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State of South Carolina  
**Department of Revenue**  
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SC REVENUE RULING #08-7

**SUBJECT:** Sales of Boats, Motors, and Boat Trailers  
(Sales Tax)

**EFFECTIVE DATE:** June 1, 2007

**SUPERSEDES:** SC Revenue Ruling #92-12 and all previous advisory opinions  
and any oral directives in conflict herewith.

**REFERENCES:** S.C. Code Ann. Section 12-36-2110 (2000; Supp 2007)

**AUTHORITY:** S. C. Code Ann. Section 12-4-320 (Supp. 2000)  
S. C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #05-2

**SCOPE:** The purpose of a Revenue Ruling is to provide guidance to the  
public and to Department personnel. It is an advisory opinion  
issued to apply principles of tax law to a set of facts or general  
category of taxpayers. It is the Department's position until  
superseded or modified by a change in statute, regulation, court  
decision, or another Departmental advisory opinion.

Question:

What amount of sales and use tax should be imposed upon sales of boats, motors, and boat trailers when sold individually or as a complete package?

Facts:

As a result of the increase in the general state sales and use tax rate beginning June 1, 2007, questions have arisen concerning the application of sales tax and use tax on sales of boats, motors, and boat trailers. The purpose of this document is to update a previously issued advisory opinion, SC Revenue Ruling #92-12, so as to address the imposition of the state sales and use tax or the \$300.00 maximum tax on such sales.

Discussion:

Code Section 12-36-910(A) imposes a sales tax and reads, in part:

A sales tax, equal to five percent of the gross proceeds of sales is imposed upon every person engaged or continuing within this State in the business of selling tangible personal property at retail.

Code Section 12-36-1310(A) imposes a use tax and reads, in part:

A use tax is imposed on the storage, use, or other consumption in this State of tangible personal property purchased at retail for storage, use, or other consumption in this State, at the rate of five percent of the sales price of the property, regardless of whether the retailer is or is not engaged in business in this State.

However, Code Section 12-36-1110, which increased the sales and use tax rates by 1% beginning June 1, 2007, states:

Beginning June 1, 2007, an additional sales, use, and casual excise tax equal to one percent is imposed on amounts taxable pursuant to this chapter, except that this additional one percent tax does not apply to amounts taxed pursuant to Section 12-36-920(A), the tax on accommodations for transients, nor does this additional tax apply to items subject to a maximum sales and use tax pursuant to Section 12-36-2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons. (Emphasis added.)

Based on the above, the general state sales and use tax rate increased from 5% to 6% effective June 1, 2007. However, the state sales and use tax rate for items subject to a maximum tax remained 5%.

In addition, for the sales or use taxes to apply there must be a retail sale or purchase of tangible personal property.

Code Section 12-36-100 defines the terms "sale" and "purchase", in part, as:

...any transfer, exchange, or barter, conditional or otherwise, of tangible personal property for a consideration...

Therefore, the sales tax and use tax are transactional taxes imposed upon the privilege of the business of selling at retail, or using, storing, or consuming tangible personal property in South Carolina.

Code Section 12-36-2110(A), however, provides an exception to the state tax rate. This section establishes a maximum tax on the sale, use, storage, or consumption of certain items and reads, in part:

The maximum tax imposed by this chapter is three hundred dollars for each sale...of each:

\* \* \*

(4) boat;

(5) trailer or semitrailer, pulled by a truck tractor...

In summary, Code Section 12-36-2110(A) establishes a maximum tax on boats, and a maximum tax on trailers and semitrailers capable of being pulled only by a truck tractor. A maximum tax, however, is not provided for boat motors. In addition, the maximum tax is not provided for boat trailers since they are capable of being pulled by vehicles other than a truck tractor.<sup>1</sup> Consequently, when Code Section 12-36-2110(A) is applicable, we must look at the specific transaction involved as well as the type of property involved in the transaction.

#### Conclusion:

The following outlines the proper State sales or use tax to be imposed upon sales of boats, motors, and boat trailers:

1. A boat sold alone is subject to the state sales and use tax at the lesser of 5% of the gross proceeds from the sale or \$300.
2. A motor sold alone is subject to the state sales and use tax at the rate of 6% of the gross proceeds from the sale.
3. A boat trailer sold alone is subject to the state sales and use tax at the rate of 6% of the gross proceeds from the sale.
4. A boat sold with a motor permanently attached to it is subject to the state sales and use tax at the lesser of 5% of the gross proceeds from the sale of the boat and motor or \$300.<sup>2</sup>
5. A boat trailer sold in conjunction with the sale of a boat is subject to the state sales and use tax at the rate of 6% of the gross proceeds from the sale of the boat trailer. The boat is subject to the state sales and use tax at the lesser of 5% of the gross proceeds from the sale of the boat or \$300.

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<sup>1</sup> For purposes of this ruling, boat trailers do not include trailers which must be pulled by truck tractors or boat trailers which are used by manufacturers to transport boats to dealerships.

<sup>2</sup> A boat motor is considered permanently attached to a boat if it is (1) an inboard motor or (2) an outboard motor sold mounted to the boat, connected to a permanent steering mechanism, and included in the price of the boat.

6. A boat trailer sold in conjunction with the sale of a boat that has a permanently attached motor is subject to the state sales and use tax at the rate of 6% of the gross proceeds from the sale of the boat trailer. The boat with a permanently attached motor is subject to the state sales and use tax at the lesser of 5% of the gross proceeds from the sale of the boat and motor or \$300. (Note: If the price of the boat trailer is not separately stated from the price of the boat and motor, the boat trailer is subject to the state sales and use tax at 6% of the fair market value of the boat trailer. If the price of the boat trailer is separately stated from the price of the boat and motor, the price breakdown must be reasonable and supported by the records of the taxpayer, otherwise the trailer will be taxed at 6% of its fair market value.)

Note: All transactions listed above that are subject to the maximum tax of \$300 are not subject to local sales and use taxes administered and collected by the SC Department of Revenue on behalf of local jurisdictions. All transactions listed above that are not subject to the maximum tax (and therefore taxed at 6% for state sales and use tax purposes) are subject to local sales and use taxes administered and collected by the SC Department of Revenue on behalf of local jurisdictions.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

June 30, 2008  
Columbia, South Carolina