is otherwise taxed at 6% under Chapter 36.

18.Q. If a hotel charges $100.00 per night for a room, and the hotel allows the guest to reserve a bike at no extra charge to travel around the resort, what tax rate applies to the charge?

A. The $100.00 hotel charge is taxed at 7%. The availability of the bike is a part of the services provided with the room for the $100.00 charge and is therefore not an additional guest charge.

Newspapers

19.Q. If a hotel charges $80.00 for a room, and the guest receives a newspaper that is delivered to the guest's door in the morning, what tax rate applies to the charge?

A. The $80.00 room charge is taxed at 7%. The newspaper is not an additional guest charge since the newspaper is part of the services provided with the room for the $80.00 charge.

20.Q. If a hotel charges $80.00 for a room, and the customer is charged $2.00 for a newspaper that is delivered at the guest's request, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%, while the charge for the newspaper, as an additional guest charge, is taxed at 6%. The newspaper that is provided for $2.00 is over and above the services customarily provided with the room at the hotel.

Valet Parking

21.Q. If a hotel charges $80.00 for a room, and there is no additional charge to the customer for valet parking, what tax rate applies to the charge?

A. The $80.00 room charge is taxed at 7%.

22.Q. If a hotel charges $80.00 for a room, and the customer is also charged $15.00 for valet parking, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%, while the $15.00 charge for the valet parking, as an additional guest charge, is taxed at 6%.

23.Q. If a person is not a guest at a hotel, but is attending an event at the hotel, is a $15.00 charge for valet parking subject to the tax as an additional guest charge?

A. The $15.00 charge for valet parking is not subject to the sales tax. It is not an additional guest charge since, in order to be taxable, the charge must be in addition to a room rental charge. This charge is not in addition to another charge.

Meeting Rooms

24.Q. If a hotel charges $80.00 for a guest room, and there is no additional charge to the customer for the use of a meeting room, what tax rate applies to the charge?

A. The $80.00 guest room charge is taxed at 7%.

25.Q. If a hotel charges $80.00 for a guest room, and the customer is also charged $35.00 for the use of a meeting room, what tax rate applies to each of the charges?

A. The $80.00 guest room charge is taxed at 7%, while the $35.00 charge for the meeting room, as an additional guest charge, is taxed at 6%.

26.Q. Is a $35.00 charge for the use of the meeting room by a person who is not a guest at the hotel, subject to the tax as an additional guest charge?

A. The $35.00 charge for the meeting room is not subject to the sales tax. It is not an additional guest charge since, in order to be taxable, the charge must be in addition to a room rental charge. This charge is not in addition to another charge.

Note: If the meeting room is being rented by an organization that is conducting a seminar, workshop, conference, or similar meeting at the hotel, the charge for the meeting room is taxed at 6% as an additional guest charge if the organization is also renting guest rooms at the hotel for officers or members of the organization, invited speakers, or others.

Other Services

27.Q. If a hotel charges $100.00 for a room, and the room contains a refreshment bar so the guest may avail himself of alcoholic drinks, non-alcoholic drinks, or snacks at no extra cost, what tax rate applies to the $100.00?

A. The $100.00 room charge is taxed at 7%.

28.Q. If a hotel charges $80.00 for a room, and the room contains a refreshment bar so the guest may avail himself of alcoholic drinks, non-alcoholic drinks, or snacks at a set price per item, what tax rate applies to each of the charges?

A. The $80.00 room charge is taxed at 7%, while the charges for each item the guest consumes from the refreshment bar is taxed at a rate of 6% as a sale of tangible personal property under Code

Section 12–36–910 and Code Section 12–36–1110. These charges are not additional guest charges since they are "otherwise taxed" under Chapter 36.

Cancellations

29.Q. If a person reserves and pays for sleeping accommodations at a hotel, but does not cancel the reservation or does not cancel the reservation by the prescribed time set by the hotel, is the charge for the accommodations retained by the hotel subject to the tax even though he will not use the sleeping accommodations?

A. While the sleeping accommodations were not used, the person had the right to use such sleeping accommodations. Therefore, the sleeping accommodations were "furnished" and the charge by the hotel for such sleeping accommodations is subject to the tax. See Question #30 for information concerning when accommodations are canceled but an administrative fee or deposit is charged or retained.

30.Q. If a person makes reservations with a hotel for sleeping accommodations, but the reservations are canceled by such person or by the hotel, is an administrative fee or deposit charged or retained by the hotel as a result of the cancellation subject to the tax?

A. An administrative fee or deposit retained or charged by a hotel when reservations for sleeping accommodations are canceled is not subject to the sales tax.

Note: See Question #29 for information concerning when accommodations are canceled or otherwise not used but a charge for the sleeping accommodations is made or retained by the hotel. See also Question #16, Example #1 Note, for the taxation of a tourist package when sleeping accommodations are furnished but the guest does not use a portion of the package (i.e. the guest pays for a golf package but does not play golf).

Note: This regulation references tax rates of 7% for the sales tax on accommodations, 6% for the sales tax on additional guest charges, and 6% for the sales tax on sales or rentals of tangible personal property. Counties may now impose several types of local option sales and use taxes as well as other local taxes imposed upon the furnishing of accommodations and the sale of prepared meals. Some of these taxes are collected by the Department of Revenue on behalf of the county imposing the tax and others are collected by the county itself.

117–307.2. Purchases by Hotels, Motels and Other Facilities.

Hotels, lodging houses, apartment houses, tourist camps and the like are subject to the sales or use tax, whichever may apply at the time of purchase for use or consumption of beds, bedding, carpets, shades, curtains, linens, uniforms, supplies, fuel for heating and cooking, air conditioning equipment, etc.

117–307.3. Certain Facilities Not Subject to the Tax.

(A) The tax applies to the gross proceeds from the rental or charges for any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourists court, motel, residence, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration, except where such facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the place of abode of the owner or operator of such facilities. For this exception to apply, the facility must serve as the owner's or operator's "place of abode" during the same times at which the remaining sleeping rooms are rented to transients and the rooms must not be rented to transients by a person other than the owner or operator using the facility as his or her "place of abode." See subsection C below.

Examples illustrate some of the situations as to when the exception applies or does not apply to an individual renting sleeping accommodation at a home with less than six sleeping rooms to a transient for less than 90 continuous days (See subsection B below).

(1) W owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. W rents these rooms to vacationers himself and does not employ the services of a real estate agent or broker.

The rentals by W of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to W by the vacationers are not subject to the sales tax on accommodations under Code Section 12–36–920.

(2) X owns a home with less than six sleeping rooms and uses the home only for one or two weeks a year for family vacations. She rents the home to vacationers during the rest of the year on a weekly basis. She rents it herself and does not employ the services of a real estate agent or broker.

The rentals by X of the home to vacationers do not qualify for the exception in the statute; therefore, the rental charges paid to X by the vacationers are subject to the sales tax on accommodations under Code Section 12–36–920.

(3) Y owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. However, Y never rents these rooms to vacationers himself. He employs the services of a real estate agent who rents the remaining sleeping rooms for him.

The rentals by the real estate agent of these rooms to vacationers for Y do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations under Code Section 12–36–920 with the real estate agent liable for the tax.

(4) Z owns a home with less than six sleeping rooms and lives in the home throughout the year. He operates this home as a "bed and breakfast" by renting the remaining sleeping rooms to vacationers on a daily or weekly basis. He employs the services of a real estate agent who rents the remaining sleeping rooms for him. However, sometimes Z rents these remaining rooms to vacationers himself.

The rentals by the real estate agent of these rooms to vacationers for Z do not qualify for the exception in the statute; therefore, the rental charges paid to the real estate agent by the vacationers are subject to the sales tax on accommodations under Code Section 12–36–920 with the real estate agent liable for the tax.

The occasional rentals by Z of these rooms to vacationers qualify for the exception in the statute; therefore, the rental charges paid to Z by the vacationers are not subject to the sales tax on accommodations under Code Section 12–36–920.

(B) The gross proceeds derived from the lease or rental of accommodations supplied to the same person for a period of 90 continuous days shall not be considered proceeds from transient.

(C) Real estate agents, brokers, corporations or listing services leasing or renting accommodations, whether owned by them or others, to persons for periods of less than 90 continuous days are retailers liable for the sales tax on accommodations.

117–307.4. Rentals in Excess of Ninety Days Not Subject to the Tax—Airlines, Bus Companies, Etc.

A business, usually an airline, bus company or railroad, will reserve a certain number of rooms in a hotel for use by its personnel. Usually the hotel is guaranteed a certain minimum occupancy. The hotel is paid for the number of rooms that are occupied and would not necessarily furnish the same rooms each time. Such proceeds derived from the rentals of the accommodations supplied would be subject to the sales tax.

A business rents from a hotel certain specific rooms on a continuing basis. These rooms are occupied by authorized personnel of the corporation, on a daily basis. The hotel is paid for the specific number of rooms that are rented, whether they are used or not.

Transactions of this nature would not be subject to the tax if the contract remains in force for a time in excess of 90 continuous days.

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

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

117–307.6. Accommodations Furnished to the Federal Government or Federal Government Employees.

Charges for hotel and motel accommodations to a federal employee on official government business are exempt from sales tax pursuant to Code Section 12–36–2120 if the accommodations are purchased directly by the federal government.

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

1. The federal government is billed directly by the retailer;

2. The federal employee pays by government check; or,

3. The federal employee pays by government credit card and the federal government is billed directly by the credit card company.

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

1. The federal employee pays by personal check; or,

2. The federal employee pays by credit card, is billed directly by the credit card company, and is reimbursed by the federal government.

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

117–307.7. The Application of Tax to Hurricane Rental Insurance Charges Imposed by Hotels, Motels, and Other Facilities.

An optional charge for hurricane rental insurance is not subject to either the 7% sales tax on accommodations under Code Section 12–36–920(A) or the 6% sales tax as an "additional guest charge" under Code Section 12–36–920(B). However, if the charge for hurricane rental insurance is mandatory, then the charge is subject to the 7% sales tax as a part of the charge for furnishing the sleeping accommodations.

Note: If a mandatory evacuation order or hurricane causes the complete cancellation of a person's vacation because law enforcement will not allow anyone to enter the area during the entire time originally reserved for the vacation, or a hurricane destroys the rental unit and the vacationer cannot take occupancy of the unit or any replacement unit during the entire time originally reserved for the vacation, then the sleeping accommodations were not "furnished" and the charges for the sleeping accommodations are not subject to the tax. In addition, charges for the optional or mandatory hurricane rental insurance are not subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 32, Issue No. 6, eff June 27, 2008; State Register Volume 41, Issue No. 5, Doc. No. 4664, eff May 26, 2017.

117–308. Professional, Personal, and Other Services.

The receipts from services, when the services are the true object of the transaction, are not subject to the sales and use tax, unless the sales and use tax is specifically imposed by statute on such services (i.e. accommodation services, communication services). The following subsections of this regulation will discuss various types of services. It should also be noted that several businesses, in addition to selling nontaxable services, also sell tangible personal property and should be licensed to report the tax.

This list is not all-inclusive as to services offered in South Carolina, as to services offered by a particular profession, or as to sales made by a particular profession.

117–308.1. Professional Services.

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

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

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

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

117–308.2. Dentists.

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

117–308.3. Doctors.

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

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

117–308.4. Lawyers.

Lawyers use law books, supplies, and equipment, which books, supplies and equipment are taxable.

117–308.5. Veterinarians.

Veterinarians are deemed to be the users or consumers of the property they purchase, whether used in the rendering of professional services or sold outright as part of the veterinarian practice and not furnished as a part of professional services rendered.

117–308.6. Architects.

Architects are not considered to be engaged in the business of selling tangible personal property when they render professional services in the forming of original plans, designs and specifications. Also considered to be proceeds from the rendition of professional services are charges for the sale of these original design concepts which have been changed as a result of elevation and/or other architectural modifications to a customer's specific requirements.

Sales by architects of all reproductions of such plans, designs or specifications, unaltered or unmodified in any way, are deemed to be subject to the sales or use tax.

117–308.7. Ophthalmologists, Oculists and Optometrists.

Ophthalmologists, oculists and optometrists are engaged primarily in rendering professional services and when they furnish, replace, or repair eye glasses, lenses or other such ophthalmic materials for their patients in connection with their services, the gross receipts from such services are not taxable, but they must pay the tax as consumers to their suppliers on all materials purchased by them for use in the performance of such service.

The optician is the maker and seller of eyeglasses. He does not examine eyes, but merely fills prescriptions supplied by the ophthalmologist, oculist or optometrist and must charge the tax on all sales by him to users or consumers. The optician is required to obtain a retail license and collect and remit the tax on the gross proceeds of such sales.

All persons or companies, whether opticians, optometrists, or otherwise, making sales of such property as sun glasses, barometers, telescopes, binoculars, opera glasses, etc., are required to have a retail license and collect the sales tax upon the sales of such items of merchandise to the consumer or user thereof.

Likewise, ophthalmologists, oculists and optometrists who are also opticians must pay a tax based on the reasonable and fair market value of all tangible personal property withdrawn for use by them in filling their own prescriptions.

The term "reasonable and fair market value" is held to mean the retail sales price at which the property is offered for sale to the public in the absence of affirmative proof of the contrary. In no event can it be less than the cost of materials used, to include fabrication and service labor, and all other expenses which are a part of preparing the property for the patient, except that it shall not include charges for professional services in connection with examining the patient.

117–308.8. Hospitals, Infirmaries, Sanitariums, Nursing Homes and like Institutions.

Hospitals, infirmaries, sanitariums, nursing homes and like institutions are engaged primarily in the business of rendering services. They are not liable for the sales tax with respect to their gross proceeds or receipts from meals, bandages, dressings, drugs, x-ray photographs and other tangible personal property where such property is used in the rendering of the primary medical service to patients. This is true irrespective of whether or not such tangible items are billed separately to their patients. Hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be the users or

consumers of such tangible personal property and the instate sellers of these items are required to report and remit the tax due on the sale of such property to the hospitals, infirmaries, sanitariums, nursing homes, and like institutions or in the case of out-of-state purchases, use tax shall be reported and remitted by the purchaser.

Where meals and beverages are furnished by hospitals, infirmaries, sanitariums, nursing homes and like institutions to the patient as a part of their primary medical service, with or without a separate charge being made, the hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be the users or consumers of the prepared meal if same is purchased or acquired or the users or consumers of the unprepared food products if the hospitals, infirmaries, sanitariums, nursing homes and like institutions purchase such products and prepare the meal.

Sales of meals, foodstuffs or beverages by hospitals, infirmaries, sanitariums, nursing homes or like institutions to members of the staff, nurses, attendants, employees, visitors or patients, other than those meals furnished as a part of the primary medical service rendered, are sales at retail and such institution is required to obtain a retail license for each location and report and remit the sales tax on the gross proceeds of such sales, to include sales for cash, credit, payroll deduction and sales at special event functions. This includes sales made in institutions, cafeterias, snack bars, canteens and commissaries.

Where drugs, prosthetic devices and other supplies are furnished to their patients as a part of the medical service rendered, such hospitals, infirmaries, sanitariums, nursing homes and like institutions are deemed to be users or consumers of such drugs, prosthetic devices and other supplies.

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

117–308.9. Advertising Agencies.

Advertising agencies are engaged primarily in the business of selling services. These rely on expertise in advertising strategy, in media buying, in graphic arts production and in other specialized fields to secure and retain clients.

These companies purchase and/or produce finished advertising materials such as radio and television spots and newspaper, magazine and billboard ads, and contract with local and network radio and television stations, newspaper and magazine publishers, outdoor advertising companies, transit advertising companies (bus, taxi and airline) and other media for time or space to air or display these programs.

In the development and execution of a complete advertising campaign, advertising agencies may also share responsibilities with clients in the development of products or services to include, as an example, creation of a trademark, determination of a price, selection or creation of channels of distribution of the products and/or dealership and appraisal of competition.

Receipts of advertising agencies from the furnishing of these professional services are not subject to the sales or use tax. The tax is due, however, on all tangible personal property purchased by these agencies for use in the performance of such services irrespective of whether such property is acquired in the name and for the account of the advertising agencies or their respective principals.

117–308.10. Bookbinders and Paper Cutters.

Persons engaged in the business of binding books, magazines or other printed matter belonging to another, render nontaxable services. Sales of equipment, materials and suppliers to bookbinders for use in performing such services are taxable.

If a bookbinder binds his own printed matter and sells the finished products to users or consumers, or makes and sells at retail loose-leaf binders or other articles, he must remit the tax on the entire receipts from such sales.

A person engaging in the business of paper-cutting, folding, gathering, padding or punching circulars, office forms or other printed matter belonging to others, renders nontaxable services. Sales of tangible personal property to such persons for use or consumption in the performance of these services are taxable.

Materials used by bookbinders in repairing textbooks are subject to the tax.

117–308.11. Jewelry Repairmen.

The jewelry repairmen is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible personal property used by him in rendering such services. Consequently, the sales by the supply house to the jewelry repairman of articles of machinery and equipment and of such supplies as springs, crystals, jewel staffs, gold, silver solder and other materials used incident to the repair operation are sales at retail within the meaning of the law. Receipts of the jewelry repairman from watch, clock or other jewelry repair are not subject to the tax.

The sales of watches, clocks, watch bands, watch chains, and other items of jewelry or property of like nature constitutes sales of tangible personal property and as such bear the tax. The repairman making sales of such property is required to hold a retail license and to remit directly to the department the sales tax on such sales.

117–308.12. Shoe Repairmen.

The shoe repairman is deemed to be engaged primarily in rendering services when he repairs property belonging to others. He is the purchaser for use or consumption of tangible property used by him in rendering such services. Consequently, the sale to the shoe repairman of articles of machinery and equipment and such supplies as sole leather, rubber heels, thread, nails and other findings for use in connection with rendering such services are sales at retail within the meaning of the law.

The sale of shoe laces, second-hand shoes, package products and other like property constitutes sales of tangible personal property and as such bear the tax. The repairman making sales of such property is required to hold a retail license and to remit directly to the department the sales tax on such sales.

117–308.13. Barber and Beauty Shops.

Barber and beauty shop operators primarily render personal services. They are the purchasers for use or consumption of such tangible personal property as is used or consumed incidentally in the rendering of such personal service.

Barber and beauty shops are not, however, relieved from collecting and reporting the tax on sales of tangible personal property, for use or consumption, such as package cosmetics, hair tonics, lotions, and like articles, when sold apart from the rendering of personal services to the purchasers thereof.

117–308.14. Taxidermists.

Persons practicing the art of taxidermy are deemed to be performing a service the receipts from which are not subject to the sales or use tax. A tax is due, however, on all purchases of tangible personal property for use in the performance of such services.

117–308.15. Automobile Painters.

The painting of automobiles is a service by the painter. Receipts from such painting are not taxable. The paint, supplies, etc., used or consumed by the painter are taxable when sold to him.

117–308.16. Painters.

Persons doing any kind of painting where the only tangible personal property supplied by them is the paint which they apply, are primarily rendering a service and not making retail sales. The receipts from such painting are not subject to the sales tax. All of the paint, tools, brushes, equipment, and supplies purchased by painters are subject to the sales tax or use tax, whichever applies, at the time of sale to the painter.

Note, however, that where painters sell painted signs, furniture, or articles which they have manufactured or purchased for painting for resale purposes, such painters are selling such manufactured or processed articles, which sales are subject to the sales tax. The paint and other materials used as a component part of articles to be sold are purchased tax free at wholesale.

Where painters are both consuming paints, etc., in rendering services and consuming from the same stock the same kind of property in producing property for sale, and where the use in production is continuous and a substantial part of the total business, and where suitable records are kept revealing costs of all materials used in contract painting, and costs of materials used in producing for sale, the painter using the materials for both purposes will be allowed to purchase all of the dual purpose materials at wholesale, tax-free, and pay sales tax on the basis of gross receipts from property sold at retail, plus the total cost of all materials used, consumed, or furnished by him in his contract painting business.

Where the painter is in such a dual business and his records are not kept to reveal his sales and the cost of property used in contract painting, he shall be required to pay sales or use tax on all his purchases and in addition will be required to report and pay sales tax on all of his sales of property at retail.

Such consumable supplies as brushes, thinners, paint remover, tools, sandpaper, etc., are, in any event, taxable when purchased by the painter.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–309. Retailers.

The following addresses the application of the sales and use tax to the transactions of some retailers. The list of retailers is not all inclusive and the types of transactions discussed for each retailer are not all inclusive. In addition to selling tangible personal property, some of these retailers may also provide services, some of which are sold in conjunction with tangible personal property and other which are not sold in conjunction with tangible personal property.

117–309.1. Florists.

Where florists sell through telegraphic delivery association the following rules will apply:

1. On all orders taken by a South Carolina florist and telegraphed to a second florist in South Carolina for delivery in this state, the sending florist will be held liable for the sales tax measured by his receipts from the total amounts collected from the customer.

2. In cases where a South Carolina florist receives an order pursuant to which he gives telegraphic instructions to a second florist located outside South Carolina for delivery of flowers to a point outside South Carolina, tax will likewise be owing with respect to the total receipts of the sending florist from the customer who placed the order.

3. In cases where a South Carolina florist receives telegraphic instructions from other florists located either within or outside of South Carolina for the delivery of flowers, the receiving florist will not be held liable for tax with respect to any receipts which he may realize from the transaction. In this instance, if the order originated in South Carolina, the tax will be payable by the South Carolina florist who first received the order and gave the telegraphic instructions to the second florist.

117–309.2. Photographers, Photo Finishers, and Photo Copiers.

Photographers operating photographic studios for the purpose of taking photographs and portraits are primarily engaged in the business of selling tangible personal property to their customers and such sales are taxable.

In cases where individuals deliver pictures to photographers or photographic studios for tinting or coloring, the receipts from such tinting or coloring would not be subject to tax, since such a charge would be the result of service rendered.

Where individuals deliver to what are commonly known as photo finishers, films for developing by the latter, the charge made by photo finishers for actual developing of the films is compensation for a service and does not represent receipts from the sale of tangible personal property. If, however, the photo finisher supplies or sells to his customer, for whom he may be developing the film, printed pictures, the charge for such prints or pictures would constitute a sale at retail, which would be taxable. In such cases, if the photo finisher does not segregate the charge for developing of the films from the charge for prints or pictures, the total amount of the charge to the customer would be taxable. Photostatic copies produced and sold by a photostat producer to purchasers for use, and not for purpose of resale, constitute sales of tangible personal property at retail and are taxable.

117–309.3. Printers.

Printers are engaged in the business of producing tangible personal property and their sales of printed matter such as catalogues, books, letterheads, bills, envelopes, folders, advertising circulars, and the like, to purchasers who use or consume these articles are sales at retail. A printer may not deduct from the selling price of such tangible personal property charges for the labor or service of performing the printing even though such labor or service charges may be billed to the customer separately from the charge for the stock. Such labor or service is embodied in and becomes a part of the tangible personal property sold. Where printers purchase from the United States Post Office, cards and envelopes stamped for postage, and imprint thereon various legends for customers, the

printers must pay the tax measured by their gross proceeds of the sale of the printed cards or envelopes to their customers. Such cards and envelopes constitute tangible personal property and if they are not resold by such customers, the sales by the printers are at retail. Such printers are entitled to deduct the amount of the postage from the selling price.

No tax arises from the service of imprinting or from the service of typesetting performed by the printer for another printer, where title to the metal does not pass to the customer.

Gross receipts accruing from the sales of printed matter of all kinds are subject to the tax, except as otherwise specifically provided.

Sales of materials to printers are at wholesale, tax-free, when such materials become a component of the printed matter produced for sale. Where the printer qualifies as a manufacturer or processor he is entitled to purchase free of the tax the machines used in printing. Supplies, materials, and equipment not becoming a component of the product to be sold or not constituting a machine used in manufacturing are subject to the sales or use tax, whichever may apply.

117–309.4. Artists.

Artists engaged in the business of designing, sketching, engraving, drawing or painting upon paper, canvas, wood or other materials and selling such designs, sketches, engraving, drawings or paintings to purchasers for use or consumption and not for resale, are in the business of selling tangible personal property at retail and are required to pay the tax upon the total amount of the receipts from such sales.

The tax is payable on the total selling price of the finished product and no division of the selling price may be made so that the tax would be payable only on the materials consumed. A completed painting is tangible personal property as is, for example, a valuable vase. In the same category is a completed design sketch, engraving or drawing made or designed by artists.

117–309.5. Sellers of Custom-made Items.

Where persons contract to manufacture, compound, process, or fabricate their materials into articles of tangible personal property according to the special order of their customers, the total receipts from the sales of such articles are subject to the sales or use tax, whichever may apply. The seller may not deduct any of his costs, nor can he deduct any of his charges for labor or services, which are an item of the production or fabrication cost of the articles, to arrive at the taxable amount. Articles commonly made to order are portieres, curtains, draperies, tents, awnings, clothing, convertible tops, seat covers, and slip covers.

Persons making sales of made-to-order and custom-made articles purchase the materials which become a component or ingredient of their products at wholesale, tax-free. The equipment, tools, and supplies used or consumed in the production of such articles, and not becoming a part thereof, are subject to the tax.

117–309.6. Machine Shops.

Property manufactured or fabricated by machine shops and custom foundries is subject to the sales tax, except when sold for resale purposes or when exempted by one of the exemptions found in the sales and use tax law.

In doing repair work, the machine shop operator consumes the materials which lose their identity in the repairing process, such as paint, solder, babbitt and lumber. He is also considered to be the consumer of such items as cotter keys, nails, washers, stove bolts and nuts, bits of metal, and sheets of metal used in patching or reinforcing. The receipts from the use of these materials are not subject to the sales and use tax. The sales or use tax is due by the machinist at the time of purchase from his suppliers.

Where the machinist in making repairs, fabricates or manufactures a recognizable part or attachment for the article being repaired (as contrasted to patching, mending, or reinforcing weakened parts) no deduction is permissible for labor or any other expenses which are a part of fabricating or manufacturing the part or attachment. He may, however, if making separate agreements to sell the manufactured or fabricated part and to install same, remit tax only on the sales price of the fabricated part or attachment, provided his books and invoices show clearly a separation between the sales price of the fabricated part or attachment and the labor and service of installation.

117–309.7. Ship Chandlers.

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

117–309.8. Undertakers.

Caskets, grave vaults, shrouds, and other tangible personal property furnished by undertakers and funeral directors in rendering burial services are sold by them at retail. These sales are subject to the sales tax.

Where there is a separation of services from the sale of tangible personal property in invoices rendered, and where receipts from sales and receipts from services are properly identified on the books and records of the undertaker, the sales tax will not apply to receipts accruing from the rendering of such services as embalming, hearse service, transportation of family, etc.

In complying with the provision for the separation of charges, a detailed itemization is not required. A separation, listing items such as caskets, vaults, embalming, hearses, and other expenses, without indicating the amount of each item, but indicating the total amount of the charge, and then indicating the amount of the sales tax would be in compliance with the department's determination, if the invoice also contains a statement evidencing the separation of the charges. As an example, if the sale of the tangible personal property amounts to 50 percent of the total charge, then a statement may be shown on the invoice such as: "For purposes of calculating the South Carolina sales tax, 50 percent of the above charge is determined to be subject to the sales tax as being the sale of tangible personal property."

The department is not saying that 50 percent, or any other percentage, is to be used as a basis of separating the sale of tangible personal property from the sale of service.

Several methods have been approved by the division when percentages are used. There are predicated on (1) The funeral director must establish a fair and reasonable percentage to assure the state of at least the correct amount of the tax. (2) Auditable records must be maintained to enable verification of the accuracy of the percentage used, and (3) The invoice to the customer must have imprinted thereon (by stamp or some other designation) the method used in computing the tax.

South Carolina undertakers and funeral directors incur sales and/or use tax liability by reason of sales and service rendered in South Carolina, regardless of the situs of interment. Out-of-state undertakers and funeral directors incur no sales and/or use tax liability to South Carolina when the only business the out-of-state funeral director or undertaker has within this state is the rendering of burial service.

Where undertakers and funeral directors service burial insurance policies, the measure of the sales tax is the total of receipts from all sources accruing to the undertaker as a result of his furnishing tangible personal property. In some instances the undertaker furnishes caskets or other property, the sales price of which is in excess of the amount covered by the insurance policy, which excess is paid by the family of the deceased. In these instances the total sales price of the substituted property is to be used as the measure of the tax.

Where the undertaker is also the insurer, his use of property in servicing his insurance policies is not a sale of such property. In these instances the undertaker is the purchaser at retail of the property used on which he owes either sales or use tax at the time he purchases the property.

Undertakers purchase property, which they sell at retail as stated above, at wholesale, tax-free.

Undertakers purchase at retail consumable supplies, equipment, and property furnished in servicing their own insurance contracts, which consumable supplies and equipment are taxable to them at the time of purchase, including hearses, ambulances, instruments, tools, fixtures, furniture, all other equipment, embalming fluids, chemicals of all kinds, and all other supplies.

117–309.9. Sign Companies.

A person engaged in the business of erecting, on properties owned or controlled by him, signs for the display of products of a second party for a consideration is deemed to be engaged in the business of selling a service. A tax is due measured by the purchase price of all tangible personal property used or consumed by such person as additions or improvements to realty.

A person engaged in the business of designing, fabricating and erecting signs on properties of another, for the display of that person's products, is deemed to be a retailer. The gross proceeds of the sale of such signs are subject to the tax. If the signs are leased or rented, the lease or rental proceeds are subject to the tax.

A person engaged in both of the above businesses shall pay the tax in accordance with the applicable provisions as set forth hereinabove.

A person who designs and constructs a sign as defined in the second paragraph above may, if all statutory requirements are met, be considered a manufacturer.

117–309.10. Interior Decorators.

Interior decorators are generally engaged in the business of selling home or office furnishings of which many, such as portieres, curtains, draperies and seat and slip covers, are made to customers' specifications. The total charge for such made-to-order merchandise is subject to the tax without any deduction for fabrication labor whether such labor is performed by the decorator or by others for the decorator's account.

It is frequently necessary to repair, renovate or reupholster furniture. Sublet repairs are taxable on the total charge to the customer when the repair materials are sold or furnished by the decorator.

It may also be necessary to remodel interiors such as by painting or papering walls, hanging mirrors, pictures and lighting fixtures or other accessories, or replacing floor coverings. Labor for these purposes is not subject to the tax provided it is separately shown from the sales price of tangible personal property on the invoice to the customer. Other exempt charges when separately invoiced to the customer are consultation fees and reimbursement for travel expenses.

117–309.11. Sellers of Ice.

Sales of ice by manufacturers and wholesalers to licensed retail dealers engaged in the retail business of selling ice to users or consumers are sales for resale and are not subject to the tax. Ice sold to such licensed retailers which is withdrawn for use or consumption bears the sales and/or use tax and the same must be reported and remitted to the department. Ice sold to restaurants, cafes, cafeterias, drug stores, etc., which enters into and becomes an ingredient or component part of the food and drink which such businesses compound for sale are sales at wholesale, free of the sales and use tax.

Sales of ice made for any other purposes than above specified are sales at retail and subject to the tax.

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

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

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

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

117–309.13. Sellers of Automobile Seat Cover and Top Linings.

Seat covers and prefabricated top linings are recognized units of tangible personal property which, when sold, are subject to the tax on the total sales price without any deduction for cost of materials, labor costs, or any other cost which is a part of the fabrication, distribution or selling.

117–309.14. Sellers of Ice Cream Freezers.

Sales of ice cream freezers of the type used on trucks or in retail outlets for the making of ice cream are subject to the tax.

117–309.15. Rentals and Leases.

The gross receipts or gross proceeds proceeding or accruing from the leasing or renting of tangible personal property are subject to the sales or use tax.

When on long-term continuing lease agreements where the lessor is required to furnish, for a consideration, maintenance services and/or operating supplies, the tax may be paid measured by (1) the total amount received, or (2) the total amount, taking as a deduction on the return charges for such services and/or supplies.

By using the first method, the lessor may purchase tax-free, as for resale, all items of tangible personal property passed on to the lessee. By using the second method, tax must be paid on all items of tangible personal property used in servicing the leased property.

If the owner of tangible personal property furnishes an operator or crew to operate such property, such owner is not deemed to be renting or leasing the property but is rendering a service and the receipts therefrom are not subject to the sales or use tax. Persons purchasing tangible personal property for use in rendering such service are liable for payment of sales or use tax at the applicable rate on the purchase price.

Where a person customarily rents tangible personal property and customarily withdraws the same for his own use, storage or consumption, a tax is due by such person on each withdrawal for use, the tax to be measured by the amount he would customarily receive as rental had the property been leased or rented for a like period of time. In the alternative the tax may be paid on the full purchase price of the property and no further liability incurred on withdrawals for use. Having once elected either method of reporting on withdrawals for use, the taxpayer must so continue unless and until permission has been received from the department in writing to make a change. Regardless of the method selected for accounting for the tax on withdrawals for use, the tax is due on all amounts proceeding or accruing from the rental, lease or sale of the property.

117–309.16. Materials Used to Recondition Automotive Vehicles for Resale.

The purchases of materials and parts by automobile dealers for purposes of reconditioning automotive vehicles for resale are construed to be purchases of tangible personal property at wholesale and are, therefore, not subject to the sales or use tax.

The practical result of the foregoing is to enable the automobile dealer to purchase free of the tax for resale only those items of tangible personal property which are to be passed on to the ultimate consumer, and does not extend to such things as machinery, equipment, tools, paint remover, upholstery cleaner, tire cleaner and other properties which do not become a part of the vehicle being reconditioned for sale.

117–309.17. Withdrawals From Stock, Merchants.

To be included in gross proceeds of sales is the money value of property purchased at wholesale for resale purposes and subsequently withdrawn from stock for use or consumption by the purchaser.

The value to be placed upon such goods is the price at which these goods are offered for sale by the person withdrawing them. All cash or other customary discounts which he would allow to his customers may be deducted; however, in no event can the amount used as gross proceeds of sales be less than the amount paid for the goods by the person making the withdrawal.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–310. Freight and Delivery Charges.

Whether or not freight, delivery, or transportation charges may be deducted by the seller from the selling price of tangible personal property sold for use or consumption, in computing his liability for tax under the sales and use tax law, does not depend upon the separate billing thereof, but depends upon whether or not the services rendered by the railway company or other transporting agency are rendered to such seller or to the purchaser.

If the seller contracts to deliver tangible personal property to some designated place, or is obligated under the contract to pay transportation charges to some designated place, the transportation services are rendered to the seller or user and the selling price of the tangible personal property so transported must include the amount of the transportation charges. In this event such charges are not deductible by the seller in computing his tax liability under the law.

On the other hand, if the seller contracts to sell tangible personal property FOB origin, the title to the property passing at such point to the buyer and the buyer pays the transportation charges, then the transportation services are rendered to the buyer and are not a part of the selling price of the

vendor. Therefore, such transportation charges should not be included by the vendor in computing his tax liability under the law. These principles will apply irrespective of whether such charges are separately billed by the seller from the tangible personal property sold.

For example:

(a) If the sale is made F.O.B. point of destination or place of business of the buyer, for a lump sum price or a price or a price per unit, in such manner as to indicate that the cost of transportation is a cost to be borne by the seller, the total amount received by the seller constitutes "gross proceeds of sale," within the meaning of the law. In such case, the seller is not permitted to separate the cost of the goods from the cost of the transportation nor may the seller deduct any estimated or actual cost of transportation from such gross proceeds in making returns under the law.

(b) If the goods are F.O.B. destination under terms by which the purchaser is to pay the freight and deduct such amount from the invoice, the transaction should be treated in the same manner as in paragraph (a) hereinabove, namely the gross proceeds of sale should include the total amount of the agreed sales price, without deduction for freight whether paid by the seller in the first instance or paid by the buyer for the seller and deducted from the invoice.

(c) If the sale is made F.O.B. point of origin, the delivery of the goods to the carrier is generally construed as equivalent to the delivery of the goods to the buyer, and the gross proceeds of sale in such case would not include the freight, whether the freight is by agreement of the parties advanced or prepaid by the seller for the buyer or whether such freight is paid at destination by the buyer. In such cases, the "gross proceeds of sale" only include the agreed sales price of the goods. Any freight so advanced, billed as a special item, is not included as proceeds of the sale, but upon payment is properly treated as a reimbursable expense paid by the seller at the instance and request of the buyer.

(d) No practice of invoicing or billing will entitle the seller to deduct from gross proceeds of sale any cost or expense, actual or estimated, in cases where the seller, by use of his own means of transportation, effects such delivery.

(e) No tax is due on delivery charges by a lessor who, by means of his own transportation facilities, delivers tangible personal property which is the subject of a written lease expressly providing that the lessee assumes all risk of loss or damage to the property from the effective date of the lease. Conversely, when the lessor agrees to assume responsibility for loss or damage to the property during transit, charges by the lessor for such transportation must be included in the tax base. These same principles apply to sale when delivery is by means of the sellers own transportation facilities for a consideration separate and apart from the sales price of the property.

117–310.1. Transportation Costs, Sellers.

In no event may a seller deduct costs of bringing property to his place of business or costs of delivering property from factory to his customer when such factory-to-customer transportation is paid by the seller either to a transportation company, the manufacturer, or by way of credit to his customer for transportation costs paid by the customer and deducted from seller's invoice.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–311. Railroads.

The following addresses the application of the sales and use tax to the transactions of railroads. The list of transactions discussed is not all inclusive.

117–311.1. Railroad Companies, Sales to.

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

117–311.2. Railroad Companies—Crossties and Timbers.

Crossties and timbers sold to or used by railroad companies are subject to the sales or use tax, whichever may apply, on the following basis:

(a) Where a railroad buys in this state untreated ties or timber paying the South Carolina sales tax due thereon, and thereafter has such ties or timber creosoted or otherwise treated either within or without South Carolina, it becomes liable upon use of such property in South Carolina for the tax based upon the sales price of the creosote or other material used in the treatment thereof.

(b) Where a railroad buys in South Carolina untreated ties and timber for shipment in interstate commerce, without paying the South Carolina sales tax thereon, and such ties and timber are shipped and creosoted without the state, and subsequently shipped into and used within the state, such railroad will be required to pay a use tax thereon measured by the full price of the finished product brought into the state.

(c) Where a railroad buys without the state untreated ties and timber, and thereafter brings said ties and timber inside the state and has them creosoted within the state and uses them within the state, such railroad would owe a use tax based upon the cost of untreated ties and timber, plus the sales price of the creosote or other material used in the treatment thereof.

(d) Where a railroad buys without the state untreated ties and timber, and has the same creosoted outside the state, and subsequently brings and uses the same within the state, such railroad would be required to pay a use tax thereon based upon the cost of untreated ties and timber, plus the cost of processing.

117–311.3. Railroad Companies—Sales to of Crossties and Timbers by Producer.

The gross proceeds of the sale of timber when sold in the original state of production or preparation for sale and when sold by the producer thereof or by members of his immediate family are exempted from payment of sales or use tax, whichever would otherwise be considered to apply. Nothing contained herein, however, shall be construed to exclude from the measure of the tax the gross proceeds of the sale or sales of timber or timber products treated with wood preservatives.

117–311.4. Railroad Companies—Machines.

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

117–311.5. Railroad Rails.

Railroad rails, crossties, frogs, spikes, etc., do not in themselves constitute machines or machinery when used in the construction of a railway or railroad either on or above ground or in a mine or quarry. This material is rather in the nature of building material and should be considered as such for taxing purposes.

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

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

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

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

117–311.8. Ties and Timbers.

Ties and timbers, treated or untreated, are subject to sales or use tax when delivered by the seller to railroads in South Carolina. The seller must report and remit tax on these sales.

117–311.9. Ties and Timbers in Interstate Commerce.

Ties and timbers sold FOB South Carolina shipping point on a purchase order requiring the seller to ship to out-of-state destination in interstate commerce are not subject to sales tax regardless of whether or not shipment is made by the use of the purchaser's transportation facilities when the purchaser is a common carrier.

117–311.10. Ties and Timbers, Constructive Delivery of.

Ties and timbers are taxable when sold under bulk contract, with the purchaser inspecting and approving the material at the plant or yard of the seller and the seller segregating and allotting the approved material to the purchaser for future shipment according to subsequently issued shipping instructions. This material is to be reported by the seller as subject to the tax in the month in which it is shown as sold on his books.

117–311.11. Meals Served by Railroads, Airlines, Etc.

Sales of meals, drinks, etc., by railroads within this state are subject to the sales tax.

Meals, etc., served by railroads as a part of the transportation service, for which no separate charge is made, are not required to be reported as retail sales by the companies. In such instances the companies are considered to be the consumers of the foods, etc., served and will be required to pay tax thereon to the suppliers.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–312. Containers and Other Packaging Material.

The statute provides an exemption (Section 12–36–2120) and an exclusion (Section 12–36–120) for containers and other packaging material. The following explains the application of the exemption and exclusion in certain situations.

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

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

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

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

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

117–312.2. Containers, Beverage Boxes and Crates.

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

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

117–312.3. Packaging Materials.

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

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

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

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

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

117–312.4. Advertising Materials.

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

117–312.5. Multiform Invoices.

Multiform invoices used to invoice the customer and also to serve as a packing slip and address label are subject to the sales or use tax.

117–312.6. Grease, Protective.

Grease used as a protective coating for manufactured products while in storage is purchased at retail for such use and subject to the tax. This material is a supply item which is used or consumed by the manufacturer. Grease used as a protective coating for manufactured products while in transit is purchased at wholesale, free of the tax, as a material used incident to the sale and delivery of tangible personal property.

117–312.7. Rust Preventives.

Petroleum products and other materials used as rust preventives or for surface protection of metal products while in storage are subject to sales or use tax. Petroleum products and other materials used as rust preventives or for surface protection of metal products while in transit are not subject to sales or use tax.

117–312.8. Icing of Perishables.

The charge for ice when sold to common carriers for the icing of perishables during shipment or transshipment, will include the cost of transportation where the ice is transported to the truck loading platform, or to a storage warehouse in the ice manufacturer's transportation equipment, and/or under terms where the transportation is for the account of the ice manufacturer, and the charge will also include any charges for placing said ice in a storage warehouse by the ice manufacturer prior to the actual car icing regardless of whether said charges for transportation and/or storage are contracted for or invoiced separately by and between the ice manufacturer and the carrier.

The sales price of the ice will not include the charge for the actual icing of the railroad car or truck in which the perishable property is to be shipped, provided the charge for said icing service is separately billed to the common carrier.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–313. Labor.

The following addresses the application of the sales and use tax to fabrication labor, subcontracted labor, installation labor, and alteration labor. There are many sales and use tax transactions involving labor and the following is not all-inclusive.

117–313.1. Labor, Fabrication.

No method of billing will serve to exempt from the measure of the tax the cost of materials used, labor or service cost, interest charges, losses or any other expenses whatsoever that are a part of the manufacturing, compounding, processing or fabrication of tangible personal property for sale or resale.

117–313.2. Subcontracted Labor, Repairs.

In no event may payments for the repair, renovating or rebuilding of tangible personal property for resale be deducted from gross proceeds of sales when any repair materials are furnished by the person purchasing such services for sale or resale.

117–313.3. Installation Charges.

Not subject to the sales or use tax are charges for installation incident to the sale of tangible personal property when such charges are separately stated from the sales price of the property on billing to customers and provided the seller's books and records of account show the reasonableness of such labor in relation to the sales price of the property.

117–313.4. Alteration Charges.

Expenses borne by the seller of clothing for alteration charges, whether such services are performed by the seller or subcontracted, are not deductible from gross proceeds of sales.

Conversely, a charge for alteration services made in addition to the sales price of tangible personal property is not subject to tax when such charge is separately stated from the sales price of tangible personal property on the invoice to the customer.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–314. Construction.

Sales of building materials to contractors, builders, or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold.

117–314.1. Sales of Building Materials.

Sales of building materials for use in adding to, repairing or altering real property, are subject to the sales or use tax at the time of purchase even though the property erected therefrom may be subsequently leased or rented to the person who owns or controls the land on which the property is situate. Examples include, but are not limited to, building materials used in constructing grain storage tanks, silos, pre-engineered buildings and other structures.

Conversely, subject to the tax are proceeds from the sale or lease of a manufactured unit delivered and/or set in place on lands owned or controlled by a person other than the seller or lessor. Examples include, but are not limited to, mobile homes, manufactured classrooms and motel units.

117–314.2. Building Materials.

Building materials when purchased by builders, contractors, or landowners for use in adding to, repairing or altering real property are subject to either the sales or use tax at the time of purchase by such builder, contractor, or landowner. "Building materials" as used in the Sales and Use Tax Law includes any material used in making repairs, alterations or additions to real property. "Builders," "contractors," and "landowners" mean and include any person, firm, association or corporation making repairs, or additions to real property. The term "building materials" includes such tangible personal property as lumber, timber, nails, screws, bolts, structural steel, elevators, reinforcing steel, cement, lime, sand, gravel, slag, stone, telephone poles, fencing, wire, electric cable, brick, tile, glass, plumbing supplies, plumbing fixtures, pipe, pipe fittings, prefabricated buildings, electrical fixtures, built-in cabinets and furniture, sheet metal, paint, roofing materials, road building materials, sprinkler systems, air conditioning systems, built-in-fans, heating systems, floorings, floor furnaces, crane ways, crossties, railroad rails, railroad track accessories, tanks, builders hardware, doors, door frames, window frames, water meters, gas meters, well pumps, and any and all other tangible personal property which becomes a part of real property.

117–314.3. Transferred Property, Use Tax Liability.

Building materials transferred from out-of-state into South Carolina for use, storage, or consumption are assumed to have been purchased for such use, storage, or consumption in South Carolina and are subject to the South Carolina use tax.

The department will allow credit to use tax liability for new and unused building materials transferred out of South Carolina which were purchased out-of-state and on which South Carolina use tax has been paid.

No allowance will be made for outgoing transfers of any tangible personal property, either new or used, the sales of which were subjected to the South Carolina sales tax.

In determining the basis of the tax on transferred property, aside from building materials, the assumption will be that the property was purchased for use, storage, or consumption in South Carolina and that the tax has not been paid thereon. The assumption that the property was purchased for use, storage, or consumption in South Carolina is overcome when it is shown that there has been a real and substantial use of the property outside of this state prior to its transfer into this state in which event the basis for the tax is determined by the proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life thereof.

117–314.4. Awnings.

Generally, an awning attached to a building as a permanent fixture is a part of the building and comes within the provisions covering the sale of building materials.

Metal or other permanent type awnings attached to buildings with screws or bolts or otherwise securely attached become a part of the building. The materials from which these awnings are made

come within the building material class. When the materials are purchased prefabricated, sales tax is due by the person making the installation to the supplier, if purchased in South Carolina, or use tax is due the state of South Carolina if purchased from an out-of-state seller not registered under the use tax.

Where the person making the installation purchases materials such as sheets of aluminum from which he manufactures the components of awnings the tax is due to the state by such person based upon the fair market value of the components laid down at the job site.

It is the rule of the department that lightly attached cloth awnings do not fall into the building material category and are to be taxed at the sale thereof from the awning dealer to the property owner.

117–314.5. Elevators.

The component parts of an elevator constitute building materials within the meaning of the act. The sale of elevator components to contractors, builders or landowners for use in the form of real estate is, therefore, a retail sale notwithstanding that the purchaser constructs therefrom an elevator which ultimately becomes the property of others.

Where the manufacturer of elevator components uses the products of his manufacture in the performance of a construction contract, he is defined under the statute as the user of such equipment and liable for the tax based upon the reasonable and fair market price thereof at the time and place where such property is used by him.

117–314.6. Pumps.

Well pumps when installed become realty along with well casing, pump house, well connections, etc. The person who installs the pump is the purchaser at retail who must pay sales tax or use tax, as the case may be.

117–314.7. Pump Installed by Contractor.

A contractor who installs a pump for a city or county is required to pay tax on his purchase of the pump. The pump is in the same category as any other building materials which become affixed to realty. When title to a pump installed under contract passes from the contractor to the landowner it has ceased to be personal property and has become real property.

117–314.8. Crossties, Timbers, Etc.

Crossties, switch ties, pilings, bridge timber, telephone and telegraph poles, and crossarms are building materials, also, materials used in the construction of highways, bridges, railroads, telegraph and telephone lines, fences and dams fall within the "building materials" class.

117–314.9. Contractors Equipment, Useful Life of.

The department has determined that Bulletin F of the Internal Revenue Services as revised in 1942, be used to reflect the useful life of motor vehicles, machines, machinery, tools, and other equipment and tangible personal property brought, imported, or caused to be brought into South Carolina for use in constructing, building, or repairing any building, highway, street, sidewalk, bridge, culvert, sewer, or water system, drainage or dredging system, railway system, reservoir or dam, power plant, pipe line, transmission line, tower, dock, wharf, excavation, grading or other improvement or structure, or any part thereof.

117–314.10. Machines, Pipe Threading.

Pipe threading machines used for construction purposes by a contractor or other builder do not come within the machine exemption.

117–314.11. Federal Government Construction Contracts.

Sales to, or purchases by, a construction contractor of tangible personal property for use in a federal government construction project in South Carolina for which the contractor has a written contract with the federal government are not subject to the sales and use tax under Code Section 12–36–2120(29) if 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 and such property actually transfer to the federal government in accordance with the contract or the property becomes part of real or personal property owned by the federal government or is to transfer to the federal government.

The purpose of this regulation is to address the application of Code Section 12–36–2120(29) to sales to, or purchases by, a construction subcontractor of tangible personal property for use in a federal government construction project in South Carolina for which the subcontractor has a written contract with a general contractor who has a written contract for the project with the federal government.

For purposes of this regulation, the following example and information will be used to illustrate the application of the exemption:

The federal government is constructing a building on a military base located in South Carolina. After following its contracting procedures, the federal government has entered into a written contract with a general construction contractor (''Contractor A'') to construct the building.

Contractor A has hired and entered into a written contract with a construction subcontractor (''Subcontractor B'') to construct a certain portion of the building.

Subcontractor B in turn hires and enters into a written contract with a construction subcontractor (''Subcontractor C'') to construct a certain portion of the building under its contract.

Contractor A, Subcontractor B, and Subcontractor C each purchase the material necessary to complete the project from various suppliers.

Based on the example and information, the exemption in Code Section 12–36–2120(29) for federal government contracts applies as follows:

1. Sales to, or purchases by, Contractor A of tangible personal property for use in a federal government construction project in South Carolina as described in the facts are exempt from the sales and use tax under Code Section 12–36–2120(29) if the written contract necessitating the purchase provides that title and possession of the property is to transfer from Contractor A to the federal government at the time of purchase or after the time of purchase and such property actually transfers to the federal government in accordance with the contract or the property becomes part of real or personal property owned by the federal government, or is to transfer to the federal government.

2. Sales to, or purchases by, Subcontractor B of tangible personal property for use in a federal government construction project in South Carolina as described in the facts are subject to the sales and use tax since Subcontractor B does not have a written contract with the federal government.

However, if Subcontractor B is an agent for the Contractor A, then sales to, or purchases by, Subcontractor B of tangible personal property for use in a federal government construction project in South Carolina as described in the facts are not subject to the sales and use tax if all other provisions of the exemption found in Code Section 12–36–2120(29) are met and all books and records support the existence of an agency relationship. (See information below concerning an agency relationship.)

3. Sales to, or purchases by, Subcontractor C of tangible personal property for use in a federal government construction project in South Carolina as described in the facts are subject to the sales and use tax since Subcontractor C does not have a written contract with the federal government.

However, if Subcontractor C is a subagent for Subcontractor B and Contractor A has specifically granted Subcontractor B the authority to appoint a subagent that can bind Contractor A, then sales to, or purchases by, Subcontractor C of tangible personal property for use in a federal government construction project in South Carolina as described in the facts are not subject to the sales and use tax if all other provision of the exemption found in Code Section 12–36–2120(29) are met and all books and records support the existence of an agency relationship. (See information below concerning an agency relationship.)

The Department will recognize the existence of an agency relationship with respect to the exemption in Code Section 12–36–2120(29), such a determination must be made a case-by-case basis and that if it is determined an agency relationship does not exist the Department will assess the applicable party (depending on the facts) under the sales and use tax law (supplier or contractor or subcontractor) for the tax due. (Note: Regardless of the facts and circumstances, the agency must be in writing.) However, the Department has established the following ''safe harbor'' for which it will recognize an agency relationship with respect to the above facts and the exemption in Code Section 12–36–2120(29):

1. Purchases by Subcontractor B: Contractor A has appointed, in writing, Subcontractor B as its agent when purchasing tangible personal property for the federal government contract and that as a result of this agency relationship Contractor A is liable for payment of such purchases if Subcontractor B fails to pay the supplier and is also liable for the payment of any sales and use tax for any property

that was purchased by Subcontractor B in its capacity as agent and that does not qualify for the exemption in Code Section 12–36–2120(29) if Subcontractor B fails to pay the tax.

Purchases by Subcontractor C: Subcontractor B has appointed, in writing, Subcontractor C as its subagent when purchasing tangible personal property for the federal government contract and Contractor A has specifically granted Subcontractor B the authority to appoint a subagent that can bind Contractor A and that as a result of this subagency relationship Contractor A is liable for payment of such purchases if Subcontractor C fails to pay the supplier and is also liable for the payment of any sales and use tax for any property that was purchased by Subcontractor C in its capacity as subagent and that does not qualify for the exemption in Code Section 12–36–2120(29) if Subcontractors B or C fail to pay the tax.

2. The purchase order of Subcontractor B or Subcontractor C submitted to the supplier must clearly state that Subcontractor B or Subcontractor C is the agent of Contractor A in purchasing the property.

3. Contractor A has applied for and received an exemption certificate from the Department for purposes of the exemption in Code Section 12–36–2120(29). Copies of the application for the exemption, Form ST-10G, can be found on the Department's website at www.sctax.org. The federal contractor's exemption certificate that will be issued by the Department will be Form ST-404.

4. Contractor A must provide a copy of the exemption certificate to Subcontractor B and must have completed Section C of the copy indicating that Subcontractor B and Subcontractor C are its agents in purchasing tangible personal property for the federal construction project. Subcontractor B will in turn provide a copy to its subagent, Subcontractor C.

Note: Only Contractor A can complete Section C of the exemption certificate. Therefore, when Contractor A has specifically granted Subcontractor B the authority to appoint a subagent that can bind Contractor A, Subcontractor B will be required to inform Contractor A, who then must list Subcontractor C as its agent on a copy of the certificate.

5. Subcontractor B or Subcontractor C must provide a copy of the certificate to the supplier when purchasing tangible personal property exempt under Code Section 12–36–2120(29).

6. All books and records support the existence of an agency relationship.

Note: Sale or purchases of tangible personal property used or consumed by the purchaser (contractor or subcontractor) are subject to the tax. The exemption in Code Section 12–36–2120(29) only applies property where title and possession of the property transfers from the contractor or subcontractor to the federal government at the time of purchase or after the time of purchase or the property purchased becomes part of real or personal property owned by the federal government.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009.

117–315. Newspapers and Newsprint Paper.

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

117–315.1. Newspapers.

Section 12–36–2120(8) exempts from the measure of the tax the gross proceeds of the sale of newspapers.

In order to qualify as a newspaper the publication must meet at least the following requirements:

1. It must be commonly and ordinarily considered and accepted as a newspaper by the public it is intended to serve.

2. It must be published at stated short intervals—daily or weekly.

3. It must contain news of general interest and intelligence of current events.

4. It must be printed on newsprint paper.

5. It must not, when its successive issues are put together, constitute a book. Even though the publication may be devoted primarily to matters of specialized interest, such as mercantile, political, religious or sporting, if in addition it qualifies under all of the foregoing it is entitled to be classed as a newspaper.

6. Newspapers do not include magazines, periodicals, bulletins, and other publications.

117–315.2. Newsprint Paper.

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

117–315.3. Newspaper Publishers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–316. Books.

Code Section 12–36–2120(3) provides exemption for the sale of 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 and books, magazines, periodicals, newspapers, and access to on-line information systems sold to publicly supported state, county, or regional libraries.

117–316.1. Textbooks.

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

Examples of sales subject to the tax are test sheets, answer sheets, evaluation criteria, games, albums, pupil cumulative records, guide pamphlets, yearbooks, award certificates, diplomas, writing materials, art supplies, drafting supplies, easels, projectors, projector lamps and bulbs, projection screens and equipment carts or tables, magboards, flannel boards, laboratory supplies and equipment, biological supplies incidental to classroom instruction, athletic equipment, shop supplies and equipment, record players, recorders, computer instructional equipment, manipulated devices, charts, maps (including

globes), map stands, raw film, blank tapes, and any and all other items of tangible personal property used in the classroom or office which do not qualify as "textbooks" as hereinabove defined.

117–316.2. Sale of Books to Libraries.

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–317. Sales of Repossessed Property.

The following addresses the application of the sales and use tax to repossessed property.

117–317.1. Finance Companies and Other Lending Institutions.

Finance companies and other lending institutions are deemed to be retailers when making sales of tangible personal property physically or constructively repossessed in claim and delivery proceedings, by peaceful surrender, or by any other means whatsoever.

The measure of the tax is the total amount proceeding or accruing from such sales whether the sale is for cash or is secured by a new conditional sales contract. On assumption agreements the amount to be included in gross proceeds of sales is the balance in default by the borrower and any down-payment made by the person assuming the borrower's obligation in exchange for the repossessed property. This is irrespective of the mechanics used by lenders in transferring title to repossessed property to new owners.

117–317.2. Retailers.

Sales of tangible personal property physically or constructively repossessed by a retailer through the mechanics of claim and delivery proceedings, by peaceful surrender or otherwise are subject to the sales tax when resold either for cash or on new conditional sales contracts.

On assumption agreements the amount to be included in gross proceeds of sales is the balance in default on conditional sales contracts held by retailers and any down-payment made by the person assuming the former purchaser's obligation in exchange for the repossessed property. This is irrespective of the mechanics used by such retailers in transferring title to repossessed property to new owners.

Conversely, no tax is due by a retailer when under the terms of recourse contracts with finance companies and other lending agencies it becomes necessary for the retailer to find a buyer to assume the balance owed a lender because of default on the part of the borrower.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–318. Gross Proceeds of Sales and Sales Price.

"Gross proceeds of sales" is the basis for calculating the sales tax and "sales price" is the basis for calculating the use tax. There are many issues that arise from determining what is or is not included in the basis for the tax. The following will address some of these issues.

117–318.2. Carrying and Finance Charges.

When the seller has an established price for the goods he sells, that price is the amount to be included in gross proceeds of sales even though the established price may include an amount to cover a carrying charge. Where they seller has an established cash price and when selling on an extended payment basis, adds a separate charge for financing, the additional charge is not to be included in gross proceeds of sales.

In no event may finance or carrying charges be deducted from gross proceeds of sales when not shown as a separate item in the seller's billing to his customer.

117–318.3. Lay-away Sales.

Amounts received in payment of the sales price of property held by the seller until the total amount of the sales price is paid to him are taxable in the month during which such amounts are received by the seller. In the event of the failure of the buyer to complete is payments, no refund of taxes paid on

the amounts received by the seller will be made except where the seller refunds all amounts paid to him by the purchaser.

117–318.4. Withdrawals for Use—Renter.

Where a person customarily rents tangible personal property and customarily withdraws the same for his own use, storage or consumption, a tax is due by such person on each withdrawal for use, the tax to be measured by the amount he would customarily receive as rental had the property been leased or rented for a like period of time. In the alternative the tax may be paid on the full purchase price of the property and no further liability incurred on withdrawals for use. Having once elected either method of reporting on withdrawals for use, the taxpayer must so continue unless and until permission has been received from the department in writing to make a change. Regardless of the method selected for accounting for the tax on withdrawals for use, the tax is due on all amounts proceeding or accruing from the rental, lease or sale of the property.

117–318.5. Gift Wrapping Charges.

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

117–318.6. Gratuities.

An amount or percentage, regardless of its designation, added to the price of meals pursuant to a requirement of the retailer furnishing such meals is a part of the sales price of such meals and must be included in the measure of the tax even though all or a part thereof may be paid by the retailer to his employees. Conversely, when a customer voluntarily provides a tip for an employee of a retailer, such a tip is not subject to the sales tax whether given directly to the employee in cash or added by the customer to his bill and charged by the retailer to the customer's account; provided, however, that in the latter instance the full amount of such tip is turned over to the employee by the retailer.

117–318.7. Bottle Deposits.

Deposits required by retailers to insure return of reusable containers (bottles) are not subject to the sales tax.

117–318.8. Returned Merchandise and Restocking Fees (Effective October 1, 2008).

The sales tax is imposed upon a retailer's "gross proceeds of sales" which is defined at Code Section 12–36–90. Code Section 12–36–90(2)(b) specifically states that "gross proceeds of sales" does not include "the sales price of property returned by customers when the full sales price is refunded in cash or by credit."

The use tax is based upon the "sales price" of tangible personal property and the term "sales price" is defined at Code Section 12–36–130. Code Section 12–36–130(2)(b) specifically states that "sales price" does not include "an amount charged for property, which is returned by the purchaser, and the full amount is refunded in cash or by credit."

Therefore, the price ("gross proceeds" or "sales price") charged for property which is returned to the retailer by the purchaser is not subject to the sales tax or the use tax provided the full price is refunded to the purchaser in cash or by credit. If a purchaser returns merchandise to the retailer and receives a refund or credit that is less than the price originally paid because the retailer retains a portion of the price paid as a "restocking" or "handling" fee or for any other reason, then the original price is subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006; State Register Volume 32, Issue No. 2, eff February 22, 2008.

117–319. Warehousemen.

Sales To: All property purchased for use in operating places of storage are subject to sales or use tax, whichever may apply, including all tickets, labels, receipt forms, heating or cooling equipment, fire protection equipment, pest control supplies and equipment, compressors, containers, and crating materials and any and all other supplies, materials, or equipment purchased for a use incidental to the storing or warehousing of property of any kind of character.

Note, however, that warehousemen may also be engaged in the business of selling, processing, or manufacturing for sale, in which event the supplies and equipment used in such activities will be taxable or not in accordance with the rules applying to the use of property for such purposes.

Sales Made By: Receipts of warehousemen from their services in storing, handling, packing, crating, delousing, etc., property for others are not subject to the sales tax. Any materials used incidental to the rendering of such services are taxable on the sale to the warehousemen.

When, however, warehousemen buy and sell property as a regular course of business such sales, if not otherwise exempted, are subject to the sales tax, including sales of goods held on consignment and including transactions in which the warehouseman acts as a broker selling goods not actually owned by him or in his possession at the time he accepts the order.

Warehousemen are subject to tax with respect to sales of secondhand property forfeited to them in the operation of their warehousing business where such sales are numerous and a substantial amount and where the selling of such secondhand property is a regular and continuous practice. Where such sales of secondhand property are in such number that they might be considered casual, isolated or accommodation sales, they are not required to be reported in sales tax returns filed with this department.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–320. Use Tax.

The use tax is imposed on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in South Carolina.

117–320.1. Property Purchased and Used Without the State . . . Later Used in South Carolina.

Where property purchased in another state and used outside the state of South Carolina, is later brought into the state for use, storage or consumption in South Carolina, the use tax will apply unless the following conditions are conclusively established: (1) That the property when purchased was intended for a bona fide use outside the state of South Carolina; (2) That the first actual use of the property was outside the state of South Carolina; and (3) That the first actual use of the property was substantial and constituted the primary use for which the property was purchased.

The responsibility for proof rests upon the purchaser and until the above facts are established to the satisfaction of the department, it will be presumed that the use of such property in South Carolina is subject to a use tax.

(See, however, Section 12–36–1320 for a special imposition of the tax on transient construction equipment.)

117–320.2. Vehicles Replaced under Insurance Contracts.

The use tax is due by the insured, measured by the purchase price of vehicles acquired out-of-state, whether acquired by the insured or the insurer under the terms of an insurance policy to replace destroyed or stolen vehicles.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–321. Ships and Sales of Fuel, Lubricants and Mechanical Supplies to Ship.

Code Section 12–36–2120 exempts from the tax "vessels and barges of more than fifty tons burden" and "fuel, lubricants, and supplies for use or consumption aboard ships in intercoastal trade or foreign commerce." This exemption for supplies 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.

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

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

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

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

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

117–321.2. Dry Dock.

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–322. Casual and Isolated Sales.

Casual or isolated sales by persons not engaged in the business of selling tangible personal property at retail are not subject to the sales or use tax.

For purposes of administering this regulation, the term "casual" means occurring, encountered, acting or performed without regularity or at random. The term "occasional" and the term "isolated" mean occurring alone or once, an incident not likely to recur, sporadic.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

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

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

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

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

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–324. Dual Business.

Operators of businesses who are both making retail sales and withdrawing for use from the same stock of goods are to purchase at wholesale all of the goods so sold or used and report both retail sales and withdrawals for use under the sales tax law.

This ruling applies only to those who actually carry on a retail business having a substantial number of retail sales and does not apply to contractors, plumbers, repairmen, and others who make isolated or accommodation sales and who have not set themselves up as being engaged in selling. Where only isolated sales are made, tax should be paid on all of the taxable property purchased with no sales tax return being required of the seller making such isolated or "accommodation" sales.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–326. Savings and Loan Associations.

Federal and State savings and loan associations and State building and loan associations are liable for the South Carolina use tax on purchases of tangible personal property for use, storage or consumption in this State. Conversely, licensed retailers are liable for the sales tax on all sales to such establishments.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–327. Leased Departments.

Where a store has leased departments operated by other persons, each such person operating a leased department shall make a separate return, if he keeps his own books and makes his own collections on accounts.

Where the store leasing such department keeps the books and makes collections for the leased department the store may, as agent for the lessee, make returns for such leased department and pay the taxes due. Note, however, the lessee shall not be relieved of his liability until the amount due has been paid. This method of accounting for the tax is authorized only by special permission of the Department of Revenue.

Where the store makes returns as agent for leased departments, it shall make separate returns for each department leased or shall make a consolidated return for both its business and the leased departments using "Schedule of Locations" to show a breakdown of gross proceeds of sales and other required information relating to its business and relating to each leased department. In any case, the lessor must obtain the permission of the Department of Revenue to make returns for his lessee.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–328. Radio and TV Stations.

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

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

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

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

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

The exemption applies to all purchases or rentals of supplies for use directly in the preparation of programs and in broadcasting, to include flash bulbs, paper supplies, stage properties when customarily re-used, such as stock articles of furniture and equipment, props (including materials from which

props are fabricated), film, recording tape, artists supplies, chemicals for use in developing films, syndicated and feature films, phonograph records, transcriptions, script services, sheet music, syndicated tape and transcribed programs.

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

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

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

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

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

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

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

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

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

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

117–329. Communications Services.

The purpose of this regulation is to provide guidance as to the application of the sales and use tax to the wide variety of communications services available to individual consumers and to businesses. It also lists examples of communication services that are or are not subject to the tax. Charges for other communications services not listed in this regulation are still subject to the tax if they constitute charges for the ways or means for the transmission of the voice or messages and are not otherwise exempted under the law.

117–329.1. Ways or Means for Transmission of Voice or Messages.

Communications are subject to sales and use taxes pursuant to Code Sections 12–36–910(B)(3) and 12–36–1310(B)(3), which impose the tax on the "gross proceeds accruing or proceeding from the charges for the ways or means for the transmission of the voice or messages, including the charges for use of equipment furnished by the seller or supplier of the ways or means for the transmission of the voice or messages."

"Charges for the ways or means for the transmission of the voice or messages" is defined to include, but is not limited to, charges for access to, or use of, a communication system (the manner, method or instruments for sending or receiving a signal of the voice or of messages), whether this charge is based on a fee per a specific time period or per transmission or any other method.

117–329.2. Prepaid Wireless Calling Arrangements.

Code Section 12–36–910(B)(5) and Code Section 12–36–1310(B)(5) impose the sales and use tax on the "gross proceeds accruing or proceeding from the sale or recharge at retail for prepaid wireless calling arrangements."

"Prepaid wireless calling arrangements" means communication services that (i) are used exclusively to purchase wireless telecommunications; (ii) are purchased in advance; (iii) allow the purchaser to originate telephone calls by using an access number, authorization code, or other means entered manually or electronically; and (iv) are sold in units or dollars which decline with use in a known amount.

117–329.3. 900/976 Telephone Services.

Communications are subject to sales and use taxes pursuant to Code Section 12–36–2645, which imposes the sales and use tax on the "gross proceeds accruing or proceeding from the business of providing 900/976 telephone service." However, this code section imposes the sales and use tax on such communications services at a higher state rate than the general state sales and use tax rate.

117–329.4. Examples of Taxable Communications Services.

The following are examples of communication services that are subject to the sales and use tax (unless otherwise listed as non-taxable in 117–329.5 or otherwise exempt or excluded under the law):

(a) Telephone services, including telephone services provided via the traditional circuit-committed protocols of the public switched telephone network ("PSTN"), a wireless transmission system, a voice over Internet protocol ("VoIP"), or any of other method

(b) Teleconferencing Services

(c) Paging Services

(d) Answering Services

(e) Cable Television Services

(f) Satellite Programming Services and Other Programming Transmission Services, including, but is not limited to, emergency communication services and television, radio, music or other programming services

(g) Fax Transmission Services

(h) Voice Mail Messaging Services

(i) E-Mail Services

(j) Electronic Filing of Tax Returns when the return is electronically filed by a person who did not prepare the tax return

(k) Database Access Transmission Services or On-Line Information Services, including, but not limited to, legal research services, credit reporting/research services, and charges to access an individual website (including Application Service Providers)

(*l*) Prepaid Wireless Calling Arrangements (sale or recharge at retail) as defined in Code Section 12–36–910(B)(5)

(m) 900/976 Telephone Service

117–329.5. Examples of Non-Taxable Communications Services.

The following are examples of communication services are not subject to the sales and use tax:

(a) Telephone services specifically exempted under Code Section 12–36–2120(11), such as toll charges between telephone exchanges and carrier access charges and customers access line charges established by the Federal Communications Commission or the South Carolina Public Service Commission

(b) Telegraph Messages exempt under Code Section 12–36–2120(11)

(c) Communication Services involving Automatic Teller Machines exempt under Code Section 12–36–2120(11)

(d) Data Processing Services as defined under Code Section 12–36–910(C)

(e) Computer Database Information Services provided by a cooperative service when the database information has been assembled by and for the exclusive use of the members of the cooperative services excluded from the tax under Code Section 12–36–60

(f) Electronic Filing of Tax Returns when the return is electronically filed by a person who prepared the tax return

(g) Other charges specifically exempt from the tax under State law or federal law

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 32, Issue No. 6, eff June 27, 2008.

117–330. Automatic Data Processing.

Automatic Data Processing Equipment—Hardware

Receipts from the sale or lease of automatic data processing equipment are subject to the sales or use tax. Also includible in the tax base are charges for the sale or lease of assembler, compiler, utility and other prewritten programs furnished with such equipment.

Automatic Data Processing Programs—Software

A computer program is the complete sequence of automatic data processing instructions necessary to enable automatic data processing equipment to function in resolving a particular problem. These instructions, commonly referred to as software, may be recorded on or in paper or magnetic tape, cards, disc or drum or may consist of written procedures such as program instructions listed on coding sheets. Programs are, in essence, the parts, attachments or instructions necessary to enable personnel to produce the results desired from the automatic data processing system.

Such programs may be prewritten (canned) or custom designed for a particular installation.

Prewritten Programs

The tax applies to total charges for coding, punching or otherwise reproducing prewritten programs including charges for the tapes or other properties when furnished by the seller or reproducer.

The temporary transfer of possession of a program for a consideration for the purpose of direct use by the customer or to be reproduced by the customer on or into tapes or other properties is a lease of tangible personal property subject to the tax on the total amount paid even though the consideration may be labeled a license fee or royalty payment; and even though royalty payments or payments for a license to use may be paid long after the original programs are returned to the seller.

Custom Programs

Custom programs are programs prepared to the special order of a customer, the gross proceeds therefrom being subject to the tax. Also considered to be custom programs are sales of programs developed through modification of existing prewritten programs to meet a customer's specific needs. Charges to modify and adapt these programs to a customer's equipment (including testing) or translating a program to a language compatible with a customer's equipment are services that are a part of the sale price of tangible personal property and likewise subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–331. Airport Fixed Based Operators.

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

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

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

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

In general, the following would be for application:

1. Sales. All sales of new and used aircraft are subject to the tax when delivered to customers in South Carolina. When aircraft are purchased for use outside this State the tax likewise applies unless the seller, as a condition of the sale, delivers the aircraft to customers at points outside this State. The most acceptable proof of transportation outside the state would be a trip ticket signed by the seller's delivery agent and showing also the signature and address of the person outside this State who received the delivered aircraft.

2. Rental of aircraft. Proceeds derived from lease or rental of aircraft are subject to the tax.

3. Flight instruction. Receipts from courses of instruction given by base operators to students seeking private, commercial, instrument and/or instructor's licenses are not subject to the sales tax. Included in such exempt services are receipts from dual and solo flights which are a part of a course of instruction.

4. Charter service. No tax is due on charges made for charter service. Additionally, no tax would be due on withdrawals of aircraft for use in charter flights originating and terminating in states other than South Carolina.

5. Sales of gasoline for use in aircraft are subject to the tax.

6. Sales of lubricating oils and greases are subject to the tax. Charges made for lubricating services are not taxable, the tax being paid on the value of the lubricant or grease used in furnishing this service.

7. Repair service.

a. No tax is due on the purchase or withdrawal of parts used to repair or recondition aircraft for sale. Likewise, no tax is due on repairs by a person electing to report use on the basis of flight hours.

b. No tax is due on parts withdrawn for use in replacing parts under written warranty contracts given without charge to the purchaser at the time of original purchase, provided the tax was paid on the sale of the part found to be defective or on the sale of the property of which the defective part was a component, and provided no charge for labor or materials is made to the warrantee.

c. All other proceeds derived from the sale of repair parts and service are subject to the tax; provided, however, that where a separation is made between the sale of the parts and the sale of the service, the tax is due only on the sale of the repair parts. The invoice to the customer must show this separation.

8. Rental of hanger or tie space. No tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

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

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

(a) medicines and prosthetic devices sold by prescription, prescription medicines and therapeutic radiopharmaceuticals used in the treatment of cancer, lymphoma, leukemia, or related diseases, including prescription medicines used to relieve the effects of any such treatment, and free samples of prescription medicine distributed by its manufacturer and any use of these free samples;

(b) hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies sold to diabetics under the authorization and direction of a physician;

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

(d) dental prosthetic devices.

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

"Medicine"—a substance or preparation used in treating disease.

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

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

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

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

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–333. Donors and Goods Given Away for Advertising Purposes.

Donors of tangible personal property are regarded as consumers thereof, and the tax applies to the gross proceeds from the sale of the property to them. Gross proceeds from the sale of goods which are to be given away for advertising purposes are taxable.

Purchasers of property to be awarded as prizes, the winning of which depends upon chance or skill, are regarded as the consumers thereof, and the tax applies to the gross proceeds from the sale of such property to them. The operator of a game of skill, or a game of chance, is regarded as the consumer of the property used in connection with such operations, and the tax applies to the gross proceeds from sales of tangible personal property to the operator.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–334. Interstate Commerce.

The purpose of this regulation is to determine which tax applies, the sales tax or the use tax, when tangible personal property is shipped into, or otherwise brought into, South Carolina and to address the application of the tax when goods are shipped from this State.

117.334.1. Goods coming into this State - Sales Tax:

(A) When tangible personal property is purchased for use or consumption in this State and (1) the seller is engaged or continuing within this State in the business of selling tangible personal property at retail and (2) delivery is made in this State, such sale is subject to the sales tax if the order for the future delivery of tangible personal property is sent by the purchaser to, or the subsequent delivery of the property is made by, any local branch, office, outlet or other place of business of the retailer in this State, or agent or representative operating out of or having any connection with, such local branch, office, outlet or other place of business. The term "other place of business" as used herein includes, but is not limited to, the homes of district managers, representatives, and other resident employees, who perform services in relation to the seller's functions in this State. Participation in the transaction in any way by the local office, branch, outlet or other place of business is sufficient to sustain the sales tax.

If the conditions above are met it is immaterial (1) that the contract of sale is closed by acceptance outside the State or (2) that the contract is made before the property is brought into the State.

Delivery is held to have taken place in this State (1) when physical possession of the tangible personal property is actually transferred to the purchaser or the purchaser's designee within this State, or (2) when the tangible personal property is placed in the mails at a point outside this State and directed to the purchaser or the purchaser's designee in this State or (3) when the tangible personal property is placed on board a carrier at a point outside this State (regardless of shipping terms) and directed to the purchaser or the purchaser's designee in this State.

The term "engaged or continuing within this State in the business of selling tangible personal property at retail" as used in this regulation shall have the same meaning as the term "retailer maintaining a place of business in this State" as defined in Code Section 12–36–80.

(B) When tangible personal property is brought into this State by the seller, or an agent, salesman, or other representative of the seller, for sale at a permanent or temporary location (carnivals, festivals, roadside, etc.) or from a truck or other vehicle, such sale is subject to the sales tax.

117–334.2. Goods coming into this State - Use Tax:

(A) When tangible personal property is purchased for use or consumption in this State and delivery is made in this State, such sale is subject to the use tax if the order for future delivery is sent by the purchaser directly to the seller at a point outside this State, and the property is shipped into this State from a point outside this State directly to the purchaser or the purchaser's designee, provided there is no participation whatever in the transaction by any local branch, office, outlet or other place of business of the retailer or by any agent or representative of the retailer having any connection with such branch, office, outlet, or other place of business. The term "other place of business" as used herein includes, but is not limited to, the homes of district managers, service representatives, and other resident employees, who perform substantial services in relation to the seller's functions in this State.

The purchaser is liable for the use tax on the purchases outlined above in this subsection (117.334.2(A)) until the tax is paid to the State. In addition, a receipt, that shows the South Carolina tax, from a seller who is registered with the Department of Revenue to collect and remit the tax will relieve the purchaser of the liability for the tax on the purchase. However, a seller who is registered with the Department of Revenue to collect and remit the tax has a debt to the State for the use tax required to be collected under the law. If the purchaser is not relieved from his liability for the use tax as stated above, then the Department may assess the purchaser or the seller for the use tax.

(B) When tangible personal property is otherwise brought into this State by the purchaser for first use or consumption in this State, such use or consumption is subject to the use tax. See SC Regulation 117–320.1 for information concerning property purchased and used outside of South Carolina and later used in South Carolina and see Code Sections 12–36–1320 and 12–36–150 for a special imposition of the tax on transient construction property.

(C) When tangible personal property is purchased for use or consumption in this State and the property is shipped from a point outside this State directly to the purchaser or the purchaser's designee at a point in this State, there is a rebuttable presumption that the purchase is subject to the use tax. If the receipt from a seller does not separately state the South Carolina tax, the Department may assess either the purchaser or the seller (if licensed or nexus exists) for the use tax.

117–334.3. Goods coming into this State and Delivered onto the Catawba Indian Reservation.

When tangible personal property is purchased for use or consumption on the Catawba Indian Reservation and delivery is made from a retail location outside of South Carolina to the Catawba Indian Reservation, such sale, based on the provisions of Code Section 27-16-130(H), is:

(a) subject to the State use tax if the retailer is registered with the Department to remit the State tax. Local use taxes are not applicable.

(b) subject to the Tribal use tax if retailer is not registered with the Department to remit the State tax. The Tribal use tax is equal to the combined State and local tax rate for the county in which the reservation is located and in which the delivery occurs. The Catawba Indian Tribe is responsible for collecting the tribal use tax.

117–334.4. Application of the Sales or Use Tax under Other Circumstances.

The application of either the sales tax or the use tax under circumstances not addressed in this regulation will be determined on a case by case basis. The determination as to which tax will apply will consider whether or not the seller, as required for the application of the sales tax under Code Section 12–36–910, is "engaged or continuing within this State in the business of selling tangible personal property at retail," whether or not the seller has sufficient "nexus" with South Carolina under current case law, and whether or not the retail sale occurs in this State.

117–334.5. Goods shipped from this State.

When tangible personal property is sold within the State and the seller is obligated to deliver it to the purchaser or to an agent or designee of the purchaser at a point outside of the State or to deliver it to a carrier or to the mails for transportation to the purchaser or to an agent or designee of the purchaser at a point outside this State, the retail sales tax does not apply provided the property is not returned to a point within the State. The most acceptable proof of transportation outside the State is:

(a) A way-bill or bill of lading made out to the seller's order and calling for delivery; or

(b) An insurance receipt or registry issued by the United States Postal Department, or a Post Office Department receipt Form 3817; or

(c) A trip sheet signed by the seller's delivery agent and showing the signature and address of the person outside this State who received the goods delivered.

However, where tangible personal property pursuant to a sale is delivered in this State to the purchaser or to an agent or designee of the purchaser, other than a common carrier, the retail sales tax applies notwithstanding that the purchaser or the purchaser's agent or designee may subsequently transport the property out of the State.

The department will be asking the Administrative Law Court, in accordance with S.C. Code Ann. § 1–23–111 (2005), to issue a report that the proposal to amend the regulation is needed and reasonable.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006.

117–335. Manufactured Homes and Modular Homes.

Manufactured homes and modular homes are taxed differently under the sales and use tax code.

117–335.1. Manufactured Homes

The basis upon which the tax is calculated on a manufactured home (as defined in Code Section 40–29–20) is only sixty-five percent of the "gross proceeds of sales" as defined in Code Section 12–36–90.

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

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

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

117–335.2. Modular Homes

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

The maximum tax provisions do not apply to modular homes. Local sales and use taxes that are administered and collected by the Department of behalf of local jurisdictions do apply to modular homes.

The retail sale upon which the tax is based is the sale by the manufacturer to either the modular home dealer or home buyer, whichever is applicable. See Code Section 12–36–2120(34).

117–335.3. Other Factory Fabricated Buildings

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

117–335.4. Furniture and Appliance

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

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

117–335.5. Heat Pumps, Decks, Steps, Skirting and Similar Items

Heat pumps, air conditioning systems, skirting, steps, decks, septic tanks, wells, and driveways built or installed after the home is delivered to the construction site are not considered a part of the delivered home and are taxed separately from the home. The sale of these items to, or the purchase of these items by, the person who will build or supply and install them is subject to the tax.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 30, Issue No. 6, eff June 23, 2006; State Register Volume 31, Issue No. 7, eff July 27, 2007.

117–336. Definition of the Term "Facility".

A "facility" is generally a single physical location, where a taxpayer's business is conducted or where its services or industrial operations are performed. Where two or more distinct and separate economic activities are performed at a single physical location, each separate economic activity will be treated as a separate facility when: (1) each activity has its own separate and dedicated personnel; (2) separate reports can be prepared on the numbers of employees, their wages and salaries, sales, or receipts and expenses; (3) and employment and output are significant as to the activity. For purposes of item (2) above, it is irrelevant if separate reports are actually prepared, so long as separate reports can be prepared, this criteria is met.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

117–337. Sales of Unprepared Food.

Effective November 1, 2007, Code Section 12–36–2120(75) exempts from the state sales and use tax the gross proceeds of sales or sales price of "unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons." This exemption does not apply to local sales and use taxes that are administered and collected by the Department on behalf of the counties and other jurisdictions, unless the local tax law specifically exempts the sales of such unprepared food.

The determination as to whether a sale of unprepared food is exempt from the state sales and use tax is based on whether the food is of a type that is eligible to be purchased with USDA food stamps, the type of location selling the food, and whether the food is being sold for immediate consumption, business or institutional consumption, or home consumption.

In other words, a food must be of a type eligible to be purchased with USDA food stamps and must also be sold for home consumption (based on the type of food and the type of location selling the food) to qualify for the exemption from the state sales and use tax under Code Section 12–36–2120(75). For example, bottled soft drinks are eligible to be purchased with USDA food stamps, but if bottled soft drinks are sold at a concession stand at a festival, then the bottled soft drinks are sold for immediate consumption and not home consumption and the sale at the festival would be subject to the full state sales tax rate.

This regulation will explain which sales of food qualify or do not qualify for the exemption under Code Section 12–36–2120(75).

117–337.1. "Eligible Food" Defined.

For purposes of this regulation, the term "eligible food" is food eligible for the exemption under Code Section 12–36–2120(75) that will be defined to include and exclude the following:

(A) Foods eligible for the exemption under Code Section 12–36–2120(75) include:

(1) Any food intended to be eaten at home by people, including snacks, beverages and seasonings;

(2) Seeds and plants intended to grow food (not birdseed or seeds to grow flowers); and

(3) Cold items, which may include salads or sandwiches, intended to be eaten at home by people and that are not considered "prepared meals or food" as discussed below.

(B) Food and other items which are not eligible for the exemption under Code Section 12–36–2120(75) and are, therefore, subject to the full state sales and use tax rate (unless otherwise exempt) include:

(1) Alcoholic beverages, such as beer, wine, or liquor;

(2) Hot beverages ready-to-drink such as coffee;

(3) Tobacco;

(4) Hot foods ready to eat;

(5) Foods designed to be heated in the store;

(6) Hot and cold food to be eaten at a lunch counter, in a dining area or anywhere else in the store or in a nearby area such as a mall food court;

(7) Vitamins and medicines;

(8) Pet food;

(9) Any non-food items such as tissue, soap or other household goods;

(10) Meals or food shipped or delivered to businesses or institutions (hospitals, prisons, jails, nursing homes, etc.); and

(11) Prepared meals or food as defined in Regulation 117–337.2.

117–337.2. "Prepared Meals or Food" Defined.

(A) "Prepared meals or food" is food for immediate consumption (based on the type of food and the type of location selling the food) and is not eligible for the exemption under Code Section 12–36–2120(75), but is subject to the full state sales and use tax rate.

"Prepared meals or food" are meals or food sold by a business, or from an identifiable location within a business, which advertises, holds itself out to the public (e.g., offers hot food or the ability to heat food, provides seating, or provides utensils with the meal or food), or is perceived by the public as being engaged in the sale of ready-to-eat food or beverages to customers for their immediate consumption on or off the premises. Such a business, or identifiable location within a business, may be mobile or immobile and may or may not provide seating accommodations for its customers. For example, "prepared meals or food" includes, but is not limited to (a) meals or food sold by a restaurant, cafeteria, lunch wagon or cart, lunch counter, cafeteria, ice cream stand, tavern, night club, or other similar places or businesses engaged in the business of selling prepared meals or food for immediate consumption, (b) meals prepared and delivered by a meal delivery service; (c) meals sold to or at congregate meal sites; (d) meals or food sold at a grocery store, convenience store or any other similar store for the purpose of eating at or near the store, such as meals or food sold with eating utensils (e.g., plates, knives, forks, spoons, cups, napkins) provided by the seller, (e) meals or food sold at hotels, motels, or other places furnishing accommodations; (f) meals or food sold at newsstands, gift shops, and snacks bars located in offices or other public or commercial buildings; (g) meals or food sold at movies theaters, opera houses, fairs, carnivals, stadiums, auditoriums, amphitheaters, or similar entertainment or sports facilities; and (h) food sold through vending machines.

(B) Exception: If a store, or an identifiable location within a store, advertises**,** holds itself out to the public (e.g., offers hot food or the ability to heat food, provides seating, or provides utensils with the meal or food), or is perceived by the public as being engaged in the sale of ready-to-eat food or beverages to customers for their immediate consumption on or off the premises and also sells food that is prepared for home consumption, sold for home consumption, and is not the type of food intended for immediate consumption, then such "home consumption" food is not considered "prepared meals or food" and would be "eligible food" exempt from the state sales and use tax under Code Section

12–36–2120(75), provided it is not one of the foods listed above in Regulation 117–337.1(B) - Items (1) through (10).

The following are examples of this exception:

(A) A grocery store has a deli/bakery that provides tables, chairs, benches, booths, counters or an area where customers may consume food in or near the store. In addition to other items, this deli/bakery area sells loaves of baked bread (the bread it is not hot at the time of sale).

The sales at retail of the loaves of bread are exempt from the state sales and use tax under Code Section 12–36–2120(75), provided the sale is not for a party or gathering held at the store or delivered to a location other than a private residence.

(B) A coffee shop sells individual slices of cake to be eaten with the coffee and other drinks sold at the shop. The shop also sells entire sheet cakes.

The sale at retail of the sheet cake is exempt from the state sales and use tax under Code Section 12–36–2120(75), provided the sale is not for a party or gathering held at the shop or delivered to a location other than a private residence.

(C) Some sales of meals or food may be exempt from the sales and use tax under other exemption provisions. For example, Code Section 12–36–2120(10) provides exemptions from the sales and use tax for (1) meals or foodstuff used in furnishing meals to school children within school buildings on a nonprofit basis; (2) meals or foodstuff provided to elderly or disabled persons at home by certain nonprofit organizations; (3) prepared or packaged foodstuff sold to nonprofit organizations for the homeless and needy; or (4) meals or prepared or packaged foodstuff sold to public and nonprofit organizations for congregate or in-home service to the homeless, needy, disabled adults over eighteen years of age or persons over sixty years of age (provided the meals or packaged foodstuffs in this item (4) are eligible for purchase with USDA food coupons). Code Section 12–36–2120(41) exempts from the sales and use tax tangible personal property, including meals or food, sold by certain nonprofit organizations.

117–337.3. General Rules.

(A) Sales of "Eligible Food" by Grocery, Convenience and Similar Stores Authorized to Accept Food Stamps:

Sales of "eligible food" by a grocery, convenience or similar store authorized to accept food stamps shall be deemed to be for home consumption and exempt from the state sales and use tax under Code Section 12–36–2120(75).

However, if the store has an identifiable location which advertises**,** holds itself out to the public (e.g., offers hot food or the ability to heat food, provides seating, or provides utensils with the meal or food), or is perceived by the public as being engaged in the sale of ready-to-eat food or beverages to customers for their immediate consumption on or off the premises, then all sales of food from that identifiable location shall be deemed to be for immediate consumption and subject to the sales tax at the full state rate, unless the sale falls within the exception noted above in Regulation 117–337.2. For example, if a neighborhood grocery store also has a lunch counter, then sales from that lunch counter are for immediate consumption and subject to the tax at the full sales tax rate. If the lunch counter also sold entire sheet cakes, then the sale at retail of a sheet cake would be exempt from the state sales and use tax under Code Section 12–36–2120(75) provided the sale is not for a party or gathering held at the store or delivered by the store to a business or institution.

(B) Sales of "Eligible Food" by Grocery and Other Stores Not Authorized to Accept Food Stamps:

Sales of "eligible food" by a grocery, convenience or similar store not authorized to accept food stamps but which is engaged in the retail sale of all sorts of canned foods and dry goods (e.g., tea, coffee, spices, sugar, and flour), and may also be engaged in the retail sale of fresh fruits and vegetables and fresh and prepared meats, fish, and poultry, shall be deemed to be for home consumption and exempt from the state sales and use tax under Code Section 12–36–2120(75).

However, if the store has an identifiable location which advertises**,** holds itself out to the public (e.g., offers hot food or the ability to heat food, provides seating, or provides utensils with the meal or food), or is perceived by the public as being engaged in the sale of ready-to-eat food or beverages to customers for their immediate consumption on or off the premises, then all sales of food from that identifiable location shall be deemed to be for immediate consumption and subject to the sales tax at

the full state rate unless the sale falls within the exception noted above in Regulation 117–337.2. For example, if a convenience store has an area where a customer can get a hot dog or sandwiches that are intended for immediate consumption (including ones intended to be heated in a microwave), then the sale of the hot dogs and sandwiches are for immediate consumption and subject to the full state rate. Any chips or drinks (whether fountain drinks or bottled drinks) sold with that hot dog or sandwich at the lunch counter are also for immediate consumption and subject to the full state rate.

(C) Sales of "Eligible Foods" to or by Vending Machine Operators for Sale through Vending Machines:

Sales of "eligible food" to or by vending machine operators for sale through vending machines are for immediate consumption and subject to the sales tax at the full state rate.

(D) Sales of "Eligible Food" to Institutions:

Sales of "eligible food" to the SC Department of Corrections, city or county jails, hospitals, nursing homes, and colleges for use in providing meals to the prisoners, patients, or students are sales to institutions who, under the sales and use tax law, are the users or consumers of such food in carrying out their primary functions of incarcerating convicts, providing medical care or providing an education. As such, sales of such food are not for home consumption and are subject to the sales tax at the full state rate.

(E) Sales of "Eligible Food" Prepackaged with a Non-Eligible Item

Sales of "eligible food" that is prepackaged with a non-eligible item, or sales in which a single price is established for a combination of an "eligible food" and a non-eligible item, are subject to the tax at the full state rate.

For example, if a grocery store advertises and sells a basket containing fruit and a bottle of wine, the exemption under Code Section 12–36–2120(75) is not applicable. The full state rate applies.

(F) "Eligible Food" Purchased with Food Stamps:

"Eligible food" purchased with food stamps from a retailer authorized by the United States Department of Agriculture to accept food stamps are exempt from the sales and use tax.

117–337.4. Examples.

The following examples are provided to assist in understanding the above provisions of this regulation:

(a) Sales at retail of food delivered to offices and businesses are subject to tax at the full state rate.

(b) Sales at retail of food delivered to day care centers and similar facilities are subject to tax at the full state rate.

(c) Sales at retail of bottled water delivered to an individual's home are exempt from the state sales and use tax under Code Section 12–36–2120(75). However, the lease of a water cooler unit to a residential customer is subject to the full state rate.

Sales at retail of bottled water delivered to a commercial enterprise are subject to the tax at the full state rate. The lease of a water cooler unit to a commercial enterprise is also subject to the full state rate.

(d) Sales at retail of ground coffee, creamer, sugar, tea bags and other "coffee service" products delivered to a commercial enterprise are subject to the tax at the full state rate.

(e) Sales at retail of drinks, coffee supplies, and snacks by an office supply store are exempt from the state sales and use tax under Code Section 12–36–2120(75), unless shipped or delivered to a location other than a private residence. Shipments or deliveries to a location other than a private residence are subject to the full state rate.

(f) Sales at retail by a coffee shop of packaged cold sandwiches, salads, and containers of cut fruit, cookies, muffins, donuts, slices of nut bread, cupcakes, brownies, whole fruit, or similar food products sold individually are subject to the tax at the full state rate.

However, sales at retail of these same food products by the loaf or tray are subject exempt from the state sales and use tax under Code Section 12–36–2120(75) unless such loaf or tray is sold for a party or gathering held at or near the coffee shop or is delivered to a location other than a private residence. Sales at retail of these products by the loaf or tray for a party or gathering held at or near the coffee

shop or that are delivered a location other than a private residence are subject to the tax at the full state rate.

(g) Sales at retail at a location that contains both a restaurant and a convenience or similar store under one roof are taxed at the full state rate for sales from the restaurant portion of the business and are exempt from the state sales and use tax under Code Section 12–36–2120(75) for sales from the convenience or similar store portion of the business, unless an exception discussed previously in this regulation applies. For more detailed information, see the above sections of this regulation concerning restaurants and convenience or similar stores.

(h) Sales at retail of loaves of bread baked in and sold at a bakery in a grocery store are exempt from the state sales and use tax under Code Section 12–36–2120(75), provided the loaf of bread sold is not "hot food."

117–337.5. Local Taxes.

The exemption in Code Section 12–36–2120(75) for "unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons" does not apply to local sales and use taxes that are administered and collected by the Department on behalf of the counties and other jurisdictions, unless the local tax law specifically exempts the sales of such unprepared food.

This regulation is not applicable to any local tax administered and collected by a local jurisdiction.

117–337.6. Records.

The seller of "eligible food" exempt from the state sales and use tax under Code Section 12–36–2120(75) shall maintain sufficient documentation to substantiate that a sale qualifies for the exemption from the state sales and use tax, using any method of recording that properly reflects all purchases and sales of such items.

HISTORY: Added by State Register Volume 32, Issue No. 7, eff July 25, 2008.

ARTICLE 12
INCOME TAX
SUBARTICLE 9
TAXABLE INCOME CALCULATION

117–620. This regulation contains general rules in determining legal residency.

117–620.1. Legal Residence When Domiciled in a Foreign Country.

Where it can be shown that an individual has become domiciled in a foreign country and, therefore, no longer a resident of this state and has severed all connections with this state and has clearly shown his or her intention to reside abroad permanently with no intention of returning to South Carolina, such individual is not subject to the income tax laws of this state.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–640. This regulation concerns the taxable income calculation of military personnel, military retirees, and their families.

117–640.1. Military Pay, Non-Service Income, and Income Earned by Military Spouses.

1. Military pay in general: Under the provisions of Sections 12–6–510, 12–6–560, and 12–6–570, military pay is reportable for South Carolina income tax purposes.

2. Nonresident armed services personnel: Under the Soldiers' and Sailors' Civil Relief Act, members of the armed services, who are legal residents of other states stationed within South Carolina by virtue of military orders, are not subject to South Carolina income tax on their service pay. They are, however, subject to tax on any other income earned in South Carolina which would be taxable to a nonresident. Income earned in South Carolina by a spouse of a military servicemember is taxable to South Carolina.

The personal exemptions and deductions of a nonresident servicemember's spouse must be prorated in ratio to the spouses adjusted gross income within this State to the spouses entire adjusted gross income wherever earned. The spouse would not be entitled to claim exemptions for dependents

unless the spouse can prove that he or she furnishes more than fifty percent of their support for the entire year.

3. Establishment of New Domicile: There is nothing in the Soldiers' and Sailors' Civil Relief Act or in the South Carolina statutes which would prevent a servicemember from changing his or her legal residence. To effect a change of legal residence, however, there must not only be an intention of making the new location the domicile of the servicemember, but also there must be the factual establishment of a domicile in the new location.

The establishment of a permanent residence (or domicile) in a new state ordinarily requires physical presence of the person in the state long enough to establish evidence of having taken up residence in the state. Some of the tests or factors to consider in determining such permanent residence (or domicile) include the following:

(a) Place of birth.

(b) Permanent residence of parents.

(c) Family connections, close friends.

(d) Address given for military purposes.

(e) Payment of state bonus (in most cases when a state pays a bonus to a servicemember, the servicemember must be a permanent resident to be eligible).

(f) Civic ties, church membership, club or lodge membership.

(g) Bank account or business connections.

(h) Payment of state income taxes.

(i) Continuous car registration and driver's license.

(j) Listing of "legal" or "permanent" address on Federal tax returns.

(k) Voting by absentee ballot.

(*l*) Occasional visits or spending one's leave "at home."

(m) Ownership of a home.

(n) Execution of approved certificates or other statements indicating permanent residence.

(*o*) Expression of intention.

Our administrative policy is in accord with the military services and the courts, including Federal courts, which, when arbitrating disputes over residency, have consistently held that a legal residence (or domicile) is not abandoned until a definite residence is established elsewhere.

4. Resident armed services personnel: For the purpose of reporting military income to South Carolina, the word "resident" means an individual who is a legal resident of this State, whether stationed in this State or in some other State or country. Unless a member of the armed services submits evidence that he or she has established legal residence in another State of territory and abandoned any domicile in this State, an individual will be presumed to be a resident of South Carolina if he or she entered military service while a resident of this State. As a resident, such individual is required to report income from all sources to South Carolina.

The following may be used as a guide to determine the income tax liability of servicemembers determined to be South Carolina residents:

(a) Taxable service income: Taxable service income includes base pay, longevity pay, flight pay, foreign service pay, submarine pay, jump pay, and re-enlistment pay bonus.

(b) Exempt service income: Income not taxable to servicemembers includes enlisted personnel's subsistence and quarters allowances, officers' subsistence and quarters allowances, and family allowances under the Career Compensation Act.

(c) Allowable deductions: Deductions may be claimed by servicemembers for insignia, swords, excessive cost of caps (for naval commanders, army and air force colonels, and officers of higher rank), and cost of altering uniforms necessitated by change in rank. (The expenses for which a deduction is allowed are only those expenses actually paid for which no reimbursement is received. The cost of uniforms and cleaning of same is not allowed to members of the armed forces on full-time duty on the basis that the uniform replaces ordinary street clothes and as such is a personal expense.)

(d) Non-deductible items: In the case of individuals on full-time duty, no deduction is allowed for such items as uniforms, fatigues, laundering or cleaning, or ordinary tailoring of uniforms.

117–640.2. Legal Residence When Military Personnel is Domiciled in a Foreign Country.

The Soldiers' and Sailors' Civil Relief Act protects the rights of U.S. Armed Forces personnel, restricting the servicemember's liability for state income tax to his or her state of domicile. Domicile is defined legally as "that place where a man has his true, fixed, and permanent home and principal establishment and to which, whenever he is absent therefrom, he has the intention of returning". A residence, on the other hand, generally is defined as a "factual place of abode" at a particular time.

A member of the armed forces who entered military service while domiciled in this state will be presumed to be a resident of South Carolina, for tax purposes, unless the servicemember submits evidence that he or she has established legal residence in another state and abandoned domicile in this state.

117–640.3. National Guard or Reserve Pension or Retirement Income.

That portion of pension or retirement income received by retired service personnel, residents of this State, that can be attributed to time served in the National Guard or Reserve components of the Armed Forces of the United States, is not taxable.

The non-taxable portion is determined by using a ratio of the time actually served in the National Guard or Reserve to the total time spent in military service, times total yearly pension or retirement.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–670. Reporting Final Income When Planning to Cease Doing Business in State.

A taxpayer planning to cease doing business in this State by the incorporation of an existing business or, in the case of a corporate taxpayer other than a subsidiary corporation, by the dissolution or surrender of its Charter, shall make a complete accounting of all items of income and expense not previously taken into account because the accounting method used by the taxpayer did not require the reporting of the items.

An individual taxpayer shall report all items of such income in his personal return for the year of incorporation. A corporate taxpayer shall report all items of such income in its final return.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 17
ALLOCATION AND APPORTIONMENT

117–700. This regulation contains definitions used in the allocation and apportionment provisions.

117–700.1. Definition of Related Expense as Used for Allocation.

The term "related expenses" as used in Section 12–6–2220 means any cost incurred, directly or indirectly, in connection with investments for the production of income or future income which is or will be specifically and directly allocable under this section or costs incurred in the acquisition, sale or exchange of real, tangible or intangible property.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–705. This regulation contains provisions for allocation of out of state income by a resident.

117–705.1. Allocation of Out-of-State Income and Losses.

Income or loss realized by resident individuals or partnerships from an established business, or from the lease or rental of tangible personal property or real property, the situs of which is in another state, shall be allocated to the state in which the business or property is located. Except, income of a resident individual or partnership, derived from personal services, is allocated to this State as provided in Section 12–6–2220(6).

However, in the case of a resident individual or partnership, conducting a business of a unitary or homogenous nature, partly within and partly without this State, such income or loss is apportioned in accordance with the provisions of Sections 12–6–2250 through 12–6–3360.

117–705.2. Personal Service Income of a Resident.

Income received by a dentist, doctor, lawyer, architect, or other professional domiciled in the State of South Carolina is income from personal services and is subject to South Carolina income taxes, even though such services are performed in another state, and even though the professional has an office located in such other state.

A tax credit may be allowed as provided in Regulation 117–755.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–710. This regulation contains general allocation and apportionment provisions.

117–710.1. Proper Allocation and Apportionment of Income.

The phrase "transacting or conducting his business partly within and partly without this State" as used in Section 12–6–2210, is applicable to a single business operation, which is unitary or homogenous and is carried on both within and without the State. A taxpayer operating two or more unrelated businesses, each of which is entirely within and without the State, is not subject to the provisions of this section, but each business determines its South Carolina net income separately. A taxpayer operating a unitary or homogenous business within and without the State and an unrelated business either entirely within or without is subject to the apportionment formulas with respect to the unitary or homogenous business but not with respect to the unrelated business. The income from the unrelated business is allocated and apportioned separately as appropriate to the State where such business is conducted.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–740. This regulation contains specific apportionment provisions.

117–740.1. Apportionment of Gains/Losses from Asset Retirement.

Any taxpayer electing the non-recognition of gains or losses realized upon the normal retirement of assets from productive use in the taxpayer's trade or business pursuant to IRS Regulation 1.167(a)-8, in effect on December 31, 1975, shall remove all such dispositions from the denominator of the property factor and, if the property disposed of had a situs in this State, from the numerator of the property factor in computing the property ratio for the purposes of the three factor apportionment formula (with a double weighted sales factor) prescribed by Section 12–6–2250.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 25
CREDITS

117–750. This regulation contains definitions used in the credit provisions.

117–750.1. "Facility" Defined.

A "facility" is generally a single physical location, where a taxpayer's business is conducted or where its services or industrial operations are performed. Where two or more distinct and separate economic activities are performed at a single physical location, each separate economic activity will be treated as a separate facility when: (1) each activity has its own separate and dedicated personnel; (2) separate reports can be prepared on the numbers of employees, their wages and salaries, sales, or receipts and expenses; (3) and employment and output are significant as to the activity. For purposes of item (2) above, it is irrelevant if separate reports are actually prepared, so long as separate reports can be prepared, this criteria is met.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–755. This regulation provides for a credit to individuals for taxes paid in other states.

117–755.1. Credit for Taxes Paid to a Political Subdivision of a State.

The tax credit granted in Code Section 12–6–3400 to a resident individual of South Carolina for taxes paid to another state subject to South Carolina income tax is granted to a resident individual of

South Carolina for taxes paid to a political subdivision of a state and computed in the manner provided in Code Section 12–6–3400.

117–755.2. Tax Credit to Residents of this State Upon Income from a Partnership Taxed in Another State.

Where an individual resident of this State is a partner of a partnership rendering personal services in South Carolina and another State, the distributive share of the partnership income received by the resident partner is taxable in this State. The resident partner is allowed the tax credit provided in Section 12–6–3400.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

SUBARTICLE 37
TAX RETURNS

117–850. This regulation provides specifications for forms and other information submitted to the Department.

117–850.1. Income Tax Forms and Acceptable Reproductions.

All income tax returns required to be filed must be made on prepared blank forms furnished by the Department or on substitute forms which are provided for as follows:

1. Reproduced or computer prepared forms must conform to the standards issued by the forms management section of the Department.

2. The Department reserves the right to reject any reproduction or computer prepared form.

3. Returns made on forms that do not conform to Department standards will not be accepted and will be returned to the taxpayer and the taxpayer will be deemed to have failed to file a return.

117–850.2. Rules and Specifications for Non paper Methods of Submitting Tax Information.

The specifications for submitting tax information using non paper methods must conform to the standards published by the section of the Department overseeing these methods. The Department reserves the right to reject the use any non paper reporting method.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–855. This regulation provides requirements for information returns and withholding statements.

117–855.1. Withholding Statements Required with Paper Return.

The copy of the withholding statement furnished to the employee by the employer, as required under Section 12–8–1540, designated for attachment to the employee's income tax return, must be attached to the income tax return of the employee if the employee files a paper return. A copy of Form 1099 or other information return reflecting South Carolina withholding must be attached to the income tax return of the taxpayer if the taxpayer files a paper return. Failure to comply may result in the disallowance of the withholding claimed.

117–855.2. Information Returns Not Required To Be Given To Certain Entities.

Information returns required under Section 12–6–4950, do not apply to payments made to banks or to any organization exempt from South Carolina income tax, under Section 12–6–550.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–870. This regulation provides requirements and liability for filing of returns when ceasing to do business in South Carolina.

117–870.1. Stockholders Liable for Tax When Business Operates After Charter Cancelled.

When a business continues operating, after cancellation of the corporation charter as a result of non-payment of license fee, the stockholders are required to file a Partnership Return, and each stockholder/partner is liable for income tax on his or her individual share of the profits, as provided in Section 12–6–510.

117.870.2. Reporting Final Income When Planning to Cease Doing Business in State.

A taxpayer planning to cease doing business in this State by the incorporation of an existing business or, in the case of a corporate taxpayer other than a subsidiary corporation, by the dissolution or surrender of its Charter, shall report all items of income as described in Regulation 117–670.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–875. Voluntary Income Tax Check Off Funds.

All voluntary contributions designated on the individual income tax return, as provided by law, are determined at least annually by the Department. The total amount shall be credited to the appropriate check off fund at the earliest possible time.

HISTORY: Added by State Register Volume 30, Issue No. 2, eff February 24, 2006.

ARTICLE 18
WITHHOLDING
SUBARTICLE 5
WITHHOLDING REQUIRED

117–910. This regulation contains specific withholding requirements.

117–910.1. Determination of Withholding When Receiving Taxable Wages and Exempt Compensation.

A particular employee may receive wages subject to withholding and also remuneration that is exempt from withholding. In such a case all remuneration paid during the payroll period is treated alike; that is, it is all treated as wages on which withholding is required, or it is all treated as exempt from withholding. The following rules apply:

(1) If one-half or more of any payroll period (not in excess of 31 days) is spent in earning wages subject to withholding, then withholding is required on all remuneration paid to the employee (including the "exempt" remuneration).

(2) If more than one-half of any payroll period (not in excess of 31 days) is spent in earning exempt remuneration described in Section 12–8–520, then no withholding is required on any wages paid to the employee.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

ARTICLE 20
CORPORATE LICENSE FEE AND ANNUAL REPORTS

117–1000. This regulation contains general annual report provisions.

117–1000.1. What Constitutes an Officer of a Corporation.

An officer of a corporation is a person who by election or appointment is empowered to perform official functions of a corporation. By official functions is meant any duty devolving a President, Vice-President, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, or other officer elected by the Board of Directors.

Where the Board of Directors delegated the power to the President to name other officers, such appointees are deemed appointed officers.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1075. This regulation contains general provisions of the license fee imposed on gross receipts and property.

117–1075.1. Items Included in Gross Receipts.

Gross receipts, as used in Section 12–20–100, include all receipts from operations within the State, and also other profit and loss items with a local situs. Intangible income from intangibles used in the conduct of the business within this State is included in gross receipts.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

ARTICLE 24
MISCELLANEOUS TAXES

117–1200. Alcoholic Liquor Taxes.

Chapter 33 of Title 12 imposes various taxes on alcoholic liquors. The following subsections address various aspects of these taxes as administered by the South Carolina Department of Revenue.

117–1200.1. Sales to Governmental Reservations.

Any wholesale liquor dealer is permitted to deliver from his stock of alcoholic liquors to Officer's Clubs, Canteens, or other such organizations located on government reservations when such purchases are permitted under the regulations of the Federal Government. Such deliveries by wholesalers to be made in a vehicle owned and operated by such wholesaler or by a common carrier. The wholesaler will be required to pay the additional taxes on wholesale sales as imposed in Sections 12–33–410 and 12–33–420 as amended.

117–1200.2. Purchases by Retail Liquor Dealers.

No retail liquor dealer shall be permitted to purchase any alcoholic liquors except from a licensed dealer in this State. The purchase, or negotiation for purchase, of alcoholic liquors from without the State by a retail dealer is strictly forbidden. No wholesale liquor dealer shall be permitted to purchase alcoholic liquors for the exclusive use of any retailer.

117–1200.3. Collection and Payment of Tax and the Maintaining of Records.

The General Assembly in Section 12–33–250, provided for the collection and payment of the license taxes levied by Sections 12–33–230 and 12–33–240 in the same manner and under the same conditions as the taxes imposed by Sections 12–33–410 and 12–33–460. The payment of taxes levied by Sections 12–33–410 and 12–33–460 is provided for by Section 12–33–480 and requires the same on or before the tenth day of the month next succeeding the month in which the tax accrues. A report is required on or before the tenth of each month on forms prescribed by the Department stating the number of cases of alcoholic liquors sold during the preceding month.

The licensed wholesaler must maintain adequate and complete records. Such records shall be available for examination and review by the Department.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1250. Beer and Wine Taxes.

Article 7 of Chapter 21 of Title 12 imposes various taxes on beer and wine. The following subsections address various aspects of these taxes as administered by the South Carolina Department of Revenue.

117–1250.1. Sales or Exchanges with Other Wholesalers.

Each wholesale beer and wine dealer shall report all sales purchases or exchanges of their products with other wholesale dealers to the Department on such forms as may be prescribed by the Department. Such information must be reported to the Department along with the wholesale dealer's monthly report not later than the 20th day of the month following the month in which the sale purchase or exchange occurred. Failure to timely report such information in full as provided herein for any reason shall constitute a violation of this Regulation for which the Department may suspend or revoke all permits held by such dealer or impose a monetary penalty of not less than $20.00 nor more than $100.00 upon the holder thereof.

117–1250.2. Change in Distributors.

It has been called to the attention of the Department by certain members of the General Assembly, who have filed statements thereabout with the said Department, that it was not the intention of the South Carolina General Assembly in enacting Section 12–21–1330 of the 1976 Code to require the filing of the ninety day written notice with the Department by manufacturers and wholesalers prior to any change in their distributors, or in the territories of their distributors, where both the manufacturer and the wholesaler mutually agree in writing to waive the said ninety day written notice requirement.

Based upon the aforementioned declaration of legislative intent pertaining to the enactment of Section 12–21–1330, the Department, in instances where both the manufacturer affected and the wholesaler affected mutually agree in writing to waive the aforesaid ninety day notice prior to change

in their distributors or in the territory of their distributors, will consider the filing of the waiver agreement with the Department sufficient compliance with the provisions of said Section 12–21–1330. Until the mutually executed waiver agreement is duly filed with the Department, and in form and content acceptable to the Department, the waiver of the notice requirements of Section 12–21–1330 shall not become effective.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1300. Coin-operated Devices.

Article 19 of Chapter 21 of Title 12 imposes various taxes on coin-operated and other devices as well as the owner of these devices. The following subsections address various aspects of these taxes as administered by the South Carolina Department of Revenue.

117–1300.1. Application for License.

Every person applying for a license under the provisions of Section 12–21–2720 shall, in making application for such license, specify the serial number, the manufacturer's name, the model number and classification, of each machine to be licensed. All machines subject to the provisions of Section 12–21–2720 must have a permanently attached identifying serial number visible on the outside of such machine. This number shall be the manufacturer's serial number if such serial number is visible on the outside and if such serial number is not visible on the outside, then and in that event, a permanently attached identifying serial number must be assigned and affixed to every such machine.

117–1300.2. Free Play Feature.

The words "which has a free-play feature" shall mean and include any machine which is designed and made with such feature by the manufacturer of such machine, provided, however, that where the mechanism constituting a free-play feature has been completely and wholly removed from the machine, and a certificate to that effect is filed at the time of application for license, the machine shall be licensed as one without a free-play feature.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1350. Deed Fee—Assumption of a Mortgage in the Conveyance of Real Property.

South Carolina imposes a deed recording fee pursuant to Chapter 24 of Title 12. This fee is composed of two fees - a state fee and a county fee. The fee is collected by the office of the clerk of court or register of deeds, which remits the state portion of the fee to the Department of Revenue on a monthly basis.

The purpose of this regulation is to provide a comprehensive discussion of the application of the deed recording fee to a wide variety of real estate transactions.

117–1350.1 Basis for the Fee

The deed recording fee is imposed for the privilege of recording a deed based on the transaction of transferring realty from one person to another person.

When the consideration paid for realty is money, then the deed recording fee is based on the money paid.

When the consideration paid for realty is "money's worth" (e.g., other realty, stocks, forgiveness of debt), then the taxpayer must base the deed recording fee upon one of the following:

(a) the fair market value of the consideration paid,

(b) the fair market value of the realty being transferred, or

(c) the fair market value for property tax purposes of the realty being transferred.

When the realty is being "transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner," or the realty is being "transferred to a trust or as a distribution to a trust beneficiary," then the taxpayer must base the deed recording fee upon one of the following:

(a) the fair market value of the realty being transferred, or

(b) the fair market value for property tax purposes of the realty being transferred.

It should also be noted that a "deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer." As such, when the fair market value of the realty being

transferred is used to calculate the fee, the value of the lien or encumbrance qualifying for this deduction may be deducted from the realty's fair market value before calculating the deed recording fee due.

The following are examples of the "value" as defined in deed recording fee law and used in determining the deed recording fee due:

Example 1 Transaction: Realty transferred from John Doe to Jerry Public for $1,000 and the assumption of a mortgage with a balance of $81,000.

Value: $1,000. Since the mortgage existed on the realty before the transfer and remained on the realty after the transfer, the $81,000 is deducted from the total consideration of $82,000.

Example 2 Transaction: Realty transferred from John Doe to Jerry Public for $82,000. The grantor paid $1,000 down and $81,000 at closing by obtaining a mortgage at a local financial institution.

Value: $82,000. Since the mortgage did not exist on the realty before the transfer, the $81,000 cannot be deducted from the total consideration of $82,000.

Example 3 Transaction: Realty transferred from John Doe to XYZ Bank for cancellation of debt. The balance due on the debt, plus accumulated interest, is $121,000. This is not a deed in lieu of foreclosure.

Value: $121,000. By statute, consideration includes the forgiveness or cancellation of a debt. However, the value used may be less than $121,000 if the fair market value of the realty is less than $121,000 and the taxpayer elects to use the fair market value of the realty being transferred in determining fair market value of the consideration. In addition, the taxpayer may elect to use the fair market value for property tax purposes in determining fair market value.

Example 4 Transaction: Realty transferred from John Doe to Jerry Public for the cancellation of a debt, not associated with the realty, of $50,000.

Value: $50,000. By statute, consideration includes the forgiveness or cancellation of a debt. However, the value used may be less than $50,000 if the fair market value of the realty is less than $50,000 and the taxpayer elects to use the fair market value of the realty being transferred in determining fair market value of the consideration. In addition, the taxpayer may elect to use the fair market value for property tax purposes in determining fair market value.

Example 5 Transaction: Realty transferred from XYZ Corporation to one of its stockholders - John Doe. The fair market value of the realty for property tax purposes is $90,000. No lien or encumbrance existed on the realty prior to the transfer.

Value: $90,000 By statute, the fair market value of the realty must be used in calculating the fee due in a transaction between a corporation and one of its stockholders. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the law.

117–1350.2 Examples of the Application of the Deed Recording Fee to Various Real Estate Transactions

The following are questions and answers to common real estate transactions and issues.

Value:

1. What is the basis for the deed recording fee?

The basis for the deed recording fee is the realty's value. Code Section 12–24–30 defines the term "value" and states:

> (A) For purposes of this chapter, the term "value" means the consideration paid or to be paid in money or money's worth for the realty including other realty, personal property, stocks, bonds, partnership interest, and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of a right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration under the provisions of this section. However, in the case of realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value.

(B) A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer.

(C) Taxpayers may elect to use the fair market value as determined for property tax purposes in determining fair market value under the provisions of this section.

2. If realty is transferred for money, and not money's worth such as services, other realty, forgiveness of debt, etc., what is the basis for the deed recording fee if the transaction does not involve realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or realty transferred to a trust or as a distribution to a trust beneficiary?

Code Section 12–24–30, in subsection (A), states that the fair market value of the realty may be used "in determining fair market value of the consideration under the provisions of this section." The only mention to fair market value in subsection (A) concerns when the consideration is in money's worth, or when the transaction involves a business entity and its owners or a trust. Subsection (C) allows the fair market value for property taxes to be used again only "in determining fair market value under the provisions of this section."

Therefore, if realty is transferred for money, and not money's worth, the basis for the deed recording fee is the money paid or to be paid if the transaction does not involve realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or realty transferred to a trust or as a distribution to a trust beneficiary. The realty's fair market value cannot be used in this case.

3. If realty is transferred for money's worth, such as services, other realty, forgiveness of debt, etc., what is the basis for the deed recording fee if the transaction does not involve realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or realty transferred to a trust or as a distribution to a trust beneficiary?

If realty is transferred for money's worth, such as services, other realty, forgiveness of debt, etc., and the transaction does not involve realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or realty transferred to a trust or as a distribution to a trust beneficiary, then the taxpayer must base the deed recording fee upon one of the following:

(a) the fair market value of the consideration paid,

(b) the fair market value of the realty being transferred, or

(c) the fair market value for property tax purposes of the realty being transferred.

It should also be noted that a "deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer." As such, when the fair market value of the realty being transferred is used to calculate the fee, the value of the lien or encumbrance qualifying for this deduction may be deducted from the realty's fair market value before calculating the deed recording fee due.

4. What is the basis for the deed recording fee if the transaction involves realty transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or realty transferred to a trust or as a distribution to a trust beneficiary?

When the realty is being "transferred between a corporation, a partnership, or other entity and its stockholder, partner, or owner," or the realty is being "transferred to a trust or as a distribution to a trust beneficiary," then the taxpayer must base the deed recording fee upon one of the following:

(a) the fair market value of the realty being transferred, or

(b) the fair market value for property tax purposes of the realty being transferred.

It should also be noted that a "deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer." As such, when the fair market value of the realty being transferred is used to calculate the fee, the value of the lien or encumbrance qualifying for this deduction may be deducted from the realty's fair market value before calculating the deed recording fee due.

Responsible Person Signing the Affidavit:

5. Who may sign the affidavit required under Code Section 12–24–70?

The affidavit required under Code Section 12–24–70 must be signed by a responsible person connected with the transaction and the affidavit must state that connection. A "responsible person connected with the transaction" includes, but is not limited to, the grantor, grantee, and an attorney involved in the transaction. However, secretaries, paralegals, runners, and other administrative personnel do not qualify as a "responsible person connected with the transaction" and, therefore, may not sign the affidavit.

Realty Located in More Than One County:

6. If realty is located in more than one county, how should the deed recording fee be paid when the deed is filed in each county?

Code Section 12–24–50 answers this question and states:

The fee imposed by this chapter must be remitted to the clerk of court or the register of deeds in the county in which the realty is located and recorded. If the realty is located in more than one county, the person having the deed recorded in a county must state by affidavit what portion of the value of the realty is in that county and payment of the fee must be made based on the proportionate value of the realty located in that county.

Unrecorded Deeds:

7. Are deeds that transfer realty but are not recorded at the courthouse (the office of the clerk of court, register of deeds, register of mesne conveyance or other recording official) subject to the deed recording fee?

Deeds that transfer realty but are not recorded at the courthouse (the office of the clerk of court, register of deeds, register of mesne conveyance or other recording official) are not subject to the deed recording fee since under Code Section 12–24–10 "a recording fee is imposed for the privilege of recording a deed" and therefore the deed recording fee is not applicable until the deed is recorded.

Refunds:

8. What are the procedures for applying for a refund of the deed recording fee?

The deed recording fee requires that each deed have a notation placed upon it by the Clerk of Court or the Register of Deeds ("ROD"). This notation must include the date the deed was filed, the fee collected, and any other information the county may require. The notation must state "Exempt" if the transaction falls within one of the exemptions provided under Code Section 12–24–40.

If a taxpayer seeks a refund of any fee paid, the following procedure must be followed:

(a) The original deed and the original affidavit (if the requirement for the affidavit has not been waived by the clerk or register) must be presented to the Clerk of Court or ROD. The Clerk or ROD will verify that the notation on the deed is the notation placed on the deed by the Clerk or ROD. The Clerk or ROD will then sign a letter or form verifying that the notation is authentic and present this to the taxpayer.

(b) The taxpayer should then forward the original deed, the original affidavit and the notation verification letter or form to the Department of Revenue. The taxpayer should also include a cover letter requesting the refund and containing all the information required by Code Section 12–60–470. All refund requests for deed recording fees should be mailed to:

SC Department of Revenue

Refund Request - Deed Recording Fee

P.O. Box 125

Columbia, South Carolina 29214

All refund requests received without the notation verification letter or form will be sent back to the taxpayer with a letter stating that the notation must first be verified by the Clerk or ROD and that the refund request must contain the verification letter or form. Refunds will also not be issued unless the Department receives the original deed and the original affidavit (unless the requirement for the affidavit has been previously waived by the Clerk or ROD).

(c) If a refund is due, the Department will refund the State portion to the taxpayer and issue an order to the Clerk or ROD to refund the taxpayer the county portion of the fee. The Clerk or ROD

should not issue a refund for the county portion of the fee unless they have received a refund order from the Department of Revenue. The Department, prior to returning the original deed and other documentation to the taxpayer, will note on the deed the date of the refund and the amount of the refund issued/ordered.

(d) If the Department determines a refund is not due, the Department will advise the taxpayer. The taxpayer may appeal this denial of the refund under the provisions of Code Sections 12–60–470 and 12–24–150.

Gifts From One Individual To Another Individual:

9. Are deeds that transfer realty from one individual to another individual as a gift (no consideration paid of any kind) subject to the deed recording fee?

Deeds that transfer realty from one individual to another individual as a gift (no consideration paid of any kind) are exempt from the deed recording fee under Code Section 12–24–40(1).

Family Deeds:

10. Are deeds that transfer realty to a spouse subject to the deed recording fee?

Deeds that transfer realty to a spouse are exempt from the deed recording fee under Code Section 12–24–40(4) regardless of whether or not any consideration was paid or will be paid for the transfer.

11. Are deeds that transfer realty to a family member, other than a spouse, subject to the deed recording fee?

Deeds that transfer realty to a family member, other than a spouse, are subject to the deed recording fee based on the consideration paid for the realty, unless otherwise exempt from the deed recording fee. The following are examples of deeds between family members (other than spouses) that are subject to the deed recording fee unless otherwise exempt under Code Section 12–24–40:

(a) a transfer to a brother for $30,000.00,

(b) a transfer to a sister in exchange for the forgiveness of a debt,

(c) a transfer to a child for $10,000.00,

(d) a transfer to a brother in exchange for other realty, and

(e) a transfer to a sister in exchange for paying off the mortgage on the realty.

The following are examples of deeds between family members (other than spouses) that are exempt from the deed recording fee under Code Section 12–24–40:

(a) a transfer in which the consideration that is paid or will be paid is equal to or less than $100.00 (12–24–40(1)),

(b) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(c) a transfer that constitutes a contract for the sale of timber to be cut (12–24–40(7)) (see questions concerning timber deeds),

(d) a transfer in which the realty is subject to a mortgage and the family member receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the family member that is the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)). (see questions concerning foreclosure proceedings), and

(e) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

12. Are deeds that transfer realty to a former spouse subject to the deed recording fee?

Deeds that transfer realty to a former spouse are subject to the deed recording fee based on the consideration paid for the realty, unless otherwise exempt from the deed recording fee. The following are examples of deeds to a former spouse that are subject to the deed recording fee unless otherwise exempt under Code Section 12–24–40:

(a) a transfer in exchange for past due alimony payments when the transfer of the realty is not pursuant to the terms of the divorce decree or settlement,

(b) a transfer for $30,000.00,

(c) a transfer in exchange for the forgiveness of a debt,

(d) a transfer in exchange for other realty, and

(e) a transfer in exchange for paying off the mortgage on the realty.

The following are examples of deeds to a former spouse that are exempt from the deed recording fee under Code Section 12–24–40:

(a) a transfer in which the consideration that is paid or will be paid is equal to or less than $100.00 (12–24–40(1)),

(b) a transfer pursuant to the terms of the divorce decree or settlement,

(c) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(d) a transfer that constitutes a contract for the sale of timber to be cut (12–24–40(7)) (see questions concerning timber deeds),

(e) a transfer in which the realty is subject to a mortgage and the former spouse receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the grantor as the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)). (see questions concerning foreclosure proceedings), and

(f) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

Charitable Deeds:

13. Are deeds that transfer realty to a church or other charitable organization subject to the deed recording fee?

Deeds that transfer realty to a church or other charitable organization are subject to the deed recording fee based on the consideration paid for the realty, unless otherwise exempt from the deed recording fee. The following are examples of deeds to a church or other charitable organization that are subject to the deed recording fee unless otherwise exempt under Code Section 12–24–40:

(a) a transfer for $50,000.00,

(b) a transfer in exchange for other realty whether or not the transaction qualifies as a like-kind exchange for federal income tax purposes (both deeds are subject to the deed recording fee), and

(c) a transfer of realty with a fair market value of $100,000.00 for only $50,000.00 (the deed recording fee is based upon $50,000.00).

Note: If the church or other charitable organization is a stockholder, partner, limited liability company member, or trust beneficiary of the grantor (corporation, partnership, limited liability company or trust), then the deed recording fee is based on the fair market value of the realty or the fair market value of the realty for property tax purposes.

The following are examples of deeds to a church or other charitable organization that are exempt from the deed recording fee under Code Section 12–24–40:

(a) a transfer in which the consideration that is paid or will be paid is equal to or less than $100.00 (12–24–40(1)),

(b) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(c) a transfer that constitutes a contract for the sale of timber to be cut (12–24–40(7)) (see questions concerning timber deeds),

(d) a transfer in which the realty is subject to a mortgage and the church or other charitable organization receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the grantor as the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(e) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

14. Are deeds that transfer realty from a church or other charitable organization to an individual or business subject to the deed recording fee?

Deeds that transfer realty from a church or other charitable organization to an individual or business are subject to the deed recording fee based on the consideration paid for the realty, unless otherwise exempt from the deed recording fee. The following are examples of deeds to a church or other charitable organization that are subject to the deed recording fee unless otherwise exempt under Code Section 12–24–40:

(a) a transfer for $50,000.00, and

(b) a transfer in exchange for other realty whether or not the transaction qualifies as a like-kind exchange for federal income tax purposes (both deeds are subject to the deed recording fee).

The following are examples of deeds from a church or other charitable organization to an individual or business that are exempt from the deed recording fee under Code Section 12–24–40:

(a) a transfer in which the consideration that is paid or will be paid is equal to or less than $100.00 (12–24–40(1)),

(b) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(c) a transfer that constitutes a contract for the sale of timber to be cut (12–24–40(7)) (see questions concerning timber deeds),

(d) a transfer in which the realty is subject to a mortgage and the individual or business receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the church or other charitable organization as the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(e) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

Deeds from an Estate:

15. Are deeds that transfer realty from an estate to a beneficiary subject to the deed recording fee?

Deeds that transfer realty from an estate to a beneficiary are subject to the deed recording fee based on the consideration paid for the realty, unless otherwise exempt from the deed recording fee. The following are examples of deeds from an estate to a beneficiary that are subject to the deed recording fee unless otherwise exempt under Code Section 12–24–40:

(a) a transfer pursuant to the will where the will requires the beneficiary to pay a consideration for the realty, and

(b) a transfer in which the beneficiary of the realty directs the personal representative of the estate to transfer the realty directly to a third party in exchange for a consideration paid to the personal representative or the beneficiary (e.g., cash, forgiveness of a debt, etc.).

The following are examples of deeds from an estate to a beneficiary that are exempt from the deed recording fee under Code Section 12–24–40:

(a) a transfer in which the consideration that is paid or will be paid is equal to or less than $100.00 (12–24–40(1)),

(b) a deed of distribution assigning, transferring, or releasing real property to the distributee of a decedent's estate pursuant to Code Section 62–3–907 as evidence of the distributee's title to the property, and

(c) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

16. Are deeds that transfer realty from an estate to a third party for a consideration in order to pay off debts of the estate subject to the deed recording fee?

Deeds that transfer from an estate to a third party for a consideration in order to pay off debts of the estate are subject to the deed recording fee if the consideration paid (including debts forgiven) for the transfer of realty is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Deeds to and from Trusts:

17. Are deeds that transfer realty into a trust subject to the deed recording fee?

Deeds that transfer realty into a trust are subject to the deed recording fee based on the fair market value of the realty, except for the following deeds:

(a) a transfer to a trust by a beneficiary of the trust or by a person who will become a beneficiary of the trust as a result of the transfer as long as no consideration is paid for the transfer other than beneficial interest in the trust or an increase in value in the beneficial interest in the trust (12–24–40(8)),

(b) a transfer from one family trust to another family trust for the same family, provided no consideration is paid or will be paid for the transfer (12–24–40(8) and 12–24–40(9)),

(c) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(d) a transfer in which the realty is subject to a mortgage and the trust receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(e) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

18. Are deeds that transfer realty from a trust to an individual or other legal entity subject to the deed recording fee?

Deeds that transfer realty from a trust to an individual or other legal entity are subject to the deed recording fee based on the fair market value of the realty if the grantee is a beneficiary of the trust, except for the following deeds:

(a) a transfer from a family trust to a trust beneficiary as long as no consideration is paid for the transfer other than a reduction in the grantee's interest in the family trust (12–24–40(9)),

(b) a transfer from one family trust to another family trust for the same family, provided no consideration is paid or will be paid for the transfer (12–24–40(8) and 12–24–40(9)),

(c) a transfer in order to partition realty, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(d) a transfer in which the realty is subject to a mortgage and the trust beneficiary receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the family trust that is the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(e) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

Deeds that transfer realty from a trust to an individual or other legal entity are subject to the subject to the deed recording fee based on the consideration paid or to be paid if the grantee is not a beneficiary of the trust, the consideration paid or to be paid is more than $100.00, and the transfer is not otherwise exempt under Code Section 12–24–40.

Deeds to and from Partnerships:

19. Are deeds that transfer realty from a partner to the partnership subject to the deed recording fee?

Deeds that transfer realty from a partner to the partnership are subject to the deed recording fee based on the fair market value of the realty, except for the following deeds:

(a) a transfer from a partner to the partnership if no consideration is paid for the transfer other than additional interest in the partnership or an increase in value in the partner's interest in the partnership (12–24–40(8)),

(b) a transfer in order to partition realty owned jointly by the partner and the partnership of which he is a partner, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)), and

(c) a transfer that is otherwise exempt under Code Section 12–24–40.

20. Are deeds that transfer realty from the partnership to a partner subject to the deed recording fee?

Deeds that transfer realty from the partnership to a partner, including deeds transferring realty to the partner upon liquidation of the partnership, are subject to the deed recording fee based on the fair market value of the realty, except for the following deeds:

(a) a transfer from a family partnership to a partner as long as no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership (12–24–40(9)),

(b) a transfer in order to partition realty owned jointly by the partner and the partnership of which he is a partner, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(c) a transfer in which the realty is subject to a mortgage and the partner receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the partnership that

is the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(d) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

21. Are deeds that transfer realty from a non-partner to a partnership, or from a partnership to a non-partner, subject to the deed recording fee?

Deeds that transfer realty from a non-partner to a partnership are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

If a consideration of $100.00 or less is paid or the transfer is otherwise exempt under Code Section 12–24–40, then the deed transferring realty from a non-partner to the partnership is exempt from the deed recording fee.

22. If Partnership A and Partnership B have the same partners but neither partnership is a partner in the other, is a deed that transfers realty from Partnership A to Partnership B subject to the deed recording fee?

If Partnership A and Partnership B have the same partners but neither partnership is a partner in the other, then a deed that transfers realty from Partnership A to Partnership B is subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

If a consideration of $100.00 or less is paid or the transfer is otherwise exempt under Code Section 12–24–40, then the deed transferring realty from Partnership A to Partnership B is exempt from the deed recording fee.

Limited Liability Company ("LLC") Deeds:

23. How are deeds that transfer realty to and from a limited liability company ("LLC") treated under the deed recording fee law?

Deeds that transfer realty to and from an LLC, which is treated as a partnership for South Carolina income tax purposes, are treated in the same manner under the deed recording fee as deeds that transfer realty to and from a partnership. See the section in this regulation concerning deeds to and from partnerships.

Deeds that transfer realty to and from an LLC, which is treated as a corporation for South Carolina income tax purposes, are treated in the same manner under the deed recording fee as deeds that transfer realty to and from a corporation. See the section in this regulation concerning deeds to and from corporations.

Deeds that transfer realty to and from a single member LLC ("SMLLC"), which is treated as a corporation for South Carolina income tax purposes, are treated in the same manner under the deed recording fee as deeds that transfer realty to and from a corporation. See the section in this regulation concerning deeds to and from corporations.

Deeds that transfer realty to the SMLLC from its single member, and deeds that transfer realty to the single member of the SMLLC from the SMLLC, are not subject to the deed recording fee if the SMLLC is ignored for all tax purposes under the provisions of Code Section 12-2-25(B).

Deeds that transfer realty from the SMLLC to a person who is not the single member, and deeds that transfer realty from a person who is not the single member to the SMLLC, are treated as if the realty were transferred from or to the single member if the SMLLC is ignored for all tax purposes under the provisions of Code Section 12-2-25(B). As such, the application will depend on the facts and circumstances of the transfer and on whether the single member is an individual, partnership, LLC, trust or corporation.

Written instruments whereby a single member transfers its interest in the SMLLC to another person are treated as if the realty were transferred from the single member to the other person if the SMLLC is ignored for all tax purposes under the provisions of Code Section 12-2-25(B). As such, the application will depend on the facts and circumstances of the transfer and on whether the single member selling the interest is an individual, partnership, LLC, trust or corporation and whether the person purchasing the interest, the new single member, is an individual, partnership, LLC, trust or corporation.

Deeds to and from Corporations:

24. Are deeds that transfer realty from a stockholder to the corporation subject to the deed recording fee?

Deeds that transfer realty from a stockholder to the corporation are subject to the deed recording fee based on the fair market value of the realty, except for the following deeds:

(a) a transfer from a stockholder to the corporation if no consideration is paid for the transfer other than stock in the corporation or an increase in value in the stockholder's stock in the corporation (12–24–40(8)),

(b) a transfer in which the realty is subject to a mortgage and the corporation receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the stockholder that is the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings),

(c) a transfer in order to partition realty owned jointly by the stockholder and the corporation of which he is a stockholder, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)), and

(d) a transfer that is otherwise exempt under Code Section 12–24–40.

25. Are deeds that transfer realty from the corporation to one of the stockholders subject to the deed recording fee?

Deeds that transfer realty from the corporation to one of the stockholders, including deeds transferring realty to the stockholder upon dissolution of the corporation, are subject to the deed recording fee under Code Section 12–24–40(8) except for the following deeds:

(a) a transfer in order to partition realty owned jointly by the stockholder and the corporation of which he is a stockholder, as long as no consideration is paid for the transfer other than the interests in the realty that are exchanged in order to effect the partition (12–24–40(5)),

(b) a transfer in which the realty is subject to a mortgage and the stockholder receiving the realty is the mortgagee and the transfer constitutes a deed in lieu of foreclosure executed by the corporation that is the mortgagor or a deed executed pursuant to a foreclosure proceeding (12–24–40(13)) (see questions concerning foreclosure proceedings), and

(c) a transfer otherwise exempt under the provisions of Code Section 12–24–40.

26. Are deeds that transfer realty from a non-stockholder to a corporation, or from a corporation to a non-stockholder, subject to the deed recording fee?

Deeds that transfer realty from a non-stockholder to a corporation are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

If a consideration of $100.00 or less is paid or will be paid or the transfer is otherwise exempt under Code Section 12–24–40, then the deed transferring realty from a non-stockholder to the corporation is exempt from the deed recording fee.

27. If Corporation A and Corporation B have the same stockholders but neither corporation is a stockholder in the other, is a deed that transfers realty from Corporation A to Corporation B subject to the deed recording fee?

If Corporation A and Corporation B have the same stockholders but neither corporation is a stockholder in the other, then a deed that transfers realty from Corporation A to Corporation B is subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

If a consideration of $100.00 or less is paid or will be paid or the transfer is otherwise exempt under Code Section 12–24–40, then the deed transferring realty from Corporation A to Corporation B is exempt from the deed recording fee.

Master-in-Equity Deeds:

28. Are deeds that transfer realty from a Master-in-Equity to an individual or business subject to the deed recording fee?

Deeds that transfer realty from a Master-in-Equity to an individual or business are subject to the deed recording fee, with the grantee liable for the fee under the provisions of Code Section 12-24-20(B), unless the transfer is otherwise exempt under Code Section 12–24–40.

Note: Since the liability for the deed recording fee has shifted to the grantee in the case of a Master-in-Equity deed, the deed may be exempt if the grantee is otherwise exempted by law. For example, the following deeds are exempt from the deed recording fee when the grantor is a Master-in-Equity:

Grantee	Reason for Exemption
Federal, State or Local Government	12–24–40(2)
Federal Credit Union	12–24–40(2)
Government National Mortgage Association	12–24–40(2)
Farm Credit Bank	12–24–40(2)
Production Credit Association	12–24–40(2)
Bank for Cooperatives	12–24–40(2)
Federal Land Bank Association	12–24–40(2)
U.S. Veterans Administration	12–24–40(2)
Federal National Mortgage Association	12–24–40(3), 12 USCA 1717, and 12 USCA 1723a
Federal Home Loan Mortgage Corporation	12–24–40(3) and 12 USCA 1452

Note: By statute or case law, Federal Credit Unions, the Government National Mortgage Association, Farm Credit Banks, Production Credit Associations, Banks for Cooperatives, and Federal Land Bank Associations are considered instrumentalities of the federal government.

The Federal National Mortgage Association (''Fannie Mae'') and the Federal Home Loan Mortgage Corporation (''Freddie Mac'') are not instrumentalities of the federal government, but have been granted exemption from most state and local taxes when the liability for the tax falls upon them. Since the liability for the fee transfers to the grantee in the case of a deed from a Master-in-Equity to Fannie Mae or Freddie Mac, the transfer is exempt from the deed recording fee pursuant to federal law.

Foreclosure Deeds:

29. Are deeds that transfer realty, subject to a mortgage, from the mortgagor to the mortgagee subject to the deed recording fee?

Deeds that transfer realty, subject to a mortgage, from the mortgagor to the mortgagee are exempt from the deed recording fee under Code Section 12–24–40(13) if the transfer is by a deed in lieu of foreclosure executed by the mortgagor.

Deeds that transfer realty from the mortgagor to the mortgagee for cancellation or forgiveness of the mortgage are subject to the deed recording fee and do not come within the exemption under Code Section 12–24–40(13) unless the books and records of the parties indicate that the transfer was made in lieu of foreclosure. If the Department determines after the deed is recorded that the transfer was not in lieu of foreclosure, the Department will assess the appropriate deed recording fee, penalty and interest.

30. Are deeds that transfer realty, subject to a mortgage, to the mortgagee pursuant to a foreclosure proceeding subject to the deed recording fee?

Deeds that transfer realty, subject to a mortgage, to the mortgagee pursuant to a foreclosure proceeding are exempt from the deed recording fee under Code Section 12–24–40(13).

31. Are deeds that transfer realty, subject to a mortgage, to the assignee of the mortgagee pursuant to a foreclosure proceeding subject to the deed recording fee?

Since the assignee was not the mortgagee of record at the time of the sale, the provisions of Code Section 12–24–40(13) are not applicable.

However, if the assignee is the federal government, or the deed is a Master-in-Equity deed and the assignee is the Federal National Mortgage Association or the Federal Home Loan Mortgage, the deed that transfers the realty, subject to a mortgage, to the assignee of the mortgagee pursuant to a foreclosure proceeding is not subject to the deed recording fee.

Chapter 7 Bankruptcy Deeds:

32. Are deeds that transfer realty under a Chapter 7 bankruptcy subject to the deed recording fee?

Deeds that transfer realty under a Chapter 7 bankruptcy to a person who is not a stockholder, partner, or owner of the business are subject to the deed recording fee if a consideration of more than $100.00 is paid or will be paid and the transfer is not otherwise exempt under Code Section 12–24–40.

Deeds that transfer realty under a Chapter 7 bankruptcy to a person who is a stockholder, partner, or owner of the business are subject to the deed recording fee based on the fair market value of the realty unless the transfer is otherwise exempt under Code Section 12–24–40.

Chapter 11 Bankruptcy Deeds:

33. Are deeds that transfer realty under a Chapter 11 bankruptcy subject to the deed recording fee?

Deeds that transfer realty under a Chapter 11 bankruptcy are exempt from the deed recording fee under Code Section 12–24–40(3) and 11 USCA Section 1146 if the transfer is under a plan confirmed under 11 USCA Section 1129. If the transfer is not under a plan confirmed under 11 USCA Section 1129, then the deed transferring the realty is subject to the deed recording fee if consideration of more than $100.00 is paid for the transfer and the transfer is not otherwise exempt under Code Section 12–24–40.

Chapter 12 Bankruptcy Deeds:

34. Are deeds that transfer realty under a Chapter 12 bankruptcy subject to the deed recording fee?

Deeds that transfer realty under a Chapter 12 bankruptcy are exempt from the deed recording fee under Code Section 12–24–40(3) and 11 USCA Section 1231 if the transfer is under a plan confirmed under 11 USCA Section 1225. If the transfer is not under a plan confirmed under 11 USCA Section 1225, then the deed transferring the realty is subject to the deed recording fee if consideration of more than $100.00 is paid for the transfer and the transfer is not otherwise exempt under Code Section 12–24–40.

Chapter 13 Bankruptcy Deeds:

35. Are deeds that transfer realty under a Chapter 13 bankruptcy subject to the deed recording fee?

Deeds that transfer realty under a Chapter 13 bankruptcy to a person who is not a stockholder, partner, or owner of the business are subject to the deed recording fee if a consideration of more than $100.00 is paid or will be paid and the transfer is not otherwise exempt under Code Section 12–24–40.

Deeds that transfer realty under a Chapter 13 bankruptcy to a person who is a stockholder, partner, or owner of the business are subject to the deed recording fee based on the fair market value of the realty unless the transfer is otherwise exempt under Code Section 12–24–40.

State and Local Government Deeds:

36. Are deeds that transfer realty to the State, or to a political subdivision of the State (e.g., counties, cities, school districts), subject to the deed recording fee?

Deeds that transfer realty to the State, or to a political subdivision of the State (e.g., counties, cities, school districts), are exempt from the deed recording fee under Code Section 12–24–40(2).

37. Are deeds that transfer realty from the State, or from a political subdivision of the State (e.g., counties, cities, school districts), to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from the State, or from a political subdivision of the State (e.g., counties, cities, school districts), to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the State, or from a political subdivision of the State (e.g., counties, cities, school districts), to a non-governmental entity, the deed may be exempt if the grantee is otherwise exempted by law.

38. Are deeds that transfer realty from the State, or from a political subdivision of the State (e.g., counties, cities, school districts), to another governmental entity subject to the deed recording fee?

Deeds that transfer realty from the State, or from a political subdivision of the State (e.g., counties, cities, school districts), to another governmental entity are exempt from the deed recording fee under Code Section 12–24–40(2).

Federal Government Deeds:

39. Are deeds that transfer realty to the federal government subject to the deed recording fee?

Deeds that transfer realty to the federal government are exempt from the deed recording fee under Code Section 12–24–40(2).

40. Are deeds that transfer realty from the federal government to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from the federal government to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Federal Credit Union Deeds:

41. Are deeds that transfer realty to a federal credit union subject to the deed recording fee?

Deeds that transfer realty to a federal credit union are exempt from the deed recording fee under Code Section 12–24–40(2) since federal credit unions are considered instrumentalities of the federal government. See 1986 Op. Atty. Gen. No. 86–72, and a second South Carolina Attorney General Opinion dated March 26, 1991, which both concluded that federally chartered credit unions are instrumentalities of the federal government.

42. Are deeds that transfer realty from the federal credit union to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from a federal credit union to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Government National Mortgage Association Deeds:

43. Are deeds that transfer realty to the Government National Mortgage Association subject to the deed recording fee?

Deeds that transfer realty to the Government National Mortgage Association are exempt from the deed recording fee under Code Section 12–24–40(2) since the Government National Mortgage Association is considered an instrumentality of the federal government pursuant to 12 USCA 1717 and 12 USCA 1723a.

44. Are deeds that transfer realty from the Government National Mortgage Association to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from the Government National Mortgage Association to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Farm Credit Bank Deeds:

45. Are deeds that transfer realty to a Farm Credit Bank subject to the deed recording fee?

Deeds that transfer realty to a Farm Credit Bank are exempt from the deed recording fee under Code Section 12–24–40(2) since a Farm Credit Bank is considered an instrumentality of the federal government pursuant to 12 USCA 2011 and 12 USCA 2023.

46. Are deeds that transfer realty from a Farm Credit Bank to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from a Farm Credit Bank to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Production Credit Association Deeds:

47. Are deeds that transfer realty to a Production Credit Association subject to the deed recording fee?

Deeds that transfer realty to a Production Credit Association are exempt from the deed recording fee under Code Section 12–24–40(2) since a Production Credit Association is considered an instrumentality of the federal government pursuant to 12 USCA 2071 and 12 USCA 2077.

48. Are deeds that transfer realty from a Production Credit Association to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from a Production Credit Association to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Federal Land Bank Association Deeds:

49. Are deeds that transfer realty to a Federal Land Bank Association subject to the deed recording fee?

Deeds that transfer realty to a Federal Land Bank Association are exempt from the deed recording fee under Code Section 12–24–40(2) since a Federal Land Bank Association is considered an instrumentality of the federal government pursuant to 12 USCA 2091 and 12 USCA 2098.

50. Are deeds that transfer realty from a Federal Land Bank Association to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from a Federal Land Bank Association to a non-governmental entity are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Note: Since under Code Section 12-24-20(B) the liability for the deed recording fee has shifted to the grantee in the case of a deed from the federal government, the deed may be exempt if the grantee is otherwise exempted by law.

Federal National Mortgage Association ("Fannie Mae") Deeds:

51. Are deeds that transfer realty to the Federal National Mortgage Association (''Fannie Mae'') subject to the deed recording fee?

Deeds that transfer realty to the Federal National Mortgage Association (''Fannie Mae'') are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

52. Are deeds that transfer realty from the Federal National Mortgage Association (''Fannie Mae'') to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from the Federal National Mortgage Association (''Fannie Mae'') to a non-governmental entity are exempt from the deed recording fee under Code Section 12–24–40(3), 12 USCA 1717, and 12 USCA 1723a.

Note: The Federal National Mortgage Association is not a federal instrumentality

Federal Home Loan Mortgage Corporation ("Freddie Mac") Deeds:

53. Are deeds that transfer realty to the Federal Home Loan Mortgage Corporation (''Freddie Mac'') subject to the deed recording fee?

Deeds that transfer realty to the Federal Home Loan Mortgage Corporation (“Freddie Mac”) are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

54. Are deeds that transfer realty from the Federal Home Loan Mortgage Corporation (“Freddie Mac”) to a non-governmental entity subject to the deed recording fee?

Deeds that transfer realty from the Federal Home Loan Mortgage Corporation (“Freddie Mac”) to a non-governmental entity are exempt from the deed recording fee under Code Section 12–24–40(3) and 12 USCA 1452.

Note: The Federal Home Loan Mortgage Corporation (“Freddie Mac”) is not a federal instrumentality.

Timeshare Deeds:

55. Are deeds that transfer a one-week interest in a timeshare unit under a vacation time sharing ownership plan (not a “vacation time sharing lease plan”) as defined in Chapter 32 of Title 27 subject to the deed recording fee?

Deeds that transfer a one-week interest in a timeshare unit under a vacation time sharing ownership plan as defined in Chapter 32 of Title 27 are subject to the deed recording fee if the consideration paid or to be paid is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

56. Are deeds that transfer a one-week interest in a timeshare unit under a vacation time sharing ownership plan (not a “vacation time sharing lease plan”) as defined in Chapter 32 of Title 27 to the original seller, or to the company managing the timeshare development, in exchange for forgiving any unpaid fees subject to the deed recording fee?

Deeds that transfer a one-week interest in a timeshare unit under a vacation time sharing ownership plan as defined in Chapter 32 of Title 27 to the original seller, or to the company managing the timeshare development, in exchange for forgiving any unpaid fees are subject to the deed recording fee if the consideration paid or to be paid (the amount of the unpaid fees forgiven) is more than $100.00 and the transfer is not otherwise exempt under Code Section 12–24–40.

Manufactured Homes:

57. Are deeds that transfer land and the manufactured home anchored to the land subject to the deed recording fee based on the full consideration paid or may the value of the home be deducted in calculating the deed recording fee?

Deeds that transfer land and the manufactured home anchored to the land are subject to the deed recording fee based on the full consideration paid. The manufactured home anchored to the land is realty and its value may not be deducted from the consideration paid in calculating the deed recording fee.

Note: “A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer.” See Code Section 12-24-30(B).

Timber Deeds:

58. Are “timber deeds” subject to the deed recording fee?

Deeds that constitute a contract for the sale of timber to be cut are exempt from the deed recording fee under Code Section 12–24–40(7).

Deeds transferring the timber and the underlying land are subject to the deed recording fee based on the full “value” as defined in Code Section 12–24–30, unless otherwise exempt under the statute.

Mineral Rights:

59. Is the recording of a deed that conveys mineral rights (oil, gas, sand, etc.) to another person subject to the deed recording fee?

A deed that conveys mineral rights (oil, gas, sand, etc.) to another person where the minerals are to be severed by the grantee (buyer) is a deed that conveys realty. The recording of this deed is subject to the deed recording fee, unless otherwise exempt under the law, based on the value of the mineral rights as determined by Code Section 12–24–30.

Easements and Rights-of-Way:

60. Is the recording of a deed that conveys an easement or a right of way to another person subject to the deed recording fee?

The recording of a deed that conveys an easement or a right of way to another person is subject to the deed recording fee, unless otherwise exempt under the law, based on the value of the easement or right of way as determined by Code Section 12–24–30.

Note: In addition to the discussion portion of this regulation, see Questions #1 through #4 for a discussion of "value" as determined by Code Section 12–24–30.

Deeds to Obtain Construction Loans:

To best address Questions #61 and #62 (below) concerning deeds to obtain construction loans, the following example will be used:

Mr. X owns realty with a fair market value of $22,000.00 and wants to construct a home on that realty. Mr. X hires ABC Home Contractors ("ABC") to build a home on the realty for $250,000.00.

In order to obtain the construction loan to build the home, the financial institution is requiring that title to the realty on which the home is to be constructed be in the name of ABC. Mr. X transfers the realty to ABC under an agreement that ABC will construct the home (per specifications agreed upon by both parties) and then transfer the realty back to Mr. X upon payment of the $250,000.00.

Note: For purposes of this example, neither transfer involves a lien or encumbrance that existed on the realty before the transfer and remained on the realty after the transfer. In addition, neither transfer in this example involves (1) a transaction between a corporation, a partnership, or other entity and its stockholder, partner, or owner, or (2) a transaction involving a transfer of realty to a trust or as a transfer of realty as a distribution to a trust beneficiary.

61. Is the deed that transfers realty from Mr. X to ABC, as discussed in the facts above, so that ABC may obtain a construction loan to build a home for the Mr. X, subject to the deed recording fee?

The deed that transfers realty from Mr. X to ABC, so that ABC may obtain a construction loan to build a home for Mr. X, is subject to the deed recording fee based on $22,000.00 - the fair market value of the realty.

Note: If the fair market value of the realty for property tax purposes is less than $22,000.00, Code Section 12-24-30(C) allows the taxpayer to use that figure in computing the deed recording fee due.

62. Is the deed that transfers the same realty, as discussed in the facts above, from ABC back to Mr. X upon completion of the building subject to the deed recording fee?

The deed that transfers the same realty from ABC back to Mr. X upon completion of the home is subject to the deed recording fee based on $250,000.00 - the money paid or to be paid pursuant to the contract for constructing the home.

63. Are deeds that transfer realty as part of an income tax deferred exchange under Internal Revenue Code Section 1031 subject to the deed recording fee?

The exchange of realty pursuant Section 1031 of the Internal Revenue Code constitutes a transfer of realty for a consideration subject to the fee unless otherwise exempted under Code Section 12–24–40.

117–1350.3 Remittance of Fee in the County in Which the Realty is Located

The fee must be remitted to the clerk of court or the register of deeds in the county in which the realty is located and recorded.

117–1350.4 Remittance of Fee for Realty Located in More Than One County

If the realty is located in more than one county, the person having the deed recorded in a county must state by affidavit what portion of the value of the realty is in that county, and payment of the fee must be made based on the proportionate value of the realty located in that county.

117–1350.5 Notation on the Instrument

Prior to recording a deed subject to the fee, the county must collect the fee and place a notation on the deed containing the following (1) the date the deed was filed; (2) the fee collected; and (3) any other information required by the county. If the deed qualifies for an exemption, the word "EXEMPT" should be placed in the notation.

117–1350.6 Affidavit of Value

An affidavit is to be filed with a deed, and that affidavit must show the value of the realty. For deeds exempt under the law, the value will not be required to be stated on the affidavit. Such affidavits must state the reason why the deed is exempt from the fee. The affidavit required by this section must be signed by a responsible person connected with the transaction and the affidavit must state that connection. Secretaries, paralegals, runners, and other administrative personnel do not qualify as a "responsible person connected with the transaction" and, therefore, may not sign the affidavit.

The clerk of court or register of deeds shall file these affidavits in his office.

The clerk of court or register of deeds may, at his discretion, waive the affidavit requirement. In addition, "[a]n affidavit is not required for an instrument or deed of distribution assigning, transferring, or releasing real property to the distributee of an estate pursuant to Section 62–3–907 as evidence of the distributee's title."

A person required to furnish the affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

117–1350.7 Assumption of a Mortgage in the Conveyance of Real Property

To set forth the true, full, and complete consideration, paid or to be paid, where any mortgage is assumed in the conveyance of real property, it is necessary for the deed or affidavit to state the Number of the Real Estate Mortgage Book and the Page Number, and the remaining balance assumed.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003. Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009.

Editor's Note

At the direction of the Code Commissioner in 2012, under "Charitable Deeds," the items (d) through (f) relating to examples of deeds to a church or other charitable organization, were redesignated (c) through (e) to correct a typographical error.

117–1400. Electric Power Tax - Classification of Industrial Customers.

Hereafter, the South Carolina Department of Revenue will use Sections 31, 32, and 33 of the North American Industry Classification System ("NAICS") Manual, as a guide to classify "industrial customers," as such term is used in Section 12–23–10.

Persons engaged in the business of manufacturing, generating and selling electric power must furnish to the Department a list, on or before January 31 and July 31 of each year, of industrial customers for which an exemption is claimed for the preceding periods, June through December and January through June, respectively. Such lists must show the name, address, KWH consumption and the classification code as provided in the NAICS Manual.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003; Amended by State Register Volume 30, Issue No. 2, eff February 24, 2006.

117–1450. Motor Fuel Tax—LP Gas.

When LP gas is used as a fuel in motor vehicles that are operated on the public highways and the amount of LP gas thus used cannot be determined using any other method, the following miles per gallon will be used for computing taxable gallons on the following specified types of vehicles:

(1) Transport tractors that pull trailer type vehicles and trucks with more than two axles—three miles per gallon.

(2) Tank wagons and two-axle vehicles, one ton and over—five miles per gallon.

(3) Trucks less than one ton and passenger vehicles—ten miles per gallon.

The above miles per gallon schedule is to be used to determine the tax liability only when LP gas is used from the cargo supply tank to propel a vehicle. When a separate supply tank is connected to the engine of a motor vehicle, the tax is due on the actual number of gallons of fuel placed into the tank. It is absolutely necessary for taxpayers, paying tax on a mileage basis, to keep accurate records of the miles driven and to keep their speedometers in good working condition.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1500. Bank Tax.

Chapter 11 of Title 12 imposes a franchise tax on banks. The following subsections address various aspects of this franchise tax as administered by the South Carolina Department of Revenue.

117–1500.1. Entire Net Income.

The term "entire net income" as used in Section 12–11–10 shall include income derived from any source whatsoever including interest on obligations of the United States, the United States Government or its possessions or of any state and any political subdivision thereof.

117–1500.2. Method of Reporting.

The net income of the taxpayer as provided for in Section 12–11–20 shall be computed on either a cash or an accrual basis. A bank may request permission to change from a cash to an accrual basis or from an accrual basis to a cash basis over a ten year period.

117–1500.3. Federal Income Tax Deduction.

Banks reporting on a cash basis may deduct Federal income estimated tax payments in the year in which they are paid. Cash basis banks using a method other than above may convert by using ten year conversion period as permitted under SC Regulation 117–1500.2.

117–1500.5. Mergers.

A bank which merges into another bank or consolidates with one or more banks, must file a final return for a portion of the year prior to the merger or consolidation and pay the tax shown to be due thereon.

The liability for filing the final return for the bank or banks ceasing to exist shall vest in the surviving bank since it assumes all assets and liabilities of the bank or banks merging or consolidating.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1550. Income Tax on Building and Loan Associations.

Chapter 13 of Title 12 imposes an income tax on building and loan associations. The following subsections address various aspects of this income tax as administered by the South Carolina Department of Revenue.

117–1550.1. Determining Net Income of Building and Loan Associations.

In accordance with Section 12–13–30, any additions to reserves which are required by law, regulation or direction of appropriate supervisory agency must be allowed as a deduction in determining net income but the burden is upon the savings and loan association and/or building and loan association to show what the regulatory agency required.

117–1550.2. Earnings Paid to Shareholders.

For the purposes of Section 12–13–20, a deduction shall be allowed for earnings paid to shareholders in an amount equal to the earnings actually paid out and/or credited to each shareholder's account. Earnings credited to a reserve account for future payments shall not qualify for this deduction.

117–1550.3. Measure of Tax.

The income tax imposed by Section 12–13–30 shall be measured by the net income from all sources except interest income as is specifically exempted by law from such tax. Exempt income items are: (1) Income from obligations of the State of South Carolina and its political subdivisions. (2) Income from obligations of the United States and its possessions.

HISTORY: Added by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003.

117–1600. Cigarette Taxes.

Chapter 21 of Title 12 imposes an excise tax on cigarettes. Chapters 47 and 48 of Title 11 impose certain reporting requirements on cigarette distributors. The following subsections address various aspects of the taxes imposed on cigarettes as well as reporting requirements imposed on distributors under Chapters 47 and 48 of Title 11.

117–1600.1. Reporting Requirements.

All distributors shall make a report to the Department of Revenue on a monthly basis with respect to sales of cigarettes on a form prescribed by the Department. The report shall be due on or before the

20th day of the month following the month in which the sales took place. This report becomes delinquent if it is postmarked after the 20th day (report due on or before the 20th) following the close of the period. This report is required under Section 11–48–50(A) which provides that "distributors also shall provide this information and documentation to the Department of Revenue and any other documentation requested by the Department of Revenue." Upon filing the report required by this regulation with the Department, the report shall be considered filed with the Attorney General's Office. The report shall include, but is not limited to, the following information for 20 count and 25 count cigarette packs, cigarette stamps, and non-participating manufacturer cigarettes, respectively:

Cigarettes

Each distributor shall file a cigarette report as part of the monthly report which includes, but is not limited to, the following information:

(1) Beginning inventory;

(2) Purchases during the month (listed by name of manufacturer, the total number of 20 count packs purchased from each manufacturer, the total number of 25 count packs purchased from each manufacturer, the total number of 20 count packs received from all sources, and the total number of 25 count packs received from all sources);

(3) Total of beginning inventory and purchases during month;

(4) South Carolina tax exempt sales (listed by state, name of manufacturer, the total number of 20 count packs purchased from each manufacturer, the total number of 25 count packs purchased from each manufacturer, the total number of all 20 count packs invoiced exempt, and the total number of all 25 count packs invoiced exempt);

(5) Ending inventory;

Cigarette Stamps

Each distributor shall file a cigarette stamp report as part of the monthly report which includes, but is not limited to, the following information:

(1) Beginning inventory of taxable and tax exempt stamps;

(2) Taxable and tax exempt stamps received during the month; and

(3) Ending inventory of taxable and tax exempt stamps.

Non-participating Manufacturer Cigarettes

All distributors must also file a report of tax paid cigarettes from non-participating manufacturers as part of the monthly report, even if there were no purchases made from non-participating manufacturers during the reporting period. This report shall include, but is not limited to, the file number of the distributor, the period end date, and the following information for each non-participating manufacturer:

(1) Name and address of each non-participating manufacturer;

(2) Full brand name of the product sold;

(3) Name, address and file number of the person from whom each pack of cigarettes was purchased;

(4) Number of packs of cigarettes sold in South Carolina;

(5) Number of cigarettes per pack (pack size of cigarettes sold by distributor and produced by non-participating manufacturers); and

(6) Number of packs of cigarettes sold in South Carolina *times* the number of cigarettes per pack.

Other Information and Report Provisions

All distributors shall provide any other information deemed necessary by the Department of Revenue to enforce Chapters 47 and 48 of Title 11 as well as the cigarette provisions of Chapter 21 of Title 12. The Department, at its discretion, may combine the report required under this regulation with the tax return for taxes imposed on other tobacco products under Chapter 21 of Title 12.

117–1600.2. Stamps Required on Cigarettes.

Tax Stamps

(a) Each distributor of cigarettes taxable under Article 5 of Chapter 21 of Title 12 who first receives untaxed cigarettes for sale or distribution in South Carolina is subject to the tax imposed in S.C. Code

Section 12–21–620. A licensed South Carolina distributor may not sell, distribute or ship unstamped cigarettes to other South Carolina distributors located in South Carolina. Payment of the tax is evidenced by a cigarette tax stamp affixed to each individual package of cigarettes by distributors before being sold, distributed, or shipped to another person; however, each individual package of cigarettes must be stamped in accordance with Code Section 12–21–735 and within any time period that may be required under the law so as to not be considered contraband.

A distributor may affix stamps only to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. If cigarettes are manufactured in this State and sold directly to consumers in this State by a manufacturer or importer, the cigarette packages must be stamped by a licensed distributor before being sold.

Every distributor who first receives within this State manufactured cigarettes on which the required South Carolina cigarette tax stamp has not been affixed shall purchase all necessary stamps directly from the Department of Revenue, or the person designated to receive payment on behalf of the Department, and all such distributors are prohibited from selling or otherwise disposing of South Carolina cigarette tax stamps to any other person, firm, corporation, club or association.

Orders for stamps shall be sent directly to the Department of Revenue, or the person distributing cigarette stamps on behalf of the Department, on order forms prescribed for such use and provided by the Department. The Department of Revenue may, at its discretion, allow or require orders for cigarette stamps to be submitted by paper form or electronically.

The Department also has the discretion to authorize the sale of cigarette tax stamps on thirty-day credit periods. If authorized by the Department, distributors may purchase cigarette tax stamps on thirty-day credit periods, provided a bond has been executed with a solvent surety company qualified to do business in South Carolina in an amount equal to 110% of the distributor's estimated tax liability for thirty days, but not less than $2,000. For credit purchases, payment for each calendar month's liability is due on or before the 20**th** day of the following month, including Sundays and holidays. For example, if a credit purchase is made during May, full payment for that credit purchase is due on or before the 20**th** day of June.

In the event of default in the bonding or payment provisions, the Department has discretion to revoke a distributor's privilege to purchase stamps. Failure to timely pay will also subject a distributor to all applicable penalties, interest, and possible revocation of the distributor's license.

(b) Stamps may only be affixed to packages of cigarettes that are listed on the South Carolina Tobacco Directory published by the Office of the Attorney General pursuant to Section 11–48–30.

(c) No distributor, whose place of business is located without the State of South Carolina and who is engaged in the sale of cigarettes, shall be permitted to purchase South Carolina cigarette tax stamps unless and until such distributor agrees in writing to furnish the South Carolina Department of Revenue any information it may deem necessary concerning the amount of such sales and to whom such sales have been made, and to open for inspection by the Department, its agents or employees any books, records, papers, or memoranda, bearing upon the amount of tax payable to the Department on account of such sales to South Carolina residents or merchants.

(d) No distributor who is engaged in the sale of cigarettes shall be permitted to purchase South Carolina cigarette tax stamps unless and until such distributor is current in filing any and all reports and other documentation required by this regulation.

Exempt Stamps

A distributor that receives or possesses cigarettes intended for sale or distribution into or within South Carolina which are exempt from the tobacco stamp tax under Code Section 12–21–100 shall affix stamps to each individual package of cigarettes that indicate the package of cigarettes is exempt from tax. Orders for exempt stamps shall be sent directly to the Department of Revenue, or the person distributing cigarette stamps on behalf of the Department, on order forms prescribed for such use and provided by the Department.

Stamp Requirements

The cigarette tax stamps must:

(1) Be of a type that when affixed on each individual package the stamps cannot be removed without being mutilated or destroyed;

(2) Contain tamper-evident features as determined by the Department of Revenue to make it difficult to remove or tamper with the stamp as well as anti-counterfeit features as determined by the Department of Revenue;

(3) Contain a unique serial number or other mark which permits identification of the distributor that affixed the stamp to the particular package of cigarettes; and

(4) Note whether the taxes prescribed by Chapter 21 of Title 12 were paid or whether the package of cigarettes was exempt from the taxes.

117–1600.3. Exemptions and Refunds.

The only refunds which will be made with respect to cigarette stamp taxes will be for the following:

(1) Cigarettes shipped out of the geographic limits of the State of South Carolina in accordance with the provisions of Section 12–21–90;

(2) Damaged cigarettes in accordance with the provisions of Section 12–21–110 and any applicable regulations of the South Carolina Department of Revenue;

(3) Damaged tax stamps;

(4) Cigarettes returned as unsellable;

(5) Cigarettes unrecoverable as a result of bad debt; and

(6) Any other circumstance authorized by the General Assembly.

For purposes of determining the refund for cigarettes unrecoverable as a result of a bad debt, a bad debt is an amount that is charged off as a bad debt for state income tax purposes.

In the event any cigarettes to which tax stamps have been affixed are delivered to the Federal Government or any instrumentality thereof, the value of such tax stamps will not be refunded by the Department of Revenue.

All refunds must be properly documented in order for the Department of Revenue to issue refunds. Proper documentation for refunds includes, but is not limited to, bills of lading, shipment receipts, documentation for shipments of cigarettes returned to a manufacturer, and any other documentation as determined by the Department of Revenue. The Department will develop forms and processes for the purpose of authorizing the refunds listed above.

117–1600.4. Cigarettes Displayed in Vending Machines.

Cigarettes displayed for sale in vending machines, where the design of such machine permits such arrangement, shall be so arranged that the cigarette tax stamp required to be affixed to each individual package is at all times in plain view and can be easily seen by duly authorized representatives of the South Carolina Department of Revenue. In any case where the design or manufacture of any such machine is such that the contents thereof are not readily visible, the owner or person in control of such machine shall leave with some responsible person at the location of such machine, a key or other relevant means to access the machine so that the contents thereof may be inspected upon demand by duly authorized representatives of the Department of Revenue.

117–1600.5. Stamping and Storage of Cigarettes in South Carolina by a Distributor.

(A) Stamping Methods

Distributors generally stamp and store cigarettes in one of two methods - a "Stamp-to-Order" method and an "Advanced Stamping" method. These methods can be briefly described as follows:

Stamp-to-Order Method: Under this method, cigarettes are stamped only as orders are received. Once the cigarettes are stamped, distributors typically load the order onto a truck or place the order in a staging area for loading onto a truck either later that day or the next day. The stamp-to-order method is only permissible in South Carolina if the law does not require that cigarettes be stamped within a specified time period in order not to be considered contraband.

Advanced Stamping Method: Under this method, cigarettes are stamped before orders are received. If the law requires that cigarettes be stamped within a specified time period in order not to be considered contraband, then distributors must stamp all cigarettes within the time period established by law so as not to be considered contraband.

(B) Storage Requirements

The storage requirements established in this section only apply to warehouses located in South Carolina. Each warehouse in South Carolina which, in addition to selling South Carolina tax paid cigarettes, sells cigarettes in another state or cigarettes which are tax exempt in South Carolina, must obtain approval of its storage method from the Department in advance of implementation. South Carolina warehouses which only sell South Carolina tax paid cigarettes are not required to obtain approval of their storage methods.

Stamp-to-Order

If a distributor is permitted under this regulation and approved by the Department to use the stamp-to-order method, then the distributor is not required to maintain separate compartments or areas for South Carolina tax paid cigarettes, cigarettes to be sold in another state, and cigarettes to be sold tax exempt in South Carolina. However, the distributor's staging areas must be clearly marked and separated to avoid commingling of South Carolina tax paid cigarettes with cigarettes to be sold in another state or cigarettes to be sold tax exempt in South Carolina. The Department must approve the distributor's staging areas in advance of implementation. The Department will provide a copy of the written approval to the distributor to maintain for the distributor's records. If the distributor at a later date redesigns its warehouse or system whereby the Department-approved staging areas are changed, such change must be approved by the Department in advance of implementation.

Advanced Stamping

If a distributor is approved by the Department to use the advanced stamping method, then the distributor is required to maintain separate compartments or areas for cigarettes. Distributors who follow the advanced stamping method must, at a minimum, maintain one separate area for South Carolina tax paid cigarettes and one separate area for cigarettes to be sold in another state and/or cigarettes to be sold tax exempt in South Carolina. Alternatively, distributors may choose to maintain a separate area for each respective state and a separate area for cigarettes to be sold tax exempt in South Carolina.

These areas may be separated by creating a separate room(s), compartment(s), by using a bin(s), or other manner of storage clearly separating South Carolina tax paid cigarettes from cigarettes to be sold in another state and/or cigarettes to be sold tax exempt in South Carolina. Distributors must clearly mark the separate areas with signs warning employees regarding which cigarettes are South Carolina tax paid cigarettes, which cigarettes are to be sold in another state, and which cigarettes are to be sold tax exempt in South Carolina.

Any distributor operating a warehouse where cigarettes are stamped in advance must obtain approval from the Department for its separate room(s), compartment(s), bin(s), or other manner of storage in advance of implementation. The Department will provide a copy of the written approval to the distributor to maintain for the distributor's records. If the distributor at a later date redesigns its warehouse or system whereby the Department-approved separate room(s), compartment(s), bin(s), or other manner of storage is changed, such change must be approved by the Department in advance of implementation.

(C) Other Stamping and Storage Methods

There may be other stamping and storage methods than stamp-to-order and advanced stamping. All other stamping and storage methods must be approved by the Department on a case-by-case basis. Written approval for another stamping and storage method must be obtained from the Department in advance of implementation. The Department will provide forms for distributors to submit requests for approval of stamping and storage methods, and approval will be determined on a warehouse-by-warehouse basis. The Department will provide a copy of the written approval to the distributor to maintain for the distributor's records. If the distributor at a later date redesigns its warehouse or system whereby the Department-approved stamping and storage method is changed, such change must be approved by the Department in advance of implementation.

The provisions of this subsection do not apply to distributors who only sell South Carolina tax paid cigarettes and who do not sell cigarettes in another state or cigarettes which are tax exempt in South Carolina.

117–1600.6. Samples.

Cigarettes shipped into South Carolina by manufacturers to representatives, who are licensed in accordance with Code Section 12–21–660, for promotional use shall be accompanied by an invoice

stating the name of each brand, the number of packages of each brand, and the number of cigarettes in each package for each brand included in the shipment. Each package of cigarettes shipped into South Carolina for promotional use must bear either the cigarette tax stamp or the tax exempt stamp required by Code Section 12–21–735, and each such package is subject to South Carolina state and local use tax.

HISTORY: Added by State Register Volume 41, Issue No. 5, Doc. No. 4702, eff May 26, 2017.

ARTICLE 37
PROPERTY TAX REGULATIONS

(Statutory Authority: 1976 Code § 12–4–320)

117–1700. Definitions.

This section provides general definitions to be used in administering property taxes.

117–1700.1. Property Defined.

Section 1: Purpose: Section 12-43-230(c) that the Tax Commission shall provide by regulation a definition for real and personal property. This regulation is therefore adopted pursuant to this section so as to provide for a definition to be used by the Tax Commission and other assessing officials in connection with the assessment of property.

Section 2: For the purpose of classifying property for taxation, land, buildings and items of property devoted primarily to the general use of the land and buildings, and all other property which according to custom has been considered to be real property, are defined as real property; and all other items of property are defined as personal property. The following items are hereby classified as real property for purposes of taxation:

Land Improvements—Real: Retaining walls, piling and mats for general improvement of site, private roads, walks, paved areas, culverts, bridges, viaducts, subways and tunnels, fencing, reservoirs, dykes, dams, ditches and canals, drainage, storm and sanitary sewers, water lines for drinking, sanitary and fire protection.

Fixed river, lake or tidewater wharves and docks.

Permanent standard gauge railroad trackage, bridges and trestles.

Walls forming storage yards and fire protection dykes.

Buildings—Real: Structural and other improvement to buildings, including their foundations, walls, floors, roof, insulation, stairways, partitions, loading and unloading platforms and canopies, areaways, systems for heating and air conditioning, ventilating, sanitation, fixed fire protection, lighting, plumbing, and drinking water, building elevators and escalators.

Listed below are miscellaneous items which are identified as to their classification as to whether they are real or personal property. This list is not intended to be all inclusive.

Air Conditioning—Building air conditioning, including refrigeration equipment, for comfort of occupants—Real

Air Conditioning—Window units and Package units—Personal Property

Air Conditioning—for special process to maintain controlled temperature and humidity—Personal Property

Aircraft—Personal Property

Aluminum pot lines—Personal Property

Ash handling system, pit and superstructure (See Boilers)

Asphalt mixing plant—Personal Property

Auto-Call and telephone system—Personal

Automobile—Personal

Bins—permanently affixed bins for storage—Real

Boats—Personal
Boilers—for service of building—Real
Boilers—for service of building and manufacture with primary use for manufacture—Personal
Booths for welding—Personal
Bucket Elevators—Open or enclosed (including casing)—Personal
Bulkheads—making additional land area to be assessed with as part of the improved land
Building—special constructed building—Real
Cistern—Real
Coal handling systems (see Boilers)
Cold storage—built-in cold storage rooms—Real
Cold storage refrigeration equipment—Personal
Control Booth—Personal
Conveyor or housing, structure or tunnels—Real
Conveyor unit including belt and drives—Personal
Coolers—portable walk-in coolers—Personal
Cooling towers—primary use of manufacture—Personal
Cooling towers—primary use for building—Real
Crane-moving crane—Personal
Crane runways including supporting columns or structure—Inside or outside of building—Real
Crane runways—bolted to or hung on tresses—Personal
Dock levelers—Personal
Drying rooms structure—Real
Drying rooms heating systems—Personal
Dust Catchers—Personal
Farm Equipment—Personal
Fire alarm system—Personal
Fire walls—masonry—Real
Foundations for machinery & equipment—Personal
Furniture & fixtures of commercial establishments and professional—Personal
Gasoline tanks—see tanks
Greenhouse—Real
Greenhouse—Benches & heating system—Personal
Gravel Plant—machinery & equipment—Personal
Hoist Pits—see pits
Houses and sheds—portable or on skids—Personal
Inventory of merchants—Personal
Kilns—lumber drying kiln structure—Real
Kilns—concrete block drying kiln structure—Real
Kilns—circular down draft (Beehive)—Real
Kilns—heating or drying system—Personal
Laundry steam generating equipment—Personal
Lighting—Yard lighting—Real
Lighting—special purpose—Personal
Lighting—service stations (Except bldg.)—Personal
Mixers and mixing houses—Personal
Mobile Homes—Real
Monorail Crane runways—Personal
Motors, outboard and inboard boat—Personal

Moveable structures—Personal
Ore bridge foundation—Real
Ovens—processing—Personal
Piping—process piping above or below ground—Personal
Pits for equipment or processing—Personal
Power lines and auxiliary equipment—Personal
Pumps and Motors—Personal
Pump House (Including sub-structure)—Real
Racks and shelving (Portable or removable)—Personal
Ready-mix concrete plant—Personal
Recreational Vehicles—Personal
Refrigeration Equipment (See Air Conditioning)—Personal
Sanitary System—Real
Scale houses—Real
Scales—Truck or Railroad Scales including Pit—Real
Scales—Dormat Scales—Personal
Silos—all storage silos—Real
Silos—containing a manufacturing process—Personal
Spray Ponds—masonry reservoir—Real
Spray Pond piping and equipment—Primary use classification
Sprinkler System—Real
Stacks—mounted on boilers (see boilers)
Stacks, chimneys—concrete or masonry—Real
Stacks, steel—supported individually and servicing heating boilers—Real
Stacks, steel servicing personal property units or a process—Personal
Steam electric generating plant & equipment—Personal
Stone crushing plant—machinery & equipment—Personal
Storage bins, small portable—Personal
Storage facilities permanent, of masonry or wood—Real
Storage vaults and doors including bank vaults and doors—Real
Substation Building—Real
Substation—Equipment—Personal
Tanks—all storage tanks above or below ground—Real
Tanks—used as a manufacturing process—Personal
Tanks—underground gasoline tanks at service station—Personal
Tipple Structure—Personal
Towers—Transmission—Personal
Towers—TV or Radio broadcasting—Personal
Trucks—Personal
Tunnels—Real
Tunnels—waste heat or processing—Personal
Unit Heaters—Real
Unloader Runway—Real
Vaults, bank—Real
Ventilating—Real
Ventilating system for manufacturing equipment—Personal
Water lines—for process above or below ground—Personal
Water pumping station—building and structure—Real

Water pumps and motors—Personal

Water treating and softening plant building and structure—Real

Water treating and softening equipment—Personal

Wells, pumps, motors and equipment—Personal

Wiring—Power wiring—Personal

117–1700.2. Definition of "Power Driven" Farm Machinery and Equipment.

Article X, Section 1 of the South Carolina Constitution and Section 12–43–220(b) of the South Carolina Code of Laws provides for a separate classification for all power driven machinery and equipment, except for motor vehicles registered with the Department of Public Safety, if the machinery and equipment is owned by a farmer and is used on agricultural land that qualifies under Section 12–43–220(d) of the Code. Such machinery and equipment is taxed at an assessment ratio of five percent.

For purposes of administering this provision "power driven" farm machinery and equipment is defined as follows: The word "power" means "to supply with power and especially motive power." All machinery and equipment that is self-propelled, such as tractors and self-propelled combines would fit into the meaning of "power driven," as would any other self-propelled machinery and equipment. Other types of equipment that operate by the power take-off on a tractor or by electrical or some other motive power would fall within the meaning of "power driven." This machinery and equipment includes (1) corn pickers, (2) cotton pickers (3) forage harvesters and blowers, (4) manure spreaders, (5) pickup hay balers, (6) planters, (7) windrowers, (8) conveyor systems, (9) milking machines, (10) processing, grading, and sorting equipment.

117–1700.3. Definition of Utility.

The word "utilities" is hereby defined to include but not necessarily be limited to (1) water companies; (2) power companies, whether hydroelectric, steam, atomic, or other kinds for the transmission of power; (3) electric light companies; (4) electric cooperatives; (6) telephone and telegraph companies. Utilities engaged in the transportation for hire of persons or property are classified separately.

117–1700.4. Definition of Transportation Companies.

"Transportation companies" are hereby defined to include but not necessarily be limited to (1) Railroad companies; (2) Pipeline companies; and (3) Express companies.

117–1700.5. Definition of Facility.

A "facility" is generally a single physical location, where a taxpayer's business is conducted or where its services or industrial operations are performed. Where two or more distinct and separate economic activities are performed at a single physical location, each separate economic activity will be treated as a separate facility when: (1) each activity has its own separate and dedicated personnel; (2) separate reports can be prepared on the numbers of employees, their wages and salaries, sales, or receipts and expenses; (3) and employment and output are significant as to the activity. For purposes of item (2) above, it is irrelevant if separate reports are actually prepared, so long as separate reports can be prepared, this criteria is met.

117–1700.6. Definition of Parsonage.

This rule is adopted pursuant to the authority conferred by Sections 12–4–320(1) and 12–4–560 of the South Carolina Code of Laws, as amended, to further define a parsonage that is exempt from property taxation.

A parsonage is a church owned residence that is provided for its pastor, minister and associate ministers, whether ordained or not, and all such residences shall be exempt from all property taxation.

117–1700.7. Definition of Plant Site.

A plant site shall consist of all land contiguous to a plant which is related to the overall manufacturing operation. It shall include all land on which personal property is located including but not limited to the following: parking lots, manufacturing areas, buildings, landscaping, piping, railroad siding, docking, water sheds, ditching, pollution control facilities, pumping stations, wells, roads, water tanks, areas for ingress and egress, water storage facilities, and all other lands directly

related to manufacturing. When possible, a plant site will be one contiguous parcel using legal and or natural boundaries.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

Editor's Note

Pursuant to the direction of the Code Commissioner, R 117–105 was renumbered as R 117–1700.1 in December 2006.

117–1720. Department of Revenue Responsibilities.

These regulations are designed to address the Department of Revenue's Responsibilities in the Area of Property Tax and How the Department Administers Its Responsibilities.

117–1720.1. [Reserved]

117–1720.2. General Requirements for Ratio Study.

A. In accordance with Section 12–43–250 of the South Carolina Code of Laws, the Department of Revenue shall annually make a ratio study of all the counties in the State to determine if the level of appraisal and/or assessment and the degree of equity has been achieved as required by law. This information shall be obtained initially from the Assessor and field checked when necessary by personnel from the department. The sales that best reflect market value sales will be used to make an analysis to determine the level of appraisal and/or assessment and the degree of equity. If a county has a median appraisal level for all property as a whole or any class higher than 105% or lower than 80% of fair market value it shall be deemed unacceptable by the department. If the index of inequality reaches a rating higher than 15% for the county as a whole or any class of property, it shall be deemed unacceptable by the department. However, in the classification of agricultural when there is an insufficient number of market sales to determine the level of appraisal or the index of inequality, the department shall make a determination as to whether or not reassessment is required.

B. Average Appraisal. The median shall be the criteria to determine the level of appraisal or assessment for all property as a whole or for any class.

C. Index of Appraisal or Assessment Inequality. The index of inequality is defined as: one-half the difference between the ratio of the third and first quartile values over the median ratio.

$$\frac{1/2\ (Q3 - Q1)}{\text{Median}}$$

The answer when computed is registered as a percent. Whenever this formula is used on all property as a whole or any class with a rating above 15%, it shall be deemed unacceptable by the department.

D. Appraisal in Lieu of Sales. Whenever a county lacks sufficient market value sales to make an accurate ratio study for the county as a whole or any class, the department shall make appraisals of real property which shall be used in lieu of sales in ascertaining level of assessment and the degree of equity.

E. Valuation of Agricultural Property Based on Use. The department shall make studies to determine if agricultural real property is being appraised based on use as prescribed by law. The department shall make necessary studies to estimate what the market value of agricultural real property is when the highest and best use is for agricultural purposes.

F. Counties' Failure to Meet the Requirements of the Law. Ratio studies will be made from market value sales taking place from January 1 through December 31 of each year and the county shall be notified of the findings of the ratio study on or before June first.

When a county fails to meet the standards herein prescribed, the department shall notify the county assessor and governing body by June first that the county fails to meet the standards and that a reassessment program must be immediately initiated which must be completed within two (2) years from the date of the notice or unless a one-year extension is granted within the two (2) year period because of extreme circumstances. All corrections in market sales reported for the preceding calendar

year must be made to the department on or before March 21st of the year in which the reassessment program is to be implemented.

A failure to implement an acceptable reassessment program by June first of the year in which implementation of the program is required will mandate an order to the county auditor to abate or reduce the assessed value of all other classes of property at the level of assessment of the real property included in the program.

117–1720.3. Computation of Index of Taxpaying Ability for School District When Property is Under Appeal.

Section 59–20–20 of the South Carolina Code of Laws as amended, requires the Department of Revenue to compute the index of taxpaying ability for each school district in South Carolina. The final index is to be furnished to the Department of Education and the auditor of each county on or before February 1 of each year. Changes and corrections may be made to the index before February 1 but no change is allowed after that date.

When an assessment is under appeal and the appeal extends beyond the year in which the assessment is made, the department will not take into account the full value of the property. Instead, for real property, the department will only take into account eighty percent of the assessed value or any valuation greater than eighty percent agreed to in writing by the taxpayer; and for personal property, the department will only take into account the value asserted by the taxpayer in the appeal. Once the appeal is resolved, the department will adjust the index in the year the appeal is resolved by the amount of any difference between the assessments.

When an appeal of the assessed value of property assessed pursuant to Section 12–43–220(a) of the Code (the assessment ratio for manufacturing or utility property) extends for more than two years and the amount in dispute is more than thirty percent of the total of assessed value of property in the school district in which the property under appeal is located, the index of taxpaying ability for the school district must be calculated using the value asserted by the taxpayer in the appeal, even if it is less than eighty percent of the assessed value.

The department shall maintain the necessary records for property under appeal The Auditor shall notify the department of the value of property currently under appeal, the value of property that was under appeal where the appeal is now resolved and the value has been determined and of any additional assessment. The Auditor shall furnish this information to the department on or before October 1 of each year.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 32, Issue No. 2, eff February 22, 2008.

117–1740. County Administrative Requirements and Forms to Be Filed with the County.

The purpose of these regulations are to define the general administrative requirements applicable to the counties in the administration of the property tax law and to provide information to be requested or used in county forms for purposes of administering the property tax laws of this State.

117–1740.1. General Requirements for Building Permits.

Section 1. Under the authority provided by Sections 12–43–240 and 12–4–550(1) of the South Carolina Code of Laws, building permits shall be issued for the entire county for each county in the State by the proper authorities designated by the county to issue such permits and copies of the building permits shall be furnished to the County Assessor within the time limit provided by Section 12–43–240. The information required to be in the building permit includes the information provided in Section 2, as well as any other information the Department of Revenue directs. The County Assessor shall furnish to the department copies of building permits within 30 days after issuance for all real property assessed by the department.

Section 2. All building permits must contain the following information.

1. Name of County - Date - Permit Number
2. Name and address of owner - school and/or tax district
3. Location of improvement - type of improvement
4. Subdivision with Lot Number & Block Number or Number of Acres
5. Type of work - New Improvement ( ) Alteration ( ) Repair ( ) Add To ( ) Move ( ) Demolish ( )

6. Use of Improvements - Residential Single Family ( ) Duplex ( ) Apartment ( ) Commercial ( ) Institutional ( ) Warehouse ( ) Manufacturing ( ) Utility ( ) Other with description ( ) _____ _____.
7. Cost of Construction _____ Fee_____
8. Contractor or builder _____
9. Architect or engineer _____
10. If building, Number of Square Feet _____
11. Type of Construction: Frame ( ) Metal ( ) Wood ( ) Other with description _____
12. Exterior: Brick ( ) Concrete Block ( ) Stone ( ) Brick Veneer ( ) Stucco ( ) Metal ( ) Wood ( ) Glass ( ) Other, including siding, with description _____
13. Eve height and number of stories _____
14. If residential, number of rooms _____ Number of baths _____ Number of bedrooms _____
15. Type of heating: Hot air ( ) Radiator ( ) Hot water ( ) Steam ( ) Central air conditioning ( )
16. Type of fuel: Gas ( ) Electric ( ) Oil ( ) Wood ( ) Coal ( )
17. Number of fireplaces: _____
18. Estimated Date of Completion _____
19. Tax map number _____
20. Signature of the owner, contractor or agent _____
21. Who the permit was issued by _____
22. Date of Issuance _____

117–1740.2. Cadastral Maps and Parcel Identifiers.

Section 1: Scope

This regulation provides requirements for the development and maintenance of cadastral maps and parcel identifiers which will be used by the Assessors to locate, inventory and appraise all real property within their jurisdiction. A county may elect to develop and maintain a manual mapping system or a digital (automated) mapping system; however, each county shall have a system of maps that conform to the minimum standards contained herein.

Section 2: Definitions

A. Base maps locate the major physical features of the landscape and contain the fundamental information from which the cadastral maps are prepared. Base maps should be tied to the geodetic network, either by means of ground control surveys or satellite methods of surveying. Base maps provide the means to relate the locations of cadastral parcels to the geodetic reference framework. Base maps can be in the form of line maps (generated manually or by computer) or photographic maps. Regardless of the form, base maps are usually created from aerial photographs. Aerial photographs provide an efficient and economical means for preparing the base maps.

B. Cadastral maps, also known as tax maps, should be viewed as overlays to the base maps. There should be cadastral maps for the entire assessing jurisdiction, showing ownership, the size and position of each parcel in relation to other properties, bodies of water, roads, and other major geographic features. The maps should be produced at an appropriate scale and display all boundary lines, dimensions, or areas; identifying parcel numbers; and other pertinent legal and descriptive information. The maps provide a physical framework upon which non-physical parcel information can be displayed, such as assessment comparisons, land appraisals, and market or other statistical data.

C. A parcel of land, for the purposes of this regulation, is a contiguous area of land under one ownership. The parcel is the area of land that, as determined by the Assessor, should be included in the description for appraisal and assessment purposes after considering all legal and practical factors. Parcels may have been conveyed by one or more legal instruments, or created by survey, and may contain several lots or fractions of a lot. Each parcel represents one property record, which is one unit of land that is capable of being separately assessed.

Section 3: Map Content

Each county shall have a system of maps that conform to the following minimum standards:

1. Aerial photography must cover the entire county. This photography may be stored on reproducible hard-copy material or may be stored as digital or scanner computer files. In either case, the county shall maintain the ability to provide hard-copy reproductions of the photography. New photography must match the existing photography within three percent (3%) of the width and length and contain all of the neat area.

Reflights of aerial photography for the entire county must be made every ten years. Counties may delay reflights for a period of up to two years with written permission from the Director of the Department of Revenue or his or her delegate. An example of a reason for requesting a delay of a reflight would be a county had experienced little or no change.

Each photograph will be individually rectified to best fit a minimum of three (3) identifiable points each of which will be spaced at least 5″ apart at the mean elevation of the terrain on the negative scale of photography. As related to these points, there shall be no more than a three percent (3%) scale error between each point taken from available existing maps, such as large scale base maps or existing cadastral maps.

The flights will be made during snow free months when foliage is off the deciduous trees. The photography will be made during the hours of 9:30 A.M. to 3:00 P.M. Eastern Standard Time and when the altitude of the sun is at least 30 degrees above the horizon.

In addition, there shall be at least a three (3) inch overlap for rectified photo enlargements, and at least a 1.5 inch overlap for orthophoto enlargement. The camera used shall meet the U. S. Geological Survey specifications.

2. Scale of Photography

A. Counties acquiring aerial photography shall utilize the following scales:

1. Property outside incorporated city limits or subdivisions - 1″ = 400′

2. Property within incorporated city limits and subdivisions - 1″ = 100′ or 1″ = 50′

B. Deviation from scales set forth herein may be modified only with written permission of the Director of the department or his or her delegate. Before approving a deviation from the scale, the county must provide the department with a recommendation from the South Carolina Office of Research and Statistical Services of the Budget and Control Board that the scale proposed to be adopted by the county is sufficient to provide the information required by this regulation and is appropriate to use in preparing the map.

3. Cadastral Map Preparation. Cadastral maps shall be prepared using aerial photography (Section 3, part 1) as the base map. Other available sources deemed reliable by the Assessor may be used to compile the cadastral map such as deeds, plats, field research and existing maps as well as county, state and federal statutes identifying boundaries. Each cadastral map shall be compiled at the same scale as the corresponding aerial photographic base map, shall be oriented north, and shall show the following:

A. Boundaries of each property, lot or parcel identified by the Assessor.

B. Dimensions of each property, lot or parcel identified by the Assessor to the nearest foot where possible.

C. Assessor's assigned parcel identifier.

D. Streets, railroads, rights-of-way, rivers, lakes, and streams (and their names).

E. Acreage of the property, lot, or parcel rounded to the nearest tenth of an acre (for parcels five acres and larger).

F. Names of Subdivisions.

G. Scale of the map.

H. Adjoining map references and/or match lines.

I. Tax Districts.

J. Municipalities

K. County Name.

L. NORTH Arrow.

M. Disclaimer note indicating that this is not a survey.

4. Cadastral Map Maintenance. Cadastral maps shall be continually maintained by qualified personnel. As rural areas develop, 1″ = 400′ maps should be converted to 1″ = 100′ maps. Parcels may be mapped at 1″ = 100′ scale in areas where no 1″ = 100′ photography exists.

5. Any county obtaining new photography or reflights of existing photography shall consider recommendations of the South Carolina Office of Research and Statistical Services of the Budget and Control Board.

6. Each county shall have the ability to reproduce the aerial photographs and cadastral maps.

Section 4: General Requirements.

1. Maps and /or digital map data shall be numbered and filed in such a manner as to be readily retrievable for review, maintenance and/or reproduction.

2. Ownership records must be created, maintained and cross-referenced alphabetically by owner name, and numerical parcel identifier.

3. All maps shall be maintained in a timely manner to reflect all legal and physical changes.

4. There shall be indexes for maps of all scales indicating the map number, the area covered by the map, and location of the map.

5. If a county elects to establish a coordinate based mapping system, the maps and mapping procedures must meet the requirements contained in the publication "Standards and Procedures for County Base Mapping," published by the South Carolina Office of Research and Statistical Service of the Budget and Control Board.

Section 5: Numbering System.

1. Each county in the state shall have a standardized parcel numbering system. If a county utilizes a manual mapping system, a sequential parcel numbering system shall be used that shall conform to the following minimum standards:

A. Each parcel shall be identified by a minimum of a ten (10) digit number which shall include:

Map Number - 3 digits

Sub-map Number - 2 digits

Block Number - 2 digits; and

Parcel (lot) Number - 3 digits

B. Each character within the identification number shall be numeric - no alpha (letter) characters shall be permitted.

C. Additional characters and/or decimals may be added to each field of digits, however, all additional characters shall be numeric. No alpha (letter) characters shall be permitted.

D. All characters within the numbering system shall be used to identify ownership parcels relative to map, sub-map, block and parcel number. No references to political subdivisions (school districts, municipalities, etc.) shall be included within the numbering system.

2. If a county utilizes a digital mapping system which is referenced to the S. C. State Plane Coordinate (SPC) System: that meets or exceeds National Standards of Map Accuracy as determined by the South Carolina Office of Research and Statistical Services of the Budget and Control Board, a coordinate-based parcel numbering system may be used in lieu of or in conjunction with a sequential parcel numbering system. The coordinate-based system must meet the following minimum requirements:

A. The visual center (centroid) of each parcel shall be assigned a coordinate value based upon its location within the S. C. SPC. This coordinate shall consist of a fourteen (14) digit number representing the Easting (7 digits) in feet and the Northing (7 digits) in feet. For example, coordinates for the visual center of a parcel as measured from the cadastral map:

"X" coordinate (Easting) - E 2,715,569

"Y" coordinate (Northing) - N 0,756,737

B. The digits in each coordinate value are paired by taking each digit separately from the east-coordinate and matching it with the corresponding digit of the north coordinate.

20 77 15 56 57 63 97

EN EN EN EN EN EN EN (E-Easting, N-Northing)

C. With this arrangement, the above example of a parcel identifier may be sorted as follows:

20 - Redundant lead number

7715 - number of basic map module at scale of (1″ – 400′)

56 - Block number

5763 - Lot or parcel number

97 - utilized only to extend the capacity of the system

D. The parcel Identifier is obtained by recording the middle three sets of numbers (ten digits), and is written with dashes as follows:

7715–56–5763

E. Records of condominiums, townhouses or other cases of diverse ownership on one parcel of land will be further identified by the use of a decimal at the end of the parcel identifier with three (3) digits to the right of the decimal. The records for a condominium unit or units built on the above described hypothetical parcel could be assigned a suffix number to the parcel identifier of .001 through .999. For example, a condominium unit could have the following parcel identifier number.

7715–56–5763.008

117–1740.3. General Requirements for Appraisal Records.

Section 1. For the purposes of valuing property for ad valorem tax purposes, each county in the State shall keep the necessary records on all property to value such property in accordance with the laws of this State. The information required to be kept includes, but is not limited to, the information provided in Section 2, as well as any other information the Department of Revenue directs.

Section 2. There shall be a property appraisal record for each parcel of property in the county which shall contain the following information.

1. The name and address of the owner of the property;

2. the location of the property;

3. the Tax Map reference number for the property;

4. the Tax District where the property is located;

5. references to the last previous owner with deed book and page if obtained by deed or the proper legal reference as to how the property was obtained, if obtained by another method;

6. a legal description of the property;

7. the appraised value of the property;

8. the assessed value of the property;

9. the plat book and page if the property has been recorded with the Clerk of the Court or the Register of Mesne Conveyance. In addition, the date of the last transfer of the property shall be listed along with the consideration paid or the amount of any deed stamps or recording fees paid with respect to the transfer of the property;

10. the date of inspection;

11. the classification of the property according to the classifications provided in Article X, §1 of the South Carolina Constitution and Chapter 43, Title 12 of the South Carolina Code of Laws;

12. the topography characteristics of the land;

13. land improvements such as water, sewer, gas and electricity;

14. lot size to the nearest foot;

15. if listed in acreage, the number of acres;

16. a sketch, or dimensions of the real property improvements which contribute value, listing the measurements, number of stories, basement, porches, garages, outbuildings and other similar types of real property improvements;

17. calculation of the square footage of the real property improvements;

18. the name of the individual who appraised the property.

19. The following characteristics will be identified as to their type, condition, and number, whichever is applicable; foundation, basement, walls, roof, number of stories, number of bedrooms, fireplaces (including number thereof), garages and carports, storage rooms, types of heating and air conditioning, insulation, and kitchen built-ins.

20. For commercial and industrial property not assessed by the department the following characteristics should also be noted: type of wiring, type of sprinkler system, capacity of heating and air conditioning, humidification, type of roof structure, type of roof supports, eve height of improvements, annual rent received, and estimated remaining economic life.

21. The Assessor shall keep a record of the market value of agricultural property based on highest and best use and actual use for a period of at least six years, so that if the use should change, the property taxes can be calculated based on the market value for the year of the change and the previous five years.

Section 3. If any county has completed a program as of December 31, 1975, such county may be exempted from portions of the above provisions with written permission from the department.

Section 4. A county is allowed to keep an electronic record of the information contained in Section 2 above, in lieu of, or in addition to, a paper copy of the property appraisal record.

Section 5. The Assessor will, to the best of his or her ability, estimate the fair market value for all real property under his or her jurisdiction as of the assessment date, and this value shall be the value to which the assessment ratios provided in Chapter 43, Title 12 of the Code will be applied.

Section 6. If a county keeps a separate property record, the county may omit the information contained in items 1, 5, 6, 8, and 9 listed in Section 2 above from the property appraisal record.

117–1740.4. Form to Provide Department of Revenue with Information for Ratio Studies (117–116).

Under the authority provided for in Section 12–4–550(1) of the South Carolina Code of Laws, all counties shall furnish to the Department of Revenue the information provided for on forms furnished by the department except for transfers which involve a true consideration of less than $100 and sales of properties that the sale price does not include the same land area and improvements as shown on the assessment roll or appraisal record. This information shall be forwarded to the department within forty-five days after the deed has been recorded commencing with all deeds recorded after December 31, 1975.

The information furnished shall be on forms provided by the department or in an electronic form such as a computer tape that is approved by the department. The county assessor shall furnish the information for all real property transfers except transfers which are by death or time share properties. The information shall be furnished to the department on a monthly basis by the last day of the following month. However, if the information is furnished to the department in electronic form such as a computer tape that is approved by the department, it shall be furnished to the department for each calendar year on or before the following January 31st next succeeding. If the county wishes to furnish this information more frequently, they may do so. The following information shall be furnished by the Assessor to the department when available.

1. County
2. Deed book and page
3. Seller, Mailing Address and Social Security or Federal Identification Number
4. Purchaser and mailing address
5. Date of sale
6. Tax district and school district
7. Total consideration-sale price
8. Number of acres
9. Number of lots
10. Improved or unimproved
11. Tax map number

12. Major legal classification at time of transfer (residential, agricultural, all other, department jurisdiction, manufacturing or utility, government or exempt)

13. Appraised value (market value) -land, improvements, total-condominiums and property with common areas, only the total is required.

14. Appraised use value (if applicable)

15. Appraisal district (optional)

16. Sub-classification (optional)

17. If it split off another parcel

18. Indicate if new owner might qualify to be exempt

19. Indicate if the sale is a true sale (market value). If no, why?

The Assessor will indicate one of the following reasons:

a. What sold does not match the appraisal record

b. Family Sale

c. Gift

d. Personal or other property included

e. Mortgage assumption cannot be determined

f. Foreclosure sale

g. Partial interest

h. Contract sale or bond for sale (if old)

i. Other (with explanation)

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

117–1760. Classification of Property - General Provisions as to Use of Property.

The purpose of these regulations are to provide information about classifying companies and property for property tax purposes.

117–1760.1. Classification of Companies.

The major operation of the company shall regulate such classification where the company is involved in more than one operation.

117–1760.2. Multi-Use Property.

Code Sections 12–43–210 to 12–43–310 of the South Carolina Code of Laws provides classifications of property for property tax purposes at different ratios of assessment.

If a particular piece of property is used for more than one purpose, then the value of the total piece of property must be allocated on some equitable basis. Then separate ratios could be applied to arrive at the assessed value of each part. For example a duplex in which the owner resides in one part and rents the other part the value of the duplex must be allocated on an equitable basis, such as square footage.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

117–1780. Classification of Property - Agricultural Use Property.

These regulations address the application of the property tax laws to agricultural property and how property may qualify as agricultural use property. (See also, Property Tax Regulation 117–1840.2 on how to value agricultural use property).

117–1780.1. Definition of Agricultural Real Property.

Agricultural Real Property, as that term is used in 12–43–220(d), 12–43–230, and 12–43–232 of the South Carolina Code of Laws means a tract of real property which is used for agricultural purposes. Real property must meet the requirements for agricultural real property of Code Sections 12–43–220(d), 12–43–230 and 12–43–232 in order to be classified as agricultural real property. Additionally, the term Agricultural Real Property shall not include any property used as the residence of the owner or others. In no event shall real property be classified as agricultural real property when

such property is not used for bona fide agricultural purposes. Real property is not used for agricultural purposes unless the owner or lessee thereof has, in good faith, committed the property to that use. Real property which is ostensibly used for agricultural purposes, but which is in reality used for other purposes, is not agricultural real property. The agricultural use of the property must be genuine in nature as opposed to sham or deception. The following factors shall be considered by county assessors in determining whether the tract in question is bona fide agricultural real property: (These factors are not, however, meant to be exclusive and all relevant facts must be considered.)

1. The nature of the terrain
2. The density of the marketable product (timber, etc.) on the land
3. The past usage of the land
4. The economic merchantability of the agricultural product
5. The use or not of recognized care, cultivation, harvesting and like practices applicable to the product involved, and any implemented plans thereof.
6. The business or occupation of the landowner or lessee, however, the fact that the tract may have been purchased for investment purposes does not disqualify it if actually used for agricultural purposes.

In cases in which the real property is committed to more than one use, one use being agricultural use and the other use or uses being unrelated to agriculture the agricultural activity use must comprise the most significant use of the property in order for it to be classified as agricultural real property.

The following uses of real property do not qualify as agricultural:

1. Recreation
2. Hunting Clubs
3. Fishing Clubs
4. Vacant Land (land lying dormant)
5. Any other similar use.

117–1780.2. Agricultural Special Assessment Applications.

I. Qualifications—Requirements. Agricultural real property which is actually used for such purposes, not including however, a corporation which is the owner or lessee except for certain corporations which do not:

1. have more than ten (10) shareholders
2. have as a shareholder a person (other than an estate) who is not an individual
3. have a non-resident alien as a shareholder; and
4. have more than one (1) class of stock

II. Definition of Agricultural Real Property. Agricultural real property shall mean any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man's use and disposed of by marketing or other means. It includes but is not limited to such real property used for agricultural, grazing, horticulture, forestry, dairying, and mariculture. In the event at least 50% of a real tract shall qualify as "agricultural real property", the entire tract shall be so classified, provided no other business for profit is being operated thereon. The term "agricultural real property" shall not include any property used as the residence of the owner or other in that the taxation of such property is specifically provided for in Section 2(C) and (E) of the Act.

III. Name shown on Property Tax Record Soc. Sec. No. OR Fed. I.D. No.

1. _____ _____
2. _____ _____

If more than two (2) owners, attach a sheet with above information on each owner.

IV. Tax Map Sheet Reference Number _____
Location of tract of land _____
No. of Acres _____
Tax District _____

V. Purpose for which the tract of real property is being used.

VI. Is any portion of the entire tract being used for other than agricultural profit.
NO _____ YES _____ IF YES, EXPLAIN

Based upon my knowledge and interpretation of the requirements for the special assessment and use value appraisal, I certify that the tract of land described in this application meets such requirements for the current tax year.

Signature of owner or agent

Date Phone No.

If agent signed for owner, give relationship and mailing address;

117–1780.3. Roll Back Provisions on Agricultural Land.

Whenever a tract of real property has 50% or more of its area being used for agricultural purposes, the entire tract shall qualify for agricultural real property. Excluding, however that portion on which a business is operated for profit or on which is located the residence of the owner or others in that the taxation of such property is specifically provided for in Sections 12–43–210 to 12–43–310 of the South Carolina Code of Laws.

If all or a portion of the agricultural part of the tract should change in use as to disqualify the non-agricultural portion which was receiving the agricultural classification, then only that part of the agricultural portion and the non-agricultural portion on which the use changes, shall be subject to the roll-back Code Sections 12–43–210 to 12–43–310.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 28, Issue No. 8, eff August 27, 2004.

117–1800. Classification of Property - Legal Residence.

These regulations address the application of the property tax laws to residential property and how property may qualify as legal residence property.

117–1800.1. Application for Special Assessment as Legal Residence.

1. Qualification Requirements. The property must be occupied by the owner as his legal residence and the property and the owners of the property must meet the requirements of Section 12–43–220(c) of the South Carolina Code of Laws. The legal residence includes not more than five acres contiguous to the actual residence owned totally or in part in fee, or by life estate, but shall not include any portion which is not owned and occupied for residential purposes. If the residential real property is held in trust and the income beneficiary of the trust occupies the property as a residence, then the four percent assessment ratio described in Code Section 12–43–220(c) applies if the trustee certifies to the assessor that the property is occupied by the income beneficiary of the trust.

2. Definition of Legal Residence. For property tax purposes the term "Legal Residence" shall mean the permanent home or dwelling place owned by a person and occupied by the owner thereof and where he or she is domiciled.

3. This application must be completed in full and the owners of the property or the owners' agent must apply for the four percent legal assessment ratio before the first penalty date (January 15) for the payment of taxes for the tax year for which the owner first claims eligibility for the four percent assessment ratio. The application must be filed with the county assessor and must include, but is not limited to, the following information:

A. Name(s)shown on property tax record _____

B. Owner's name and social security number. If more than one owner, list all owners of the property with applicable social security numbers.

C. Tax map sheet reference number _____

Location of the Property_____ Legal Description of the Property _____

D. The date the applicant began to occupy the property _____

E. Precinct in which the applicant is registered to vote _____

F. Are there any other buildings including apartments or land area rented on the property: Yes ( ) No ( )

If yes, describe _____

G. Is the property subject to vacation rentals as provided in Title 27, Chapter 50, Article 2 of the South Carolina Code of Laws for more than 90 days during the year?

Yes ( ) No ( )

H. The application must contain the following statement:

"Under penalty of perjury, I certify that:

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

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

For purposes of the statement, "a member of my household" means (1) the owner-occupant's spouse, except when that spouse is legally separated from the owner-occupant; and; (2) any child of the owner-occupant claimed, or eligible to be claimed, as a dependent on the owner-occupant's federal income tax return.

I. Any other information that the county assessor determines is necessary to establish the domicile of the taxpayer.

J. Owner or agents' signature _____ Date _____ Ph. No. _____

Co-owner's or agent's signature _____ Date _____ Ph. No. _____

If agent signed for owner, give relationship and attach authorization that provides authority for agent to sign on behalf of owner_____

Mailing address: _____

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

117–1820. Manufacturing Plants Constructed Pursuant to the Industrial Revenue Bond Act.

These regulations address how manufacturing plants that are subject to the Industrial Revenue Bond Act are to be treated.

117–1820.1. Manufacturing Plants Constructed Pursuant to the Industrial Revenue Bond Act.

The Lessee of all manufacturing plants constructed pursuant to Chapter 29, Title 4 of the South Carolina Code of Laws, shall file a return with the Department of Revenue in the same manner as if owned by the lessee. The department shall value and calculate an assessment for the manufacturing plant in the same manner as if owned by the lessee and furnish the assessment to the county in which it is located as information so that the county, school districts and other political units may determine

such rental charge as required by law which would be equivalent to the ad valorem tax that would result if such property were privately owned.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.

117–1840. Valuation of Property Subject to Property Taxes.

These regulations address how property subject to South Carolina property taxes are to valued.

117–1840.1. Value of Merchants' Furniture, Fixtures and Equipment.

The fair market value of merchants' furniture, fixtures and equipment shall be the depreciated value as shown by the merchants' records for South Carolina income tax purposes, provided however, that in no event is the original cost of the property to be reduced by more than ninety percent of the original capitalized costs.

117–1840.2. Use of Assessment Guides Published by the Department.

a. Section 12–4–560 of the South Carolina Code of Laws provides, in part, that the Department of Revenue shall prepare appropriate manuals, guides, and other aids for the equitable assessment of all properties.

Under this authority, the use of the department's assessment guides is mandatory by county auditors for the assessment of personal property such as automobiles, trucks, and other similar items, unless otherwise directed by the department. In accordance with Code Section 12–37–930, in preparing the assessment guides for vehicles, the fair market value for vehicles must be based on values derived from a nationally recognized publication of vehicle valuations, except that the value may not exceed ninety-five percent of the prior year's value. The county auditor must use the assessment guides exactly as furnished, except in unusual and extenuating circumstances or where a piece of property is not listed in the guide. An example of "unusual and extenuating circumstances" on personal property is an automobile that was completely destroyed and worthless on the assessment date. The assessed value of such personal property or nonlisted property shall be determined by the county auditor. When unusual or extenuating circumstances are present, the county auditor shall value the property as provided in subsection b. of this regulation taking into consideration the unusual or extenuating circumstances.

b. All personal property which is under county jurisdiction and is not covered by assessment guides furnished by the department for the assessment of vehicles shall be appraised by the county auditor in the same manner as business personal property under the jurisdiction of the department as provided for in Property Tax Regulation 117–1840.1. Any personal property which is not appraised and assessed by the department, but is subject to taxation by the county auditor, shall be appraised and assessed at 10.5% of the appraised value.

The county auditor shall require a return for this personal property which contains, but is not limited to, the following information:

(a) Name,

(b) Address,

(c) Social Security Number or Federal Identification Number,

(d) Location of the Property,

(e) Original Cost of the Property,

(f) Amount of Depreciation (if any) for income tax purposes, and

(g) A statement from the taxpayer stating that the information given is accurate and truthful to the best of his knowledge. The statement must be signed and dated by the taxpayer or his agent or legal representative.

c. Use Value of Cropland and Timberland

Section 1. Overview and Law.

Section 12–43–220(d) of the South Carolina Code of Laws, provides that implementation of the use value procedures for timberland and cropland, as provided in Code Section 12–43–220 shall be the responsibility of the Department of Revenue. Under this authority, the value's in this regulation must be used by county assessors for assessment of cropland and timberland.

Code Section 12–43–220(d)(2)(B)(i) provides that the fair market values for agricultural purposes determined for the 1991 tax year are effective for all subsequent years. Accordingly, the fair market values provided for in this regulation are the values per acre determined for the 1991 tax year and thereafter. These fair market values for cropland and timberland are contained in Sections 2 and 3 of this regulation, respectively.

Section 2. Values Per Acre for Agricultural Land - Cropland

Cropland was separated into seven production classes. Each soil type within each county was assigned to a class. A listing of the soil types for each county with the appropriate class designated is shown in Section 4. The following table includes a low, an average and a high value for each class. The average must be used except when written justification for a different value is made on the appropriate recording document that is used to record property appraisals in accordance with applicable regulations. In no event may the value be less than the low value nor above the high value. Variables, including field size, ingress and egress, and location are among the factors which may justify an adjustment to the average.

TABLE 1 -Value Per Acre of Cropland for 1991 and Years Thereafter

CLASS	LOW	AVERAGE	HIGH
1	349	378	404
2	234	255	273
3	149	161	179
4	102	110	119
5	51	60	68
6	34	43	51
7	9	9	9

Section 3. Values Per Acre for Agricultural Land - Timberland

The forty six counties are classified into one of four marketing provinces. These provinces were established relative to prices paid for pine stumpage in all counties. Additionally, each type of soil in each county is grouped into a class. A list of the provinces that each county has been assigned to is contained in Section 5. A listing of the soil types for each county with the appropriate class designated is listed in Section 4. The following table includes a low, an average and a high value for each class within each province. The average must be used except when written justification for a different value is made on the appropriate recording document that is used to record property appraisals in accordance with applicable regulations. In no event may the value be less than the low value nor above the high value. Variables, including field size, ingress and egress, and location, are among the factors which may justify an adjustment to the average.

Table 2 -Timberland Value Per Acre for Years 1991 and Thereafter

Timberland Class	Coastal Plain Province			Sand Hill Province			Western Piedmont Province			Piedmont Province Blue Ridge		
	Low	Mod	High	Low	Mod	High	Low	Mod	High	Low	Mod	High
Class 1	255	273	289	187	213	238	230	242	255	179	199	221
Class 2	199	213	226	153	170	187	161	192	221	136	157	179
Class 3	128	161	195	110	128	145	128	141	153	102	119	136
Class 4	114	119	128	85	98	110	94	102	110	60	81	102
Class 5	81	85	89		76			76			76	
Class 6	60	76	89	51	68	89	51	68	89	51	68	89
Class 7	9											

Section 4. Listing of Soils with Cropland Classes.

SOIL NAME	CLASS	
	CROP	TIMBER
Ailey Loamy Sand, 2 to 6 percent slopes	6	4
Ailey Loamy Sand, 2 to 10 percent slopes	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Ailey Sand, 0 to 6 percent slopes	6	4
Ailey Sand, 6 to 10 percent slopes	6	4
Ailey Sand, 10 to 15 percent slopes	6	4
Alaga Loamy Sand, 0 to 4 percent slopes	6	3
Alamance Silt Loam, 0 to 2 percent slopes	3	3
Alamance Silt Loam, 2 to 6 percent slopes	4	3
Alamance Silt Loam, 2 to 6 percent slopes, eroded	4	3
Alamance Silt Loam, 6 to 10 percent slopes	6	3
Alamance Silt Loam, 6 to 10 percent slopes, eroded	6	3
Alamance Silt Loam, Gently Sloping Phase	3	3
Alamance Silt Loam, Sloping Phase	6	3
Alamance Very Fine Sandy Loam, 2 to 6 percent slopes	4	3
Albany Loamy Fine Sand, 0 to 2 percent slopes	6	3
Albany Loamy Sand	6	3
Albany Loamy Sand, 0 to 2 percent slopes	6	3
Albany-Blanton Association	6	3
Albany-Pelham-Ocilla Association	6	3
Alpin Sand, 0 to 6 percent slopes	6	3
Alpin Sand, 6 to 10 percent slopes	6	3
Alpin Sand, 10 to 15 percent slopes	6	3
Altavista Fine Sandy Loam, 0 to 2 percent slopes	1	2
Altavista Fine Sandy Loam, 0 to 6 percent slopes	2	2
Altavista Fine Sandy Loam, 2 to 6 percent slopes, eroded	2	3
Altavista Fine Sandy Loam, Gently Sloping Phase	2	2
Altavista Sandy Loam, 0 to 2 percent slopes	1	2
Altavista Sandy Loam, 0 to 6 percent slopes, eroded	2	2
Altavista Sandy Loam, 2 to 6 percent slopes	2	2
Altavista Silt Loam, 0 to 2 percent slopes	1	2
Altavista Silt Loam, 2 to 6 percent slopes	2	2
Amite Sandy Loam, 0 to 2 percent slopes	3	3
Amite Sandy Loam, 2 to 6 percent slopes	3	3
Angie Fine Sandy Loam, 0 to 2 percent slopes	3	2
Angie Fine Sandy Loam, 2 to 6 percent slopes	6	2
Appling and Cecil Sandy Loams, 2 to 6 percent slopes	3	3
Appling and Cecil Sandy Loams, 6 to 10 percent slopes, eroded	6	3
Appling and Chesterfield Soils, 10 to 15 percent slopes, eroded	6	3
Appling and Chesterfield Soils, 2 to 6 percent slopes, eroded	6	3
Appling and Chesterfield Soils, 6 to 10 percent slopes, eroded	6	3
Appling Coarse Sandy Loam, Thin Solum, 10 to 15 percent slopes	6	3
Appling Coarse Sandy Loam, Thin Solum, 10 to 15 percent slopes, eroded	6	3
Appling Coarse Sandy Loam, Thin Solum, 15 to 25 percent slopes, eroded	6	3
Appling Coarse Sandy Loam, Thin Solum, 2 to 6 percent slopes	3	3
Appling Coarse Sandy Loam, Thin Solum, 2 to 6 percent slopes, eroded	6	3
Appling Coarse Sandy Loam, Thin Solum, 6 to 10 percent slopes	5	3
Appling Coarse Sandy Loam, Thin Solum, 6 to 10 percent slopes, eroded	6	3
Appling Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Appling Fine Sandy Loam, 2 to 6 percent slopes, eroded	6	3
Appling Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Appling Loamy Sand, 2 to 6 percent slopes	3	3
Appling Loamy Sand, 6 to 10 percent slopes	5	3
Appling Sandy Clay Loam, 10 to 15 percent slopes, severely eroded	6	3
Appling Sandy Clay Loam, 6 to 10 percent slopes severely eroded	6	3
Appling Sandy Loam, 10 to 15 percent slopes	6	3
Appling Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Appling Sandy Loam, 10 to 20 percent slopes	6	3
Appling Sandy Loam, 10 to 20 percent slopes, eroded	6	3
Appling Sandy Loam, 15 to 25 percent slopes	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Appling Sandy Loam, 15 to 25 percent slopes, eroded	6	3
Appling Sandy Loam, 15 to 30 percent slopes	6	3
Appling Sandy Loam, 2 to 6 percent slopes	3	3
Appling Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Appling Sandy Loam, 6 to 10 percent slopes	5	3
Appling Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Appling Sandy Loam, Eroded Gently Sloping Phase	3	3
Appling Sandy Loam, Eroded Moderately Steep Phase	6	3
Appling Sandy Loam, Eroded Sloping Phase	6	3
Appling Sandy Loam, Eroded Strongly Sloping Phase	6	3
Appling Sandy Loam, Gently Sloping Phase	3	3
Appling Sandy Loam, Sloping Phase	6	3
Appling Sandy Loam, Strongly Sloping Phase	6	3
Aquic Udifluvents	3	2
Argent Association	3	1
Argent Association, Undrained	6	6
Argent Clay Loam	3	1
Argent Clay Loam, Undrained	6	6
Argent Fine Sandy Loam	3	1
Argent Fine Sandy Loam, Undrained	6	6
Argent Loam	6	1
Argent Loam, Undrained	6	6
Argent-Okeetee Association	6	1
Armenia Loam	6	4
Ashe and Cleveland Soils, 15 to 40 percent slopes	6	4
Ashe Sandy Loam, 10 to 25 percent slopes	6	3
Ashe Sandy Loam, 25 to 40 percent slopes	6	3
Ashe Sandy Loam, 25 to 50 percent slopes	6	3
Ashe Sandy Loam, 40 to 90 percent slopes	6	3
Ashe and Cleveland Association, Stony, Very Steep	6	4
Ashe and Cleveland Association, Very Steep	6	4
Autryville Sand, 0 to 6 percent slopes	5	3
Baratari Fine Sand	6	3
Baratari Fine Sand, Undrained	6	6
Baratari Sand	6	3
Baratari Sand, Undrained	6	6
Barth Loamy Sand	6	3
Bayboro Clay Loam	6	2
Bayboro Clay Loam, Undrained	6	6
Bayboro Loam	3	2
Bayboro Loam, Undrained	6	6
Bayboro Sandy Clay Loam	3	2
Bayboro Sandy Clay Loam, Undrained	6	6
Bayboro Sandy Loam	3	2
Bayboro Sandy Loam, Undrained	6	6
Bayboro, undrained	6	6
Beaches	6	6
Bertie Loamy Fine Sand	2	2
Bertie Loamy Sand	2	2
Bertie-Coosaw-Tomotley Association	5	2
Bethera Fine Sandy Loam	3	2
Bethera Fine Sandy Loam, Undrained	6	6
Bethera Loam	6	2
Bethera Loam, Undrained	6	6
Bethera Variant Fine Sandy Loam	3	2
Bethera Variant Fine Sandy Loam, Undrained	6	6
Bladen Clay Loam	3	2
Bladen Clay Loam, Undrained	6	6
Bladen Fine Sandy Loam	3	2
Bladen Fine Sandy Loam, Undrained	6	6
Bladen Loam	3	2

SOIL NAME	CLASS	
	CROP	TIMBER
Bladen Loam, Undrained	6	6
Bladen,undrained	6	6
Blaney Loamy Sand, 0 to 6 percent slopes	6	4
Blaney Loamy Sand, 10 to 15 percent slopes	6	4
Blaney Loamy Sand, 6 to 10 percent slopes	6	4
Blaney Sand, 2 to 10 percent slopes	6	4
Blaney Sand, 6 to 10 percent slopes	6	4
Blaney-Vaucluse Complex, 10 to 25 percent slopes	6	4
Blanton Fine Sand, 0 to 6 percent slopes	6	3
Blanton Fine Sand, 6 to 10 percent slopes	6	3
Blanton Loamy Sand, 0 to 6 percent slopes	6	3
Blanton Sand, 0 to 6 percent slopes	6	3
Blanton Sand, 2 to 6 percent slopes	6	3
Blanton Sand, 6 to 10 percent slopes	6	3
Blanton Sand, 6 to 15 percent slopes	6	3
Bohicket Association	7	7
Bonneau Loamy Sand, 0 to 2 percent slopes	4	2
Bonneau Loamy Sand, 0 to 6 percent slopes	4	2
Bonneau Loamy Sand, 2 to 6 percent slopes	4	2
Bonneau Sand, 0 to 6 percent slopes	4	2
Borrow Pit	6	6
Bradley Sandy Loam, 10 to 20 percent slopes, eroded	6	3
Bradley Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Bradley Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Brevard Fine Sandy Loam, 10 to 15 percent slopes	6	3
Brevard Fine Sandy Loam, 6 to 10 percent slopes	4	3
Brevard Sandy Clay Loam, 10 to 25 percent slopes, eroded	6	4
Brevard Sandy Clay Loam, 2 to 10 percent slopes, eroded	6	4
Brevard-Evard Complex, 15 to 25 percent slopes	6	3
Brogdon Loamy Sand, 0 to 2 percent slopes	3	2
Brogdon Sand	2	2
Brogdon Sand, 0 to 2 percent slopes	3	2
Brookman Loam	3	2
Brookman Loam, Undrained	6	6
Buncombe Association	6	2
Buncombe Association, Flooded	6	6
Buncombe Loamy Sand	6	2
Buncombe Loamy Sand, Flooded or Undrained	6	6
Buncombe Loamy Sand, 0 to 4 percent slopes	6	2
Buncombe Loamy Sand, 0 to 4 percent slopes, flooded	6	6
Buncombe Loamy Sand, 2 to 5 percent slopes	6	2
Buncombe Loamy Sand, 2 to 5 percent slopes, Undrained	6	6
Buncombe Sand	6	2
Buncombe Sand, Flooded	6	6
Buncombe Sand, 0 to 4 percent slopes	6	2
Buncombe Sand, 0 to 4 percent slopes, Flooded	6	6
Buncombe-Santee Association	6	2
Byars Loam	6	2
Byars Loam, Undrained	6	6
Byars Loamy Sand	6	2
Byars Loamy Sand, Undrained	6	6
Byars Sandy Loam	6	2
Byars Sandy Loam, Undrained	6	4
Cahaba Fine Sandy Loam, 0 to 2 percent slopes	3	2
Cahaba Fine Sandy Loam, 2 to 6 percent slopes	4	2
Cahaba Fine Sandy Loam, Gently Sloping Phase	2	2
Cahaba Fine Sandy Loam, Level Phase	2	2
Cahaba Loamy Fine Sand, 0 to 3 percent slopes	3	2
Cahaba Loamy Sand, 0 to 2 percent slopes	3	2
Cahaba Sandy Loam	2	2
Cahaba-Leaf Complex	5	2

SOIL NAME	CLASS	
	CROP	TIMBER
Cainhoy Fine Sand, 0 to 6 percent slopes	6	3
Cainhoy Variant Sand, 0 to 6 percent slopes	6	3
Cantey Loam	3	2
Cantey Loam, Undrained	6	6
Cape Fear Loam	3	2
Cape Fear Loam, Undrained	6	6
Capers Association	7	7
Capers Silt Loam	6	6
Capers Silty Clay Loam	7	7
Caroline Fine Sandy Loam, 0 to 2 percent slopes	2	4
Caroline Fine Sandy Loam, 2 to 6 percent slopes	2	4
Caroline Fine Sandy Loam, 2 to 6 percent slopes, eroded	3	4
Caroline Fine Sandy Loam, 6 to 10 percent slopes	4	4
Caroline Fine Sandy Loam, Eroded, Strongly Sloping Phase	6	4
Caroline Loamy Sand, 0 to 2 percent slopes	2	4
Caroline Loamy Sand, 10 to 15 percent slopes	6	4
Caroline Loamy Sand, 10 to 15 percent slopes, Eroded	6	4
Caroline Loamy Sand, 15 to 25 percent slopes, eroded	6	4
Caroline Loamy Sand, 2 to 6 percent slopes	2	4
Caroline Loamy Sand, 2 to 6 percent slopes, eroded	6	4
Caroline Loamy Sand, 6 to 10 percent slopes	4	4
Caroline Loamy Sand, 6 to 10 percent slopes, eroded	6	4
Caroline Loamy Sand, Thick Surface, 2 to 6 percent slopes	2	4
Caroline Loamy Sand, Thick Surface, 6 to 10 percent slopes	4	4
Caroline Sandy Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Caroline Sandy Loam, 2 to 6 percent slopes	2	4
Caroline Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Cartecay and Chewacla Soils	3	2
Cartecay and Toccoa Soils	3	2
Cartecay-Chewacla Complex	3	2
Cartecay-Toccoa Complex	3	2
Cataula Clay Loam, 10 to 15 percent slopes, severely eroded	6	5
Cataula Clay Loam, 15 to 25 percent slopes, severely eroded	6	5
Cataula Clay Loam, 2 to 6 percent slopes, severely eroded	6	5
Cataula Clay Loam, 6 to 10 percent slopes, eroded	6	3
Cataula Clay Loam, 6 to 10 percent slopes, severely eroded	6	5
Cataula Clay Loam, 6 to 15 percent slopes, severely eroded	6	5
Cataula Clay Loam, Severely Eroded, Gently Sloping Phase	6	5
Cataula Clay Loam, Severely Eroded, Sloping Phase	6	5
Cataula Clay Loam, Severely Eroded, Strongly Sloping Phase	6	5
Cataula Sandy Clay Loam, 2 to 6 percent slopes, eroded	6	3
Cataula Sandy Clay Loam, 6 to 10 percent slopes	6	3
Cataula Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	3
Cataula Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Cataula Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Cataula Sandy Loam, 2 to 6 percent slopes	6	3
Cataula Sandy Loam, 2 to 6 percent slopes, eroded	6	3
Cataula Sandy Loam, 6 to 10 percent slopes	6	3
Cataula Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Cataula Sandy Loam, Eroded, Gently Sloping Phase	6	3
Cataula Sandy Loam, 2 to 6 percent slopes, eroded	6	3
Cecil Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Cecil Clay Loam, 10 to 20 percent slopes, severely eroded	6	4
Cecil Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Cecil Clay Loam, 15 to 25 percent slopes, severely eroded	6	4
Cecil Clay Loam, 2 to 6 percent slopes, eroded	6	4
Cecil Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Cecil Clay Loam, 6 to 10 percent slopes, eroded	6	4
Cecil Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Cecil Clay Loam, Severely Eroded, Gently Sloping Phase	6	3
Cecil Clay Loam, Severely Eroded, Moderately Steep Phase	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Cecil Clay Loam, Severely Eroded, Sloping Phase	6	4
Cecil Clay Loam, Severely Eroded, Strongly Sloping Phase	6	4
Cecil Fine Sandy Loam, 10 to 15 percent slopes	6	3
Cecil Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Cecil Fine Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Cecil Fine Sandy Loam, 2 to 6 percent slopes	3	3
Cecil Fine Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Cecil Fine Sandy Loam, 6 to 10 percent slopes	4	3
Cecil Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Cecil Sandy Clay Loam, 2 to 10 percent slopes, eroded	6	4
Cecil Sandy Clay Loam, 2 to 6 percent slopes, eroded	6	4
Cecil Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	4
Cecil Sandy Loam, 10 to 15 percent slopes	6	3
Cecil Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Cecil Sandy Loam, 15 to 25 percent slopes	6	3
Cecil Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Cecil Sandy Loam, 15 to 30 percent slopes	6	3
Cecil Sandy Loam, 2 to 6 percent slopes	3	3
Cecil Sandy Loam, 2 to 6 percent slopes, eroded	4	4
Cecil Sandy Loam, 25 to 35 percent slopes	6	3
Cecil Sandy Loam, 25 to 35 percent slopes, eroded	6	4
Cecil Sandy Loam, 6 to 10 percent slopes	4	3
Cecil Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Cecil Sandy Loam, Eroded Gently Sloping Phase	3	4
Cecil Sandy Loam, Eroded Moderately Steep Phase	6	4
Cecil Sandy Loam, Eroded Sloping Phase	6	4
Cecil Sandy Loam, Eroded Steep Phase	6	4
Cecil Sandy Loam, Eroded Strongly Sloping Phase	6	4
Cecil Sandy Loam, Gently Sloping Phase	3	3
Cecil Sandy Loam, Moderately Steep Phase	6	3
Cecil Sandy Loam, Sloping Phase	6	3
Cecil Sandy Loam, Strongly Sloping Phase	6	3
Cecil-Pacolet Complex	6	3
Cecil-Urban Land Complex, 0 to 8 percent slopes	6	3
Cecil-Urban Land Complex, 10 to 25 percent Slopes	6	3
Cecil-Urban Land Complex, 2 to 10 percent slopes	4	3
Cecil-Urban Land Complex, 2 to 6 percent slopes	3	3
Cecil-Urban Land Complex, 6 to 10 percent slopes	4	3
Cecil-Urban Land Complex, 8 to 15 percent slopes	6	3
Centenary Sand	6	3
Centenary Variant Sand	6	3
Charleston Loamy Fine Sand	2	3
Chastain Association, Frequently Flooded	6	6
Chastain Loam, Frequently Flooded	6	2
Chastain Loam, Occassionally Flooded	6	1
Chastain Silty Clay Loam	6	2
Chastain Soils	6	2
Chastain-Chewacla Association	6	2
Chastain-Chewacla-Congaree Association	6	2
Chenneby Silty Clay Loam	3	1
Chenneby Soils	6	1
Chesterfield Sandy Loam, 10 to 15 percent slopes	6	3
Chesterfield Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Chesterfield Sandy Loam, 2 to 6 percent slopes	3	3
Chesterfield Sandy Loam, 6 to 10 percent slopes	6	3
Chewacla and Worsham Soils	6	1
Chewacla Loam	3	1
Chewacla Loam, Undrained	6	6
Chewacla Loam, undrained, unflooded	6	6
Chewacla Silt Loam	6	1
Chewacla Silt Loam, Undrained	6	6

SOIL NAME	CLASS	
	CROP	TIMBER
Chewacla Soils	3	1
Chewacla Soils, Undrained	6	6
Chewacla Soils, Frequently Flooded	3	1
Chewacla-Wenhadee Clay Loam	6	1
Chewacla-Wehadkee Complex	3	1
Chewacla-Wehadkee Complex, Undrained, Flooded	6	6
Chewacla-Wehadkee Silty Clay Loam	6	1
Chipley Fine Sand, 0 to 2 percent slopes	6	2
Chipley Loamy Fine Sand	6	2
Chipley Loamy Fine Sand, 0 to 2 percent slopes	6	2
Chipley Loamy Fine Sand, 2 to 6 percent slopes	6	2
Chipley Loamy Sand	6	2
Chipley Loamy Sand, 0 to 2 percent slopes	6	2
Chipley Loamy Sand, 2 to 6 percent slopes	6	2
Chipley Loamy Sand, Dark Surface	6	2
Chipley Sand	6	2
Chipley Sand, 0 to 2 percent slopes	6	2
Chipley-Echaw Complex	6	2
Chipley-Pelham-Echaw Association	6	2
Chisolm Loamy Fine Sand, 0 to 2 percent slopes	4	2
Chisolm Loamy Fine Sand, 0 to 6 percent slopes	4	2
Chisolm Loamy Sand, 0 to 6 percent slopes	4	2
Clarendon Loamy Sand	2	2
Clarendon Loamy Sand, 0 to 2 percent slopes	2	2
Clarendon Sandy Loam	2	2
Clifton Fine Sandy Loam, 15 to 35 percent slopes	6	2
Coastal Beach Sands	6	6
Coastal Beaches	6	5
Coastal Beaches and Dune Land	6	6
Colfax Fine Sandy Loam, 2 to 6 percent slopes	5	3
Colfax Loamy Sand, 1 to 4 percent slopes	5	3
Colfax Sandy Loam	6	3
Colfax Sandy Loam, 2 to 6 percent slopes	5	3
Congaree Fine Sandy Loam	1	2
Congaree Loam	1	2
Congaree Silt Loam	1	2
Congaree Soils	1	2
Congaree-Chewacla Silt Loams	1	2
Coosaw Loamy Fine Sand	3	3
Coronaca Sandy Clay Loam, 2 to 6 percent slopes	4	4
Coronaca Sandy Clay Loam, 6 to 10 percent slopes	6	4
Cowerts Loamy Sand, 2 to 6 percent slopes	4	2
Coxville Clay Loam	6	2
Coxville Fine Sandy Loam	3	2
Coxville Fine Sandy Loam, Undrained	6	6
Coxville Fine Sandy Loam, Thin Surface	3	2
Coxville Loam	6	2
Coxville Loam, Undrained	6	6
Coxville Sandy Clay Loam	3	2
Coxville Sandy Clay Loam, Undrained	6	6
Coxville Sandy Loam	3	2
Coxville Sandy Loam, Undrained	6	6
Craven Fine Sandy Loam	3	3
Craven Fine Sandy Loam, 0 to 2 percent slopes	1	3
Craven Fine Sandy Loam, 2 to 6 percent slopes	2	3
Craven Fine Sandy Loam, 6 to 10 percent slopes	6	3
Craven Loam, 0 to 2 percent slopes	1	3
Craven Loam, 2 to 6 percent slopes	2	3
Craven Loamy Sand, 0 to 2 percent slopes	1	3
Craven Loamy Sand, 2 to 6 percent slopes	2	3
Craven Sandy Loam, 0 to 2 percent slopes	1	3

SOIL NAME	CLASS	
	CROP	TIMBER
Craven Sandy Loam, 2 to 6 percent slopes	2	3
Crevasse-Dawhoo Complex, Rolling	6	2
Davidson Clay Loam, 10 to 15 percent slopes, eroded	6	3
Davidson Clay Loam, 10 to 15 percent slopes, severely eroded	6	3
Davidson Clay Loam, 2 to 6 percent slopes, eroded	2	3
Davidson Clay Loam, 2 to 6 percent slopes, severely eroded	2	3
Davidson Clay Loam, 6 to 10 percent slopes, eroded	4	3
Davidson Clay Loam, 6 to 10 percent slopes, severely eroded	4	3
Davidson Loam, 10 to 25 percent slopes, eroded	6	3
Davidson Loam, 2 to 10 percent slopes, eroded	4	3
Davidson Loam, 2 to 6 percent slopes	1	3
Davidson Loam, 2 to 6 percent slopes, eroded	2	3
Davidson Loam, 6 to 10 percent slopes	1	3
Davidson Loam, 6 to 10 percent slopes, eroded	2	3
Davidson Loam, Gently Sloping Phase	3	3
Davidson Sandy Clay Loam, 10 to 15 percent slopes, eroded	6	3
Davidson Sandy Clay Loam, 2 to 6 percent slopes	1	3
Davidson Sandy Clay Loam, 2 to 6 percent slopes, eroded	2	3
Davidson Sandy Clay Loam, 6 to 10 percent slopes	2	3
Davidson Sandy Clay Loam, 6 to 10 percent slopes, eroded	2	3
Davidson Sandy Clay Loam, 6 to 10 percent slopes, eroded	4	3
Dawhoo and Rutlege Loamy Fine Sand	6	2
Dawhoo Loamy Sand	3	2
Dawhoo Loamy Sand, Undrained	6	6
Deloss Fine Sandy Loam	3	1
Deloss Fine Sandy Loam, Undrained	6	6
Dorovan Muck	6	4
Dothan Loamy Fine Sand, 0 to 2 percent slopes	1	2
Dothan Loamy Fine Sand, 2 to 6 percent slopes	2	2
Dothan Loamy Sand, 0 to 2 percent slopes	1	2
Dothan Loamy Sand, 2 to 6 percent slopes	2	2
Dothan Loamy Sand, 6 to 10 percent slopes	3	2
Dothan-Urban Land Complex, 0 to 6 percent slopes	2	2
Dunbar and Ardilla Fine Sandy Loams, 0 to 2 percent slopes	1	2
Dunbar Fine Sandy Loam	1	2
Dunbar Loamy Sand	1	2
Dunbar Sandy Loam	1	2
Duplin and Exum Soil, 0 to 2 percent slopes	1	2
Duplin and Exum Soils, 2 to 6 percent slopes	1	2
Duplin Fine Sandy Loam	2	2
Duplin Fine Sandy Loam, 0 to 2 percent slopes	1	2
Duplin Fine Sandy Loam, 2 to 6 percent slopes	1	2
Duplin Sandy Loam	2	2
Duplin Sandy Loam, 0 to 2 percent slopes	1	2
Durham Loamy Sand, 2 to 6 percent slopes	3	3
Durham Loamy Sand, 2 to 6 percent slopes, eroded	3	3
Durham Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Durham Loamy Sand, Gently Sloping Thick Surface Phase	3	3
Durham Loamy Sand, Thick Surface, 2 to 6 percent slopes	3	3
Durham Sandy Loam, 2 to 6 percent slopes	3	3
Durham Sandy Loam, 6 to 10 percent slopes	6	3
Durham Sandy Loam, Gently Sloping Phase	3	3
Durham Sandy Loam, Sloping Phase	6	3
Durham Sandy Loam, Sloping Thick Surface Phase	6	3
Echaw Loamy Fine Sand	6	3
Echaw Loamy Sand	6	3
Echaw Sand	6	3
Eddings Fine Sand, 0 to 6 percent slopes	6	3
Edisto Loamy Fine Sand	1	2
Edneyville and Ashe Soils, Very Steep	6	2
Edneyville Fine Sandy Loam, 10 to 15 percent slopes	6	2

SOIL NAME	CLASS	
	CROP	TIMBER
Edneyville Fine Sandy Loam, 10 to 25 percent slopes	6	2
Edneyville Fine Sandy Loam, 15 to 25 percent slopes	6	2
Edneyville Fine Sandy Loam, 25 to 40 percent slopes	6	2
Edneyville Fine Sandy Loam, 40 to 80 percent slopes	6	2
Edneyville Fine Sandy Loam, 6 to 10 percent slopes	5	2
Edneyville Soils, 25 to 40 percent slopes	6	2
Efland Silt Loam, 10 to 15 percent slopes, eroded	6	3
Efland Silt Loam, 2 to 6 percent slopes	3	3
Efland Silt Loam, 6 to 10 percent slopes	6	3
Efland Silt Loam, Eroded Sloping Phase	6	3
Efland Silt Loam, Gently Sloping Phase	6	3
Efland Silty Clay Loam, 2 to 6 percent slopes, severely eroded	6	3
Efland Silty Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Elbert Loam	6	3
Enon Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Enon Clay Loam, 2 to 6 percent slopes, severely eroded	3	4
Enon Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Enon Clay Loam, 6 to 15 percent slopes, severely eroded	6	4
Enon Loam, 10 to 25 percent slopes, eroded	6	4
Enon Loam, 2 to 6 percent slopes, eroded	6	4
Enon Loam, 6 to 10 percent slopes, eroded	6	4
Enon Sandy Loam, 10 to 15 percent slopes	6	4
Enon Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Enon Sandy Loam, 15 to 25 percent slopes	6	4
Enon Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Enon Sandy Loam, 2 to 6 percent slopes	3	4
Enon Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Enon Sandy Loam, 6 to 10 percent slopes	5	4
Enon Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Enon Sandy Loam, Eroded Gently Sloping Phase	3	4
Enon Sandy Loam, Eroded Moderately Steep Phase	6	4
Enon Sandy Loam, Eroded Sloping Phase	6	4
Enon Sandy Loam, Eroded Strongly Sloping Phase	6	4
Enon Sandy Loam Gently Sloping Phase	3	4
Enon Sandy Loam, Moderately Steep Phase	6	4
Enon Sandy Loam, Sloping Phase	6	4
Enon Sandy Loam, Strongly Sloping Phase	6	4
Enon Silt Loam, 2 to 6 percent slopes	3	4
Enoree Loamy Sand	3	2
Enoree Loamy Sand, Undrained	6	6
Enoree Soils	3	2
Enoree Soils, Undrained	6	6
Eulonia Association	2	2
Eulonia Fine Sandy Loam	2	2
Eulonia Sandy Loam	2	2
Eunola Loamy Fine Sand	2	2
Eunola Loamy Sand	2	2
Eunola Loamy Sand, 0 to 2 percent slopes	2	2
Eustis Fine Sand, 0 to 2 percent slopes	6	3
Eustis Fine Sand, 2 to 6 percent slopes	6	3
Eustis Fine Sand, 6 to 10 percent slopes	6	3
Eustis Loamy Sand, 0 to 2 percent slopes	6	3
Eustis Loamy Sand, 0 to 6 percent slopes	6	3
Eustis Loamy Sand, 10 to 15 percent slopes	6	3
Eustis Loamy Sand, 2 to 6 percent slopes	6	3
Eustis Loamy Sand, 6 to 10 percent slopes	6	3
Eustis Loamy Sand, 6 to 15 percent slopes	6	3
Eustis Loamy Sand, Gently Sloping Phase	6	3
Eustis Loamy Sand, Terrace, 0 to 6 percent slopes	6	3
Eustis Sand, 0 to 6 percent slopes	6	3
Eustis Sand, 10 to 15 percent slopes	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Eustis Sand, 6 to 10 percent slopes	6	3
Eustis Sand, Gently Sloping Phase	6	3
Eustis Sand, Moderately Shallow, 0 to 2 percent slopes	6	3
Eustis Sand, Moderately Shallow, 2 to 6 percent Slopes	6	3
Eustis Sand, Moderately Shallow, 6 to 10 percent slopes	6	3
Eustis Sand, Shallow, 0 to 2 percent slopes	6	3
Eustis Sand, Shallow, 2 to 6 percent slopes	6	3
Eustis Sand, Shallow, 6 to 10 percent slopes	6	3
Eustis Sand, Sloping Phase	6	3
Eustis Sand, Terrace, 0 to 6 percent slopes	6	3
Evard-Brevard Association, Steep	6	2
Exum Sandy Loam	2	2
Faceville and Ruston Soils, 0 to 2 percent slopes	1	3
Faceville and Ruston Soils, 10 to 15 percent slopes, eroded	6	3
Faceville and Ruston Soils, 2 to 6 percent slopes	3	3
Faceville and Ruston Soils, 2 to 6 percent slopes, eroded	6	3
Faceville and Ruston Soils, 6 to 10 percent slopes	4	3
Faceville and Ruston Soils, 6 to 10 percent slopes, eroded	6	3
Faceville Fine Sandy Loam, 2 to 6 percent slopes	1	3
Faceville Loamy Fine Sand, 0 to 2 percent slopes	1	3
Faceville Loamy Fine Sand, 2 to 6 percent slopes	1	3
Faceville Loamy Fine Sand, 2 to 6 percent slopes, eroded	3	3
Faceville Loamy Fine Sand, 6 to 10 percent slopes, eroded	6	3
Faceville Loamy Sand, 0 to 2 percent slopes	1	3
Faceville Loamy Sand, 0 to 6 percent slopes	1	3
Faceville Loamy Sand, 2 to 6 percent slopes	1	3
Faceville Loamy Sand, 2 to 6 percent slopes, eroded	3	3
Faceville Loamy Sand, 6 to 10 percent slopes	4	3
Faceville Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Faceville Loamy Sand, 6 to 15 percent slopes	6	3
Faceville Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Faceville Sandy Loam, 0 to 2 percent slopes	1	3
Faceville Sandy Loam, 2 to 6 percent slopes	1	3
Faceville Sandy Loam, 6 to 10 percent slopes	4	3
Fennin Fine Sandy Loam, 15 to 40 percent slopes	6	2
Flint Fine Sandy Loam, 0 to 2 percent slopes	2	2
Flint Fine Sandy Loam, 2 to 6 percent slopes	3	3
Flint Fine Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Flint Fine Sandy Loam, 6 to 12 percent slopes	6	3
Flint Fine Sandy Loam, Level Phase	3	3
Flint Fine Sandy Loam, Sloping Phase	6	3
Fluvaqvents and Udipsamments	6	6
Foreston Fine Sand	2	2
Foreston Loamy Sand	2	2
Fresh Water Marsh, Firm Clay and Loams	6	6
Fresh Water Marsh, Firm Muck and Peats	6	6
Fresh Water Marsh, Soft	6	6
Fripp-Baratari Complex	6	4
Fripp-Baratari Complex, 0 to 6 percent slopes	6	4
Fuquay Fine Sand, 0 to 6 percent slopes	5	3
Fuquay Fine Sand, 6 to 10 percent slopes	6	3
Fuquay Loamy Sand	5	3
Fuquay Loamy Sand, 0 to 2 percent slopes	5	3
Fuquay Loamy Sand, 0 to 6 percent slopes	5	3
Fuquay Loamy Sand, 2 to 6 percent slopes	5	3
Fuquay Loamy Sand, 6 to 10 percent slopes	6	3
Fuquay Sand, 0 to 2 percent slopes	5	3
Fuquay Sand, 0 to 4 percent slopes	5	3
Fuquay Sand, 0 to 6 percent slopes	5	3
Fuquay Sand, 10 to 15 percent slopes	6	3
Fuquay Sand, 2 to 6 percent slopes	5	3

SOIL NAME	CLASS	
	CROP	TIMBER
Fuquay Sand, 6 to 10 percent slopes	6	3
Fuquay-Urban Land Complex, 0 to 6 percent slopes	5	3
Gently Sloping Land, Sandy and Clay Sediments	6	3
Georgeville Loam, 2 to 6 percent slopes	3	3
Georgeville Loam, 6 to 10 percent slopes	6	3
Georgeville Silt Loam, 10 to 15 percent slopes, eroded	6	3
Georgeville Silt Loam, 15 to 25 percent slopes, eroded	6	3
Georgeville Silt Loam, 2 to 6 percent slopes	3	3
Georgeville Silt Loam, 2 to 6 percent slopes, eroded	3	3
Georgeville Silt Loam, 6 to 10 percent slopes	6	3
Georgeville Silt Loam, 6 to 10 percent slopes, eroded	6	3
Georgeville Silt Loam, Gently Sloping Phase	3	3
Georgeville Silt Loam, Sloping Phase	6	3
Georgeville Silt Loam, Strongly Sloping Phase	6	3
Georgeville Silty Clay Loam, 10 to 15 percent slopes, severely eroded	6	3
Georgeville Silty Clay Loam, 2 to 6 percent slopes, severely eroded	6	3
Georgeville Silty Clay Loam, 2 to 6 percent slopes, eroded	6	3
Georgeville Silty Clay Loam, 6 to 10 percent slopes, eroded	6	3
Georgeville Silty Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Georgeville Silty Clay Loam, Eroded Gently Sloping Phase	6	3
Georgeville Silty Clay Loam, Eroded Sloping Phase	6	3
Georgeville Silty Clay Loam, Severely Eroded, Sloping Phase	6	3
Georgeville Silty Clay Loam, Severely Eroded, Strongly Sloping Phase	6	3
Georgeville Very Fine Sandy Loam, 10 to 15 percent slopes	6	3
Georgeville Very Fine Sandy Loam, 2 to 6 percent slopes	3	3
Georgeville Very Fine Sandy Loam, 6 to 10 percent slopes	6	3
Gilead Loamy Sand, 0 to 2 percent slopes	6	3
Gilead Loamy Sand, 10 to 15 percent slopes	6	3
Gilead Loamy Sand, 10 to 15 percent slopes, eroded	6	3
Gilead Loamy Sand, 2 to 6 percent slopes	6	3
Gilead Loamy Sand, 2 to 6 percent slopes, eroded	6	3
Gilead Loamy Sand, 6 to 10 percent slopes	6	3
Gilead Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Gilead Loamy Sand, Gently Sloping Thick Surface Phase	6	3
Gilead Loamy Sand, Sloping Thick Surface Phase	6	3
Gilead Loamy Sand, Thick Surface, 2 to 6 percent slopes	6	3
Gilead Loamy Sand, Thick Surface, 6 to 10 percent slopes	6	3
Gilead Sand, 0 to 2 percent slopes	6	3
Gilead Sand, 2 to 6 percent slopes	6	3
Gilead Sand, 6 to 10 percent slopes	6	3
Gilead Sand, Thick Surface, 0 to 2 percent slopes	6	3
Gilead Sand, Thick Surface, 2 to 6 percent slopes	6	3
Gilead Sand, Thick Surface, 6 to 10 percent slopes	6	3
Gilead Sandy Loam, 2 to 6 percent slopes	6	3
Gilead Sandy Loam, Gently Sloping Phase	6	3
Gilead Sandy Loam, Sloping Phase	6	3
Gills Silt Loam, 2 to 6 percent slopes	6	5
Gills Silt Loam, 2 to 6 percent slopes, eroded	6	5
Gills Silt Loam, 6 to 10 percent slopes, eroded	6	5
Givhans Loamy Sand	6	2
Goldsboro Fine Sandy Loam	2	2
Goldsboro Loamy Fine Sand, 0 to 2 percent slopes	1	2
Goldsboro Loamy Sand	2	2
Goldsboro Loamy Sand, 0 to 2 percent slopes	1	2
Goldsboro Loamy Sand, Moderately Deep Variant	2	2
Goldsboro Loamy Sand, Thick Surface	6	2
Goldsboro Sandy Loam	2	2
Goldsboro Sandy Loam, 0 to 2 percent slopes	1	2
Goldston Silt Loam, 10 to 15 percent slopes	6	4
Goldston Silt Loam, 15 to 30 percent slopes	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Goldston Silt Loam, 15 to 35 percent slopes	6	4
Goldston Silt Loam, 2 to 6 percent slopes	6	4
Goldston Silt Loam, 6 to 10 percent slopes	6	4
Goldston Silt Loam, 6 to 15 percent slopes	6	4
Goldston Silt Loam, Sloping Phase	6	4
Goldston Silt Loam, Strongly Sloping Phase	6	4
Goldston Slaty Silt Loam, 10 to 15 percent slopes	6	4
Goldston Slaty Silt Loam, 15 to 40 percent slopes	6	4
Goldston Slaty Silt Loam, 6 to 10 percent slopes	6	4
Goldston Slaty Silt Loam, 6 to 15 percent slopes	6	4
Goldston Variant Loam, 25 to 60 percent slopes	6	4
Goldston-Pickens Complex, 2 to 6 percent slopes	6	4
Goldston-Pickens Complex, 6 to 10 percent slopes	6	4
Grady Loam	3	2
Grady Loam, Undrained	6	6
Grady Loam, Thin Surface	3	2
Grady Loam, Thin Surface, Undrained	6	6
Grady Sandy Loam	3	2
Grady Sandy Loam, Undrained	6	6
Greenville Loamy Sand, 0 to 2 percent slopes	1	3
Greenville Loamy Sand, 2 to 6 percent slopes	3	3
Greenville Loamy Sand, 6 to 10 percent slopes	6	3
Greenville Sandy Loam, 0 to 2 percent slopes	1	3
Greenville Sandy Loam, 2 to 6 percent slopes	3	3
Greenville Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Greenville Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Grover Fine Sandy Loam, 15 to 25 percent slopes	6	3
Grover Fine Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Grover Fine Sandy Loam, 25 to 40 percent slopes	6	3
Grover Fine Sandy Loam, 40 to 80 percent slopes	6	3
Grover Fine Sandy Loam, 6 to 15 percent slopes, eroded	6	4
Gullied Land	6	4
Gullied Land, Cecil Soil Material, Sloping	6	4
Gullied Land, Cecil Soil Material, Steep	6	4
Gullied Land, Firm Materials	6	4
Gullied Land, Friable Material	6	4
Gullied Land, Friable Material, 10 to 35 percent slopes	6	4
Gullied Land, Friable Material, 2 to 10 percent slopes	6	4
Gullied Land, Friable Material, Hilly	6	4
Gullied Land, Friable Material, Rolling	6	4
Gullied Land, Georgeville Soil Material, Sloping	6	4
Gullied Land, Helena Soil Material, Steep	6	4
Gullied Land, Hilly	6	4
Gullied Land, Rolling	6	4
Gullied Land, Pacolet Soils Complex	6	4
Gundy Silt Loam, 10 to 15 percent slopes	6	4
Gundy Silt Loam, 15 to 25 percent slopes	6	4
Gwinnett Sandy Loam, 15 to 25 percent slopes	6	3
Gwinnett Sandy Loam, 25 to 40 percent slopes	6	3
Gwinnett Sandy Loam, 40 to 60 percent slopes	6	3
Halewood Fine Sandy Loam, 10 to 15 percent slopes	6	2
Halewood Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	2
Halewood Fine Sandy Loam, 15 to 25 percent slopes	6	2
Halewood Fine Sandy Loam, 15 to 25 percent slopes, eroded	6	2
Halewood Fine Sandy Loam, 2 to 6 percent slopes	2	2
Halewood Fine Sandy Loam, 25 to 45 percent slopes	6	2
Halewood Fine Sandy Loam, 6 to 10 percent slopes, eroded	5	2
Handsboro Soils	7	7
Haplaqvents	6	4
Haynesville and Cecil Fine Sandy Loams, 10 to 15 percent slopes	6	2

SOIL NAME	CLASS	
	CROP	TIMBER
Haynesville and Cecil Fine Sandy Loams, 10 to 15 percent slopes, eroded	6	3
Haynesville and Cecil Fine Sandy Loams, 15 to 25 percent slopes	6	2
Haynesville and Cecil Fine Sandy Loams, 15 to 25 percent slopes, eroded	6	3
Haynesville and Cecil Fine Sandy Loams, 2 to 6 percent slopes	2	2
Haynesville and Cecil Fine Sandy Loams, 25 to 45 percent slopes	6	2
Haynesville and Cecil Fine Sandy Loams, 25 to 45 percent slopes, eroded	6	3
Haynesville and Cecil Fine Sandy Loams, 6 to 10 percent slopes	4	2
Haynesville and Cecil Fine Sandy Loams, 6 to 10 percent slopes, eroded	5	3
Haynesville and Cecil Loams, 10 to 15 percent slopes severely eroded	6	3
Haynesville and Cecil Loams, 15 to 45 percent slopes, severely eroded	6	3
Haynesville and Cecil Loams, 6 to 10 percent slopes, severely eroded	6	3
Haynesville Fine Sandy Loam, 15 to 40 percent slopes	6	2
Haynesville Fine Sandy Loam, 40 to 80 percent slopes	6	2
Haynesville Sandy Loam, 15 to 25 percent slopes	6	2
Haynesville Sandy Loam, 25 to 40 percent slopes	6	2
Haynesville Sandy Loam, 6 to 15 percent slopes	6	2
Haynesville, Cecil and Halewood Sandy Loams, Shallow, 15 to 25 percent slopes	6	2
Haynesville, Cecil and Halewood Sandy Loams, Shallow, 25 to 60 percent slopes	6	2
Haywood Loam, 6 to 15 percent slopes	4	2
Helena Fine Sandy Loam, 2 to 10 percent slopes, severely eroded	6	3
Helena Fine Sandy Loam, 2 to 6 percent slopes	4	3
Helena Fine Sandy Loam, 2 to 6 percent slopes, eroded	4	3
Helena Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Helena Loamy Sand, 2 to 6 percent slopes	4	3
Helena Loamy Sand, 6 to 10 percent slopes	6	3
Helena Loamy Sand, Gently Sloping Thick Surface Phase	3	3
Helena Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Helena Sandy Loam, 2 to 10 percent slopes, eroded	6	3
Helena Sandy Loam, 2 to 6 percent slopes	4	3
Helena Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Helena Sandy Loam, 6 to 10 percent slopes	6	3
Helena Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Helena Sandy Loam, Eroded Sloping Phase	6	3
Helena Sandy Loam, Eroded Strongly Sloping Phase	6	3
Helena Sandy Loam, Gently Sloping Phase	3	3
Helena Sandy Loam, Sloping Phase	6	3
Herndon Loam, 2 to 6 percent slopes	3	3
Herndon Loam, 6 to 15 percent slopes	3	3
Herndon Silt Loam, 10 to 15 percent slopes	6	3
Herndon Silt Loam, 10 to 15 percent slopes, eroded	6	3
Herndon Silt Loam, 10 to 25 percent slopes, eroded	6	3
Herndon Silt Loam, 2 to 6 percent slopes	3	3
Herndon Silt Loam, 2 to 6 percent slopes, eroded	3	3
Herndon Silt Loam, 6 to 10 percent slopes	5	3
Herndon Silt Loam, 6 to 10 percent slopes, eroded	6	3
Herndon Silt Loam, Eroded Gently Sloping Phase	3	3
Herndon Silt Loam, Eroded Sloping Phase	6	3
Herndon Silt Loam, Eroded Strongly Sloping Phase	6	3
Herndon Silt Loam, Gently Sloping Phase	3	3
Herndon Silt Loam, Sloping Phase	6	3
Herndon Silt Loam, Strongly Sloping Phase	6	3
Herndon Silty Clay Loam, 2 to 6 percent slopes, severely eroded	6	3
Herndon Silty Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Herndon Very Fine Sandy Loam, 2 to 6 percent slopes	3	3

SOIL NAME	CLASS	
	CROP	TIMBER
Herndon Very Fine Sandy Loam, 6 to 10 percent slopes	5	3
Herndon-Urban Land Complex, 2 to 6 percent slopes	3	3
Hiwassee Clay Loam, 10 to 15 percent slopes, eroded	6	4
Hiwassee Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Hiwassee Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Hiwassee Clay Loam, 2 to 6 percent slopes, eroded	4	4
Hiwassee Clay Loam, 6 to 10 percent slopes, eroded	6	4
Hiwassee Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Hiwassee Clay Loam, 6 to 15 percent slopes, eroded	6	4
Hiwassee Fine Sandy Loam, 0 to 2 percent slopes	3	3
Hiwassee Sandy Clay Loam, 10 to 15 percent slopes, eroded	6	4
Hiwassee Sandy Clay Loam, 2 to 6 percent slopes, eroded	6	4
Hiwassee Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 10 to 15 percent slopes	6	3
Hiwassee Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 10 to 18 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 10 to 25 percent slopes	6	3
Hiwassee Sandy Loam, 10 to 25 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 15 to 25 percent slopes	6	4
Hiwassee Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 2 to 6 percent slopes	3	3
Hiwassee Sandy Loam, 2 to 6 percent slopes, eroded	3	4
Hiwassee Sandy Loam, 2 to 8 percent slopes	3	3
Hiwassee Sandy Loam, 2 to 8 percent slopes, eroded	6	4
Hiwassee Sandy Loam, 6 to 10 percent slopes	5	3
Hiwassee Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Hiwassee Sandy Loam, Eroded Gently Sloping Phase	3	4
Hiwassee Sandy Loam, Eroded Sloping Phase	6	4
Hiwassee Sandy Loam, Eroded Strongly Sloping Phase	6	4
Hiwassee Sandy Loam, Gently Sloping Phase	3	3
Hiwassee Sandy Loam, Sloping Phase	6	3
Hobonny Soils	6	6
Hockley Loamy Fine Sand, 0 to 2 percent slopes	2	2
Hockley Loamy Fine Sand, 2 to 6 percent slopes	2	2
Huckabee Loamy Sand, Gently Sloping Phase	6	3
Huckabee Sand, Gently Sloping Phase	6	3
Huckabee Sand, Sloping Phase	6	3
Hyde Loam	6	1
Hyde Loam, Undrained	6	6
Hyde Mucky Loam	6	1
Independence Loamy Sand, Gently Sloping Phase	6	3
Iredell Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Iredell Complex, 2 to 6 percent slopes, eroded	4	4
Iredell Complex, 6 to 10 percent slopes, eroded	6	4
Iredell Fine Sandy Loam, 1 to 6 percent slopes	4	4
Iredell Fine Sandy Loam, 2 to 6 percent slopes	4	4
Iredell Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Iredell Loam, 0 to 2 percent slopes	6	4
Iredell Loam, 2 to 6 percent slopes	4	4
Iredell Loam, 2 to 6 percent slopes, eroded	3	4
Iredell Loam, 6 to 10 percent slopes	6	4
Iredell Loam, 6 to 10 percent slopes, eroded	6	4
Iredell Loam, Thin Solum, 0 to 2 percent slopes	6	4
Iredell Loam, Thin Solum, 2 to 6 percent slopes	6	4
Iredell Sandy Loam, 0 to 2 percent slopes	4	4
Iredell Sandy Loam, 2 to 6 percent slopes	4	4
Iredell Sandy Loam, 2 to 6 percent slopes, eroded	4	4
Iredell Sandy Loam, 6 to 10 percent slopes	6	4
Iredell Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Iredell Sandy Loam, Gently Sloping Phase	3	4
Iredell Stony Loam, 2 to 6 percent slopes	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Iredell Variant Loam, 0 to 2 percent slopes	4	4
Iredell Very Stony Loam, 0 to 6 percent slopes	6	4
Irvington Loamy Sand, 0 to 2 percent slopes	3	2
Irvington Loamy Sand, 2 to 6 percent slopes	4	2
Irvington Loamy Sand, 6 to 10 percent slopes	6	2
Irvington Loamy Sand, 6 to 10 percent slopes, eroded	6	2
Izagora Fine Sandy Loam	2	2
Izagora Loamy Sand(Johns)	2	2
Izagora Sandy Loam	2	2
Izagora Sandy Loam, Gray Variant	2	2
Izagora Sandy Loam, Sandy Substratum	2	2
Johns Fine Sandy Loam	1	2
Johns Loamy Sand	1	2
Johns Loamy Sand, 0 to 2 percent slopes	1	2
Johns Loamy Sand, 2 to 6 percent slopes	1	2
Johns Sandy Loam	1	2
Johnston Association	3	1
Johnston Association, Undrained	6	6
Johnston Association, Frequently Flooded	6	1
Johnston Loam	3	1
Johnston Loam, Undrained	6	6
Johnston Loamy Sand	3	1
Johnston Loamy Sand, Undrained	6	6
Johnston Sandy Loam	3	1
Johnston Sandy Loam, Undrained	6	6
Johnston Soils	3	1
Johnston Soils, Undrained	6	6
Johnston-Rutlege Association, Frequently Flooded	6	1
Johnston-Rutlege Association, Frequently Flooded Undrained	6	6
Kalmia Loamy Fine Sand, 0 to 2 percent slopes	1	2
Kalmia Loamy Fine Sand, 2 to 6 percent slopes	2	2
Kalmia Loamy Fine Sand, Thick Surface, 0 to 2 percent slopes	1	2
Kalmia Loamy Sand	2	2
Kalmia Loamy Sand, 0 to 2 percent slopes	1	2
Kalmia Loamy Sand, 2 to 6 percent slopes	2	2
Kalmia Loamy Sand, 6 to 10 percent slopes	5	2
Kalmia Loamy Sand, Gently Sloping Thick Surface Phase	6	2
Kalmia Loamy Sand, Level Thick Surface Phase	6	2
Kalmia Loamy Sand, Thick Surface	6	2
Kalmia Sandy Loam, 0 to 2 percent slopes	1	2
Kalmia Sandy Loam, 2 to 6 percent slopes	2	2
Kalmia Sandy Loam, Gently Sloping Phase	2	2
Kalmia Sandy Loam, Level Phase	2	2
Kenansville Sand, 0 to 4 percent slopes	6	4
Kenansville Sand, 0 to 6 percent slopes	6	4
Kershaw Sand, 0 to 10 percent slopes	6	5
Kershaw Sand, 0 to 15 percent slopes	6	5
Kershaw Sand, 0 to 6 percent slopes	6	5
Kershaw Sand, 2 to 10 percent slopes	6	5
Kershaw Sand, 6 to 10 percent slopes	6	5
Kiawah Loamy Fine Sand	3	3
Killian Loamy Sand, 10 to 15 percent slopes	6	2
Killian Loamy Sand, 2 to 6 percent slopes	6	2
Killian Loamy Sand, 6 to 10 percent slopes	6	2
Killian Loamy Sand, 6 to 10 percent slopes, eroded	6	2
Killian Loamy Sand, Thick Surface, 2 to 6 percent slopes	6	2
Killian Loamy Sand, Thick Surface, 6 to 10 percent slopes	6	2
Kirksey Loam, 2 to 6 percent slopes	6	4
Kirksey Silt Loam, 2 to 6 percent slopes	6	4
Kirksey Silt Loam, 6 to 10 percent slopes	6	4
Klej Loamy Sand	6	2

SOIL NAME	CLASS	
	CROP	TIMBER
Klej Loamy Sand, Terrace	6	2
Kureb Sand, 0 to 6 percent slopes	6	4
Lakeland and Troup Sand, 15 to 25 percent slopes	6	3
Lakeland Fine Sand, 0 to 6 percent slopes	6	3
Lakeland Gravely Sand, 0 to 6 percent slopes	6	3
Lakeland Gravely Sand, 6 to 10 percent slopes	6	3
Lakeland Loamy Sand	6	4
Lakeland Sand, 0 to 6 percent slopes	6	3
Lakeland Sand, 10 to 15 percent slopes	6	3
Lakeland Sand, 10 to 25 percent slopes	6	3
Lakeland Sand, 15 to 25 percent slopes	6	3
Lakeland Sand, 2 to 6 percent slopes	6	3
Lakeland Sand, 6 to 10 percent slopes	6	3
Lakeland Sand, 6 to 15 percent slopes	6	3
Lakeland Sand, Gently Sloping Phase	6	3
Lakeland Sand, Gently Sloping Shallow Phase	6	3
Lakeland Sand, Gravely Variant, 0 to 10 percent slopes	6	3
Lakeland Sand, Gravely Variant, 10 to 15 percent slopes	6	3
Lakeland Sand, Level Shallow Phase	6	3
Lakeland Sand, Moderately Shallow, 0 to 2 percent slopes	6	3
Lakeland Sand, Moderately Shallow, 10 to 15 percent slopes	6	3
Lakeland Sand, Moderately Shallow, 2 to 6 percent slopes	6	3
Lakeland Sand, Moderately Shallow, 6 to 10 percent slopes	6	3
Lakeland Sand, Moderately Shallow, Terrace, 0 to 4 percent slopes	6	3
Lakeland Sand, Shallow, 0 to 2 percent slopes	6	3
Lakeland Sand, Shallow, 10 to 15 percent slopes	6	3
Lakeland Sand, Shallow, 2 to 6 percent slopes	6	3
Lakeland Sand, Shallow, 6 to 10 percent slopes	6	3
Lakeland Sand, Sloping Phase	6	3
Lakeland Sand, Sloping Shallow Phase	6	3
Lakeland Sand, Strongly Sloping Phase	6	3
Lakeland Sand, Terrace, 0 to 6 percent slopes	6	3
Lakeland Soils, Undulating	6	4
Lakeland, 0 to 6 percent slopes	6	3
Lakeland-Urban Land Complex, 2 to 6 percent slopes	6	3
Lakewood Sand	6	3
Lakewood Sand, 0 to 10 percent slopes	6	3
Lakewood Sand, Gently Sloping Phase	6	3
Leaf Clay Loam, Thin Surface	6	2
Leaf Fine Sandy Loam	3	2
Leaf Fine Sandy Loam, Undrained	6	6
Leaf Loam	6	2
Leaf Loamy Sand, Sandy Substratum	3	2
Lenoir Fine Sandy Loam	2	2
Lenoir Loam	2	2
Lenoir Fine Sandy Loam	2	2
Lenoir Sandy Loam	2	2
Leon Fine Sand	6	4
Leon Sand	6	4
Leon Sand, 0 to 2 percent slopes	6	4
Levy Soils	6	3
Lignum Silt Loam, 2 to 6 percent slopes	3	3
Lincolnville Clay Loam	3	5
Lloyd Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Lloyd Clay Loam, 15 to 25 percent slopes, severely eroded	6	4
Lloyd Clay Loam, 15 to 30 percent slopes, severely eroded	6	4
Lloyd Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Lloyd Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Lloyd Clay Loam, 6 to 15 percent slopes, severely eroded	6	4
Lloyd Clay Loam, Compact Subsoil, 10 to 20 percent slopes, severely eroded	6	5

SOIL NAME	CLASS	
	CROP	TIMBER
Lloyd Clay Loam, Compact Subsoil, 2 to 6 percent slopes, severely eroded	6	5
Lloyd Clay Loam, Compact Subsoil, 6 to 10 percent slopes, severely eroded	6	5
Lloyd Clay Loam, Severely Eroded Gently Sloping Phase	6	3
Lloyd Clay Loam, Severely Eroded Sloping Phase	6	3
Lloyd Clay Loam, Severely Eroded Strongly Sloping Phase	6	5
Lloyd Loam, 10 to 15 percent slopes, eroded	6	4
Lloyd Loam, 15 to 25 percent slopes	6	3
Lloyd Loam, 2 to 6 percent slopes	3	3
Lloyd Loam, 2 to 6 percent slopes, eroded	3	4
Lloyd Loam, 25 to 35 percent slopes	6	3
Lloyd Loam, 6 to 10 percent slopes	6	3
Lloyd Loam, 6 to 10 percent slopes, eroded	6	4
Lloyd Loam, Moderately Shallow, 15 to 25 percent slopes, eroded	6	4
Lloyd Loam, Moderately Shallow, 25 to 40 percent slopes	6	3
Lloyd Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Lloyd Sandy Loam, 15 to 25 percent slopes	6	3
Lloyd Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Lloyd Sandy Loam, 2 to 6 percent slopes, eroded	3	4
Lloyd Sandy Loam, 25 to 35 percent slopes	6	3
Lloyd Sandy Loam, 6 to 10 percent slopes	6	3
Lloyd Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Lloyd Sandy Loam, Compact Soil, 2 to 6 percent slopes, eroded	3	3
Lloyd Sandy Loam, Eroded Gently Sloping Phase	3	3
Lloyd Sandy Loam, Eroded Sloping Phase	6	3
Lloyd Sandy Loam, Eroded Strongly Sloping Phase	6	3
Lloyd Sandy Loam, Gently Sloping Phase	3	3
Lloyd Sandy Loam, Moderately Steep Phase	6	3
Lloyd Sandy Loam, Sloping Phase	6	3
Lloyd Sandy Loam, Strongly Sloping Phase	6	3
Local Alluvial Land	2	2
Local Alluvial Land, Well Drained	2	2
Lockhart Clay Loam, 10 to 15 percent slopes, severely eroded	6	3
Lockhart Clay Loam, 15 to 25 percent slopes, severely eroded	6	3
Lockhart Clay Loam, 2 to 6 percent slopes, severely eroded	6	3
Lockhart Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Lockhart Clay Loam, Severely Eroded Gently Sloping Phase	6	3
Lockhart Clay Loam, Severely Eroded Sloping Phase	6	3
Lockhart Coarse Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Lockhart Coarse Sandy Loam, 15 to 25 percent slopes, eroded	6	3
Lockhart Coarse Sandy Loam, 2 to 6 percent slopes, eroded	6	3
Lockhart Coarse Sandy Loam, 25 to 35 percent slopes	6	3
Lockhart Coarse Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Lockhart Gravelly Sandy Loam, 10 to 15 percent slopes	6	3
Lockhart Gravelly Sandy Loam, 15 to 25 percent slopes	6	3
Lockhart Coarse Sandy Loam, 2 to 6 percent slopes	6	3
Lockhart Gravelly Sandy Loam, 25 to 40 percent slopes	6	3
Lockhart Gravelly Sandy Loam, 6 to 10 percent slopes	6	3
Lockhart Sandy Loam, 4 to 10 percent slopes, eroded	6	3
Louisa Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Louisa Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Louisa Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Louisburg Loamy Sand, 10 to 15 percent slopes	6	3
Louisburg Loamy Sand, 10 to 40 percent slopes	6	3
Louisburg Loamy Sand, 15 to 25 percent slopes	6	3
Louisburg Loamy Sand, 15 to 40 percent slopes	6	3
Louisburg Loamy Sand, 6 to 10 percent slopes	6	3
Louisburg Loamy Sand, 6 to 15 percent slopes	6	3
Louisburg Sandy Loam, 10 to 15 percent slopes	6	3
Louisburg Sandy Loam, 10 to 25 percent slopes	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Louisburg Sandy Loam, 10 to 35 percent slopes, eroded	6	3
Louisburg Sandy Loam, 15 to 25 percent slopes	6	3
Louisburg Sandy Loam, 2 to 6 percent slopes	6	3
Louisburg Sandy Loam, 25 to 40 percent slopes	6	3
Louisburg Sandy Loam, 6 to 10 percent slopes	6	3
Louisburg Sandy Loam, 6 to 15 percent slopes	6	3
Lucy Loamy Sand, 0 to 6 percent slopes	6	3
Lucy Loamy Sand, 0 to 2 percent slopes	6	3
Lucy Loamy Sand, 2 to 6 percent slopes	6	3
Lucy Loamy Sand, 6 to 10 percent slopes	6	3
Lucy Sand, 0 to 6 percent slopes	6	3
Lucy Sand, 2 to 6 percent slopes	6	3
Lucy Sand, 6 to 10 percent slopes	6	3
Lumbee Loamy Sand	3	2
Lumbee Loamy Sand, Undrained	6	6
Lumbee Sandy Loam	3	2
Lumbee Sandy Loam, Undrained	6	6
Lynchburg Fine Sandy Loam	1	2
Lynchburg Loamy Fine Sand	1	2
Lynchburg Loamy Sand	1	2
Lynn Haven Fine Sand	6	3
Lynn Haven Loamy Sand	6	3
Lynn Haven Sand	6	3
Made Land	6	6
Madison and Cecil Clay Loams, 10 to 15 percent slopes, severely eroded	6	4
Madison and Cecil Clay Loams, 15 to 25 percent slopes, severely eroded	6	4
Madison and Cecil Clay Loams, 2 to 6 percent slopes, severely eroded	6	4
Madison and Cecil Clay Loams, 6 to 10 percent slopes, severely eroded	6	4
Madison and Cecil Sandy Loams, 10 to 15 percent slopes	6	4
Madison and Cecil Sandy Loams, 10 to 15 percent slopes, eroded	6	4
Madison and Cecil Sandy Loams, 15 to 25 percent slopes	6	4
Madison and Cecil Sandy Loams, 15 to 25 percent slopes, eroded	6	4
Madison and Cecil Sandy Loams, 2 to 6 percent slopes	3	4
Madison and Cecil Sandy Loams, 2 to 6 percent slopes, eroded	4	4
Madison and Cecil Sandy Loams, 25 to 35 percent slopes, eroded	6	4
Madison and Cecil Sandy Loams, 6 to 10 percent slopes	5	4
Madison and Cecil Sandy Loans, 6 to 10 percent slopes, eroded	6	4
Madison and Pacolet Soils, 15 to 40 percent slopes	6	4
Madison Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Madison Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Madison Clay Loam, 15 to 40 percent slopes, severely eroded	6	4
Madison Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Madison Clay Loam, 6 to 10 percent slopes, eroded	6	4
Madison Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Madison Clay Loam, 10 to 15 percent slopes, eroded	6	4
Madison Fine Sandy Loam, High, 10 to 15 percent slopes	6	4
Madison Fine Sandy Loam, High 10 to 15 percent slopes, eroded	6	4
Madison Fine Sandy Loam, High 15 to 25 percent slopes	6	4
Madison Fine Sandy Loam, High, 15 to 25 percent slopes, eroded	6	4
Madison Fine Sandy Loam, High, 2 to 6 percent slopes	4	4
Madison Fine Sandy Loam, High, 25 to 40 percent slopes	6	4
Madison Fine Sandy Loam, High, 6 to 10 percent slopes	6	4
Madison Fine Sandy Loam, High, 6 to 10 percent slopes, eroded	6	4
Madison Loam, High, 15 to 25 percent slopes, severely eroded	6	4
Madison Sandy Clay Loam, 10 to 15 percent slopes, eroded	6	4
Madison Sandy Clay Loam, 10 to 25 percent slopes, eroded	6	4
Madison Sandy Clay Loam, 2 to 6 percent slopes, eroded	6	4
Madison Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Madison Sandy Loam, 10 to 15 percent slopes	6	4
Madison Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Madison Sandy Loam, 10 to 25 percent slopes, eroded	6	4
Madison Sandy Loam, 15 to 25 percent slopes	6	4
Madison Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Madison Sandy Loam, 15 to 30 percent slopes, eroded	6	4
Madison Sandy Loam, 15 to 40 percent slopes	6	4
Madison Sandy Loam, 2 to 6 percent slopes	3	4
Madison Sandy Loam, 2 to 6 percent slopes, eroded	4	4
Madison Sandy Loam, 25 to 40 percent slopes, eroded	6	4
Madison Sandy Loam, 6 to 10 percent slopes	5	4
Madison Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Madison Sandy Loam, Thin Solum Variant, 2 to 6 percent slopes, eroded	6	4
Madison Sandy Loam, Thin Solum Variant, 6 to 10 percent slopes, eroded	6	4
Magnolia Loamy Sand, 0 to 2 percent slopes	3	3
Magnolia Loamy Sand, 2 to 6 percent slopes	3	3
Magnolia Loamy Sand, 2 to 6 percent slopes, eroded	3	3
Magnolia Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Magnolia Sandy Clay Loam, 10 to 15 percent slopes, severely eroded	6	3
Magnolia Sandy Clay Loam, 2 to 6 percent slopes, severely eroded	3	3
Magnolia Sandy Clay Loam, 6 to 10 percent slopes	6	3
Magnolia Sandy Loam, 0 to 2 percent slopes	3	3
Magnolia Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Magnolia Sandy Loam, 2 to 6 percent slopes	3	3
Magnolia Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Magnolia Sandy Loam, 6 to 10 percent slopes	6	3
Magnolia Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Manteo Channery Silt Loam, 10 to 15 percent slopes	6	5
Manteo Channery Silt Loam, 10 to 15 percent slopes, eroded	6	5
Manteo Channery Silt Loam, 15 to 35 percent slopes	6	5
Manteo Channery Silt Loam, 15 to 35 percent slopes, eroded	6	5
Manteo Channery Silt Loam, 2 to 10 percent slopes	6	5
Manteo Channery Silt Loam, 6 to 15 percent slopes, eroded	6	5
Marlboro Fine Sandy Loam, 0 to 2 percent slopes	3	3
Marlboro Fine Sandy Loam, 2 to 6 percent slopes	3	3
Marlboro Loamy Sand, 0 to 2 percent slopes	3	3
Marlboro Loamy Sand, 2 to 6 percent slopes	3	3
Marlboro Loamy Sand, 2 to 6 percent slopes, eroded	3	3
Marlboro Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Marlboro Loamy Sand, 6 to 12 percent slopes, eroded	6	3
Marlboro Sandy Loam, 0 to 2 percent slopes	3	3
Marlboro Sandy Loam, 2 to 6 percent slopes	3	3
Marlboro Sandy Loam, Gently Sloping Phase	3	3
Marlboro Sandy Loam, Level Phase	3	3
Marsh	4	1
Marsh, Undrained	6	6
Masada and Altavista Soils, 2 to 6 percent slopes	3	3
Masada Gravelly Sandy Loam, 2 to 6 percent slopes	3	3
Mascotte Sand	6	3
McColl Fine Sandy Loam	6	2
McColl Fine Sandy Loam, Undrained	6	6
McColl Loam	3	2
McColl Loam, Undrained	6	6
McColl Sandy Loam	3	2
McColl Sandy Loam, Undrained	6	6
Mecklenburg Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Mecklenburg Clay Loam, 15 to 25 percent slopes, severely eroded	6	4
Mecklenburg Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Mecklenburg Clay Loam, 6 to 10 percent slopes, severely eroded	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Mecklenburg Clay Loam, 6 to 15 percent slopes, eroded	6	4
Mecklenburg Fine Sandy Loam, 10 to 15 percent slopes, severely eroded	6	4
Mecklenburg Fine Sandy Loam, 2 to 6 percent slopes	2	4
Mecklenburg Fine Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Mecklenburg Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Mecklenburg Loam, 0 to 2 percent slopes	3	4
Mecklenburg Loam, 10 to 15 percent slopes, eroded	6	4
Mecklenburg Loam, 15 to 25 percent slopes	6	4
Mecklenburg Loam, 15 to 25 percent slopes, eroded	6	4
Mecklenburg Loam, 2 to 6 percent slopes, eroded	6	4
Mecklenburg Loam, 6 to 10 percent slopes, eroded	6	4
Mecklenburg Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	4
Mecklenburg Sandy Loam, 10 to 15 percent slopes	6	4
Mecklenburg Sandy Loam, 2 to 6 percent slopes	2	4
Mecklenburg Sandy Loam, 6 to 10 percent slopes	4	4
Mecklenburg Sandy Loam, Eroded Sloping Phase	4	4
Mecklenburg Sandy Loam, Eroded Strongly Sloping Phase	6	4
Mecklenburg Sandy Loam, Gently Sloping Phase	3	4
Mecklenburg Sandy Loam, Sloping Phase	6	4
Mecklenburg Silt Loam, 6 to 10 percent slopes	4	4
Meggett Clay Loam	3	1
Meggett Fine Sandy loam	3	1
Meggett Loam	3	1
Mine Pitts and Dumps	6	6
Mixed Alluvial Land	3	2
Mixed Alluvial Land, Undrained	6	6
Mixed Alluvial Land, Poorly Drained	6	2
Mixed Alluvial Land, Well Drained	2	2
Mixed Alluvial Land, Wet	6	2
Mixed Wet Alluvial Land	6	2
Moderately Gullied Land, Firm Materials	6	4
Moderately Gullied Land, Friable Materials	6	4
Moderately Gullied Land, Friable Materials, 10 to 40 percent slopes	6	4
Moderately Gullied Land, Friable Materials, 2 to 10 percent slopes	6	4
Molena Loamy Sand, 0 to 10 percent slopes	6	3
Molena Loamy Sand, 2 to 8 percent slopes	6	3
Molena Sand, 0 to 6 percent slopes	6	3
Molena Variant Sand, 1 to 4 percent slopes	6	3
Muck	3	6
Muckabee Variant Sandy Loam	3	5
Murad Fine Sand	6	3
Musella Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Musella Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Musella Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Musella Fine Sandy Loam, 15 to 40 percent slopes, eroded	6	4
Musella Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Musella Soils, 40 to 80 percent slopes	6	4
Myatt Loam	3	2
Myatt Loam, Undrained	6	6
Myatt Loamy Sand	3	2
Myatt Loamy Sand, Undrained	6	6
Myatt Sandy Loam	3	2
Myatt Sandy Loam, Undrained	6	6
Nason Complex, 10 to 30 percent slopes	6	3
Nason Loam, 10 to 15 percent slopes	4	3
Nason Loam, 10 to 15 percent slopes, eroded	6	3
Nason Loam, 15 to 25 percent slopes	6	3
Nason Loam, 15 to 25 percent slopes, eroded	6	3
Nason Silt Loam, 10 to 15 percent slopes	4	3
Nason Silt Loam, 10 to 15 percent slopes, eroded	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Nason Silt Loam, 10 to 25 percent slopes	6	3
Nason Silt Loam, 15 to 25 percent slopes	6	3
Nason Silt Loam, 15 to 25 percent slopes, eroded	6	3
Nason Silt Loam, 2 to 6 percent slopes	4	3
Nason Silt Loam, 2 to 6 percent slopes, eroded	4	3
Nason Silt Loam, 6 to 10 percent slopes	4	3
Nason Silt Loam, 6 to 10 percent slopes, eroded	6	3
Nason Silt Loam, 6 to 15 percent slopes	4	3
Nason Silty Clay Loam, 10 to 25 percent slopes, severely eroded	6	3
Nason Silty Clay Loam, 2 to 10 percent slopes, severely eroded	6	3
Nason Very Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Nason Very Fine Sandy Loam, 15 to 25 percent slopes	6	3
Nason Very Fine Sandy Loam, 2 to 6 percent slopes	4	3
Nason Very Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Nemours Fine Sandy Loam, 0 to 2 percent slopes	2	3
Nemours Fine Sandy Loam, 2 to 6 percent slopes	3	3
Nemours Sandy Loam	3	2
Newhan Sand, 0 to 6 percent slopes	6	6
Norfolk and Dothan Soils, 0 to 2 percent slopes	2	2
Norfolk Fine Sandy Loam, Gently Sloping Phase	2	2
Norfolk Fine Sandy Loam, Level Phase	2	2
Norfolk Loamy Fine Sand, 0 to 2 percent slopes	2	2
Norfolk Loamy Fine Sand, 2 to 6 percent slopes	3	2
Norfolk Loamy Fine Sand, Thick Surface, 0 to 2 percent slopes	2	2
Norfolk Loamy Fine Sand, Thick Surface, 2 to 6 percent slopes	3	2
Norfolk Loamy Sand	2	2
Norfolk Loamy Sand, 0 to 2 percent slopes	2	2
Norfolk Loamy Sand, 2 to 6 percent slopes	3	2
Norfolk Loamy Sand, 2 to 6 percent slopes, eroded	2	2
Norfolk Loamy Sand, 6 to 10 percent slopes	4	2
Norfolk Loamy Sand, 6 to 10 percent slopes, eroded	5	2
Norfolk Loamy Sand, Gently Sloping Thick Surface Phase	6	2
Norfolk Loamy Sand, Level Thick Surface Phase	6	2
Norfolk Loamy Sand, Moderately Deep Variant, 0 to 2 percent slopes	2	2
Norfolk Loamy Sand, Sloping Thick Surface Phase	6	2
Norfolk Loamy Sand, Strongly Sloping Thick Surface Phase	6	2
Norfolk Loamy Sand, Thick Surface, 0 to 2 percent slopes	2	2
Norfolk Loamy Sand, Thick Surface, 2 to 6 percent slopes	3	2
Norfolk Loamy Sand, Thick Surface, 6 to 10 percent slopes	4	2
Norfolk Loamy Sand, Thin Solum, 2 to 6 percent slopes	3	2
Norfolk Loamy Sand, Thin Solum, 2 to 6 percent slopes, eroded	2	2
Norfolk Loamy Sand, Thin Solum, 6 to 10 percent slopes	4	2
Norfolk Sand, Thick Surface, 0 to 2 percent slopes	2	2
Norfolk Sand, Thick Surface, 2 to 6 percent slopes	3	2
Norfolk Sand, Thick Surface, 6 to 10 percent slopes	4	2
Norfolk Sandy Loam, 0 to 2 percent slopes	2	2
Norfolk Sandy Loam, 2 to 6 percent slopes, eroded	2	2
Norfolk Sandy Loam, 2 to 8 percent slopes	3	2
Norfolk Sandy Loam, 6 to 10 percent slopes, eroded	5	2
Norfolk Sandy Loam, Gently Sloping Phase	2	2
Norfolk Sandy Loam, Gently Sloping Thin Solum Phase	2	2
Norfolk Sandy Loam, Level Phase	2	2
Norfolk Sandy Loam, Level Thin Solum Phase	2	2
Norfolk Sandy Loam, Sloping Phase	5	2
Ochlockonee Loamy Sand	2	1
Ocilla Loamy Fine Sand	6	3
Ocilla Loamy Sand	6	3
Ocilla Loamy Sand, 0 to 2 percent slopes	6	3
Ogeechee Loamy Fine Sand	3	2
Okeetee Fine Sandy Loam	3	2
Okeetee-Eulonia Association	3	2

SOIL NAME	CLASS	
	CROP	TIMBER
Okenee Loam	3	1
Okenee Loam, Undrained	6	6
Okenee Sandy Loam	6	2
Olanta Loamy Sand	1	2
Onslow Loamy Fine Sand	1	3
Onslow Loamy Sand	1	3
Orange Loam, 0 to 4 percent slopes	6	4
Orange Loam, 2 to 6 percent slopes	6	4
Orange Loam, 6 to 10 percent slopes	6	4
Orange Silt Loam, 0 to 2 percent slopes	6	4
Orange Silt Loam, 2 to 6 percent slopes	6	4
Orange Silt Loam, 2 to 6 percent slopes, eroded	6	4
Orange Silt Loam, 6 to 10 percent slopes, eroded	6	4
Orange Silt Loam, Gently Sloping Phase	6	4
Orangeburg Loamy Sand, 6 to 10 percent slopes	3	2
Orangeburg Loamy Fine Sand, 0 to 2 percent slopes	1	2
Orangeburg Loamy Fine Sand, 2 to 6 percent slopes	1	2
Orangeburg Loamy Sand, 0 to 2 percent slopes	1	2
Orangeburg Loamy Sand, 10 to 15 percent slopes	6	2
Orangeburg Loamy Sand, 10 to 15 percent slopes, eroded	5	2
Orangeburg Loamy Sand, 2 to 6 percent slopes	1	2
Orangeburg Loamy Sand, 2 to 6 percent slopes, eroded	2	2
Orangeburg Loamy Sand, 6 to 10 percent slopes	3	2
Orangeburg Loamy Sand, 6 to 10 percent slopes, eroded	3	2
Orangeburg Loamy Sand, Overwash, 0 to 4 percent slopes	1	2
Orangeburg Sandy Loam, 2 to 6 percent slopes, eroded	2	2
Orangeburg Sandy Loam, 6 to 10 percent slopes, eroded	3	2
Orangeburg-Urban Land Complex, 6 to 15 percent slopes	5	2
Orummer-Rutledge Loamy Fine Sands	6	2
Osier Fine Sand	6	3
Osier Fine Sand, Undrained	6	6
Osier Loamy Sand	6	3
Osier Loamy Sand, Undrained	6	6
Osier Sand	6	3
Osier Sand, Undrained	6	6
Osier Variant Loamy Sand	6	3
Pacolet Clay Loam, 10 to 15 percent slopes, eroded	6	4
Pacolet Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Pacolet Clay Loam, 10 to 25 percent slopes, Gullied	6	4
Pacolet Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Pacolet Clay Loam, 15 to 25 percent slopes, eroded	6	4
Pacolet Clay Loam, 15 to 25 percent slopes, severely eroded	6	4
Pacolet Clay Loam, 2 to 10 percent slopes, severely eroded	6	4
Pacolet Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Pacolet Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Pacolet Fine Sandy Loam, 10 to 25 percent slopes, eroded	6	4
Pacolet Fine Sandy Loam, 2 to 6 percent slopes, eroded	3	4
Pacolet Fine Sandy Loam, 25 to 40 percent slopes	6	3
Pacolet Fine Sandy Loam, 40 to 80 percent slopes	6	3
Pacolet Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Pacolet Sandy Clay Loam, 10 to 15 percent slopes, eroded	6	4
Pacolet Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Pacolet Sandy Loam, 10 to 15 percent slopes	6	3
Pacolet Sandy Loam, 10 to 25 percent slope	6	3
Pacolet Sandy Loam, 15 to 25 percent slopes	6	3
Pacolet Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Pacolet Sandy Loam, 15 to 40 percent slopes	6	3
Pacolet Sandy Loam, 2 to 6 percent slopes	3	3
Pacolet Sandy Loam, 2 to 6 percent slopes, eroded	5	4
Pacolet Sandy Loam, 25 to 40 percent slopes	6	3
Pacolet Sandy Loam, 25 to 40 percent slopes, eroded	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Pacolet Sandy Loam, 6 to 10 percent slopes	6	3
Pacolet Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Pacolet Soils, 10 to 25 percent slopes, severely eroded	6	4
Paleaquults, Sandy	3	1
Pamlico Muck	3	4
Pamlico Muck, Undrained	6	6
Pantego Fine Sandy Loam	3	1
Pantego Fine Sandy Loam, Undrained	6	6
Pantego Loam	6	1
Pantego Loam, Undrained	6	6
Pantego Sandy Loam	3	1
Pantego Sandy Loam, Undrained	6	6
Paxville Association	3	1
Paxville Association, Undrained	6	6
Paxville Fine Sandy Loam	3	1
Paxville Loam	6	1
Paxville Loam, Undrained	6	6
Peat	6	6
Pelham Loamy Sand	6	2
Pelham Loamy Sand, Undrained	6	6
Pelham Sand	6	2
Pelham Sand, Undrained	6	6
Pelion Loamy Sandy, 0 to 2 percent slopes	6	4
Pelion Loamy Sand, 2 to 6 percent slopes	6	4
Pelion Loamy Sand, 6 to 10 percent slopes	6	4
Pelion Loamy Sand, 6 to 15 percent slopes	6	4
Pelion-Urban Land Complex, 2 to 10 percent slopes	6	4
Persanti Fine Sandy Loam	2	2
Persanti Fine Sandy Loam, 0 to 2 percent slopes	2	2
Persanti Fine Sandy Loam, 2 to 6 percent slopes	3	2
Persanti Very Fine Sandy Loam	2	2
Persanti Very Fine Sandy Loam, 0 to 2 percent slopes	2	2
Pickens Slaty Silt Loam, 10 to 25 percent slopes	6	5
Pickens Slaty Silt Loam, 25 to 35 percent slopes	6	5
Pickens Slaty Silt Loam, 6 to 15 percent slopes	6	5
Pickney Loamy Fine Sand	6	1
Pickney Loamy Sand	6	1
Pits and Dumps	6	6
Plummer Loamy Sand	6	2
Plummer Sand, Terrace	6	2
Pocalla Sand, 0 to 2 percent slopes	5	3
Pocalla Sand, 0 to 4 percent slopes	5	3
Pocalla Sand, 0 to 6 percent slopes	5	3
Pocomoke Loam	3	2
Pocomoke Loamy Fine Sand	6	2
Polawana Loamy Fine Sand	3	1
Polawana Loamy Fine Sand, Undrained	6	6
Polawana Loamy Sand	6	1
Polawana Loamy Sand, Undrained	6	6
Ponzer Mucky Loam	3	4
Ponzer Mucky Loam, Undrained	6	6
Ponzer Soils	3	4
Ponzer Soils, Undrained	6	6
Porters Loam, 15 to 40 percent slopes	6	2
Porters Loam, 25 to 45 percent slopes	6	2
Porters Loam, 40 to 70 percent slopes	6	2
Porters Loam, 6 to 15 percent slopes	5	2
Porters Stony Loam, 25 to 45 percent slopes	6	2
Portsmouth and Okenee Loams	3	2
Portsmouth Fine Sandy Loam	3	1
Portsmouth Fine Sandy Loam, Undrained	6	6

SOIL NAME	CLASS	
	CROP	TIMBER
Portsmouth Loam	3	1
Portsmouth Loam, Undrained	6	6
Portsmouth Loamy Sand	6	1
Portsmouth Loamy Sand, Undrained	6	6
Portsmouth Mucky Loam	3	1
Portsmouth Sandy Loam	3	2
Portsmouth Sandy Loam, Undrained	6	6
Portsmouth-Johnson Association	3	1
Portsmouth-Johnson Association, Undrained	6	6
Quitman Loamy Sand	3	2
Rabun Cobbly Loam, 25 to 40 percent slopes	6	2
Rabun Cobbly Loam, 40 to 70 percent slopes	6	2
Rabun Loam, 10 to 25 percent slopes	6	2
Rains Association	3	2
Rains Association, Undrained	6	6
Rains Fine Sandy Loam	3	2
Rains Fine Sandy Loam, Undrained	6	6
Rains Loamy Sand	3	2
Rains Loamy Sand, Undrained	6	6
Rains Sandy Loam	3	2
Rains Sandy Loam, Undrained	6	6
Rains Sandy Loam, Moderately Deep Variant	3	2
Rains Lynchburg Association	3	5
Red Bay Sandy Loam, 0 to 2 percent slopes	2	2
Red Bay Sandy Loam, 2 to 6 percent slopes	2	2
Rembert Loam	3	2
Rembert Loam, Undrained	6	6
Ridgeland Fine Sand	6	3
Ridgeland Loamy Fine Sand	6	3
Ridgeland Loamy Sand	6	3
Ridgeland Sand	6	3
Rimini Fine Sand	6	5
Rimini Sand	6	5
Rimini Sand, 0 to 6 percent slopes	6	5
Rion Loamy Sand, 15 to 40 percent slopes	6	3
Riverview Silt Loam	5	1
Riverwash	6	6
Roanoke Silt Loam	3	3
Roanoke Silt Loam, Undrained	6	6
Rock Land	6	6
Rock Outcrop	6	6
Rockland-Cleveland Complex, 25 to 80 percent slope	6	4
Rosedhu Fine Sand	6	3
Rosedhu Fine Sand, Undrained	6	6
Ruston Fine Sandy Loam, Gently Sloping Phase	2	2
Ruston Fine Sandy Loam, Level Phase	2	2
Ruston Loamy Sand, 0 to 2 percent slopes	2	2
Ruston Loamy Sand, 0 to 6 percent slopes	2	2
Ruston Loamy Sand, 2 to 6 percent slopes	2	2
Ruston Loamy Sand, 2 to 6 percent slopes, eroded	2	2
Ruston Loamy Sand, 6 to 10 percent slopes	2	2
Ruston Loamy Sand, Gently Sloping Thick Surface Phase	5	2
Ruston Loamy Sand, Level Thick Surface Phase	5	2
Ruston Loamy Sand, Sloping Thick Surface Phase	6	2
Ruston Loamy Sand, Thick Surface, 0 to 2 percent slopes	6	2
Ruston Loamy Sand, Thick Surface, 10 to 15 percent slopes	6	2
Ruston Loamy Sand, Thick Surface, 2 to 6 percent slopes	6	2
Ruston Loamy Sand, Thick Surface, 6 to 10 percent slopes	6	2
Ruston Sandy Loam, 0 to 2 percent slopes	2	2
Ruston Sandy Loam, 2 to 6 percent slopes	2	2
Ruston Sandy Loam, 6 to 10 percent slopes	5	2

SOIL NAME	CLASS	
	CROP	TIMBER
Ruston Sandy Loam, Eroded Sloping Phase	5	2
Ruston Sandy Loam, Gently Sloping Phase	2	2
Ruston Sandy Loam, Level Phase	2	2
Rutlege Loamy Sand	6	2
Rutlege Loamy Sand, Undrained	6	6
Rutlege Loam	6	2
Rutlege Loamy Fine Sand	6	2
Rutlege Loamy Fine Sand, Undrained	6	6
Rutlege Mucky Loam	6	2
Rutlege Sand	6	2
Rutlege Sand, Undrained	6	6
Rutlege-Johnston Association	6	4
Rutlege-Johnston Association, Undrained	6	6
Rutlege-Pamlico Complex	6	3
Saluda and Edneyville Soils, 15 to 25 percent slopes	6	3
Saluda and Edneyville Soils, 25 to 40 percent slopes	6	3
Saluda and Ednyville Soils, Very Steep	6	3
Saluda Sandy Loam, 10 to 25 percent slopes	6	3
Saluda Sandy Loam, 25 to 40 percent slopes	6	3
Saluda Sandy Loam, 40 to 70 percent slopes	6	3
Sandy and Clayey Land, Moderately Steep	6	3
Sandy and Clayey Land, Sloping	6	3
Santee Association	3	1
Santee Association, Undrained	6	6
Santee Clay Loam	3	1
Santee Fine Sandy Loam	3	1
Santee Fine Sandy Loam, Undrained	6	6
Santee Loam	3	1
Santee Loam, Undrained	6	6
Scranton Fine Sand	4	3
Scranton Loamy Fine Sand	4	3
Scranton Loamy Sand	4	3
Seabrook Fine Sand	5	2
Seabrook Loamy Fine Sand	5	2
Seabrook Sand	5	2
Seagate Loamy Fine Sand	5	3
Seagate Loamy Sand	5	3
Seewee Complex	6	2
Seewee Fine Sand	6	2
Severely Gullied Land	6	4
Sloping Land, Sandy and Clayey Sediments	6	3
Sloping Land, Sandy and Clayey Sediment, Eroded Phase	6	3
Sloping Sandy Land	6	4
Smithboro Fine Sandy Loam	2	2
Smithboro Loam	2	2
Smithboro Silt Loam	6	4
St. Johns Fine Sand	6	4
Starr Loam, 0 to 6 percent slopes	2	1
Starr Soils	2	1
State Fine Sandy Loam	2	1
State Sandy Loam, 0 to 2 percent slopes	2	1
Stono Fine Sandy Loam	3	1
Stono Fine Sandy Loam, Undrained	6	4
Stony Land	6	4
Stony Land, Moderately Steep	6	4
Summerton Fine Sandy Loam, 0 to 2 percent slopes	2	3
Summerton Fine Sandy Loam, 2 to 6 percent slopes	3	3
Summerton Fine Sandy Loam, 6 to 10 percent slopes	5	3
Summerton Loamy Fine Sand, 0 to 2 percent slopes	3	3
Summerton Loamy Fine Sand, 2 to 6 percent slopes	3	3
Summerton Loamy Fine Sand, 6 to 10 percent slopes	5	3

SOIL NAME	CLASS	
	CROP	TIMBER
Summerton Loamy Sand, 2 to 6 percent slopes	3	3
Summerton Loamy Sand, 6 to 10 percent slopes	5	3
Summerton Sandy Loam, 0 to 2 percent slopes	2	3
Sunsweet Loamy Fine Sand, 10 to 25 percent slopes	6	3
Sunsweet Loamy Fine Sand, 6 to 10 percent slopes	6	3
Swamp	6	6
Talladega and Chandler Loams, 10 to 25 percent slopes	6	4
Talladega and Chandler Loams, 25 to 60 percent slopes	6	4
Tallapoosa Loam, 15 to 25 percent slopes	6	4
Tallapoosa Loam, 25 to 40 percent slopes	6	4
Tallapoosa Loam, 40 to 80 percent slopes	6	4
Tallapoosa Loam, 6 to 15 percent slopes	6	4
Talledaga Soils, 40 to 80 percent slopes	6	4
Tatum Gravelly Silt Loam, 10 to 15 percent slopes, eroded	6	3
Tatum Gravelly Silt Loam, 15 to 25 percent slopes, eroded	3	3
Tatum Gravelly Silt Loam, 2 to 6 percent slopes, eroded	3	3
Tatum Gravelly Silt Loam, 6 to 10 percent slopes, eroded	6	3
Tatum Loam, 10 to 15 percent slopes, eroded	4	3
Tatum Loam, 10 to 25 percent slopes, eroded	6	4
Tatum Loam, 15 to 25 percent slopes, eroded	6	3
Tatum Silt Loam, 10 to 15 percent slopes, eroded	6	3
Tatum Silt Loam, 15 to 25 percent slopes, eroded	6	3
Tatum Silt Loam, 2 to 6 percent slopes	4	3
Tatum Silt Loam, 2 to 6 percent slopes, eroded	3	3
Tatum Silt Loam, 6 to 10 percent slopes	5	3
Tatum Silt Loam, 6 to 10 percent slopes, eroded	6	3
Tatum Silty Clay Loam, 10 to 15 percent slopes, severely eroded	6	4
Tatum Silty Clay Loam, 10 to 25 percent slopes, severely eroded	6	4
Tatum Silty Clay Loam, 15 to 25 percent slopes, severely eroded	6	4
Tatum Silty Clay Loam, 15 to 35 percent slopes, severely eroded	6	4
Tatum Silty Clay Loam, 2 to 6 percent slopes, severely eroded	6	4
Tatum Silty Clay Loam, 6 to 10 percent slopes, severely eroded	6	4
Tatum Very Fine Sandy Loam, 10 to 15 percent slopes	6	3
Tatum Very Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Tatum Very Fine Sandy Loam, 15 to 25 percent slopes	6	3
Tatum Very Fine Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Tatum Very Fine Sandy Loam, 2 to 6 percent slopes	4	3
Tatum Very Fine Sandy Loam, 2 to 6 percent slopes, eroded	3	4
Tatum Very Fine Sandy Loam, 25 to 35 percent slopes	6	3
Tatum Very Fine Sandy Loam, 6 to 10 percent slopes	4	3
Tatum Very Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Tawcaw Association, Frequently Flooded	6	1
Tawcaw Silty Clay Loam	6	1
Tawcaw Soils	3	1
Tawcaw-Chastain Association	6	2
Tawcaw-Chastain Association, Frequently Flooded	6	1
Tidal Marsh, Firm	7	7
Tidal Marsh, Firm Mucks and Peats	6	7
Tidal Marsh, Soft	6	7
Tifton Loamy Sand, 0 to 1 percent slopes	1	2
Tifton Loamy Sand, 0 to 2 percent slopes	1	2
Tifton Loamy Sand, 2 to 6 percent slopes	1	2
Tirzah Silt Loam, 10 to 15 percent slopes, eroded	6	3
Tirzah Silt Loam, 2 to 6 percent slopes	3	3
Tirzah Silt Loam, 2 to 6 percent slopes, eroded	3	3
Tirzah Silt Loam, 6 to 10 percent slopes	6	3
Tirzah Silt Loam, 6 to 10 percent slopes, eroded	6	3
Tirzah Silt Loam, Eroded Gently Sloping Phase	3	3
Tirzah Silt Loam, Eroded Strongly Sloping Phase	6	3
Tirzah Silt Loam, Gently Sloping Phase	3	3
Tirzah Silt Loam, Sloping Phase	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Tirzah Silty Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Toccoa Fine Sandy Loam	5	2
Toccoa Loam	5	2
Toccoa Sandy Loam	5	2
Toccoa Soils	5	2
Toccoa-Cartecay Complex	6	2
Tomotley Fine Sand	6	2
Tomotley Fine Sand, Undrained	6	6
Tomotley Loamy Fine Sand	3	2
Tomotley Loamy Fine Sand, Undrained	6	6
Tomotley Sandy Loam	6	2
Tomotley Sandy Loam, Undrained	6	6
Troup Fine Sand, 0 to 2 percent slopes	6	3
Troup Fine Sand, 0 to 6 percent slopes	6	3
Troup Fine Sand, 10 to 15 percent slopes	6	3
Troup Fine Sand, 2 to 6 percent slopes	6	3
Troup Fine Sand, 6 to 10 percent slopes	6	3
Troup Fine Sand, 0 to 2 percent slopes	6	3
Troup Sand, 0 to 6 percent slopes	6	3
Troup Sand, 10 to 25 percent slopes	6	3
Troup Sand, 0 to 2 percent slopes	6	3
Troup Sand, 2 to 6 percent slopes	6	3
Troup Sand, 6 to 10 percent slopes	6	3
Troup Sand, 6 to 15 percent slopes	6	3
Troup, Wagram and Lakeland Sand, 10 to 15 percent slopes	6	3
Troup-Urban Land Complex, 0 to 6 percent slopes	6	3
Tusquitee Loam, 4 to 10 percent slopes	3	2
Udipsamments	6	5
Udorthents	6	6
Udorthents-Argents Complex	6	6
Udrothents, Loamy	6	6
Udorthents, Sandy	6	6
Udorthents-Argents Complex	6	6
Vacluse Loamy Sand, 10 to 15 percent slopes	6	3
Vance Clay Loam, 10 to 25 percent slopes, severely eroded	6	3
Vance Clay Loam, 2 to 10 percent slopes, severely eroded	6	3
Vance Sandy Clay Loam, 6 to 10 percent slopes, eroded	6	3
Vance Sandy Loam, 10 to 15 percent slopes, eroded	6	3
Vance Sandy Loam, 15 to 25 percent slopes, eroded	6	3
Vance Sandy Loam, 2 to 6 percent slopes	4	3
Vance Sandy Loam, 6 to 10 percent slopes	5	3
Vance Sandy Loam, 6 to 10 percent slopes, eroded	6	3
Varina Fine Sandy Loam, 0 to 2 percent slopes	2	3
Varina Fine Sandy Loam, 2 to 6 percent slopes	2	3
Varina Loamy Fine Sand, 0 to 2 percent slopes	2	3
Varina Loamy Fine Sand, 2 to 6 percent slopes	2	3
Varina Loamy Sand, 0 to 2 percent slopes	2	3
Varina Loamy Sand, 2 to 6 percent slopes	2	3
Varina Loamy Sand, 6 to 10 percent slopes	3	3
Varina Sandy Loam, 0 to 2 percent slopes	2	3
Varina Sandy Loam, 2 to 6 percent slopes	2	3
Varina Sandy Loam, 2 to 6 percent slopes, eroded	3	3
Vaucluse-Ailey Complex, 15 to 25 percent slopes	6	3
Vaucluse-Ailey Complex, 6 to 15 percent slopes	6	3
Vaucluse-Udorthents Complex	6	5
Vaucluse and Blaney Loamy Sands, 10 to 15 percent slopes	6	3
Vaucluse and Blaney Loamy Sand, 2 to 6 percent slopes	6	3
Vaucluse and Blaney Loamy Sand, 6 to 10 percent slopes	6	3
Vaucluse Gravelly Loamy Sand, 10 to 15 percent slopes	6	3
Vaucluse Gravelly Loamy Sand, 2 to 6 percent slopes	6	3
Vauclose Gravely Loamy Sand, 6 to 10 percent slopes	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Vaucluse Loamy Sand, 10 to 15 percent slopes	6	3
Vaucluse Loamy Sand, 10 to 15 percent slopes, eroded	6	3
Vaucluse Loamy Sand, 10 to 25 percent slopes	6	3
Vaucluse Loamy Sand, 15 to 20 percent slopes, eroded	6	3
Vaucluse Loamy Sand, 15 to 25 percent slopes, eroded	6	3
Vaucluse Loamy Sand, 2 to 6 percent slopes	6	3
Vaucluse Loamy Sand, 2 to 6 percent slopes, eroded	6	3
Vaucluse Loamy Sand, 2 to 6 percent slopes, Thick Surface	6	3
Vaucluse Loamy Sand, 6 to 10 percent slopes	6	3
Vaucluse Loamy Sand, 6 to 10 percent slopes, eroded	6	3
Vaucluse Loamy Sand, Gently Sloping Thick Surface Phase	6	3
Vaucluse Loamy Sand, Sloping Thick Surface Phase	6	3
Vaucluse Loamy Sand, Thick Surface, 10 to 15 percent slopes	6	3
Vaucluse Loamy Sand, Thick Surface, 6 to 10 percent slopes	6	3
Vaucluse Loamy Sand, Thick Surface, 6 to 15 percent slopes	6	3
Vaucluse Sand, 10 to 15 percent slopes	6	3
Vaucluse Sand, 10 to 15 percent slopes, eroded	6	3
Vaucluse Sand, 15 to 25 percent slopes, eroded	6	3
Vaucluse Sand, 2 to 6 percent slopes	6	3
Vaucluse Sand, 6 to 10 percent slopes	6	3
Vaucluse Sand, 6 to 10 percent slopes, eroded	6	3
Vaucluse Sand, Gravelly Variant, 10 to 15 percent slopes, eroded	6	3
Vaucluse Sand, Thick Surface, 10 to 15 percent slopes	6	3
Vaucluse Sand, Thick Surface, 2 to 6 percent slopes	6	3
Vaucluse Sand, Thick Surface, 6 to 10 percent slopes	6	3
Vaucluse Sandy Loam, 3 to 8 percent slopes, eroded	6	3
Vaucluse Sandy Loam, 6 to 10 percent slopes, severely eroded	6	3
Vaucluse Sandy Loam, Eroded Sloping Phase	6	3
Vaucluse Sandy Loam, Eroded Strongly Sloping Phase	6	3
Vaucluse Sandy Loam, Gently Sloping Phase	6	3
Vaucluse Sandy Loam, Moderately Steep Phase	6	3
Vaucluse Sandy Loam, Sloping Phase	6	3
Vaucluse Sandy Loam, Strongly Sloping Phase	6	3
Vaucluse Soils, 10 to 15 percent slopes, eroded	6	3
Vaucluse Soils, 10 to 25 percent slopes	6	3
Wadmalaw Fine Sandy Loam	6	1
Wadmalaw Fine Sandy Loam, Undrained	6	6
Wadmalaw Variant Loamy, Fine Sand	3	1
Wadmalaw Variant Loamy, Fine Sand, Undrained	6	6
Wagram Loamy Fine Sand, 0 to 6 percent slopes	6	3
Wagram Loamy Sand, 0 to 2 percent slopes	6	3
Wagram Loamy Sand, 10 to 15 percent slopes	6	3
Wagram Loamy Sand, 2 to 6 percent slopes	6	3
Wagram Loamy Sand, 6 to 10 percent slopes	6	3
Wagram Sand, 6 to 10 percent slopes	6	3
Wagram Sand, 0 to 6 percent slopes	6	3
Wagram Sand, 10 to 15 percent slopes	6	3
Wagram Sand, 2 to 6 percent slopes	6	3
Wahee Fine Sand	3	2
Wahee Fine Sandy Loam	3	2
Wahee Fine Sandy Loam, Undrained	6	6
Wahee Fine Sandy Loam VIII	6	2
Wahee Loam	3	2
Wahee Sandy Loam	3	2
Wahee Sandy Loam, 0 to 4 percent slopes	3	2
Wahee Sandy Loam, Sandy Substratum II	3	2
Wahee Vary Fine Sandy Loam	3	2
Wakulla Sand, 0 to 2 percent slopes VII	6	3
Wando Fine Sand, 0 to 6 percent slopes	6	3
Wando Loamy Fine Sand, 0 to 6 percent slopes	6	3
Wando Sand	6	3

SOIL NAME	CLASS	
	CROP	TIMBER
Wando Sand, 0 to 6 percent slopes	6	3
Watauga Fine Sandy Loam, 10 to 25 percent slopes, eroded	6	3
Watauga Fine Sandy Loam, 2 to 6 percent slopes, eroded	2	3
Watauga Fine Sandy Loam, 25 to 40 percent slopes	6	3
Watauga Fine Sandy Loam, 6 to 10 percent slopes, eroded	5	3
Wateree Sandy Loam, 10 to 25 percent slopes	6	3
Wateree-Rion Complex, 15 to 40 percent slopes	6	3
Wateree-Rion Complex, 6 to 15 percent slopes	6	3
Wedowee Loamy Sand, 10 to 30 percent slopes	6	3
Wedowee Loamy Sand, 2 to 6 percent slopes	3	3
Wedowee Sandy Loam, 10 to 15 percent slopes	6	3
Wedowee Sandy Loam, 10 to 25 percent slopes, eroded	6	3
Wedowee Sandy Loam, 2 to 6 percent slopes	3	3
Wedowee Sandy Loam, 6 to 10 percent slopes	6	3
Wehadkee and Chewacla Silt Loams	3	1
Wehadkee and Chewacla Silt Loam, Undrained	6	6
Wehadkee and Chewacla Soils	6	2
Wehadkee and Johnston Soils	6	2
Wehadkee Silt Loam	6	1
Wehadkee Silt Loam, Undrained	6	6
Wehadkee Soils	6	1
Wehadkee Soils, Undrained	6	6
Wehadkee-Chastain Association	6	2
Wehadkee-Chastain Association, Undrained	6	6
Wehadkee-Chewacla Complex	3	1
Wehadkee-Chewacla Complex, Undrained	6	6
Wickham Clay Loam, 6 to 10 percent slopes, severely eroded	6	2
Wickham Fine Sandy Loam, 0 to 2 percent slopes	1	2
Wickham Fine Sandy Loam, 2 to 6 percent slopes	2	2
Wickham Fine Sandy Loam, Gently Sloping Phase	2	2
Wickham Fine Sandy Loam, Sloping Phase	5	2
Wickham Sandy Clay Loam, 6 to 10 percent slopes, severely eroded	6	3
Wickham Sandy Loam, 0 to 2 percent slopes	1	2
Wickham Sandy Loam, 10 to 15 percent slopes, eroded	6	2
Wickham Sandy Loam, 10 to 25 percent slopes, severely eroded	6	2
Wickham Sandy Loam, 15 to 25 percent slopes, eroded	6	2
Wickham Sandy Loam, 2 to 10 percent slopes, eroded	5	2
Wickham Sandy Loam, 2 to 6 percent slopes	2	2
Wickham Sandy Loam, 2 to 6 percent slopes, eroded	2	2
Wickham Sandy Loam, 6 to 10 percent slopes, eroded	5	2
Wickham Sandy Loam, 6 to 15 percent slopes, eroded	6	2
Wicksburg Loamy Fine Sand, 0 to 6 percent slopes	6	3
Wicksburg Loamy Sand, 0 to 2 percent slopes	6	3
Wicksburg Loamy Sand, 2 to 6 percent slopes	6	3
Wilkes Complex, 10 to 15 percent slopes	6	4
Wilkes Complex, 15 to 35 percent slopes	6	4
Wilkes Complex, 15 to 35 percent slopes, eroded	6	4
Wilkes Complex, 2 to 6 percent slopes	6	4
Wilkes Complex, 6 to 10 percent slopes	6	4
Wilkes Complex, 6 to 15 percent slopes, eroded	6	4
Wilkes Fine Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Wilkes Fine Sandy Loam, 15 to 40 percent slopes	6	4
Wilkes Fine Sandy Loam, 15 to 40 percent slopes, eroded	6	4
Wilkes Fine Sandy Loam, 2 to 6 percent slopes, eroded	6	4
Wilkes Fine Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Wilkes Fine Sandy Loam, 6 to 15 percent slopes	6	4
Wilkes Sandy Loam, 10 to 15 percent slopes	6	4
Wilkes Sandy Loam, 10 to 15 percent slopes, eroded	6	4
Wilkes Sandy Loam, 15 to 25 percent slopes, eroded	6	4
Wilkes Sandy Loam, 15 to 30 percent slopes	6	4
Wilkes Sandy Loam, 15 to 35 percent slopes	6	4

SOIL NAME	CLASS	
	CROP	TIMBER
Wilkes Sandy Loam, 15 to 40 percent slopes	6	4
Wilkes Sandy Loam, 2 to 10 percent slopes	6	4
Wilkes Sandy Loam, 2 to 6 percent slopes	1	4
Wilkes Sandy Loam, 6 to 10 percent slopes	6	4
Wilkes Sandy Loam, 6 to 10 percent slopes, eroded	6	4
Wilkes Sandy Loam, 6 to 15 percent slopes	6	4
Wilkes Sandy Loam, 6 to 15 percent slopes, eroded	6	4
Wilkes Sandy Loam, Eroded Moderately Steep Phase	6	4
Wilkes Sandy Loam, Eroded Sloping Phase	6	3
Wilkes Sandy Loam, Eroded Steep Phase	6	4
Wilkes Sandy Loam, Eroded Strongly Sloping Phase	6	4
Wilkes Sandy Loam, Gently Sloping Phase	6	4
Wilkes Sandy Loam, Moderately Steep Phase	6	4
Wilkes Sandy Loam, Sloping Phase	6	4
Wilkes Sandy Loam, Steep Phase	6	4
Wilkes Sandy Loam, Strongly Sloping Phase	6	4
Wilkes Soils, 15 to 40 percent slopes	6	4
Williman Loamy Fine Sand	3	2
Williman Loamy Fine Sand, Undrained	6	6
Winnsboro Fine Sandy Loam, 10 to 15 percent slopes	6	4
Winnsboro Fine Sandy Loam, 2 to 6 percent slopes	3	4
Winnsboro Fine Sandy Loam, 6 to 10 percent slopes	5	4
Winnsboro Sandy Loam, 10 to 25 percent slopes	6	4
Winnsboro Sandy Loam, 2 to 6 percent slopes	3	4
Winnsboro Sandy Loam, 6 to 10 percent slopes	5	4
Witherbee Fine Sand	6	2
Witherbee Sand	6	2
Worsham Fine Sandy Loam	6	3
Worsham Fine Sandy Loam, 0 to 6 percent slopes	6	3
Worsham Loam, 1 to 4 percent slopes	6	3
Worsham Sandy Loam, 0 to 6 percent slopes	6	3
Worsham Sandy Loam, 2 to 6 percent slopes, eroded	6	3
Worsham Sandy Loam, 2 to 6 percent slopes	6	3
Worsham Sandy Loam, 6 to 15 percent slopes	6	3
Worsham Sandy Loam, 6 to 15 percent slopes, eroded	6	3
Worsham Sandy Loam, Gently Sloping Phase	6	3
Worsham Silt Loam, 0 to 6 percent slopes	6	3
Yemassee Loamy Fine Sand	1	2
Yemassee Sandy Loam	1	2
Yemassee Variant Loamy Sand	1	2
Yonges Fine Sandy Loam	2	1
Yonges Fine Sandy Loam, Undrained	6	6
Yonges Loamy Fine Sand	3	1
Yonges Loamy Fine Sand, Undrained	6	6
Yonges-Argent Association	3	1

Section 5. Listing of Timberland Provinces with Listing of Counties in Each Province.

MARKETING PROVINCES

Four marketing provinces were established relative to prices paid for pine stumpage in all counties. These "marketing areas" or provinces are listed below.

Coastal Plain

Allendale	Charleston	Florence	Marion
Bamberg	Clarendon	Georgetown	Marlboro
Barnwell	Colleton	Hampton	Orangeburg
Beaufort	Darlington	Horry	Sumter
Berkeley	Dillon	Jasper	Williamsburg
Calhoun	Dorchester	Lee	

Fall Line/Sand Hills

Aiken	Kershaw		
Chesterfield	Lexington		
Fairfield	Richland		

Western Piedmont

Edgefield	Newberry		
Greenwood	Saluda		
McCormick			

Piedmont/Blue Ridge

Abbeville	Chester	Laurens	Spartanburg
Anderson	Greenville	Oconee	Union
Cherokee	Lancaster	Pickens	York

117–1840.3. Discount for Subdivided Land.

Code Sections 12–43–224 and 12–43–225 of the South Carolina Code of Laws provides a discount from market value for subdivided land.

For purposes of Code Sections 12–43–224 and 12–43–225, a subdivision is a tract of land which has been divided by a developer into separate parcels or lots with suitable streets, roadways, open areas, and appropriate facilities for development as residential, commercial or industrial sites that have been surveyed and a plat recorded with the appropriate county official.

A developer is someone who owns 10 or more building lots which are offered for sale in a subdivision on December 31 of the year immediately preceding the calendar year in which the developer wishes the discount to apply.

In order for the provisions of Sections 12–43–224 and 12–43–225 of the Code to apply, the owners of such real property or their agents must make written application before May 1st of the tax year in which the multiple lot ownership discount value is claimed. The application shall be made to the County Assessor upon forms provided by the county and approved by the Department. The failure to apply is treated as a waiver of the discount for that year.

Code Section 12–43–224 allows the current fair market value of the land to be discounted because the subdivided parcels will be sold over a period of years. The discount rate consists of the appropriate interest rate and effective tax rate. This rate is used to discount the value over the period it will take to sell the lots. Code Section 12–43–225 allows a further discount to the value of the land. This further discounted value is determined by dividing the total number of platted building lots into the value of the entire parcel as undeveloped property and subtracting the result from the value of each lot as determined under Code Section 12–43–224. The difference between the value of each parcel as undeveloped property and the value of each parcel determined under Code Section 12–43–224 is then subtracted from each lots already discounted value under Code Section 12–43–224.

To the extent that a county undergoes a reassessment program, the value of the subdivided land must be recalculated.

In order to calculate the discount, the following information is necessary.

A. The value of the undivided parcel of undeveloped land assuming that the land was not subdivided.

B. An interest rate. This interest rate is the typical interest rate charged by developers within the county to purchasers of lots when the purchase is financed by the developer or, in the absence of financing by the developer, the typical interest rate charged by local savings and loans institutions for mortgages for new homes. In the year in which the next reassessment is implemented, the interest rate is changed to the rate determined for that year.

C. The effective tax rate for the tax district in which the lots are located. The tax rate used by the Assessor must be uniform in the tax district. In the year in which the next reassessment is implemented, the tax rate is changed to the rate in effect for that year.

D. A period over which it is anticipated that the lots will be sold. The Assessor shall determine a reasonable number of years for the developer to sell the platted lots based on the best evidence available such as sales history of the subdivided lots in question. However, this period may not exceed seven years.

E. A market value for the property. For this purpose, each subdivided lot is valued separately. The market value used by the Assessor must be the value used for the year in which the last reassessment was implemented. If all property in the county is reassessed, the market value for the lots will be changed to the current market value determined as of the year the new reassessment values are implemented.

To determine the discounted value of each subdivided lot, the market value of each lot (item (E) above) is reduced by a discount rate obtained by using the factors in items (B) and (C) above to obtain a discounted value for all the subdivided lots under Section 12–43–224 of the Code. The discount rate is applied over the period provided in (D) above. This calculation is designed to determine what the present value of the lots is. Present value refers to the economic principle that a dollar received today is worth more than a dollar received tomorrow. It is future value discounted to its value today. In order to determine the "present value" of a transaction, a discount rate (such as the one provided in Code Section 12–43–224) is applied to determine the worth of future benefits in today's dollars.

The reduced value of each lot as determined under Section 12–43–224 of the Code is further reduced by the provisions of Section 12–43–225 of the Code. This further discounted value is determined by dividing the total number of platted building lots into the value of the entire parcel as undeveloped property and subtracting the result from the value of each lot as determined under Code Section 12–43–224. The difference between the value of each parcel as undeveloped property and the value of each parcel determined under Code Section 12–43–224 is then subtracted from the each lot's already discounted value under Code Section 12–43–224.

The following is an example of the procedure used to compute the discounted value.

EXAMPLE:

Step 1: Determine the value of the land as an undivided parcel. For purposes of this example, assume the land as a whole has a fair market value of $1,000,000.

Step 2: Determine how many lots the land will be subdivided into and the value of these lots. For purposes of this example, assume that there are 100 lots appraised at $20,000 a lot for a total value of $2,000,000.

Step 3: Estimate the number of years it will take to sell the lots and divide the number of lots by the number of years it will take to sell the lots to determine how many lots will be sold each year. For purposes of this example, assume that it will take 5 years to sell the lots. 100 lots divided by a 5 year sellout period means that 20 lots will be sold each year.

Step 4: Determine the amount of proceeds that will be generated by the sale of 20 lots each year. The value of each lot is $20,000 and it is estimated that 20 lots will be sold each year, therefore, the proceeds generated each year would be $400,000.

Step 5: Determine the discount rate that is to be applied to the yearly proceeds to determine the present value of those proceeds. The components of the discount rate to be applied to subdivided land under Section 12–43–224 of the Code are:

a. an interest rate. For purposes of this example, assume an interest rate of 6%.

b. the effective tax rate for the tax district that the lots are located in. For purposes of this example assume that the effective tax rate is 2% determined as follows: 332 mills x .06 assessment ratio (the constitutionally prescribed assessment ratio for this type of property) = .01992 which is rounded up to 2%

This results in a discount rate of 8%.

Step 6. Determine the value of each lot as follows:

a. Determine the present worth of $1.00 in a year by applying a 8% discount rate for 5 years (the period over which the lots will be sold) to get a total of 3.99271. This is the value of receiving $1 each year for 5 years. The present value for that $5.00 dollars is $3.99 (rounded).

b. Determine the current value of the lots by multiplying 3.99271 x the amount of proceeds generated from the sale of 20 lots ($400,000 of income each year.)

c. Determine the total discounted value for the sale of all lots by multiplying the discounted value of 3.99271 x 400,000 to get a total value of $1,597,084 for all the lots.

d. Divide the total discounted value of all the lots ($1,597,084) by the total number of lots (100) to determine the discounted value of each lot. $1,597,084/100 = $15,970.84

Step 7. Determine the further discount allowed by Section 12–43–225 as follows:

a. Divide total number of platted building lots (100) into the value of the entire parcel as undeveloped real property. Assume for purposes of example that value of entire parcel is $1,000,000. Divide 100/$1,000,000 = $10,000 per lot.

b. Subtract value of each lot as parcel of undivided land ($10,000) from the value of each lot as determined under Section 12–43–224 ($15,970.84).

c. Reduce the discounted value of each lot ($15,970.84) by 100% of the difference ($5,970.84) to determine the reduced value of each lot. $15,970.84 – $5,970.84 = $10,000

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004. Amended by State Register Volume 28, Issue No. 8, eff August 27, 2004.

117–1860. Returns.

These regulations address how and where returns dealing with property taxes are to be filed.

117–1860.1. Licensed Automotive Vehicles and Airplanes.

The return of property to the Department of Revenue for property assessment purposes shall not include licensed automotive vehicles or airplanes. Such licensed automotive vehicles and airplanes shall be returned to local County Authorities for property assessment purposes.

For the purpose of this Rule, "Licensed Automotive Vehicles" means vehicles that are licensed by the South Carolina Highway Department as provided by law.

HISTORY: Added by State Register Volume 28, Issue No. 6, eff June 25, 2004.