

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) motor vehicle, (2) motorcycle, (3) boat, (4) motor, or (5) 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% as follows:³

The tax is 5% of the “fair market value” of the motor vehicle, motorcycle, airplane, and boat⁴ purchased.⁵ However, Code Section 12-36-2110 provides that the casual excise tax on sales of motor vehicles, motorcycles, boats, or airplanes may not exceed the \$300 maximum tax on these transactions. In addition, since motor vehicles, motorcycles, 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 Code Sections 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 Section 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 Section 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 \$300. 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 SC Revenue Ruling #08-7.

⁵ Any transaction subject to the maximum tax of \$300 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 \$300 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.

The tax is 6% of the “fair market value” of a motor that is purchased alone (not permanently attached to the boat).⁶ In addition, since motors that are purchased alone (not permanently attached to the boat) are not subject to the maximum tax, local taxes administered and collected by the Department on behalf of local jurisdictions are 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 motor vehicle, motorcycle, boat, motor, or airplane, or (2) the valuation shown in a national publication adopted by the Department.⁷ 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 motor vehicle.⁸

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 exchanges, 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 motor vehicle, motorcycle, boat, motor, or airplane. The tax may be paid at the Department, or at a Department of Motor Vehicles office when registering a motor vehicle or motorcycle, or at the Department of Natural Resources when registering a boat or motor. Form ST-236 can be obtained from the Department’s website at www.sctax.org. Information on the Department of Motor Vehicles or the Department of Natural Resources can be found at www.myscgov.com.

The following transfers of motor vehicles, motorcycles, boats, motors, or airplanes are excluded from the casual excise tax pursuant to Code Section 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;

⁶ South Carolina Code §12-36-1710. See also SC Revenue Ruling #08-7 for information concerning the sale of boats individually as well as boats sold as part of a package that includes the boat motor and boat trailer.

⁷ South Carolina Code §12-36-1710(C) & (D).

⁸ SC Revenue Ruling #08-8.

- 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 motor vehicles, motorcycles, or airplanes specifically exempted by Section 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.⁹

B. Examples of Exempt Transfers

Below are examples of transfers that are 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 motor vehicle, motorcycle, boat, motor, airplane, or trailer. See Code Section 12-36-2120 for a complete list of exemptions.

Sales to Nonresident Military Personnel¹⁰

Motor vehicles, as described below, or motorcycles sold to military personnel stationed in South Carolina by reason of orders of the U.S. Armed Forces who are not residents of South Carolina are exempt from South Carolina sales and use tax, and casual excise tax, provided (1) a copy of Form ST-178, “Nonresident Military Tax Exemption Certificate” is furnished to the Department or the Department of Motor Vehicles or (2) a leave and earnings statement from the appropriate department of the armed services is provided to the Department or the Department of Motor Vehicles that designates the state of residence of the buyer. This information must be furnished within ten days of the sale.

This exemption applies only to the sale of motor vehicles that are primarily designed to carry passengers, such as cars, passenger vans, and sports utility vehicles (*e.g.*, Broncos, Explorers and Troopers). Sales and use tax or the casual excise tax (whichever is applicable) is due on sales of motor vehicles designed primarily to carry cargo, such as trucks or cargo vans.

⁹ Attorney General Opinion #83-33 (7/8/1983).

¹⁰ South Carolina Code §12-36-2120(25).

Sales to the Federal Government¹¹

Sales of a motor vehicle, motorcycle, boat, motor, or airplane to the federal government are exempt from sales or use taxes under Code Section 12-36-2120(2) and 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 Government¹²

Sales of a motor vehicle, motorcycle, boat, motor, or airplane 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 Unions¹³

Sales of a motor vehicle, motorcycle, 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, which concluded that federally chartered credit unions are instrumentalities of the federal government.

Transfers to and from an Insurance Company¹⁴

Vehicles that have been declared a total loss and are transferred to or from an insurance company in settlement of a claim are exempt from casual excise tax and sales and use taxes.¹⁵

Sales of Farm Machinery¹⁶

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 pursuant to Code Section 12-36-2120(16). The tax applies to automobiles or trucks used in farming.

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

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

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

¹⁴ South Carolina Code §56-19-480.

¹⁵ See SC Revenue Ruling #93-13.

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

Gifts and Prizes¹⁷

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 motor vehicle, motorcycle, boat, motor, or airplane transferred by “love and affection”.¹⁸

Sale of Entire Business¹⁹

The casual excise tax and sales and use tax do not apply to depreciable assets, used in the operation of a business when the entire business is sold by the owner, pursuant to a written contract, and the purchaser continues operation of the business. For example, if ABC Company, a retail florist business, sells its entire business (*e.g.*, the building, inventory, delivery trucks, goodwill, etc.) to XYZ Company, a retail gift store business who will operate the floral business it purchased, then there is no sales and use tax due on the sale of the delivery trucks. If, however, ABC Company sold only a portion of its assets (*e.g.*, all of its delivery trucks), then ABC Company is liable for the sales tax due on the sale of its delivery trucks.²⁰

C. Sales to Individuals 85 Years of Age and Older²¹

An individual²² 85 years of age or older who purchases at retail a motor vehicle, motorcycle, airplane, or boat for his or her personal use would pay a state casual excise tax rate of 4% (instead of the 5% applicable to all other persons purchasing this maximum tax item)²³. The 4% tax rate is applied and if the tax as calculated exceeds the \$300 maximum tax, the individual 85 years of age or older would only pay \$300.

An individual²⁴ 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 state casual excise tax rate of 5% (instead of the 6% applicable to all other persons purchasing this maximum tax item).²⁵ In addition, since motors that are purchased alone (not permanently attached to the boat) are not subject to the maximum tax, local taxes administered and collected by the Department on behalf of local jurisdictions are applicable.

¹⁷ South Carolina Code §12-36-1720.

¹⁸ See Code Section 12-36-1720 and SC Revenue Ruling #92-10.

¹⁹ South Carolina Code §12-36-2120(42).

²⁰ See Code Sections 12-36-1710(B)(3), 12-36-2120(42), and SC Revenue Advisory Bulletin #01-1.

²¹ SC Revenue Ruling #08-5.

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.

²⁴ 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.

²⁵ South Carolina Code §12-36-2640.