
State of South Carolina
Department of Revenue
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SC REVENUE RULING 04-10

SUBJECT: Personal Watercrafts - Maximum Tax Provisions
(Sales and Use Tax)

EFFECTIVE DATE: Applies to all periods open under the statute.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Section 12-36-2110 (Supp. 2000)
S. C. Code Ann. Section 50-21-10 (Supp. 2003)
S. C. Code Ann. Section 50-21-870 (Supp. 2003)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Section 1-23-10(4) (Supp. 2003)
SC Revenue Procedure #03-1

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of tax law to a specific set of facts or a general category of taxpayers. **A Revenue Ruling does not have the force or effect of law, and is not binding on the public.** It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or advisory opinion.

Question:

Is the sale of a personal watercraft, such as a "jet ski," entitled to the maximum tax under Code Section 12-36-2110 as a "boat?"

Conclusions:

It is the department's opinion that the sale of a personal watercraft, such as a "jet ski," is entitled to the maximum tax under Code Section 12-36-2110 as a "boat."

Discussion:

Code Section 12-36-2110(A) reads in part:

- (A) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:

- (1) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;
- (2) motor vehicle;
- (3) motorcycle;
- (4) boat;
- (5) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers but not including house trailers or campers as defined in Section 56-3-710;
- (6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or
- (7) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.

In the case of a lease, the total tax rate required by law applies on each payment until the total tax paid equals three hundred dollars. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days.

It is an accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes. For cases where this has been done, see Hay v. South Carolina Tax Commission, 273 SC 269, 255 S.E.2d 837 (1979); Fennell v. South Carolina Tax Commission, 233 S.C. 43, 103 S.E.2d 424 (1958); Etiwan Fertilizer Co. v. South Carolina Tax Commission, 217 SC 484, 60 S.E.2d 682 (1950).

The Second College Edition of the American Heritage Dictionary defines the word “boat” to mean “a relatively small, usually open craft.”

Furthermore, even though Code Section 12-36-2110 does not refer to the definition of “boat” in Code Section 50-21-10(2), it is proper to do so under the following rule of statutory construction from 73 Am. Jur. 2d Statutes Section 103:

Under the rule of statutory construction of statutes in pari materia, statutes are not to be considered as isolated fragments of law, but as a whole, or as parts of a great, connected, homogenous system. Such statutes are considered as if they constituted but one act, so that sections of one act may be considered as though they were parts of the other act, as far as this can reasonably be done. Indeed, as a general rule, where legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, unless a different purpose is shown plainly.

Code Section 50-21-10(2) defines the word “boat” as follows:

“Boat” means a vessel:

- (a) manufactured or used for recreational or commercial use;
- (b) leased, rented, or chartered for recreational or commercial use; or
- (c) used to carry any passengers either for recreational or commercial purposes.

Code Section 50-21-10(26) defines the word “vessel” as follows:

“Vessel” means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Finally, Code Section 50-21-870(A)(1) defines the term “personal watercraft” as follows:

(a) “Personal watercraft” means a boat less than sixteen feet in length which:

- (i) has an outboard motor or an inboard motor which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion;
- (ii) is designed with the concept that the operator and passenger ride on the outside surfaces of the vessel as opposed to riding inside the vessel;
- (iii) has the probability that the operator and passenger, in the normal course of use, may fall overboard.

(b) Personal watercraft includes, without limitation, a vessel where the operator and passenger ride on the outside surfaces of the vessel, even if the primary source of motive propulsion is a propeller, and a vessel commonly known as a “jet ski”. (Emphasis added.)

Based on the above, it is the department’s opinion that the sale of a personal watercraft, such as a “jet ski,” is entitled to the maximum tax under Code Section 12-36-2110 as a “boat.”

Note: Based on the above discussion, a personal watercraft, such as a “jet ski,” is also considered a boat under the Casual Excise Tax provisions found in Code Sections 12-36-1710 through 12-36-1740.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Burnet R. Maybank III

Burnet R. Maybank III, Director

May 14, 2004
Columbia, South Carolina