

1978 WL 35182 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 23, 1978

\*1 Mr. Dan L. Guffey  
Purchasing Specialist  
State Appalachian Council of Governments  
Post Office Drawer 6668  
Greenville, South Carolina 29606

Dear Mr. Guffey:

In response to your request for an opinion from this Office as to whether or not a municipality can require that a vendor whose business is located outside of the corporate limits but who makes a 'one-time' sale to the municipal government obtain a business license, [Section 5-7-30, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, authorizes a municipality to:

. . . levy a business license tax on gross income, provided, however, that a wholesaler delivering goods to retailers in any municipality shall not be subject to the business license tax unless he maintains within the corporate limits of the municipality a mercantile establishment for the distribution of wholesale goods or a warehouse; . . .

The proviso was added to [Section 5-7-30 of the 1976 Code](#) by Act No. 409 of 1978 [60 STAT. — (1978)]. If the vendor comes within the proviso, i.e., if he is a wholesaler who delivers goods to a retailer within a municipality but does not maintain a warehouse or distribution center within the corporate limits thereof, then the municipality cannot impose a business license tax upon him. If he does not come within the proviso, then, in my opinion, he is subject to the business license tax because the statute does not create any other exception to the municipality's authority to impose a business license tax on businesses 'doing business' therein. See generally, 9 McQUILLIN MUNICIPAL CORPORATIONS § 26.48 (3rd ed. 1964).

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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