

Chapter 4

Casual Excise Tax

A. General Information

The casual excise tax is imposed upon the issuance of a certificate of title or other proof of ownership for every boat or motor required to be registered, titled, or licensed with the State.¹ 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 all of the items subject to the casual excise tax qualify for the maximum tax effective July 1, 2022,³ the casual excise tax can be imposed at a rate of 5%.⁴ The tax is 5% of the “fair market value” of the boat⁵ or boat motor purchased.⁶ However, Code Section 12-36-2110 provides that the casual excise tax on sales of boats and boat motors may not exceed the \$500 maximum tax.⁷

¹ While the statute imposes the casual excise tax with respect to the issuance of a title or other proof of ownership of airplanes, the casual excise tax does not apply to the issuance of a title, other proof of ownership, or other documentation by a federal government agency, such as the U.S. Coast Guard, U.S. Customs and Border Protection, or the Federal Aviation Administration. The SC Aeronautics Commission has informed the Department that airplanes in South Carolina are registered, titled, and licensed by the Federal Aviation Administration, not by the SC Aeronautics Commission. Since the casual excise tax does not apply to the Federal Aviation Administration’s issuance of a title or other proof of ownership for an airplane in South Carolina, the casual excise tax does not apply to airplanes. *See* S.C. Revenue Ruling #21-8.

² *See* S.C. Code Ann. §§ 12-36-1710(A) and 12-36-1720 and S.C. Revenue Ruling #22-6.

³ S.C. Code Ann. § 12-36-2110(A), concerning the sales of items subject to a maximum sales and use tax and maximum casual excise tax (including boats and airplanes), was amended to add watercraft motors. The sales of watercraft motors, effective July 1, 2022, are subject to the sales and use tax and the casual excise tax at a rate of 5%, but no more than \$500. *See* 2022 S.C. Acts 237.

⁴ S.C. Code Ann. § 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 S.C. Code Ann. § 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, S.C. Code Ann. § 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 S.C. Code Ann. § 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 S.C. Code Ann. § 12-36-2110 nor to the sale of unprepared food which may be lawfully purchased with United States Department of Agriculture food coupons.

⁵ 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. *See* S.C. Revenue Ruling #22-7.

⁶ 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 on behalf of local jurisdictions. *See* Code Section 4-10-350(B).

⁷ Act No. 40 of 2017 increased the maximum tax in S.C. Code Ann. § 12-36-2110 from \$300 to \$500 for certain enumerated items, including aircraft and boats.

In addition, since boats and boat motors are subject to the maximum tax, local taxes administered and collected by the Department on behalf of local jurisdictions are not applicable.

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 or motor, or (2) the valuation shown in a national publication adopted by the Department.⁸ 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 Excise or Use Tax Return,” is used to compute the casual excise tax or use tax due on the transfer of a boat or motor. The tax may be paid at the Department of Revenue 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 dnr.sc.gov.

The following transfers of boats or motors are excluded from the casual excise tax pursuant to Code Sections 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;
- 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 boats or motors specifically exempted by Code Section 12-36-2120 from the sales or use tax (see “Examples of Exempt Transfers” below);

⁸ S.C. Code Ann. § 12-36-1710(C) & (D).

- j. transfers that are a gift or prize; and
- k. vessels registered and documented by the United States Commissioner of Customs.⁹

B. Examples of Exempt Transfers

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

Sales to the Federal Government¹⁰

Sales of a boat or motor to the federal government are exempt from sales or use taxes under Code Section 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.

Sales by the Federal Government¹¹

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

Sales by, or Sales to, Federal Credit Unions¹²

Sales of a boat or motor by, or sales of such property to, a federal credit union are exempt from sales and use taxes and the casual excise tax. See Op. Att’y Gen., 91-59 (S.C.A.G. Mar. 26, 1991), which concluded that federally chartered credit unions are instrumentalities of the federal government.

Gifts and Prizes¹³

The sales and use tax and casual excise tax do not apply to property transferred as a gift or prize because there is no “sale” to the recipient. A gift includes a boat or motor transferred for “love and affection.”¹⁴

⁹ Op. Att’y Gen., 83-33 (S.C.A.G. July 8, 1983).

¹⁰ S.C. Code Ann. § 12-36-2120(2).

¹¹ S.C. Code Ann. § 12-36-2120(1).

¹² S.C. Code Ann. § 12-36-2120(1), (2).

¹³ The exemption for gifts and prizes is authorized by S.C. Code § 12-36-1720, not § 12-36-2120.

¹⁴ See S.C. Code Ann. § 12-36-1720 and S.C. Revenue Ruling #22-6.

Sale of Entire Business¹⁵

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.¹⁶

C. Sales to Individuals 85 Years of Age and Older¹⁷

An individual¹⁸ 85 years of age or older who purchases at retail a boat or a boat motor 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).¹⁹ 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.

¹⁵ S.C. Code Ann. § 12-36-2120(42).

¹⁶ See S.C. Code Ann. §§ 12-36-1710(B)(3), 12-36-2120(42), and S.C. Revenue Advisory Bulletin #01-1.

¹⁷ S.C. Revenue Ruling #18-10.

¹⁸ Per Commission Decision S-D-173, 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.

¹⁹ S.C. Code Ann. § 12-36-2640.