



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #18-4

- SUBJECT:** Personal Watercrafts - Maximum Sales and Use Tax Provisions
(Sales and Use Tax)
- EFFECTIVE DATE:** July 1, 2017
- SUPERSEDES:** SC Revenue Ruling #04-10 and all previous documents and any oral directives in conflict herewith.
- REFERENCES:** S. C. Code Ann. Section 12-36-2110 (2014; Supp. 2017)
S. C. Code Ann. Section 50-21-10 (Supp. 2017)
S. C. Code Ann. Section 50-21-870 (2008)
- 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. 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 It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

Purpose of Update:

The purpose of this advisory opinion is to update SC Revenue Ruling #04-10 to address the increase in the maximum sales and use tax on boats as part of Act No. 40 of 2017, "The South Carolina Infrastructure and Economic Development Reform Act." The Act increased the maximum sales and use tax on boats from 5% but not more than \$300, to 5% but not more than \$500. The increase became effective on July 1, 2017.

Question:

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

Conclusion:

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

Discussion:

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

(1) The maximum tax imposed by this chapter is [five]¹ hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:

* * *

(d) boat;

* * *

(2) In the case of a lease, the total tax rate required by this section applies on each payment until the total tax paid equals [five] 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. See *Hay v. South Carolina Tax Commission*, 273 S.C. 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 S.C. 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."

Although not controlling, the definitions found in Title 50, "Fish, Game and Watercraft," Chapter 21, "Equipment and Operation of Watercraft," provide further insight into whether a personal watercraft should be considered a "boat." Code Section 50-21-10 contains the following relevant definitions:

(2) "Boat" means a vessel.

¹ Effective after June 30, 2017, the maximum sales and use tax imposed pursuant to this chapter on the sale, lease, or registration of an item enumerated in item (1) is increased from three hundred dollars to five hundred dollars. Code Section 12-36-2110(A)(4).

* * *

(25) "Vessel" means every description of watercraft, other than a seaplane regulated by the federal government, 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 a maximum sales and use 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/W. Hartley Powell

W. Hartley Powell, Director

May 2 _____, 2018
Columbia, South Carolina