
State of South Carolina
Department of Revenue
301 Gervais Street, P. O. Box 125, Columbia, South Carolina 29214
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SC REVENUE RULING 06-6

SUBJECT: Barges - 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 (2000; Supp. 2005)
S. C. Code Ann. Section 50-21-10 (Supp. 2005)

AUTHORITY: S. C. Code Ann. Section 12-4-320 (2000)
S. C. Code Section 1-23-10(4) (Supp. 2005)
SC Revenue Procedure #05-2

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 specific set of facts or general category of taxpayers. It is the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulations, court decision, or another Departmental advisory opinion.

Questions:

1. Is the sale at retail of a barge entitled to the maximum tax as a "boat" under Code Section 12-36-2110?
2. Is the lease at retail of a barge entitled to the maximum tax as a "boat" under Code Section 12-36-2110?

Conclusions:

1. It is the Department's opinion that the sale of a barge is entitled to the maximum tax under Code Section 12-36-2110 as a "boat."
2. It is the Department's opinion that the lease at retail of a barge is entitled to the maximum tax under Code Section 12-36-2110 as a "boat," provided (1) the lease is in writing and (2) the lease specifically states a term of, and remains in force for, a period in excess of ninety continuous days.

In addition, the sales or use tax applies to each renewal of the lease and the maximum tax for that renewal will only apply if (1) the lease renewal is in writing and (2) the lease renewal

specifically states a term of, and remains in force for, a period in excess of ninety continuous days.

Note: A barge that is permanently affixed to a (1) dock, (2) the ocean, lake or river bottom, or (3) any other realty is not used as a “boat” and is not entitled to the maximum tax under Code Section 12-36-2110.

Discussion:

The first issue concerns whether the sale of a barge qualifies for the maximum tax. 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 or a fire safety education trailer;
- (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 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 words “boat” and “barge” as follows:

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| Boat | 1. A relatively small, usually open craft. 2. A ship. ... |
| Barge | 1. A long, large, usually flat-bottomed boat that is unpowered and towed by other craft, used for transporting freight, 2. A large pleasure boat. 3. A powerboat reserved for the use of a flag officer. |

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.

Based on the above, the sale at retail of a barge is entitled to the maximum tax under Code Section 12-36-2110 as a “boat.”

The second issue concerns the application of the maximum tax to the lease of a barge.

Code Section 12-36-100 defines the term “sale” to include “a rental, lease, or other form of agreement.” In addition, as stated above, the maximum tax provisions of Code Section 12-36-2110(A), which includes boats, states in part:

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.

Therefore, the lease at retail of a barge is entitled to the maximum tax under Code Section 12-36-2110 as a "boat," provided (1) the lease is in writing and (2) the lease specifically states a term of, and remains in force for, a period in excess of ninety continuous days.

In addition, the sales or use tax applies to each renewal of the lease and the maximum tax for that renewal will only apply if (1) the lease renewal is in writing and (2) the lease renewal specifically states a term of, and remains in force for, a period in excess of ninety continuous days.

In addition, based on the above discussion, a barge is also considered a boat under the Casual Excise Tax provisions found in Code Sections 12-36-1710 through 12-36-1740.

Note: A barge that is permanently affixed to a (1) dock, (2) the ocean, lake or river bottom, or (3) any other realty is not used as a "boat" and is not entitled to the maximum tax under Code Section 12-36-2110.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Ray N. Stevens

Ray N. Stevens, Director

September 6, 2006
Columbia, South Carolina