

TAXABILITY OF VESSELS SOLD BY BOAT DEALERS

The following has been prepared as a guideline to assist registered boat dealers in complying with the collection requirements contained in the New York State Sales and Use Tax Law.

The sales tax is a "destination tax" and the point of delivery or point at which possession is transferred by the vendor to the purchaser or his designee controls both the tax incident and the tax rate. Accordingly, any sales of tangible personal property delivered or transferred within New York State are subject to the sales tax, and the vendor is required to collect the applicable State and local sales tax for the particular locality where delivery or transfer is made. If the vendor fails to collect the tax for such sales, he remains liable for the tax as well as for statutory penalty and interest.

It should be noted that delivery to an agent, representative, employee, or other designee of the purchaser in New York State is a taxable transaction, as transfer of possession from the dealer to the purchaser is actually effected in New York State.

For a sale where delivery is made outside New York State, sales tax need not be collected. However, where the purchaser accepts the vessel in the State, tax is due even if the vessel is subsequently delivered out of state. The vendor must maintain records sufficient to verify the point of delivery. In addition to the purchase information and vessel identification data, the vendor should keep a record of the following information associated with the sales invoice:

1. Locality and state where delivery is made;
2. If the vessel is delivered to a designee or employee of the purchaser by an employee of the boat dealer, indicate the place where the vessel is delivered, the name of such designee or employee of the purchaser who accepts delivery, and his relationship to the purchaser;
3. If the vessel is delivered to a common carrier, indicate the name and business address of the carrier and keep a copy of the bill of lading and payment documentation;
4. Place and state of registration (copy of documentation if available);
5. Place, address and state of permanent mooring or berthing of vessel (if available).

All sales are deemed to be taxable unless satisfactory evidence to the contrary is maintained. The lack of this information for non-taxed sales will result in assessment upon audit and the vendor will be required to substantiate that the sale is not subject to tax.

A form to incorporate all pertinent data regarding purchase price, vessel identification and delivery information will be available in the near future. This form will need to be prepared by both the purchaser and the seller and will facilitate record keeping requirements for boat dealers.

For additional information regarding purchasers who take delivery outside New York State, see TSB-M-82(1)S.