



Changes to the Application of Sales and Use Tax to Vessels

This memorandum explains recently enacted legislation that amends the Sales and Use Tax Law to cap the sales and use tax on vessels and to modify the timing for the payment of any use tax due on vessels.

Effective June 1, 2015, Part SS of Chapter 59 of the Laws of 2015 amends the Tax Law to provide an exemption from State and local sales and use tax (sales tax) for receipts in excess of \$230,000 from the sale of a vessel, including any outboard motor or trailer sold in conjunction with the vessel. The new law also changes the timing for the payment of any use tax due on a vessel that is purchased by a New York State resident outside the state and subsequently used in New York.¹

Taxable selling price cap

Under the new law, the taxable receipt of a vessel (as the term vessel is defined in section 2250 of the Vehicle and Traffic Law) subject to New York State sales tax is capped at \$230,000. Any amount of the price in excess of \$230,000 is exempt from tax.

The following amounts are included in computing the price of a vessel for purposes of the \$230,000 cap and the amount in excess of \$230,000 that is exempt from sales tax:

- the price of the vessel itself, including:
 - property affixed to the vessel for its equipping, such as furniture, fixtures, built-in appliances, window coverings, climate control systems, navigation equipment, or entertainment systems; and
 - property that the vessel is outfitted with at the time of sale that is necessary for its normal operation, such as an anchor, a flare gun, flotation devices, pumps, ropes, cables, chains, lifeboat or life raft;
- the price of any outboard motor sold with the vessel;
- the price of any trailer (as that term is defined in section 156 of the Vehicle and Traffic Law) sold with the vessel; and
- any charges by the seller for shipping or delivery.

The combined price of the above items is reduced by the amount of any trade-in allowance.

Any accessories added to or included in the purchase of a vessel, including:

- items of décor (paintings, sculptures, vases, etc.);
- tableware, glassware, or cookware;
- small appliances;

¹ The changes discussed in this memorandum do not limit any other sales tax exemptions, exclusions, or credits applicable to vessels.

- deck furniture;
- linens, pillows, or towels;
- personal watercraft; or
- other ancillary property,

are **not included** in computing the price of the vessel for purposes of the \$230,000 cap or in the amount in excess of \$230,000 that is exempt from sales tax. Such items remain fully taxable and should be invoiced separately from the price of the vessel itself.

Example 1: *Mr. X is a resident of New York State who lives in a locality where the combined state and local sales tax rate is 8%. Mr. X purchases a vessel and a trailer for the vessel for \$750,000. Sales tax is computed on \$230,000 and the sales tax due is \$18,400 (\$230,000 x 8%).*

Example 2: *Same facts as Example 1 except that Mr. X trades in a vessel valued at \$550,000. Sales tax is computed on the net price after the trade-in allowance is deducted (\$750,000 less the trade-in allowance of \$550,000, or \$200,000). The sales tax due is \$16,000 (\$200,000 x 8%).*

Example 3: *Same facts as Example 2 except that the trade-in vessel is valued at \$400,000 and the seller is charging Mr. X \$1,000 to deliver the vessel and trailer. The selling price of the new vessel is computed as follows:*

Selling price of vessel and trailer:	\$750,000
Less trade-in allowance:	(400,000)
Plus delivery charge:	<u>1,000</u>
Total:	\$351,000

Even though the total selling price is \$351,000, the amount subject to sales tax is capped at \$230,000 and the sales tax due is \$18,400 (\$230,000 x 8%). The amount of the selling price in excess of \$230,000 (\$121,000) is exempt from sales tax.

Example 4: *Mr. Z purchases a vessel from a New York boat dealer for \$1.2 million in a locality where the combined state and local sales tax rate is 8³/₈%. At the same time he also purchases from the dealer a set of teak deck chairs for \$3,200 and two personal watercraft for \$20,000.*

*The selling price of the vessel (\$1.2 million) is capped at \$230,000 for purposes of computing the sales tax due of \$19,262.50 (\$230,000 x 8³/₈%). The costs of the deck chairs and watercraft are **not included** in computing the \$230,000 price cap or in the amount in excess of \$230,000 that is exempt from sales tax. These items should be invoiced separately from the price of the vessel. Sales tax of \$268 (\$3,200 x 8³/₈%) is due on the purchase of the deck chairs and sales tax of \$1,675 (\$20,000 x 8³/₈%) is due on the watercraft.*

The cap of \$230,000 also applies in determining the maximum amount subject to sales or use tax for:

- Leases of vessels subject to the accelerated tax payment provisions of section 1111(i) of the Tax Law. See [TSB-M-91\(1\)S](#), *1990 Amendments to the Sales Tax Law*.
- Transfers of vessels that qualify as retail sales under section 1111(q) of the Tax Law. See [TSB-M-10\(14\)S](#), *Amendments Affecting the Application of Sales and Use Tax to the Transfer, Contribution, or Distribution of an Aircraft or Vessel in Connection with Certain Corporate or Partnership Transactions*.
- A vessel that is qualified property subject to use tax under section 1118(2) of the Tax Law purchased out of state by a nonresident that is used primarily to carry certain individuals who were residents of New York State at the time the vessel was purchased. See [TSB-M-09\(4\)S](#), *Amendments Affecting the Application of Sales and Use Tax to Aircraft, Vessels and Motor Vehicles*.

Limitation on the reciprocal credit

Part SS also provides that the reciprocal credit under section 1118(7) of the Tax Law for sales or use tax paid to another state or jurisdiction is limited to the amount of tax paid on the purchase price of the vessel up to \$230,000, regardless of the actual purchase price or actual amount of tax paid to the other state or jurisdiction. For further information, see Tax Bulletin [Reciprocal Credit for Sales or Use Taxes Paid to Other Taxing Jurisdictions \(TB-ST-765\)](#).

Example 5: *Mr. A, a resident of New York State, purchases a vessel in State 2 for \$800,000. State 2 imposes a sales tax at the combined rate of 6% and Mr. A pays \$48,000 of sales tax in State 2.*

Mr. A brings the vessel back to New York for use here. Mr. A resides in a jurisdiction where the combined state and local sales tax rate is 8%. The amount of the purchase price subject to use tax is capped at \$230,000, so Mr. A owes \$19,837.50 in New York State use tax.

New York State will allow a reciprocal credit for sales tax paid to State 2 against Mr. A's New York State use tax liability. However, Mr. A's allowable reciprocal credit for sales tax paid to State 2 is limited to \$13,800 ($\$230,000 \times 6\%$), so Mr. A owes a net amount of \$6,037.50 in New York State use tax.

Payment of use tax

Part SS also changed the timing for the payment of any use tax due on a vessel that is purchased by a New York resident outside the state and subsequently used in New York. The amendments provide that the use tax is not due until the first of these events occurs:

- the date that the vessel is required to be registered with the Department of Motor Vehicles; or
- the date that the vessel is actually registered with the Department of Motor Vehicles; or
- the date when the purchaser of the vessel uses the vessel in New York State for more than 90 consecutive days.

The amount subject to New York State use tax is the lesser of \$230,000, the purchase price of the vessel, or the current fair market value of the vessel if the vessel was used by the purchaser outside of New York State for more than six months prior to its first use in New York. See [DMV transaction forms](#) on our Web site for more information on registering a vessel and paying any use tax due.

Example 6: *Mr. Y is a resident of New York State who also has a home in Florida. In April of 2015, Mr. Y purchases a vessel in Florida for \$1,500,000 and registers it with the State of Florida. In July 2015, Mr. Y brings the registered vessel into New York State and uses it for a total of 62 consecutive days before returning the vessel to Florida.*

No New York State use tax is due because the vessel was not:

- *required to be registered with the Department of Motor Vehicles,*
- *actually registered with the Department of Motor Vehicles, or*
- *used in New York State for more than 90 consecutive days.*

If New York State use tax does become due on the vessel in the future, the amount subject to use tax will be capped at \$230,000.

Example 7: *The following July, Mr. Y returns to New York with the vessel and after five days decides to register the vessel in New York. Because the vessel is actually registered with the Department of Motor Vehicles, New York use tax is due even though the vessel was not yet required to be registered and was not used in the state for more than 90 consecutive days. The use tax due is computed on the capped amount of \$230,000.*

Example 8: *Mr. B, a New York resident, purchases a vessel and trailer in Rhode Island for \$50,000. He pays no tax in Rhode Island and does not register the vessel there. He brings the vessel and trailer back to New York and the next week registers them with the Department of Motor Vehicles. Mr. B owes use tax because he is required to and does register the vessel and trailer with the New York Department of Motor Vehicles. The use tax due is computed on the purchase price of \$50,000.*

Effective date and transitional rules

The new exemption for vessels described in this memorandum applies to sales (including leases subject to the accelerated tax payment provisions of section 1111(i) of the Tax Law) occurring on or after June 1, 2015. The exemption will also apply to sales made under a contract entered into prior to June 1, 2015, provided that the purchaser takes delivery of the vessel on or after June 1, 2015.

Example 9: *On May 2, 2015, Mr. T enters into a contract to purchase a vessel in Nassau County for \$850,000. He pays for the vessel in full on May 22, 2015, but does not take delivery of the vessel until June 5, 2015. The new exemption for receipts in excess of \$230,000 still applies because Mr. T is taking delivery of the vessel after June 1, 2015, even though he entered into the contract and made full payment on the vessel prior to June 1, 2015.*

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.