

Sales/Use/Indirect:

South Carolina Appellate Court Overturns ALC and Holds for Narrower Application of Machine Exemption

Appellate Case No. 2019-001933, S.C. Ct. App. (3/1/23). In a published opinion, the South Carolina Court of Appeals (Court) overturned a ruling from the South Carolina Administrative Law Court (ALC), holding that in granting South Carolina's "machine exemption" and "pollution control machine exemption" on certain items purchased by a food produce processor (*i.e.*, fork lifts, pallet jacks, lubricants, bar code scanners, black ink aerosol cans, mobile computer stands, floor drain covers, warehouse racks, pallet flow brakes, stacking containers, blower fans, water storage tanks, cleaning machines, floor treatment chemicals, general maintenance tools, generator rentals, and protective clothing), the ALC erroneously broadened the two South Carolina sales and use tax exemptions beyond the plain meaning of the applicable statutes. In making its decision that these items were tax-exempt "machines," the ALC had applied the "integrated plant concept," which it stated finds machinery that performs an essential or indispensable function in a taxpayer's manufacturing operations, regardless of whether it actually causes a physical change, eligible for exemption.

URL: <https://www.sccourts.org/opinions/HTMLFiles/COA/5972.pdf>

However, the Court essentially agreed with the South Carolina Department of Revenue's (Department) arguments to the contrary, including that to fall under South Carolina's machine exemption, a machine does not have to be used directly in the production line, but it must be integral and necessary to processing produce. The Court agreed with the Department that a machine at the processor's plant qualifies for the machine exemption only when it is absolutely necessary to the actual processing of fresh produce, and activities that occur prior to and after the sorting, cutting, washing, and packaging of produce are *not* absolutely necessary and are *not* considered part of the processing of fresh produce. Accordingly, the Court concluded that certain associated items at issue did not qualify for the machine exemption to South Carolina's use tax.

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