Published on *The National Law Review* https://natlawreview.com

A Legal Perspective on PT-300s, Soft and Hard Costs and Capitalization in South Carolina

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Background

South Carolina companies with any real or personal property placed in service in the state annually complete and file a PT-300, the state's property tax return form. Companies that have entered into a negotiated Fee in Lieu Tax Agreement ("FILOT Agreement") with a South Carolina county also complete and file a PT-300 (typically due at the same time as if the company was subject to *ad valorem* property taxes). To complete this yearly requirement, companies can file the appropriate forms online via the South Carolina Department of Revenue's myDORWAY website (available at https://mydorway.dor.sc.gov/_/).

PT-300 Schedules

When a company's accountants are completing a PT-300, they look to complete the applicable schedules based on their ownership, location and use of the property. A list of the various schedules is below:

- Schedule A – Manufacturing and Mining
- Schedule B – Non-Contiguous Manufacturing
- Schedule C – Manufacturing Research and Development
- Schedule D – Manufacturing Corporate Headquarters

Distribution Facility

- Schedule E – Leased Utility
- Schedule F – Leased Transportation for Hire
- Schedule G – “Fee In Lieu of Tax” Supplemental
- Schedule J – Non-Manufacturing Research and Development
- Schedule K – Non-Manufacturing Corporate Headquarters
- Schedule L – Manufacturing Warehouse
- Schedule S – “Fee In Lieu of Tax” Manufacturing
- Schedule T – “Fee in Lieu of Tax” Non-Manufacturing
- Schedule X – Improvement Schedule
- Schedule Z – Lease Schedule

An Attorney’s Thoughts on Specific Cost Inclusions

Each year, the South Carolina Department of Revenue (“SCDOR”) provides instructions for filing a PT-300. Reporting requirements are dependent on the specific schedules that a company files.

There are various types of property and costs that are commonly reported on the various schedules. These costs can include the **gross costs**, which are the total costs of all fixed assets (including amortized costs and capital leases, interest, installation, and labor as shown by the company’s records for income tax purposes). When an accountant reports a company’s **machinery and equipment**, they include, but are not limited to, reporting air conditioning for a special process, alarm systems, foundations for machinery and equipment, leasehold improvements, process related computer hardware and software, special plumbing and electrical work, special purpose lighting, tools and dies. Similarly, when an accountant reports a company’s **furniture and office equipment**, they include, but are not limited to, reporting office furniture and equipment and non-process related computer hardware and software. Further, a common cost reported on in PT-300s includes **real property** (this includes, but is not limited to,

air conditioning for employee comfort, canopies, elevators, fencing, loading platforms, parking lots, partitions, railroads, retaining walls, roads and structural improvement) and **land costs** (which includes the gross capitalized cost of all land acquisitions).

Other potentially applicable and reportable assets, can include **leasehold improvements** (which includes the gross capitalized costs of any improvement made by a lessee), **pollution migration equipment** (which includes the gross capitalized cost of all facilities or equipment of industrial plants which are designed for the elimination, mitigation, prevention, treatment, abatement or control of water, air or noise pollution, both internal and external, required by the state or federal government and used in the conduct of a company's business) and **vehicles** (which includes the gross capitalized cost of all licensed vehicles registered or capitalized as part of a company's plant/operation).

There are also specific schedules where companies can report the number of **new jobs that the company created**. Schedule D (Manufacturing Corporate Headquarters Distribution Facility) and Schedule K (Non-Manufacturing Corporate Headquarters) require a company's accountant to enter the number of new, full-time jobs created for the current account year as of the company's accounting closing date. Schedules S ("Fee In Lieu of Tax" Manufacturing) and T ("Fee in Lieu of Tax" Non-Manufacturing) require a company's accountant to enter the total, cumulative number of jobs created at the project for the current account year as of the company's accounting closing date.

After appropriately completing each of the applicable schedules and including all the company's reportable assets, the company's accountants will then compile the values from each of the schedules onto the cover of the PT-300.

As seen in the PT-300 instructions, and reflected in the section above, a common concept is the reporting of "capitalized costs." But understanding this and how it impacts the hard and soft costs associated with an economic development project can be complex and nuanced. Below are some frequently asked questions, and a legal viewpoint on the matter.

What are hard costs?

Hard costs are costs that are directly attributable to a project. Practically speaking, for economic development projects, these costs can include the purchase price of real and personal property.

What are soft costs?

Soft costs are often intangible costs indirectly attributed to as project. These costs can include engineering costs, legal fees and architectural and design costs.

What does capitalizing costs look like, from a practical standpoint?

In general, capitalizing a cost means recording the cost as an asset on a company's balance sheet rather than an expense on the company's income statement. Then, each year of the cost's lifetime, the company's accountants would report the depreciation or amortization of the cost on the company's income statement. Essentially, this operates as an accounting method meant to reflect an accurate, annual value of the cost throughout its lifetime of use.

What can be capitalized?

Sections 263 and 263A of the Internal Revenue Code specifies certain criteria regarding what can be capitalized. One criterion to be capitalized is that a cost must be a capital expenditure, which generally refers to costs associated with new buildings or permanent improvements, or betterments made to increase the value of any property or estate. However, there are many thresholds and inquiries that must be conducted to ensure compliance with the Internal Revenue Code when it comes to capitalizing versus expensing costs. Overall, this is an extremely fact-dependent analysis, and accountants and tax specialists will be able to assist with any specific questions.

Why does it matter?

Appropriately capitalizing costs is important because, pursuant to the PT-300 instructions, certain costs are required to be capitalized in order to be included on the PT-300. For economic development projects, the costs reported on this form are then used to assess compliance with economic development incentive agreements in South Carolina such as a Fee-in-Lieu of Tax Agreements and Special Source Revenue Credit Agreements. Specifically, when there are minimum investment levels, the State and Counties look to the PT-300 form to ascertain what the capital investment in the project was for the year. Ensuring that the appropriate costs associated with the project are appropriately capitalized, and thereby included in this form, can be critical to meeting the contracted investment requirements pursuant to these types of agreements.

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National Law Review, Volumess XIII, Number 331

Source URL:https://natlawreview.com/article/legal-perspective-pt-300s-soft-and-hard-costs-and-capitalization-south-carolina