

Chapter 20

Medicine, Prosthetics and Medical Supplies¹

A. Exemptions for Medicines, Prosthetic Devices, and Other Medical Supplies

The following exemptions are available with respect to medicines, prosthetic devices and certain other medical supplies:

Medicine sold by prescription.² In order for this exemption to apply, the medicine must be of a type that requires a prescription, the sale must require a prescription, and the medicine must actually be sold by prescription. As such, sales of medicine to a hospital, nursing home, or a similar institution or doctor are not exempt because such sales do not require a prescription.

Prescription medicines used to prevent respiratory syncytial virus.³ For this exemption to apply, the medicine must be of a type that requires a prescription; however, the medicine does not need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a hospital, nursing home, or a similar institution or doctor are exempt.

Prescription medicines and therapeutic radiopharmaceuticals used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases.⁴ For this exemption to apply, the medicine must be of a type that requires a prescription (other than therapeutic radiopharmaceuticals). However, the medicine does not need to be sold by prescription. As such, sales of these medicines and therapeutic radiopharmaceuticals (to be used for the above purposes) to a hospital, nursing home, or a similar institution or doctor are exempt.

Prescription medicines used to relieve the effects of the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases.⁵ For this exemption to apply, the medicine must be of a type that requires a prescription. However, the medicine does not need to be sold by prescription. As such, sales of these medicines (to be used for the above purposes) to a hospital, nursing home, or doctor are exempt.

¹ See S.C. Revenue Ruling #11-3.

² S.C. Code Ann. § 12-36-2120(28)(a). See *Home Med. Sys., Inc. v. S.C. Depar't of Revenue*, 382 S.C. 556, 677 S.E. 2d 582 (2009). See also *Associated Med. Specialist, P.A. v. S.C. Tax Comm'n & S.C. Depar't of Revenue*, SC Ct. of App., Unpublished Opinion No. 97-UP-447 (1997) (dealing with prescription medicines purchased by doctors to treat cancer; however, the exemption for prescription medicines used in the treatment of cancer, lymphoma, leukemia, or related diseases or used to relieve the effects of any such treatment was not available at the time. It was subsequently enacted by the General Assembly in 1998 by act 362 and became effective on June 28, 1999).)

³ S.C. Code Ann. § 12-36-2120(28)(a).

⁴ S.C. Code Ann. § 12-36-2120(28)(a).

⁵ S.C. Code Ann. § 12-36-2120(28)(a).

Free samples of prescription medicine distributed by its manufacturer and any use of these free samples.⁶ In order for this exemption to be applicable, the medicine must be of a type that requires a prescription.

Medicine donated by its manufacturer to a public institution of higher education for research or for the treatment of indigent patients.⁷ This exemption applies to all types of medicines, not just prescription medicines.

Hypodermic needles, insulin, alcohol swabs, blood sugar testing strips, monolet lancets, dextrometer supplies, blood glucose meters, and other similar diabetic supplies.⁸ While a prescription is not required, for this exemption to apply, these items must be sold to a diabetic under the written⁹ authorization and direction of a physician.

Disposable medical supplies.¹⁰ For this exemption to apply, disposable medical supplies such as bags, tubing, needles, and syringes, must be dispensed by a licensed pharmacist in accordance with an individual prescription written for the use of a human being by a licensed health care provider, must be used for the intravenous administration of a prescription drug or medicine, and must come into direct contact with the prescription drug or medicine. This exemption applies only to supplies used in the treatment of a patient outside of a hospital, skilled nursing facility, or ambulatory surgical treatment center. The exemption applies to “disposable” medical supplies sold on or after August 17, 2000 and does not apply to items that are reusable such as electronic pumps and other medical equipment. In addition, the exemption does not apply to supplies, such as gauze, that do not require a prescription to be sold to the patient.

Prosthetic devices sold by prescription.¹¹ For this exemption to apply, the sale must require a prescription, and the device must actually be sold by prescription, and the device must replace a missing part of the body. A device that merely replaces a missing function is not exempt.¹² As such, sales of prosthetic devices to a hospital, nursing home, or a similar institution or doctor are not exempt since such sales do not require a prescription.¹³

⁶ S.C. Code Ann. § 12-36-2120(28)(a).

⁷ S.C. Code Ann. § 12-36-2120(28)(d).

⁸ S.C. Code Ann. § 12-36-2120(28)(b).

⁹ S.C. Regulation 117-332. *See also Drummond v. State of South Carolina*, Court of Common Pleas, Case No. 02-CP-40-4651 (2010).

¹⁰ S.C. Code Ann. § 12-36-2120(28)(c).

¹¹ S.C. Code Ann. § 12-36-2120(28)(a).

¹² *See Home Med. Sys., Inc. v. S.C. Depar't of Revenue*, 382 S.C. 556, 677 S.E. 2d 582 (2009) (holding devices that did not replace missing parts of body but only replaced functions did not meet the approved regulatory definition of prosthetic device).

¹³ *See CareAlliance Health Serv. v. S.C. Depar't of Revenue*, 416 S.C. 484, 787 S.E.2d 475 (2016) (holding sales of orthopedic prosthetic devices by a vendor to a hospital are not exempt from sales and use tax under Code Section 12-36-2120(28) because such sales do not require a prescription), *rehearing denied*, (July 14, 2016), *on remand*, 12-ALJ-17-0405-AP (Nov. 2, 2016) (order dismissing only remaining legal issue of whether blood derivatives are subject to sales and use taxes).

Dental prosthetic devices.¹⁴ For this exemption to apply, the device must pertain to dentistry and must replace a missing part of the body. A device that merely replaces a missing function is not exempt.¹⁵ The sale does not require a prescription.

Prescription drugs – Medicare Part A Nursing Home Patient.¹⁶ For this exemption to apply, the medicine must be of a type that requires a prescription. However, the medicine does not need to be sold by prescription. It must be sold to a nursing home to be dispensed to a Medicare Part A patient residing in the nursing home.

Prescription and over-the-counter medicines and medical supplies, including diabetic supplies, diabetic diagnostic equipment, and diabetic testing equipment, sold to a health care clinic that provides medical and dental care without charge to all of its patients.¹⁷ For this exemption to apply, medicine (whether prescription or over-the-counter) and medical supplies must be sold to a health care clinic, the clinic must provide both medical and dental care, and the care must be provided without charge to all patients.

Durable medical equipment and related supplies as defined under federal and state Medicaid and Medicare laws.¹⁸ For the purchase of the durable medical equipment and related supplies to be exempt, the purchase must be paid directly by funds of South Carolina or the United States under the Medicaid or Medicare programs, state or federal law or regulation authorizing the payment must prohibit the payment of the sales or use tax, and the durable medical equipment and related supplies must be sold by a provider who holds a South Carolina retail sales license.¹⁹

Injectable Medications and Injectable Biologics.²⁰ For this exemption to apply, the medication or biologic must be administered by or pursuant to the supervision of a physician in an office

¹⁴ S.C. Code Ann. § 12-36-2120(28)(e).

¹⁵ See *Home Med. Sys., Inc. v. S.C. Depar't of Revenue*, 382 S.C. 556, 677 S.E. 2d 582 (2009).

¹⁶ S.C. Code Ann. § 12-36-2120(28)(f).

¹⁷ S.C. Code Ann. § 12-36-2120(63).

¹⁸ Act. No. 45 of 2025 went into effect on May 12, 2025 and amended S.C. Code Ann. § 12-36-2120(74), which was held unconstitutional by the South Carolina Supreme Court on June 26, 2024. See *Orthofix, Inc. v. S.C. Dep't of Revenue*, 443 S.C. 138, 903 S.E.2d 496 (2024).

¹⁹ An uncoded provision of the legislation that enacted this exemption in Act 99 of 2007 provided that the exemption would be phased in by reducing the rate of tax based on revenue projections by the Board of Economic Advisors. The General Assembly later amended the uncoded provision in Act 32 of 2011 establishing a new phase in of the exemption as follows: The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is five and one-half percent for such sales from July 1, 2007 to June 30, 2011. The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is three and one-half percent for such sales from July 1, 2011 to June 30, 2012. The rate of tax imposed on the gross proceeds of sales of items meeting the requirements of the exemption in Code Section 12-36-2120(74) is one and three-quarters percent for such sales from July 1, 2012 to December 31, 2012. Effective January 1, 2013, the sales tax exemption on the gross proceeds of sales of items meeting the requirements of Code Section 12-36-2120(74) is fully implemented. Local sales and use taxes continued to apply until the exemption was fully implemented. Once the exemption was fully implemented, sales meeting the requirements of the exemption were fully exempt from both state and local sales and use taxes.

²⁰ S.C. Code Ann. § 12-36-2120(80). This exemption was to be phased-in based on the forecasts of annual general fund revenue growth as determined by the Board of Economic Advisors. On February 19, 2014, the Board of Economic Advisors notified the Department that the requirements had been met to implement this exemption.

which is under the supervision of a physician, or in a Center for Medicare or Medicaid Services certified kidney dialysis facility.

For purposes of this exemption, an injectable medication or injectable biologic is one in which a medication or biologic is forcefully introduced into the body for medical purposes (e.g., treatment, prevention). In addition, while an injection typically uses a syringe, the exemption statute does not limit the injection method.²¹

Sales at retail of injectable medications or injectable biologics for use in a hospital or for use in an independent surgery center are not exempt from the sales and use tax under Code Section 12-36-2120(80).²²

Note: While the injectable medication or injectable biologic is not exempt under Code Section 12-36-2120(80) when sold for use in a hospital or an independent surgery center, it may be exempt under another provision of Code Section 12-36-2120. For example, if the injectable medication or injectable biologic is a prescription medicine and a therapeutic radiopharmaceutical “used in the treatment of rheumatoid arthritis, cancer, lymphoma, leukemia, or related diseases,” or a prescription medicine “used to relieve the effects of any such treatment,” then the injectable medication or injectable biologic is exempt from the tax under Code Section 12-36-2120(28)(a).

Viscosupplementation therapies. This exemption was re-enacted through a temporary proviso in the budget for State Fiscal Year 2025 - 2026 (July 1, 2025 - June 30, 2026).²³

B. Other Relevant Exemptions

The statute also provides several other exemptions that may or may not apply.

Sales to the federal government. South Carolina Code Section 12-36-2120(2) exempts sales of “tangible personal property...to the federal government.” South Carolina Commission Decision #93-2 found sales paid for via Medicare or Medicaid are not sales to the federal government.

Sales to charitable hospitals. South Carolina Code Section 12-36-2120(47) exempts sales of tangible personal property to charitable hospitals that are exempt from property taxation under South Carolina Code Section 12-37-220; predominantly serve children; and provide care without charge to the patient.

Sales of hearing aids. South Carolina Code Section 12-36-2120(38) exempts sales of “hearing aids, as defined by SC Code §40-25-20(5).” Hearing aid batteries and cords are excluded from the definition of “hearing aid;” therefore, sales of these items are not exempt from the tax.

Accordingly, for July 1, 2014 - June 30, 2015, 50% of the gross proceeds of sales of qualifying sales or purchases was exempt from the State and local sales and use taxes. On July 1, 2015, qualifying sales or purchases became fully exempt from the State and local sales and use taxes. *See* S.C. Information Letter #14-4.

²¹ S.C. Private Letter Ruling #22-2.

²² S.C. Revenue Ruling #22-9.

²³ 2025 S.C. Act No. 69, Part IB, Proviso 117.58.

Sales during the sales tax holiday. South Carolina Code Section 12-36-2120(57) exempts from the sales and use tax:

- (a) sales taking place during a period beginning 12:01 a.m. on the first Friday in August and ending at twelve midnight the following Sunday of:
 - (i) clothing;
 - (ii) clothing accessories including, but not limited to, hats, scarves, hosiery, and handbags;
 - (iii) footwear;
 - (iv) school supplies including, but not limited to, pens, pencils, paper, binders, notebooks, books, bookbags, lunchboxes, and calculators;
 - (v) computers, printers and printer supplies, and computer software; and
 - (vi) bath wash clothes, blankets, bed spreads, bed linens, sheet sets, comforter sets, bath towels, shower curtains, bath rugs and mats, pillows, and pillow cases.
- (b) The exemption allowed by this item does not apply to:
 - (i) sales of jewelry, cosmetics, eyewear, wallets, watches;
 - (ii) sales of furniture;
 - (iii) a sale of an item placed on layaway or similar deferred payment and delivery plan however described;
 - (iv) rental of clothing or footwear; or
 - (v) a sale or lease of an item for use in a trade or business.
- (c) Before July tenth of each year, the Department shall publish and make available to the public and retailers a list of those articles qualifying for the exemption allowed by this item.

Note: Because the sales tax holiday applies to clothing and footwear, the exemption may apply to certain clothing and footwear worn for medical reasons (e.g., diabetic shoes).