

# SALES AND USE TAX GUIDELINES

November 2016

## OVERVIEW

Sales and use taxes, imposed by the state on the sales of tangible property, are an important component of the state's annual budget. South Carolina's state sales and use tax rate is 6%, and (effective March 1, 2015) there is an additional 1% education capital improvement tax accrual for Anderson County. **The sales and use tax rate for Anderson County is, therefore, 7%.**

A **sale** is the transfer of title or possession of tangible property by a retailer (seller) to the end user or consumer for an agreed upon amount. Included within the term are leases and rentals of tangible property. The sale price includes the cost of any materials, labor, interest, services or transportation that are part of the sale. A sale is either a "retail sale" (to the end user) or a "wholesale sale" (to another retailer for resale to the end user).

**Tangible** property is property that may be seen, weighed, measured, felt, touched, or in any manner is perceptible to the senses.

## SALES TAX

**Sales** tax is imposed on all **retailers** (individual, firm, corporation, limited liability company, association, state agency, municipality, etc.) engaged in the business of selling, leasing, renting, etc., within the state, and applies to all sales of tangible property within the state. Retailers selling tangible property in South Carolina are required to remit sales tax to the Department of Revenue. The sales tax is normally included in the proceeds of the sale, and is part of the cost the purchaser pays to the seller. Sales tax is the responsibility of the Seller.

## USE TAX

**Use** tax is imposed upon the **consumer** (purchaser) of tangible property from out-of-state retailers for use, storage, or consumption in South Carolina, and includes purchases from retailers made via the Internet, through out-of-state catalog companies, or when visiting another state. Use tax is the responsibility of the purchaser. Use tax is not required for purchases on which sales tax has been paid; i.e., either sales tax or use tax is due with respect to a single transaction, but not both.

## PAYMENT OF TAX AND RECORD KEEPING

South Carolina allows a credit against use tax due in South Carolina for tax due and paid in another state on purchases of tangible property. If the tax due and paid in the other state is less than the amount of use tax due in South Carolina, then the purchaser must pay the difference to the SC Department of Revenue. If the tax paid in the other state is greater than the tax due in South Carolina, purchaser is not entitled to a refund.

Consumers must keep records, receipts, invoices, and other pertinent papers documenting payment of sales and use tax for a period of three years. Persons or entities (e.g. representatives of Tri-County Technical College) purchasing tangible property subject to sales and use tax, which have not paid such tax to the seller required to collect it, must file a return and pay the tax to the Department of Revenue.

## **SPECIFIC APPLICATIONS OF SALES AND USE TAX**

**Administrative fees** When a vendor charges an administrative fee associated with the purchase of tangible property, then the administrative fee is considered part of the tax base upon which the tax is calculated and is ***subject to tax***.

**Note:** If the purchase qualifies for an exemption, then administrative fees associated with the purchase are also exempt.

**Classroom Supplies** Textbooks, books, magazines, periodicals, newspapers and access to online information used in a course of study or for use in a school or public library are ***not subject to tax***. These items may be in printed form or in alternative forms such as microfilm or CD ROM.

*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. (SC Code of Regulations 117-316.1)*

*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. (SC Code of Regulations 117-316.2).*

The following items do not qualify as “textbooks” as defined above, and are, therefore, ***subject to tax***:

*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. (SC Code of Regulations 117-316.1)*

## Delivery Charges

(by whatever name, e.g., freight, shipping, transportation, shipping and handling, etc.)

When a vendor charges the customer a delivery fee for **delivery via the seller's own trucks**, then the delivery charge is considered part of the tax base upon which the tax is calculated and is **subject to tax**.

When the customer is charged for **delivery via common carrier** and the delivery terms are **FOB Destination**, then the delivery charge is considered part of the tax base upon which the tax is calculated and is **subject to tax**.

When a vendor charges the customer for **delivery via common carrier** and the delivery terms are **FOB Origin** (or FOB Shipping Point), then the delivery charge is not considered part of the tax base upon which the tax is calculated and is **not subject to tax**.

*FOB (Free On Board) is a transportation term that indicates that the price for goods includes delivery to a specified point and no further. The **FOB term is used** with an identified physical location to determine the responsibility and basis for payment of freight charges.*

*"FOB Origin" means Buyer owns the merchandise as soon as it leaves Seller's location and Buyer is responsible for freight charges.*

*"FOB Destination" means Seller owns the merchandise until it is delivered to Buyer's location and Seller is responsible for freight charges.*

When the customer is charged for **delivery via common carrier** and the **delivery terms are not specified**, then the delivery charge is considered part of the tax base upon which the tax is calculated and is **subject to tax**.

**Note:** If the purchase qualifies for an exemption, then the entire tax base upon which the tax is calculated (including any delivery charges associated with the exempt sale) is also exempt.

## Food

Sales of *unprepared* food that lawfully may be purchased with United States Department of Agriculture food coupons are **exempt from tax**. However, local taxes still apply to sales of unprepared foods, unless the local tax law specifically exempts such sales.

## Fuel Surcharges

Fuel surcharges charged by a retailer to the customer when delivering merchandise via its own vehicles are includable in "gross proceeds of sales" and therefore **subject to the sales and use tax**.

## Installation Charges

When a customer is charged an installation charge associated with the purchase of tangible property, the installation charge is **not subject to tax provided** the installation charge is **stated separately** on the customer's bill.

If the installation is **not separately stated** on the bill, the charge is considered part of the tax base upon which the tax is calculated and is **subject to tax**.

**Note:** If the purchase qualifies for an exemption, then installation charges associated with the purchase are also exempt.

### **Internet Purchases**

Purchases of tangible property or a taxable service via the Internet and delivered into South Carolina are ***subject to tax***.

Charges to **access the Internet** (e.g. through an Internet Service Provider) are ***not subject to tax***.

Charges to **access an individual website** (including Application Service Providers) are ***subject to tax***.

### **Labor**

When labor is charged in association with the purchase of tangible property or a taxable service, then the charge is considered part of the tax base upon which the tax is calculated and is ***subject to tax***.

**Note:** If the purchase qualifies for an exemption, then any labor charges associated with the purchase are also exempt.

Payment for labor only (not provided in association with the purchase of tangible property) is ***not subject to tax***.

### **Out-of-State Purchases**

Tangible purchases made from out-of-state vendors for use, storage, or consumption in SC are ***subject to tax***, including purchases made via the Internet, through out- of-state catalogs, or when visiting another state.

If purchaser paid sales tax to the other state, the SC purchaser would only owe the difference between the sales tax paid in the other state and the use tax due in South Carolina. (In other words, if the tax paid in another state is equal to or greater than the use tax due in South Carolina, then no use tax is due in South Carolina.)

**Example #1:** If a SC purchaser paid \$15.00 sales tax in the other state and the total use tax due in SC was \$18.00, the SC purchaser would be allowed credit for the \$15.00 and would only owe SC use tax of \$3.00

**Example #2:** If a SC purchaser paid \$21.00 sales tax in the other state and the total use tax due in SC was \$18.00, then the SC purchaser would be allowed credit for the \$21.00 and no SC use tax would be due, since the \$21.00 paid exceeds the \$18.00 due in South Carolina.

**Note:** Each transaction must stand on its own. In other words, an “excess” paid to another state on one purchase (as shown in Example #2) cannot be used to offset SC use tax that may be due on another purchase.

**Note:** Purchase of an item exempt from SC sales tax is also exempt from use tax when purchased from an out-of-state vendor.

**Purchases from another State Agency**

Sales by a state agency to another state agency are ***subject to the sales and use tax***, unless the consideration for the transfer only reimburses the transferring agency for its cost and expenses in conveying the property and the transferring agency has paid tax on the initial purchase of the tangible personal property or the sale is exempt under the sales and use tax law (e.g., textbooks).

**Rentals, Leases**

The sales and use tax law defines the term “sale” to *include* rentals, leases, licenses to use, or any other agreement; therefore any rental or lease of tangible property (or a taxable service) is ***subject to tax***.

**Set-up Charges**

(e.g. screen printers, personalized items, etc.) When a customer is charged a set-up fee in connection with the purchase of tangible property, then the set-up charge is considered part of the tax base upon which the tax is calculated and is ***subject to tax***.

**Note:** If the purchase qualifies for an exemption, then set-up charges associated with the purchase are also exempt.

**Software**

Software (canned or custom) **delivered by tangible means** (e.g. tape, disk) is ***subject to tax***. Software **delivered by electronic means** from a remote location is ***not subject to tax***, *provided* no part of the software, including back-up diskettes and tapes, is delivered by tangible means.

**Training Charges**

(e.g. hardware, software)

If a customer is charged a fee for training associated with the purchase of tangible property, then the charge for training is considered part of the tax base upon which the tax is calculated and is ***subject to tax***.

**Note:** If the purchase qualifies for an exemption, then training fees associated with the purchase are also exempt.

**Travel Expenses**

***No tax is required*** on **airline tickets or conference registrations**; charges for **accommodations** are ***subject to tax***.

**Warranties & Maintenance Contracts**

**Warranty, maintenance, or similar service contracts** purchased in conjunction with the tangible property, is ***subject to tax***, unless the property purchased is *exempt from tax*. Sales and use tax ***does not apply*** to contracts purchased *after* the tangible property is purchased.

The purchase or renewal of a maintenance contract for computer software that was sold in *tangible* form (e.g., tape, disk) is ***subject to tax***.

**EXCLUSIONS FROM TAX, Other Miscellaneous:**

- Newspapers

- Materials, labels, wrapping paper, sacks, bags, or containers incidental to the resale and delivery of tangible property (ex. Campus Store) are exempt from tax.

#### **ADDITIONAL INFORMATION**

The above explanations are provided for general information. Please contact Roberta Sitton ([rsitton@tctc.edu](mailto:rsitton@tctc.edu) or Extension 1804), Matt Whitten ([mwhitten@tctc.edu](mailto:mwhitten@tctc.edu) or Extension 1633), or Sara Simpson ([ssimpson@tctc.edu](mailto:ssimpson@tctc.edu) or Extension 1848) if you have questions about particular transactions. You may also view the **2016 SC Sales and Use Tax Manual** (<https://dor.sc.gov/policy/index/policy-manuals#>) on the SC Department of Revenue website (<https://dor.sc.gov/>) for more complete details.