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A BILL

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

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

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

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 (A) Chapter 6, Title 12 of the 1976 Code, relating to the South Carolina Income Tax Act, is repealed.

(B) Chapter 20, Title 12 of the 1976 Code, relating to Corporate License Fees, is repealed.

1 SECTION 3. Title 12 is amended by adding:

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“Chapter 7

Income Tax

Article 1

Section 12-7-10. The Department of Revenue shall administer and enforce the taxes imposed by this chapter. The department shall make and publish rules and regulations, not inconsistent with this chapter, necessary to enforce its provisions. These rules and regulations have the force of law.

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

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

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

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

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

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

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

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

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

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

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

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

14
15 Section 12-7-40. (A) South Carolina taxable income for
16 individuals is equal to the individual taxpayer's federal taxable
17 income as determined pursuant to the Internal Revenue Code and
18 the state standard deduction subject to the modifications contained
19 in item (1) and (2) of this subsection, Section, section 12-7-50, and
20 Section 12-7-60.

21 (1) The state standard deduction for an individual filing an
22 income tax return pursuant to Section 12-7-310(1)(a) is one
23 thousand two hundred dollars.

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

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

29
30 Section 12-7-50. (A) There is allowed as a nonrefundable credit
31 against the tax imposed pursuant to Section 12-7-30 on a full-year
32 resident individual taxpayer an amount equal to one hundred
33 twenty-five percent of the federal earned income tax credit (EITC)
34 allowed the taxpayer pursuant to Internal Revenue Code Section 32.

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

39
40 Section 12-7-60. (A)(1) Resident individuals are allowed a credit
41 against the taxes imposed by this chapter for income taxes paid to
42 another state on income from sources within that state which is taxed

1 under both this chapter and the laws of that state regardless of the
2 taxpayer's residence.

3 (2) The credit allowed is the lesser of:

4 (a) the product of the fraction in which the numerator is
5 total South Carolina income which is subject to income tax in
6 another state and the denominator is total federal income adjusted
7 by the modifications provided in Section 12-7-40 and Section 12-7-
8 50, multiplied by South Carolina income tax before the credit
9 allowed by this section; or

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

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

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

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

30
31 Section 12-7-60. The following business entities are exempt from
32 the tax imposed pursuant to this chapter:

33 (1) corporations;

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

39 (3) pass-through businesses entities as defined in Section 12-
40 7-20(4);

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

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

- 1 (6) building and loan associations as defined in Section
2 12-13-10;
3 (7) insurance companies;
4 (8) nonprofit corporations organized pursuant to Chapter 36
5 of Title 33 for the purpose of providing water supply and sewage
6 disposal or a combination of those services; and
7 (9) organizations exempt from income taxes pursuant to
8 Section 33-49-120.

9
10 Article 3

11
12 Section 12-7-310. Income tax returns must be filed by the
13 following:

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

- 19 (i) single, surviving spouse, or head of household; or
20 (ii) married, filing separately, and whose spouse does not
21 itemize deductions.

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

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

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

36 (ii) an individual described in Internal Revenue Code
37 Section 63(c)(5) (Certain Dependents) who has unearned income in
38 excess of the amount provided in Internal Revenue Code Section
39 63(c)(5)(A), or who has total gross income in excess of the standard
40 deduction;

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

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

4 (e) for purposes of this subsection:

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

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

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

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

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

19 (8) Every exempt organization operating in this State subject to
20 tax under Section (12-6-540).

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

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

31 (11) an entity other than those described in items (1) through (10)
32 having South Carolina taxable income during the taxable year.

33

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

40

41 Section 12-7-330. Every trust institution maintaining a common
42 trust fund shall make a return under oath for each taxable year. The
43 return shall contain the items of gross income and the deductions

1 allowed by law, the names and addresses of the participants, and the
2 proportionate share of taxable income for each participant.

3
4 Section 12-7-340. (A) An information return must be filed by
5 all individuals who make payments to another individual,
6 corporation, or partnership in the amount of eight hundred dollars or
7 more of rent, salaries, wages, emoluments, or determinable gain,
8 profit, or income.

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

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

16 (D) The provisions of this section do not apply to personal
17 service compensation paid to individuals on which withholding
18 taxes are required and reported as provided in Article 13 of Chapter
19 8.

20
21 Section 12-7-350. Returns must be in a form prescribed by the
22 department. The department shall prepare blank forms for the
23 returns to be furnished upon request. Failure to receive or secure the
24 form does not relieve a taxpayer from the obligation to make a
25 return.

26
27 Section 12-7-360. (A) Returns of taxpayers, except as
28 otherwise provided, must be filed on or before the fifteenth day of
29 the fourth month following the taxable year.

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

34 (C) Information returns must be filed on or before March 15 of
35 each year.

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

38
39 Section 12-7-370. (A) The department may allow an extension
40 of time not to exceed six months for filing returns under this chapter.
41 A taxpayer requesting an extension of time for filing, on or before
42 the date the return or annual report is due, shall submit a tentative
43 return and pay the full amount of the tax.

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

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

14
15 Section 12-7-380. When an income tax return is required under
16 this chapter, the taxpayer shall pay the tax due with the return to the
17 department at the time for filing the return determined without
18 regard to any extensions of time for the filing. Nothing in this
19 section eliminates the requirement for making estimated tax
20 payments.

21
22 Section 12-7-390. (A) If the federal taxable income of a
23 husband and wife are determined on separate federal returns, their
24 South Carolina taxable income must be separately reported and
25 taxed.

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

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

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

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

6
7 Section 12-7-400. If a custodial parent releases claim to the
8 personal exemption authorized in Internal Revenue Code Section
9 152, then the noncustodial parent's South Carolina income tax return
10 must include a copy of the written declaration of the custodial
11 spouse releasing the exemption as provided in Internal Revenue
12 Code Section 152(e)(2).

13
14 Section 12-6-410. (A) A person who is an income tax preparer
15 as defined in Internal Revenue Code Section 7701(a)(36) and who
16 performs the same services with respect to South Carolina income
17 tax returns or claims for refund shall include with his signature on
18 the South Carolina return or claim for refund his taxpayer
19 identification number as prescribed by Internal Revenue Code
20 Section 6109 and applicable regulations.

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

23
24 Section 12-7-420. For purposes of a return filed pursuant to this
25 chapter, all amounts may be rounded by the department or the
26 taxpayer to the nearest whole dollar. An amount of fifty cents or
27 more may be rounded to the next dollar. An amount of less than fifty
28 cents may be eliminated.

29
30
31 Article 5

32
33 Section 12-7-510. A certificate of compliance from the
34 department to the effect that a tax has been paid, that a return has
35 been filed, or that information has been supplied as required by the
36 provisions of this chapter is prima facie evidence that the tax has
37 been paid, that the return has been filed, or that the information has
38 been supplied.

39
40 Section 12-7-520. Income taxes may be paid with an uncertified
41 check, but if a check is not paid by the bank on which it is drawn,
42 the taxpayer remains liable for the payment of the tax and for all
43 legal penalties as if the check had not been tendered.

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

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

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

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

Section 12-7-350. The failure to do an act required by or under the provisions of this chapter is deemed an act committed in the county of residence of the person failing to do the act.

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

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

ARTICLE 7

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

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

9 (C) If a change in taxable year results in a taxable year of less
10 than twelve months, South Carolina income tax must be computed
11 in the manner provided in Internal Revenue Code Sections 443(b)
12 (Computation of Tax on Change of Annual Accounting Period) and
13 443(c) (Adjustment in Deduction for Personal Exemption).

14
15 Section 12-7-710. (A) A taxpayer's method of accounting under
16 this chapter must be the same as for federal income tax purposes.

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

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

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

30
31 Section 12-7-720. (A) South Carolina estimated tax payments
32 must be made in a form prescribed by the department in accordance
33 with Internal Revenue Code Sections 6654 and 6655 except that:

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

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

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

40 First quarter April 15th;
41 Second quarter June 15th;
42 Third quarter September 15th; and
43 Fourth quarter January 15 of the following taxable year

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

3 First quarter April 15th;
4 Second quarter June 15th;
5 Third quarter September 15th; and
6 Fourth quarter December 15.

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

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

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

- 16 (1) refund; or
17 (2) credit for estimated tax for the succeeding taxable year.

18
19 Section 12-7-730. In the case of sickness, absence, or other
20 disability or good cause, the department may in its discretion allow
21 further time for filing and paying estimated taxes.

22
23 Section 12-7-740. No interest, penalties, or other sanctions may
24 be imposed on the active duty income of members of the National
25 Guard and Reserves activated as a result of the conflict in Iraq and
26 the war on terrorism with regard to underpayment of state estimated
27 individual income tax payments of the active duty income if the
28 federal government is unable to withhold state income taxes due on
29 such pay.

30
31 SECTION 4. Section 12-36-2120 of the 1976 Code is amended to
32 read:

33
34 Section 12-36-2120. Exempted from the taxes imposed by this
35 chapter are the gross proceeds of sales, or sales price of:

- 36 (1) tangible personal property or receipts of any business which
37 the State is prohibited from taxing by the Constitution or laws of the
38 United States of America or by the Constitution or laws of this State;
39 (2) tangible personal property sold to the federal government;
40 ~~(3)(a) textbooks, books, magazines, periodicals, newspapers,~~
41 ~~and access to on-line information systems used in a course of study~~
42 ~~in primary and secondary schools and institutions of higher learning~~

1 ~~or for students' use in the school library of these schools and~~
2 ~~institutions;~~
3 ~~(b) books, magazines, periodicals, newspapers, and access to~~
4 ~~on-line information systems sold to publicly supported state, county,~~
5 ~~or regional libraries;~~
6 ~~Items in this category may be in any form, including microfilm,~~
7 ~~microfiche, and CD-ROM; however, transactions subject to tax~~
8 ~~under Sections 12-36-910(B)(3) and 12-36-1310(B)(3) do not fall~~
9 ~~within this exemption;~~
10 ~~(4) livestock. "Livestock" is defined as domesticated animals~~
11 ~~customarily raised on South Carolina farms for use primarily as~~
12 ~~beasts of burden, or food, and certain mammals when raised for their~~
13 ~~pelts or fur. Animals such as dogs, cats, reptiles, fowls (except baby~~
14 ~~chicks and poults), and animals of a wild nature, are not considered~~
15 ~~livestock;~~
16 ~~(5) feed used for the production and maintenance of poultry and~~
17 ~~livestock;~~
18 ~~(6) insecticides, chemicals, fertilizers, soil conditioners, seeds,~~
19 ~~or seedlings, or nursery stock, used solely in the production for sale~~
20 ~~of farm, dairy, grove, vineyard, or garden products or in the~~
21 ~~cultivation of poultry or livestock feed;~~
22 ~~(7) containers and labels used in:~~
23 ~~(a) preparing agricultural, dairy, grove, or garden products for~~
24 ~~sale; or~~
25 ~~(b) preparing turpentine gum, gum spirits of turpentine, and~~
26 ~~gum resin for sale.~~
27 ~~For purposes of this exemption, containers mean boxes, crates,~~
28 ~~bags, bagging, ties, barrels, and other containers;~~
29 ~~(8) newsprint paper, newspapers, and religious publications,~~
30 ~~including the Holy Bible and the South Carolina Department of~~
31 ~~Agriculture's The Market Bulletin;~~
32 ~~(9) coal, or coke or other fuel sold to manufacturers, electric~~
33 ~~power companies, and transportation companies for:~~
34 ~~(a) use or consumption in the production of by-products;~~
35 ~~(b) the generation of heat or power used in manufacturing~~
36 ~~tangible personal property for sale. For purposes of this item,~~
37 ~~"manufacturer" or "manufacturing" includes the activities of a~~
38 ~~processor;~~
39 ~~(c) the generation of electric power or energy for use in~~
40 ~~manufacturing tangible personal property for sale;~~
41 ~~(d) the generation of motive power for transportation. For the~~
42 ~~purposes of this exemption, "manufacturer" or "manufacturing"~~
43 ~~includes the activities of mining and quarrying;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) charges for telegraph messages;

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

28 (d) transactions involving automatic teller machines;

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

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

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

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

1 (b) if the fuel tax is subsequently refunded under Section
2 12-28-710, the sales or use tax is due unless otherwise exempt, and
3 the person receiving the refund is liable for the sales or use tax;

4 (c) ~~fuels used in farm machinery and farm tractors;~~

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

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

11 (f) ~~liquefied petroleum gas sold to a person with a
12 miscellaneous motor fuel user fee license pursuant to Section
13 12-28-1139, who will use the liquefied petroleum gas as a motor
14 fuel and remit the motor fuel user fees as required by law;~~

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

22 (17) machines used in manufacturing, processing, agricultural
23 packaging, recycling, compounding, mining, or quarrying tangible
24 personal property for sale. "Machines" include the parts of
25 machines, attachments, and replacements used, or manufactured for
26 use, on or in the operation of the machines and which (a) are
27 necessary to the operation of the machines and are customarily so
28 used, or (b) are necessary to comply with the order of an agency of
29 the United States or of this State for the prevention or abatement of
30 pollution of air, water, or noise that is caused or threatened by any
31 machine used as provided in this section. This exemption does not
32 include automobiles or trucks. As used in this item "recycling"
33 means a process by which materials that otherwise would become
34 solid waste are collected, separated, or processed and reused, or
35 returned to use in the form of raw materials or products, including
36 composting, for sale. In applying this exemption to machines used
37 in recycling, the following percentage of the gross proceeds of sale,
38 or sales price of, machines used in recycling are exempt from the
39 taxes imposed by this chapter:
40

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

- 1
2 ~~(18) fuel used exclusively to cure agricultural products;~~
3 ~~(19) electricity used by cotton gins, manufacturers, miners, or~~
4 ~~quarriers to manufacture, mine, or quarry tangible personal property~~
5 ~~for sale. For purposes of this item, "manufacture" or "manufacture"~~
6 ~~includes the activities of processors;~~
7 (20) railroad cars, locomotives, and their parts, monorail cars, and
8 the engines or motors that propel them, and their parts;
9 (21) vessels and barges of more than fifty tons burden;
10 (22) materials necessary to assemble missiles to be used by the
11 Armed Forces of the United States;
12 (23) farm, grove, vineyard, and garden products, if sold in the
13 original state of production or preparation for sale, when sold by the
14 producer or by members of the producers immediate family;
15 (24) supplies and machinery used by laundries, cleaning, dyeing,
16 pressing, or garment or other textile rental establishments in the
17 direct performance of their primary function, but not sales of
18 supplies and machinery used by coin-operated laundromats;
19 (25) motor vehicles (excluding trucks) or motorcycles, which are
20 required to be licensed to be used on the highways, sold to a resident
21 of another state, but who is located in South Carolina by reason of
22 orders of the United States Armed Forces. This exemption is
23 allowed only if within ten days of the sale the vendor is furnished a
24 statement from a commissioned officer of the Armed Forces of a
25 higher rank than the purchaser certifying that the buyer is a member
26 of the Armed Forces on active duty and a resident of another state
27 or if the buyer furnishes a leave and earnings statement from the
28 appropriate department of the armed services which designates the
29 state of residence of the buyer;
30 (26) all supplies, technical equipment, machinery, and electricity
31 sold to radio and television stations, and cable television systems,
32 for use in producing, broadcasting, or distributing programs. For the
33 purpose of this exemption, radio stations, television stations, and
34 cable television systems are deemed to be manufacturers;
35 (27) all plants and animals sold to any publicly supported
36 zoological park or garden or to any of its nonprofit support
37 corporations;
38 (28)(a) medicine and prosthetic devices sold by prescription,
39 prescription medicines used to prevent respiratory syncytial virus,
40 prescription medicines and therapeutic radiopharmaceuticals used
41 in the treatment of rheumatoid arthritis, cancer, lymphoma,
42 leukemia, or related diseases, including prescription medicines used
43 to relieve the effects of any such treatment, free samples of

1 prescription medicine distributed by its manufacturer and any use of
2 these free samples;

3 (b) hypodermic needles, insulin, alcohol swabs, blood sugar
4 testing strips, monolet lancets, dextrometer supplies, blood glucose
5 meters, and other similar diabetic supplies sold to diabetics under
6 the authorization and direction of a physician;

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

16 (d) medicine donated by its manufacturer to a public institution
17 of higher education for research or for the treatment of indigent
18 patients;

19 (e) dental prosthetic devices; and

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

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

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

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

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

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

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

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

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

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

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

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

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

27 ~~(b) in advance of the festival, its organizers provide the~~
28 ~~department, on a form it prescribes, information necessary to ensure~~
29 ~~compliance with this item.~~

30 ~~For purposes of this item, a "festival" does not include a~~
31 ~~recognized state or county fair;~~

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

37 (41) items sold by organizations exempt under Section
38 12-37-220A(3) and (4) and B(5), (6), (7), (8), (12), (16), (19), (22),
39 and (24), if the net proceeds are used exclusively for exempt
40 purposes and no benefit inures to any individual. An organization
41 whose sales are exempted by this item is also exempt from the retail
42 license tax provided in Article 5 of this chapter;

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

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

17 (44) electricity used to irrigate crops;

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

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

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

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

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

41 (50)(a) recycling property;

1 (b) electricity, natural gas, propane, or fuels of any type,
2 oxygen, hydrogen, nitrogen, or gasses of any type, and fluids and
3 lubricants used by a qualified recycling facility;

4 (c) tangible personal property which becomes, or will
5 become, an ingredient or component part of products manufactured
6 for sale by a qualified recycling facility;

7 (d) tangible personal property of or for a qualified recycling
8 facility which is or will be used (1) for the handling or transfer of
9 postconsumer waste material, (2) in or for the manufacturing
10 process, or (3) in or for the handling or transfer of manufactured
11 products;

12 (e) machinery and equipment foundations used or to be used
13 by a qualified recycling facility;

14 (f) as used in this item, "recycling property", "qualified
15 recycling facility", and "postconsumer waste material" have the
16 meanings provided in Section 12-6-3460;

17 (51) material handling systems and material handling equipment
18 used in the operation of a distribution facility or a manufacturing
19 facility including, but not limited to, racks used in the operation of
20 a distribution facility or a manufacturing facility and either used or
21 not used to support a facility structure or part of it. To qualify for
22 this exemption, the taxpayer shall notify the department before the
23 first month it uses the exemption and shall invest at least thirty-five
24 million dollars in real or personal property in this State over the
25 five-year period beginning on the date provided by the taxpayer to
26 the department in its notices. The taxpayer shall notify the
27 department in writing that it has met the thirty-five million dollar
28 investment requirement or, after the expiration of the five years, that
29 it has not met the thirty-five million dollar investment requirement.
30 The department may assess any tax due on material handling
31 systems and material handling equipment purchased tax-free
32 pursuant to this item but due the State as a result of the taxpayer's
33 failure to meet the thirty-five million dollar investment requirement.
34 The running of the periods of limitations for assessment of taxes
35 provided in Section 12-54-85 is suspended for the time period
36 beginning with notice to the department before the taxpayer uses the
37 exemption and ending with notice to the department that the
38 taxpayer either has met or has not met the thirty-five million dollar
39 investment requirement;

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

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

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

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

9 (a) ~~"Audiovisual master" means an audio or video film, tape,~~
10 ~~or disk, or another audio or video storage device from which all~~
11 ~~other copies are made;~~

12 (b) ~~"Production company" means a person or entity engaged~~
13 ~~in the business of making motion picture, television, or radio images~~
14 ~~for theatrical, commercial, advertising, or education purposes;~~

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

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

27 (i) ~~clothing;~~

28 (ii) ~~clothing accessories including, but not limited to, hats,~~
29 ~~scarves, hosiery, and handbags;~~

30 (iii) ~~footwear;~~

31 (iv) ~~school supplies including, but not limited to, pens,~~
32 ~~pencils, paper, binders, notebooks, books, bookbags, lunchboxes,~~
33 ~~and calculators;~~

34 (v) ~~computers, printers and printer supplies, and computer~~
35 ~~software;~~

36 (vi) ~~bath wash clothes, blankets, bed spreads, bed linens,~~
37 ~~sheet sets, comforter sets, bath towels, shower curtains, bath rugs~~
38 ~~and mats, pillows, and pillow cases.~~

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

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

41 (ii) ~~sales of furniture;~~

42 (iii) ~~a sale of an item placed on layaway or similar deferred~~
43 ~~payment and delivery plan however described;~~

1 (iv) rental of clothing or footwear;
2 (v) a sale or lease of an item for use in a trade or business.
3 (e) Before July tenth of each year, the department shall
4 publish and make available to the public and retailers a list of those
5 articles qualifying for the exemption allowed by this item;
6 (58) cooperative direct mail promotional advertising materials
7 and promotional maps, brochures, pamphlets, or discount coupons
8 by nonprofit chambers of commerce or convention and visitor
9 bureaus who are exempt from income taxation pursuant to Internal
10 Revenue Code Section 501(c) delivered at no charge by means of
11 interstate carrier, a mailing house, or a United States Post Office to
12 residents of this State from locations both inside and outside the
13 State. For purposes of this item, "cooperative direct mail
14 promotional advertising materials" means discount coupons,
15 advertising leaflets, and similar printed advertising, including any
16 accompanying envelopes and labels which are distributed with
17 promotional advertising materials of more than one business in a
18 single package to potential customers, at no charge to the potential
19 customer, of the businesses paying for the delivery of the material;
20 (59) facilities for transmitting electricity that is transferred, sold,
21 or exchanged by electrical utilities, municipalities, electric
22 cooperatives, or political subdivisions to a limited liability company
23 which is subject to regulation under the Federal Power Act (16
24 U.S.C. Section 791(a)) and which is formed to operate or to take
25 functional control of electric transmission assets as defined in the
26 Federal Power Act;
27 (60) a lottery ticket sold pursuant to Chapter 150, Title 59;
28 (61) copies of or access to legislation or other informational
29 documents provided to the general public or any other person by a
30 legislative agency when a charge for these copies is made reflecting
31 the agency's cost of the copies. Funds received as revenue from the
32 sale of materials or as reimbursements for the cost of providing
33 certain supplies or services or refunds must be remitted to the State
34 Treasurer as collected, but in no event later than twelve working
35 days from the date of the receipt of any such funds;
36 ~~(62) seventy percent of the gross proceeds of the rental or lease~~
37 ~~of portable toilets;~~
38 (63) prescription ~~and over the counter~~ medicines and medical
39 supplies, including diabetic supplies, diabetic diagnostic equipment,
40 and diabetic testing equipment, sold to a health care clinic that
41 provides medical and dental care without charge to all of its patients;
42 ~~(64) sweetgrass baskets made by artists of South Carolina using~~
43 ~~locally grown sweetgrass;~~

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

4 ~~(i) the taxpayer invests at least three hundred million~~
5 ~~dollars in real or personal property or both comprising or located at~~
6 ~~the facility over a five year period;~~

7 ~~(ii) the taxpayer creates at least one hundred new full time~~
8 ~~jobs at the facility during that five year period, and the average cash~~
9 ~~compensation of at least one hundred of the new full time jobs is~~
10 ~~one hundred fifty percent of the per capita income of the State~~
11 ~~according to the most recently published data available at the time~~
12 ~~the facility's construction starts; and~~

13 ~~(iii) at least sixty percent of the three hundred million~~
14 ~~dollars minimum investment consists of computer equipment;~~

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

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

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

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

26 ~~(c) For the purposes of this item, "computer equipment"~~
27 ~~means original or replacement servers, routers, switches, power~~
28 ~~units, network devices, hard drives, processors, memory modules,~~
29 ~~motherboards, racks, other computer hardware and components,~~
30 ~~cabling, cooling apparatus, and related or ancillary equipment,~~
31 ~~machinery, and components, the primary purpose of which is to~~
32 ~~store, retrieve, aggregate, search, organize, process, analyze, or~~
33 ~~transfer data or any combination of these, or to support related~~
34 ~~computer engineering or computer science research.~~

35 ~~(d) These exemptions apply from the start of the investment~~
36 ~~in or construction of the technology intensive facility or the~~
37 ~~manufacturing facility. The taxpayer shall notify the Department of~~
38 ~~Revenue of its use of the exemption provided in this item on or~~
39 ~~before the first sales tax return filed with the department after the~~
40 ~~first such use. Upon receipt of the notification, the department shall~~
41 ~~issue an appropriate exemption certificate to the taxpayer to be used~~
42 ~~for qualifying purposes under this item. Within six months after the~~
43 ~~fifth anniversary of the taxpayer's first use of this exemption, the~~

1 taxpayer shall notify the department in writing that it has or has not
2 met the investment and job requirements of this item by the end of
3 that five year period. Once the department certifies that the taxpayer
4 has met the investment and job requirements, all subsequent
5 purchases of or investments in computer equipment, including to
6 replace originally deployed computer equipment or to implement
7 future expansions, likewise shall qualify for the exemption
8 described above, regardless of when the taxpayer makes the
9 investments.

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

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

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

1 in the construction of a new or expanded single manufacturing
2 facility where:

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

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

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

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

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

29 (69) [Reserved]

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

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

34 (c) currency.

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

39 (71) any device, equipment, or machinery operated by hydrogen
40 or fuel cells, any device, equipment, or machinery used to generate,
41 produce, or distribute hydrogen and designated specifically for
42 hydrogen applications or for fuel cell applications, and any device,
43 equipment, or machinery used predominantly for the manufacturing

1 of, or research and development involving hydrogen or fuel cell
2 technologies. For purposes of this item:
3 (a) "fuel cells" means a device that directly or indirectly
4 creates electricity using hydrogen (or hydrocarbon rich fuel) and
5 oxygen through an electro-chemical process; and
6 (b) "research and development" means laboratory, scientific,
7 or experimental testing and development of hydrogen or fuel cell
8 technologies. Research and development does not include efficiency
9 surveys, management studies, consumer surveys, economic surveys,
10 advertising, or promotion, or research in connection with literary,
11 historical, or similar projects;
12 (72) any building materials used to construct a new or renovated
13 building or any machinery or equipment located in a research
14 district. However, the amount of the sales tax that would be assessed
15 without the exemption provided by this section must be invested by
16 the taxpayer in hydrogen or fuel cell machinery or equipment
17 located in the same research district within twenty-four months of
18 the purchase of an exempt item.
19 "Research district" means land owned by the State, a county, or
20 other public entity that is designated as a research district by the
21 University of South Carolina, Clemson University, the Medical
22 University of South Carolina, South Carolina State University, or
23 the Savannah River National Laboratory;
24 (73) an amusement park ride and any parts, machinery, and
25 equipment used to assemble, operate, and make up an amusement
26 park ride or performance venue facility located in a qualifying
27 amusement park or theme park and any related or required
28 machinery, equipment, and fixtures located in the same qualifying
29 amusement park or theme park.
30 (a) To qualify for the exemption, the taxpayer shall meet the
31 investment and job requirements provided in subitem (b)(i) over a
32 five year period beginning on the date of the taxpayer's first use of
33 this exemption. The taxpayer shall notify the Department of
34 Revenue of its intent to qualify and use this exemption and upon
35 receipt of the notification, the department shall issue an appropriate
36 exemption certificate to the taxpayer to be used for qualifying
37 purposes under this item. Within six months after the fifth
38 anniversary of the taxpayer's first use of this exemption, the taxpayer
39 shall notify the department, in writing, that it has or has not met the
40 investment and job requirements of this item. If the taxpayer fails to
41 meet the investment and job requirements, the taxpayer shall pay to
42 the State the amount of the tax that would have been paid but for
43 this exemption. The running of the periods of limitations for

1 assessment of taxes provided in Section 12-54-85 is suspended for
2 this time period beginning with the taxpayer's first use of this
3 exemption and ending with notice to the department that the
4 taxpayer has or has not met the investment and job requirements of
5 this item.

6 (b) For purposes of this item:

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

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

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

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

29 (74) durable medical equipment and related supplies:

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

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

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

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

42 (76) sales of handguns as defined pursuant to Section
43 16-23-10(1), rifles, and shotguns during the forty-eight hours of the

1 Second Amendment Weekend. For purposes of this item, the
2 "Second Amendment Weekend" begins at 12:01 a.m. on the Friday
3 after Thanksgiving and ends at twelve midnight the following
4 Saturday;

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

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

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

23 (c) ~~The exemption provided in this item applies only to sales~~
24 ~~occurring during a period commencing at 12:01 a.m. on October 1,~~
25 ~~2009, and concluding at 12:00 midnight on October 31, 2009,~~
26 ~~(National "Energy Efficiency Month") and every year thereafter~~
27 ~~until 2019.~~

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

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

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

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

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

41 (B) As used in this section:

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

4 (2) "Computer equipment" means original or replacement
5 servers, routers, switches, power units, network devices, hard
6 drives, processors, memory modules, motherboards, racks, other
7 computer hardware and components, cabling, cooling apparatus,
8 and related or ancillary equipment, machinery, and components, the
9 primary purpose of which is to store, retrieve, aggregate, search,
10 organize, process, analyze, or transfer data or any combination of
11 these, or to support related computer engineering or computer
12 science research. This also includes equipment cooling systems for
13 managing the performance of the datacenter property, including
14 mechanical and electrical equipment, hardware for distributed and
15 mainframe computers and servers, data storage devices, network
16 connectivity equipment, and peripheral components and systems.

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

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

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

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

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

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

40 (iii) where a taxpayer creates and maintains at least
41 twenty-five full-time jobs at the facility with an average cash
42 compensation level of one hundred fifty percent of the per capita
43 income of the State or of the county in which the facility is located,

1 whichever is lower, according to the most recently published data
2 available at the time the facility is certified by the Department of
3 Commerce;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (80)(a) effective on July first immediately following a forecast
37 meeting the requirements of subitem (b), injectable medications and
38 injectable biologics, so long as the medication or biologic is
39 administered by or pursuant to the supervision of a physician in an
40 office which is under the supervision of a physician, or in a Center
41 for Medicare or Medicaid Services (CMS) certified kidney dialysis
42 facility. For purposes of this exemption, "biologics" means the
43 products that are applicable to the prevention, treatment, or cure of

1 a disease or condition of human beings and that are produced using
2 living organisms, materials derived from living organisms, or
3 cellular, subcellular, or molecular components of living organisms;

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

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

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

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

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

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

34

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

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