



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

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SC REVENUE RULING #18-11

SUBJECT: Sales of Boats, Boat Motors, and Boat Trailers
(Sales Tax, Use Tax, and Casual Excise Tax)

EFFECTIVE DATE: July 1, 2017

SUPERSEDES: SC Revenue Ruling #08-7 and all previous advisory opinions and any oral directives in conflict herewith.

REFERENCES: S.C. Code Ann. Section 12-36-910 (2014)
S.C. Code Ann. Section 12-36-1310 (2014)
S.C. Code Ann. Section 12-36-1110 (2014)
S.C. Code Ann. Section 12-36-1710 (2014; 2017 Supp.)
S.C. Code Ann. Section 12-36-2110 (2014; 2017 Supp.)
S.C. Code Ann. Section 56-3-627 (2018; 2017 Supp.)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion.

PURPOSE OF ADVISORY OPINION UPDATE

In July 2017, the South Carolina Infrastructure and Economic Development Reform Act was enacted to address the funding of significant road maintenance. To accomplish this purpose, the "maximum tax" for sales and use taxes was increased to \$500 from \$300 on certain items, and a new "infrastructure maintenance fee" was imposed upon the registration of certain boat trailers and other items with the South Carolina Department of Motor Vehicles.

SC Revenue Ruling #08-7 addressed the application of the State sales and use tax to sales of boats, boat motors, and boat trailers by retailers when sold individually or as a package. This document is being revised to reflect changes made by the South Carolina Infrastructure and Economic Development Reform Act concerning the maximum tax and taxation of certain boat trailers and to address the application of local sales and use taxes and the casual excise tax to transactions involving boats, boat motors, and boat trailers.

LAW AND DISCUSSION

General Sales and Use Tax:

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

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:

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.

Code Section 12-36-1110 increased the sales and use tax rate and the casual excise tax rate by 1% beginning June 1, 2007; however, this additional 1% does not apply to items subject to a maximum sales and use or casual excise tax pursuant to Code Section 12-36-2110.

Based on the above, the sales and use tax is imposed at a rate of 6% on all retail sales of tangible personal property, except those items subject to a maximum tax.

Maximum Sales and Use Tax:

Code Section 12-36-2110(A)(1) imposes a maximum tax on certain items, including boats, and reads in part:

The maximum tax imposed by this chapter is [five] hundred dollars for each sale made after June 30, 1984, or lease executed, after August 31, 1985, of each:

* * *

(d) boat;

(e) 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 or a fire safety education trailer[.]¹

¹ 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.

While the general sales tax rate is 6%, a 5% rate is imposed on retail sales of items subject to a maximum tax. As such, sales of boats are subject to the sales and use tax at a rate of 5%, but no more than \$500. The maximum tax does not apply to boat motors sold alone or boat trailers.

Casual Excise Tax:

Code Section 12-36-1710 imposes a casual excise tax on the issuance of a certificate of title or other proof of ownership on sales of boats and boat motors by persons not engaged in the business of selling tangible personal property at retail, and reads, in part:

- (A) In addition to all other fees prescribed by law there is imposed an excise tax for the issuance of every certificate of title, or other proof of ownership, for every boat, motor, or airplane, required to be registered, titled, or licensed. The tax is five percent of the fair market value of the airplane, boat, and motor.
- (B) Excluded from the tax are:
 - (1) boats, motors, or airplanes:
 - (a) transferred to members of the immediate family;
 - (b) transferred to a legal heir, legatee, or distributee;
 - (c) transferred from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;
 - (d) transferred to a licensed motor vehicle or motorcycle dealer for the purpose of resale;
 - (e) transferred to a financial institution for the purpose of resale;
 - (f) transferred as a result of repossession to any other secured party, for the purpose of resale;
 - (2) the fair market value of a boat, motor, or airplane, transferred to the seller or secured party in partial payment;
 - (3) gross proceeds of transfers of airplanes specifically exempted by Section 12-36-2120 from the sales or use tax;
 - (4) boats, motors, or airplanes, where a sales or use tax has been paid on the transaction necessitating the transfer.
- (C) "Fair market value" means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(D) “Total purchase price” means the price of a boat, motor, or airplane agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

(E) “Immediate family” means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(F) The department shall require every applicant for a certificate of title to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the excise tax is based upon total purchase price as defined in this section, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

* * *

Code Section 12-36-1720 provides that the casual excise tax applies only to “the last sale before the application for title.”

Accordingly, the casual excise tax applies to purchases of boats and boat motors from a non-retailer (typically an individual) for the issuance of a title or other proof of ownership. The casual excise tax rate is 5% not to exceed \$500 for items that qualify for the maximum tax, such as a boat, and 6% for items that do not qualify for the maximum tax, such as a boat motor sold alone. Sales of items subject to the maximum tax are exempt from local sales and use taxes administered and collected by the Department. Local taxes may apply to sales of items not subject to the maximum tax, such as a boat motor.

Local Sales and Use Taxes:

Local governments have limited authority to levy local taxes and fees for various purposes. Most counties impose one or more local sales and use taxes (e.g., Local Option under Code Section 4-10-10, et seq.; Transportation under Code Section 4-37-30, et seq.; Education Capital Improvements under Code Section 4-10-410, et seq.; etc.).

Sales of items subject to a maximum tax are exempt from local sales and use taxes administered and collected by the Department. However, such local taxes may apply to sales of items that are not subject to a maximum tax, such as a boat motor. Since sales of boat motors are not subject to a maximum tax, sales of boat motors are subject to all local sales and use taxes administered and collected by the Department, except for the Local Option Sales and Use Tax (“LOST”) in Code Section 4-10-20.²

While Code Section 12-36-1710 imposes a casual excise tax on boats and boat motors, there is no law that authorizes counties, municipalities, or other local governments to impose a local casual excise tax.

² As of the date of this advisory opinion, the Local Option Sales and Use Tax in Code Section 4-10-20 is the only local sales and use tax administered by the Department which exempts sales of items listed in Code Section 12-36-1710 (“casual excise tax items”).

Infrastructure Maintenance Fee:

Code Section 56-3-627 imposes an infrastructure maintenance fee at a rate of 5% of the gross proceeds of the sale, not to exceed \$500 for a sale by a licensed SC Department of Motor Vehicles (“SCDMV”) dealer, or 5% of the vehicle’s fair market value, not to exceed \$500, for a sale by a person who is not a SCDMV licensed dealer. Code Section 12-36-2120(83) provides that sales subject to the infrastructure maintenance fee are exempt from state and local sales and use taxes. The infrastructure maintenance fee is remitted to the SCDMV.³

Pursuant to Chapter 3 of Title 56, the owner of each boat trailer used for business purposes must register the boat trailer with the SCDMV and pay an infrastructure maintenance fee upon first registering the boat trailer.

Boat trailers used for personal purposes are not required to be registered with the SCDMV and, therefore, are not subject to the infrastructure maintenance fee. Therefore, retail sales of boat trailers used for personal purposes are subject to sales and use taxes.

SUMMARY

The application of the State sales and use tax, local sales and use taxes, and the casual excise tax to sales of boats, boat motors, and boat trailers is discussed below.

Boat Sold Alone or Boat Sold with a Permanently Attached Motor

Sale by a Retailer. The sale of a boat alone, or the sale of a boat with a permanently attached motor,⁴ by a retailer is subject to the sales and use tax. Since a boat is a maximum tax item, the sales and use tax rate is the lesser of (a) 5% of the gross proceeds of sales of the boat, or sales price, of the boat (and permanently attached motor) or (b) \$500. The sale of a boat alone, or the sale of a boat with a permanently attached motor, is not subject to local sales and use taxes.

Sale by a Non-Retailer. The sale of a boat alone, or the sale of a boat with a permanently attached motor, by a non-retailer (e.g., an individual) is subject to the casual excise tax. The casual excise tax is due upon issuance of a certificate of title or other proof of ownership to the purchaser. Since a boat is a maximum tax item, the casual excise tax rate is the lesser of (a) 5% of the fair market value of the boat (and permanently attached motor) or (b) \$500. The sale of a boat alone, or the sale of a boat with a permanently attached motor, is not subject to local sales and use taxes since local sales and use taxes do not apply to casual excise tax transactions.

³ Code Section 12-36-930 provides that the sales tax due on a sale to a nonresident of a boat trailer to be used for business purposes for use in the nonresident purchaser’s state of residence, is the lesser of (1) the sales tax which would be imposed on the sale in the purchaser’s state of residence or (2) the tax that would be imposed in South Carolina. No sales tax is due in South Carolina if (1) a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to South Carolina or (2) the nonresident’s state does not impose a sales tax on the sale of a boat trailer for business purposes.

⁴ 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.

Boat Motor Sold Alone

Sale by a Retailer. The sale of a boat motor alone is subject to the sales and use tax. Since boat motors are not maximum tax items, the State sales and use tax rate is 6% of the gross proceeds of sales, or sales price, of the boat motor. Local sales and use taxes apply if the sale or use takes place in a county imposing a local sales and use tax other than the LOST Tax in Code Section 4-10-20.⁵

Sale by a Non-Retailer. The sale of a boat motor by a non-retailer (e.g., an individual) is subject to the casual excise tax. The casual excise tax is due upon issuance of a certificate of title or other proof of ownership to the purchaser. Since a boat motor is not a maximum tax item, the casual excise tax rate is 6% of the fair market value of the boat motor. The sale of the boat motor is not subject to local sales and use taxes since local sales and use taxes do not apply to casual excise tax transactions.

Boat Trailer Sold Alone for Personal Use

Sale by a Retailer. The sale of a boat trailer for personal use by a retailer is subject to the sales and use tax. Since a boat trailer is not a maximum tax item, the State sales and use tax rate is 6% of the gross proceeds of sales, or sales price, of the boat trailer. Local sales and use taxes apply if the sale or use takes place in a county imposing a local sales and use tax.⁶

Sale by a Non-Retailer. Since state and local sales and use taxes only apply to sales made by retailers, a boat trailer purchased for personal use from a non-retailer is not subject to sales and use tax. The sale is not subject to the casual excise tax since a boat trailer is not a casual excise tax item.

Boat Trailer Sold Alone for Business Use

Sale by a Retailer. The sale of a boat trailer for business use by a retailer for registration in South Carolina is exempt from the sales and use tax and subject to the infrastructure maintenance fee at a rate of 5%, but no more than \$500.

Sale by a Non-Retailer. Since state and local sales and use taxes only apply to sales made by retailers, a boat trailer purchased for business use from a non-retailer is not subject to sales and use tax. The sale is not subject to the casual excise tax since a boat trailer is not a casual excise tax item. However, the sale of a boat trailer for business use by a non-retailer for registration in South Carolina is subject to the infrastructure maintenance fee at a rate of 5%, but no more than \$500.

Boat and Boat Trailer Sold as a Package

The sale of a boat and boat trailer as a package requires a separate calculation of the tax for the boat and the boat trailer. This is true even if the sales price of the boat and boat trailer are billed

⁵ The purchaser is not liable for a jurisdiction's local use tax if he takes delivery in another jurisdiction and pays the other jurisdiction's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. See SC Revenue Ruling #09-9.

⁶ See footnote #5.

in one contract for one single, non-itemized price. The computations for the tax imposed on a boat (with or without a permanently attached motor) and a boat trailer purchased as a package are discussed below.

Sale by a Retailer. The sale of the boat (including a boat with a permanently attached motor) by a retailer is subject to the sales and use tax. Since a boat is a maximum tax item, the sales and use tax rate is the lesser of (a) 5% of the gross proceeds of sales, or sales price, of the boat (and permanently attached motor) or (b) \$500. The sale of the boat is not subject to local sales and use taxes. This calculation is the same regardless of whether the boat (including a boat with a permanently attached motor) is sold for personal use or business use.

The calculation of the tax on the sale of the boat trailer depends on whether it is sold for personal use or business use.

Personal Use: The sale of a boat trailer for personal use by a retailer is subject to the sales and use tax. Since a boat trailer is not a maximum tax item, the State sales and use tax rate is 6% of the gross proceeds of sales, or sales price, of the boat trailer. Local sales and use taxes apply if the sale or use takes place in a county imposing a local sales and use tax.⁷

Note: If the price of the boat trailer is not separately stated from the price of the boat, the sale of the boat trailer is subject to state sales and use tax at 6% plus any applicable local sales and use tax 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, the price breakdown must be reasonable and supported by the records of the taxpayer, otherwise the trailer will be taxed at 6% plus any applicable local sales and use tax on its fair market value.

Business Use: The sale of a boat trailer for business use by a retailer for registration in South Carolina is exempt from the sales and use tax and subject to the infrastructure maintenance fee at a rate of 5%, but no more than \$500.

Note: In calculating the sales and use tax on the sale of the boat, the price breakdown between the boat and boat trailer must be reasonable and supported by the records of the taxpayer. Otherwise, the sales and use tax on the sale of the boat will be calculated at the fair market value of the boat.

Sale by a Non-Retailer. The sale of a boat (including a boat with a permanently attached motor), by a non-retailer (e.g., an individual) is subject to the casual excise tax. The casual excise tax is due upon the issuance of a certificate of title or other proof of ownership to the purchaser. Since a boat is a maximum tax item, the casual excise tax rate is the lesser of (a) 5% of the fair market value of the boat (and permanently attached motor) or (b) \$500. The sale of the boat is not subject to local sales and use taxes since local sales and use taxes do not apply to casual excise tax transactions.

The calculation of the tax on sale of the boat trailer depends on whether it is sold for personal use or business use.

⁷ See footnote #5.

Personal Use: The sale of a boat trailer for personal use by a non-retailer (e.g., an individual) is not subject to the casual excise tax. Local sales and use taxes do not apply.

Business Use: The sale of a boat trailer for business use by a non-retailer for registration in South Carolina is not subject to the casual excise tax, but is subject to the infrastructure maintenance fee at a rate of 5%, but no more than \$500.

Note: In calculating the casual excise tax on the sale of the boat, the price breakdown between the boat and boat trailer must be reasonable and supported by the records of the taxpayer. Otherwise, the casual excise tax on the boat will be calculated at the fair market value of the boat.

The examples below illustrate the tax computations for such package sales by retailers and non-retailers.

Example 1 – Package Sale by a Retailer: A retailer sells a boat and a boat trailer for personal use as a package for \$47,000. The prices of the boat and boat trailer are separately stated at \$40,000 and \$7,000, respectively. The price breakdown is reasonable and supported by the retailer’s records. The County where the sale takes place has a 1% local sales and use tax. The tax is computed as follows:

<u>Item</u>	<u>Sales Price</u>	<u>State Sales/Use Tax</u>	<u>Local Sales/Use Tax</u>
Boat	\$40,000	\$500 Maximum Sales/Use Tax	\$ 0 (Exempt)
Boat Trailer	\$ 7,000	\$420 (6% x \$7,000)	\$ 70 (1% x \$7,000)
Totals:	\$47,000	\$920	\$ 70

Example 2 – Package Sale by a Non-Retailer: A non-retailer sells a boat and a boat trailer for personal use as a package for \$47,000. The prices of the boat and boat trailer are separately stated at \$40,000 and \$7,000, respectively. When the purchaser remits the casual excise tax to either the Department of Revenue or Department of Natural Resources, the price breakdown is reasonable. The County where the sale takes place has a 1% local sales and use tax. The tax is computed as follows:

<u>Item</u>	<u>FMV</u>	<u>Casual Excise Tax</u>	<u>State/Local Sales/Use Tax</u>
Boat	\$40,000	\$500 Maximum Casual Excise Tax	\$0 (Not applicable)
Boat Trailer	\$ 7,000	\$ 0 (Not Subject to Casual Excise Tax)	\$0 (Not applicable)
Totals:	\$47,000	\$500	\$0

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/W. Hartley Powell

W. Hartley Powell, Director

June 7 _____, 2018
Columbia, South Carolina

EXHIBIT CHART

The chart and notes on the following pages provide a summary of the State sales and use tax, local sales and use tax, and casual excise tax implications of sales of boats, boat motors, and boat trailers, sold individually or as a package, by retailers and non-retailers.

TAXATION OF BOATS, BOAT MOTORS, AND BOAT TRAILERS

ITEM(S) SOLD	SALE BY RETAILER		SALE BY NON-RETAILER
	State Sales/Use Tax	Local Sales/Use Tax	Casual Excise Tax*
Boat Sold Alone (Maximum Tax Item)	Lesser of 5% or \$500	N/A to Maximum Tax Items	Lesser of 5% or \$500
Boat Sold With Permanently Attached Motor (Maximum Tax Item)	Lesser of 5% or \$500	N/A to Maximum Tax Items	Lesser of 5% or \$500
Boat Motor Sold Alone (Not a Maximum Tax Item)	6%	Applies in counties where imposed unless exempt (e.g., Local Option Sales Tax in §4-10-20)	6%
Boat Trailer Sold Alone - For Personal Use (Not a Maximum Tax Item)	6%	Applies in counties where imposed	N/A - Not a Casual Excise Tax Item
Boat Trailer Sold Alone - For Business Use in SC (Not a Maximum Tax Item)	Exempt under §12-36-2120(83) (An Infrastructure Maintenance Fee is paid to the SCDMV)	Exempt under §12-36-2120(83)	N/A - Not a Casual Excise Tax Item (An Infrastructure Maintenance Fee is paid to the SCDMV)
"Package Sale" (Boat Trailer Sold For Personal Use) Boat - With or Without a Permanently Attached Motor (Maximum Tax Item) ----- Boat Trailer (Not a Maximum Tax Item)	Lesser of 5% or \$500 ----- 6%	N/A to Maximum Tax Items ----- Applies in counties where imposed	Lesser of 5% or \$500 ----- N/A - Not a Casual Excise Tax Item
"Package Sale" (Boat Trailer Sold For Business Use in SC) Boat - With or Without a Permanently Attached Motor (Maximum Tax Item) ----- Boat Trailer (Not a Maximum Tax Item)	Lesser of 5% or \$500 ----- Exempt under §12-36-2120(83) (An Infrastructure Maintenance Fee is paid to the SCDMV)	N/A to Maximum Tax Items ----- Exempt under §12-36-2120(83)	Lesser of 5% or \$500 ----- N/A - Not a Casual Excise Tax Item (An Infrastructure Maintenance Fee is paid to the SCDMV)

* Local sales and use taxes do not apply to casual excise tax transactions.

(See Notes on Following Page)

TAXATION OF BOATS, BOAT MOTORS, AND BOAT TRAILERS – NOTES

Sales by Retailers

State Sales and Use Tax: South Carolina imposes a sales and use tax upon sales by, and purchases from, retailers. The tax rate is the lesser of 5% or \$500 for maximum tax items and 6% for other items.

Local Sales and Use Tax: Most counties impose one or more local sales and use taxes. Whether a local sales and use tax applies depends, in part, on whether delivery of an item (i.e., the sale) takes place in a county which imposes a local sales and use tax. The purchaser is not liable for a jurisdiction's local use tax if he takes delivery in another jurisdiction and pays the other jurisdiction's local sales tax, provided the local sales tax he paid is equal to or greater than the local use tax that would otherwise be due. If the local sales tax he paid is less than the local use tax, then the purchaser owes the difference. Also, the purchaser is relieved of the liability for the local use tax if he has a receipt from a retailer showing the retailer has collected the local use tax.

Sales by Non-Retailers

Casual Excise Tax: A casual excise tax is imposed upon sales of boats (with or without a permanently attached motor) and boat motors by non-retailers. The tax is imposed for the issuance of every certificate of title, or other proof of ownership, for every boat or boat motor required to be titled. The casual excise tax rate is the lesser of 5% or \$500 for boats with or without a permanently attached motor, which are maximum tax items, and 6% for boat motors that are not permanently attached at the time of the sale. Local sales and use taxes do not apply to casual excise tax transactions.

Maximum Tax Items

A maximum sales tax, use tax, or casual excise tax is imposed upon sales of boats with or without a permanently attached motor. The maximum tax rate is the lesser of 5% or \$500. 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. Sales or purchases of boat motors that are not permanently attached to a boat and boat trailers are not subject to a maximum sales, use, or casual excise tax and are subject to a 6% tax rate (plus any applicable local sales and use tax for sales by retailers). Maximum tax items are exempt from all local sales and use taxes administered and collected by the Department.

Infrastructure Maintenance Fee

The owner of each boat trailer purchased for business use in South Carolina must pay an infrastructure maintenance fee upon first registering the boat trailer with the SC Department of Motor Vehicles. The fee is imposed at a rate of 5%, but no more than \$500. Boat trailers purchased for business use in South Carolina are exempt from state and local sales and use tax. Boat trailers purchased for personal use, however, are not subject to the infrastructure maintenance fee and are subject to state and local sales and use tax when sold by a retailer.

Nonresident Purchases – Special Rules

The entire chart above applies to both residents and nonresidents. However, the chart does not address boat trailers sold by retailers for business use outside of South Carolina. Also, Code Section 12-36-2120(36) provides an exemption for sales of certain items which are to be delivered by the retailer out-of-state. Both of these issues are addressed below.

Boat Trailers Sold by Retailers for Business Use Outside of South Carolina: Boat trailers sold by retailers for business use outside of South Carolina are subject to the lesser of (1) the sales tax that would be imposed on the sale in the purchaser's state of residence or (2) the tax that would be imposed in South Carolina (6% State plus local sales tax). No sales tax is due in South Carolina if (1) a nonresident purchaser cannot receive a credit in his resident state for sales tax paid to South Carolina or (2) a nonresident's state does not impose a sales tax on the sale of a boat trailer for business use. The infrastructure maintenance fee does not apply to sales of boat trailers in South Carolina for business use outside of South Carolina.

Exemption for Delivery Out-of-State: A sale is exempt from state and local sales and use tax if the seller, by contract of sale, is obligated either (1) to deliver the item to the buyer (or an agent or donee of the buyer) at a point outside of South Carolina, or (2) to deliver the item to a common carrier or the US mail for transportation to the buyer (or an agent or donee of the buyer) at a point outside of South Carolina. The casual excise tax is not applicable if the buyer does not receive a certificate of title or other proof of ownership in South Carolina.