



SC REVENUE RULING #92-12

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

TAX ANALYST: Deana West

EFFECTIVE DATE: Applies to all periods open under statute.

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

REFERENCE: S.C. Code Ann. Section 12-36-2110 (Supp. 1991)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (Supp. 1991)
SC Revenue Procedure #87-3

SCOPE: A Revenue Ruling is the Commission's official interpretation of how tax law is to be applied to a specific set of facts. A Revenue Ruling is public information and remains a permanent document until superseded by a Regulation or is rescinded by a subsequent Revenue Ruling.

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:

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 address the imposition of the 5% 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.

Therefore, 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...

Based on the above, 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 five percent 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.¹ 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.

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.

Conclusion:

The proper State sales or use tax to be imposed upon sales of boats, motors, and boat trailers are as follows:

1. A boat sold alone is subject to tax at the lesser of 5% of the gross proceeds from the sale or \$300.
2. A motor sold alone is subject to tax at the rate of 5% of the gross proceeds from the sale.
3. A boat trailer sold alone is subject to tax at the rate of 5% of the gross proceeds from the sale.
4. A boat sold with a motor permanently attached to it is subject to tax at the lesser of 5% of the gross proceeds from the sale of the boat and motor or \$300.²
5. A boat trailer sold in conjunction with the sale of a boat is subject to tax at the rate of 5% of the gross proceeds from the sale of the boat trailer. The boat is subject to tax at the lesser of 5% of the gross proceeds from the sale of the boat or \$300.
6. A boat trailer sold in conjunction with the sale of a boat that has a permanently attached motor is subject to tax at the rate of 5% of the gross proceeds from the sale of the boat trailer. The boat with a permanently attached motor is subject to 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 tax at 5% 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 5% of its fair market value.)

SOUTH CAROLINA TAX COMMISSION

s/A. Crawford Clarkson Jr.

A. Crawford Clarkson, Jr., Chairman

s/T. R. McConnell

T. R. McConnell, Commissioner

s/James M. Waddell, Jr.

James M. Waddell, Jr., Commissioner

Columbia, South Carolina
October 28, 1992

²A 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.