Sales/Use Tax Discussion

Spring 2013

Clemson University
is NOT tax exempt

You are responsible in determining tax applicability.

Some specific items/commodities are tax exempt.
View list:

Tax Exemptions

Please ensure that your requisitions are marked accordingly

Sales Tax

- Sales tax is imposed on the sale of goods and certain services in South Carolina

- Statewide the sales tax is 6%, however counties may elect to impose an additional X% local sales tax

- Generally, if tax is not on the invoice, the vendor is not registered in SC

Sales Tax

SC Vendor

- SC Vendor responsible for collecting tax
- Sales tax will be on vendor invoice
- Do NOT select use tax if a SC vendor

Non-SC Vendor

- A registered vendor (with SC Dept of Revenue) will collect SOUTH CAROLINA sales tax; tax will be on invoice
- If not a registered vendor and purchase is taxable, move the sales tax amount to the use tax field on the invoice in buyWays.
- Clemson remits Use Tax to SC Department of Revenue on a monthly basis

What is <u>Use</u> Tax?

- Tax imposed on purchase of tangible goods which are used in South Carolina

- Use tax is complimentary to sales tax

- Purchased goods from any out-of-state vendor who is NOT registered to collect SC tax

- <u>Generally</u>, if tax is not on the invoice, the vendor is not registered in SC

- Tax amount is accrued and paid to the SC Tax Commission, the tax is not paid to the vendor

- Serves to "even the playing field" where out of state sellers are concerned

- Purchaser is liable for use tax

Tax Exemptions

- Most purchases are taxable unless R&D exemption applies

- Installation stated as a separate line item is non-taxable

- Labor is non-taxable when the labor is stated as a separate line item from the parts

- Do not say something is Taxable and then enter 0% for tax in buyWays

- CXML (electronically integrated) suppliers should collect SC sales tax

R&D Tax Exemption

- Equipment used 50% or more for direct use in research and development purposes may be exempt from sales and use tax

- Completing / signing the separate form is NOT required if PI/ Approver approves a requisition indicating purchase is R&D tax exempt

- If making a P-card Purchase where you want to claim the R&D exemption, you must still complete the R&D tax exempt form with the backup docs.

- If you have questions, please contact Accounting Services for further clarification

Tax Exemptions (Maintenance, Warranty, Software)

Purchase Item	Description	Taxable
Maintenance Contract for Equipment or Item	Purchased with Equipment/Tangible Property even if listed as a separate line item	Yes
Maintenance Contract for Equipment or Item	Purchased at a later date or not purchased in conjunction with the product	No
Maintenance Contract for Software	Purchased with Software that was delivered electronically	No
Maintenance Contract for Software	Purchased Delivered Tangible Property (Disk, Flash Drive, etc)	Yes
Software	Purchased or Delivered Tangible Property (Disk, Flash Drive, etc)	Yes
Software	Delivered Electronically	No
Software	Internet websites that allow customer use of software on that website. Companies that provide customers access or use of software are referred to as Application Service Providers (ASP).	Yes
Warranty	Purchased with Tangible Property even if listed as a separate line item	Yes
Warranty	Purchased at a later date or not purchased in conjunction with the product	No

Renewals of existing agreements (maintenance, warranty, or software updates and licenses) are subject to tax based on the original purchase. http://media.clemson.edu/procurement/TaxUpdates9.1.11.pdf

Freight & Tax

- Freight – FOB Clemson – taxable – this is the default for all Clemson purchase orders

- Tax is added on freight when entered in the freight field

- Freight – FOB Shipping Point – not taxable.
    - If freight is not taxable, the amount should be entered as a separate line item, line item marked non-taxable

- Freight paid directly to freight company – not taxable

Summary

- Most purchases are taxable unless R&D exemption applies.

- Installation stated as a separate line item is non-taxable.

- Labor is non-taxable when the labor is stated as a separate line item from the parts.

- Maintenance and warranty agreements may be taxable (check here for exemptions).

- CXML suppliers should collect sales tax.

- Do not pay freight on state contract items ordered unless special delivery if requested. Freight has been negotiated by the state in the contract pricing.

- All purchase orders should state the correct tax amount and type, Sales or Use Tax
  - Sales tax is when a supplier collects the tax and pays the SC Dept of Revenue
  - Use tax is when an out-of-state supplier does not collect the sales tax; but the item/service is taxable.
  - Use tax is charged to the department then paid to the SC Dept of Revenue monthly.

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FAQs

Q1) If a purchase is exempt from tax (R&D tax exemption or other) is the freight cost for that purchase also tax exempt?

A1) Yes

Q2) What if the invoice does not include tax, but should have?

A2) If the vendor is a SC vendor or a non-SC vendor that collects SC sales tax, contact the vendor and let them know Clemson is not tax exempt and ask for a corrected invoice. If a SC vendor does not correct the invoice, then simply process the invoice without tax. Do not apply Use Tax. If the vendor is a non-SC vendor that does not collect SC sales tax, then apply Use Tax.

Q3) How do we know if a non-SC vendor collects Sales Tax?

A3) Most large, international corporations do collect SC Sales Tax (i.e. Staples, Dell, Apple, VWR, Fisher, etc…) All eInvoice vendors in buyWays collect SC Sales Tax. Procurement has begun setting up vendors in buyWays to default to Use Tax if we know they do NOT collect SC sales tax. There is no special flag for this, but you will see then when you go to enter a requisition to one of these vendors. This is based solely on how that vendor registered with Clemson.

FAQs

Q4) If a software purchase was made a long time ago and it was originally provided via a disk or some other tangible method, but we have not received any tangible product from the vendor since then, is the maintenance or license renewal still taxable (i.e. if the vendor now delivers all updates and service via download, are we still tied to how the original purchase was delivered in terms of tax)?

A4) Currently the answer is yes as outlined [here](). However, Clemson is pursuing a private letter ruling from DOR to clarify this scenario. If/when we receive an update that changes this position, we will update the table accordingly and share with campus through various communication channels.

Q5) Are books and other materials purchased for professional and continuing education taxable?

A5) Yes, in these instances, these purchases do not fall under the tax exemption for books purchased for use in the classroom and tax should be paid. While such classes may be considered "classrooms", they are not the classrooms as outlined in the intent of this specific tax exemption.

FAQs

Q6) Are cloud based textbook software that is used in the classroom taxable?

A6) No, these textbooks, although not a physical book, still fall under the tax exemption for books used in a classroom.

Q7) Are soft drinks purchased for consumption (e.g. for entertainers at the Brooks Center) taxable?

A7) In general, the drinks would fall under the Unprepared Food exemption, 12-36-2120(75) and are only taxed at a local rate (1% in Pickens County), unless they are for resale. Therefore pending any further information on other possible exemptions that may apply, these purchases would be considered taxable only at the local tax rate. Most likely the vendor providing the soft drinks is under the assumption they are being resold and would be tax exempt under the resale exemption. This FAQ will be updated if more information is identified that may change this answer.

Tax Processing Decision Flow Chart