

Chapter 4

Casual Excise Tax

A. General Information

The casual excise tax¹ is imposed upon the issuance of a certificate of title or other proof of ownership for every (1) boat, (2) motor, or (3) airplane required to be registered, titled, or licensed. It applies only to the last sale before the application for title.² The casual excise tax does not apply to trailers (including boat trailers), semitrailers, or pole trailers.

Since most, but not all, of the items subject to the casual excise tax qualify for the maximum tax, the casual excise tax can be imposed at a rate of either 5% or 6%.³ The tax is 5% of the “fair market value” of the airplane or boat⁴ purchased.⁵ However, South Carolina Code §12-36-2110 provides that the casual excise tax on sales of airplanes and boats may not exceed the \$500 maximum tax on these transactions.⁶ In addition, since airplanes and boats are subject to the maximum tax, local taxes administered and collected by the Department on behalf of local jurisdictions are not applicable.

¹ South Carolina Code §12-36-1710.

² See South Carolina Code §§12-36-1710(A) and 12-36-1720.

³ South Carolina Code §12-36-1110, which increased the casual excise tax rate as well as the sales and use tax rate from 5% to 6%, does not apply to items subject to the maximum tax provisions of South Carolina Code §12-36-2110. Therefore, items subject to the maximum tax are taxed at a state rate of 5% instead of a state rate of 6%. Specifically, South Carolina Code §12-36-1110 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 South Carolina Code §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 South Carolina Code §12-36-2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons.

⁴ A boat sold with a motor permanently attached to it is subject to the casual excise tax at the lesser of 5% of the fair market value 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.

⁵ Any transaction subject to the maximum tax of \$500 is taxed at a state rate of 5% and is not subject to any local tax administered and collected by the Department of Revenue on behalf of local jurisdictions. Any transaction not subject to the maximum tax of \$500 is taxed at a state rate of 6% and is subject to any local tax administered and collected by the Department of Revenue on behalf of local jurisdictions.

⁶ Act No. 40 of 2017 increased the maximum tax in South Carolina Code §12-36-2110 from \$300 to \$500 for certain enumerated items, including aircraft and boats.

The tax is 6% of the “fair market value” of a motor that is purchased alone (not permanently attached to the boat).⁷ Local sales and use taxes are not applicable to casual excise tax transactions.⁸

The casual excise tax is computed on the “fair market value” which is defined as (1) the total purchase price (i.e., price agreed upon by the buyer and seller) less any trade-in allowance of the boat, motor, or airplane, or (2) the valuation shown in a national publication adopted by the Department.⁹ The valuation shown in a national publication of used values is used only in cases of necessity, for example, when closely held stock is exchanged for a boat.

The price agreed upon by the buyer and seller, less any trade in, includes: (1) the amount of cash paid, (2) the amount of any loan assumed, (3) the value of any property exchanged, or (4) the amount paid at delinquent property tax sales.

Department of Revenue Form ST-236, “Casual or Use Excise Tax Return,” is used to compute the casual excise tax or use tax due on the transfer of a boat, motor, or airplane. The tax may be paid at the Department or at the Department of Natural Resources when registering a boat or motor. Form ST-236 can be obtained from the Department of Revenue’s website at dor.sc.gov. Information on the Department of Natural Resources can be found at sc.gov.

The following transfers of boats, motors, or airplanes are excluded from the casual excise tax pursuant to South Carolina Code §§12-36-1710 and 12-36-1720:

- a. transfers to members of the immediate family (i.e., spouse, parent, child, sister, brother, grandparent, and grandchild);
- b. transfers to a legal heir, legatee, or distributee;
- c. transfers from an individual to a partnership upon formation, or from a stockholder to a corporation upon formation;
- d. transfers to a licensed motor vehicle dealer or licensed motorcycle dealer for the purpose of resale;

⁷ South Carolina Code §12-36-1710.

⁸ Local jurisdictions have authority to impose sales and use taxes, not casual excise taxes. See South Carolina Code §§4-10-20; 4-10-310; 4-10-420; 4-10-540; 4-10-730; 4-10-940.

⁹ South Carolina Code §12-36-1710(C) & (D).

- e. transfers to a financial institution for the purpose of resale;
- f. transfers to any other secured party, as a result of repossession, for the purpose of resale;
- g. transfers to the seller or secured party in partial payment (*e.g.*, trade-ins);
- h. transfers where a sales or use tax has been paid on the transaction necessitating the transfer (this includes sales tax paid to an auctioneer licensed as a retailer);
- i. transfers of airplanes specifically exempted by South Carolina Code §12-36-2120 from the sales or use tax (see “Examples of Exempt Transfers” below);
- j. transfers that are a gift or prize; and,
- k. vessels registered and documented by the United States Commissioner of Customs.¹⁰

B. Examples of Exempt Transfers

Below are examples of transfers that are exempt from sales and use tax under South Carolina Code §12-36-2120 and, therefore, are exempt from the casual excise tax. These examples illustrate the more frequent methods of transferring a boat, motor, or airplane. See South Carolina Code §12-36-2120 for a complete list of exemptions.

Sales to the Federal Government¹¹

Sales of a boat, motor, or airplane to the federal government are exempt from sales or use taxes under South Carolina Code §12-36-2120(2) and are also exempt from the casual excise tax. When agents of the federal government purchase one of these items on behalf of the federal government, the purchase is not subject to sales and use taxes providing the credit of the agent is not advanced or risked, the purchase order discloses the purchase is made on behalf of the federal government, title to the property vests in the federal government, and the vendor is paid directly by the federal government.

¹⁰ Attorney General Opinion #83-33 (7/8/1983).

¹¹ South Carolina Code §12-36-2120(2).

Sales by the Federal Government¹²

Sales of a boat, motor, or airplane by the federal government are exempt from sales and use taxes under South Carolina Code §12-36-2120(1) and exempt from the casual excise tax.

Sales by, or Sales to, Federal Credit Unions¹³

Sales of a boat, motor, or airplane by, or sales of such property to, a federal credit union are exempt from sales and use taxes and the casual excise tax. See South Carolina Attorney General Opinion #S-OAG-59 (1991), which concluded that federally chartered credit unions are instrumentalities of the federal government.

Sales of Farm Machinery¹⁴

Airplanes used in planting, cultivating or harvesting farm crops (e.g., crop dusting) are exempt from South Carolina sales and use tax and casual excise tax.

Gifts and Prizes¹⁵

The sales and use tax and casual excise tax do not apply to property transferred as a gift or prize since there has not been a “sale” to the recipient. A gift includes a boat, motor, or airplane transferred for “love and affection.”¹⁶

Sale of Entire Business¹⁷

The casual excise tax and sales and use tax do not apply to depreciable assets, used in the operation of a retail business when the entire business is sold by the owner, pursuant to a written contract, and the purchaser continues operation of the business. If, however, a retail business sells only a portion of its assets, then the business is liable for the sales tax due on the sale of its depreciable assets.¹⁸

¹² South Carolina Code §12-36-2120(1).

¹³ South Carolina Code §12-36-2120(2).

¹⁴ South Carolina Code §12-36-2120(16).

¹⁵ The exemption for gifts and prizes is authorized by South Carolina Code §12-36-1720, not §12-36-2120.

¹⁶ See South Carolina Code §12-36-1720 and South Carolina Revenue Ruling #92-10.

¹⁷ South Carolina Code §12-36-2120(42).

¹⁸ See South Carolina Code §§12-36-1710(B)(3), 12-36-2120(42), and South Carolina Revenue Advisory Bulletin #01-1.

C. Sales to Individuals 85 Years of Age and Older¹⁹

An individual²⁰ 85 years of age or older who purchases at retail an airplane or boat for his or her personal use would pay a casual excise tax rate of 4% (instead of the 5% applicable to all other persons purchasing this maximum tax item).²¹ The 4% tax rate is applied and if the tax as calculated exceeds the \$500 maximum tax, the individual 85 years of age or older would only pay \$500.

An individual²² 85 years of age or older who purchases at retail a motor that is purchased alone (not permanently attached to the boat) for his or her personal use would pay a casual excise tax rate of 5% (instead of the 6% applicable to all other persons purchasing this non-maximum tax item).²³

¹⁹ South Carolina Revenue Ruling #18-10.

²⁰ In Commission Decision S-D-173, it was held that the lower rate allowed for persons 85 years of age and older only applied to sales to individuals, and did not apply to sales to partnerships, corporations and other legal entities.

²¹ South Carolina Code §12-36-2640.

²² In Commission Decision S-D-173, it was held that the lower rate allowed for persons 85 years of age and older only applied to sales to individuals, and did not apply to sales to partnerships, corporations and other legal entities.

²³ South Carolina Code §12-36-2640.