



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC INFORMATION LETTER #25-10

SUBJECT: Durable Medical Equipment—Amended Exemption
(Sales and Use Tax)

EFFECTIVE DATE: May 12, 2025

MODIFIES: SC Revenue Ruling #11-3
SC Revenue Ruling #10-2

REFERENCES: S.C. Code Ann. Section 12-36-910(A) (2014)
S.C. Code Ann. Section 12-36-2120(74) (2014)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: An Information Letter is a written statement issued to the public to announce general information useful in complying with the laws administered by the Department. An Information Letter has no precedential value.

PURPOSE:

On May 12, 2025, Governor Henry McMaster signed Bill Number H. 3800 (“Act”), effective May 12, 2025, which amends Section 12-36-2120(74) by removing an eligibility requirement that a seller of durable medical equipment (“DME”) have a principal place of business in this State.

This Information Letter gives notice that the sales and use tax exemption for DME found in Section 12-36-2120(74) has been amended so that now all sellers¹ of DME, both out-of-state and in-state, may seek the exemption as of May 12, 2025, so long as the seller meets all other requirements of the exemption as set forth below.

¹ The Act uses the term “seller” when it says the Act is to amend Section 12-21-2120(74) “so as to delete an eligibility requirement that the seller have a principal place of business in this State.” The exemption as amended and as previously written uses the term “provider.” The previous version of the exemption stated that DME is exempt if “sold by a provider who holds a South Carolina retail sales license and whose principal place of business is located in this State.” Accordingly, the terms “seller” and “provider” are to be used interchangeably.

LAW AND DISCUSSION:

On June 26, 2024, the South Carolina Supreme Court issued an opinion holding that the sales and use tax exemption for DME found in Section 12-36-2120(74) was unconstitutional, and thus invalid. See *Orthofix, Inc. v. S.C. Dep't of Revenue* and *KCI USA Inc., v. S.C. Dep't of Revenue*, 443 S.C. 138, 903 S.E.2d 496 (2024). The Court found that the exemption discriminated against interstate commerce as it limited eligibility to sellers of DME having a principal place of business within this State. *Id.*

Thereafter, the Department issued SC Information Letter #24-10, stating that the exemption was invalid, effective June 26, 2024, and sellers were required to pay sales tax on their sales of DME within this State. See SC Information Letter #24-10.

On May 12, 2025, Governor Henry McMaster signed Bill Number H. 3800 (“Act”), amending Section 12-36-2120(74). The Act amends the sales and use tax exemption by removing the requirement that providers of DME have a principal place of business in the State. The sales and use tax exemption in Section 12-36-2120(74) now reads as follows:

Exempted from the taxes imposed by this chapter are the gross proceeds of sales, or sales price of:

(74) durable medical equipment and related supplies:

- (a) as defined under federal and state Medicaid or Medicare laws;
- (b) which is paid directly by funds of this State or the United States under the Medicaid or Medicare programs, where state or federal law or regulation authorizing the payment prohibits the payment of the sale or use tax; and
- (c) sold by a provider who holds a South Carolina retail sales license . . .

Accordingly, all sellers of DME, whether in-state or out-of-state, may seek the exemption so long as they meet all other statutory requirements, effective May 12, 2025. The Act has no retroactive effect. Accordingly, sellers of DME who sold DME within this State between June 26, 2024, and May 12, 2025, must remit sales and use taxes on such transactions. See SC Information Letter #24-10.