Public Act 160 of 2013

Enrolled Senate Bill No. 89
Guide to Sales Tax on the Difference

Bill language in section (xi), which pertains to watercraft reads: "Beginning November 15, 2013, credit for the agreed-upon value of a titled watercraft used as part payment of the purchase price of a new titled watercraft or used titled watercraft if the agreed-upon value is separately stated on the invoice, bill of sale, or similar document given to the purchaser." Based on the information to date, we believe the Act supports the following answers, but recommend that you address any specific question with your legal counsel.

FAQs

Q: PA 160 of 2013 reads STOD is applied to titled watercraft. Does Sales Tax on the Difference apply to Federally Documented vessels?
A: Yes, we believe it should.

1. Documentation is effectively a Federal Title, so a documented vessel is effectively a titled vessel or at a minimum a vessel capable of being titled.
2. The intention of the bill language was not meant to exclude documented vessels. To the contrary, such larger vessels are specifically the type of vessels intended to be covered by the Act in order to keep these sales in Michigan.
3. To satisfy the language, an owner could remove the trade in vessel from documentation and then title the vessel with the State of Michigan (SOS office would not want to create to create such an inconvenience to the boater and more work for themselves in order to take advantage of a law which helps the boat owner and generates additional tax revenue for the state).

Q: Is there a phase-out period for watercraft as stated for automobiles?
A: No, boats are 100% as of November 15, 2013 (for as long as the law stays in place)

Q: Is there a limit on the value (or cap) to be used for watercraft?
A: No, the value of the trade in boat is unlimited as of November 15, 2013

Q: Does this apply to watercraft sales between two consumers?
A: No, only between a consumer and boat dealer.

Q: Does this apply to only new boat sales?
A: New and used boat sales qualify.

Q: If someone sells their boat through us on brokerage and then buys another broker boat at the time that sale is completed, does this apply?
A: The new sale and trade-in are designed to be included on the same invoice, or bill of sale. Brokerage sales are generally not included under STOD.

Q: If we take a $50,000 boat in on a broker sale of a $100,000 boat and the seller of the $100,000 boat takes title to the $50,000 boat, will the purchaser of the $100,000 boat get the $50,000 sales tax reduction?
A: Brokerage sales are generally not included under STOD. The purchaser would be required to pay use tax, which does not include the STOD exemption.

Q: If we take a $50,000 boat in on a broker sale of a $100,000 boat and the brokerage company buys and takes title of the $50,000 boat, will the purchaser of the $100,000 boat get the $50,000 sales tax reduction?

A: Brokerage sales are generally not included under STOD. The purchaser would be required to pay use tax, which does not include the STOD exemption. Generally the retail seller and party receiving ownership of the trade must be the same.

Q: When someone trades a PWC on a boat, is that applicable?

A: Yes, a PWC is considered a watercraft.

Q: When someone trades in a motorcycle, ATV or snowmobile on a boat, is that applicable?

A: No, motorcycles, ATVs and snowmobiles are not considered watercraft.

Q: If a customer buys a boat out of state – does he pay sales tax on difference when he registers it in Michigan?

A: The purchaser would be required to pay use tax, which does not include the STOD exemption.

Q. If a Michigan Dealer is selling a boat to someone residing in Ohio (or other states) how does STOD apply.

1. If the boat is going to be registered in Michigan, and all other stipulations apply, it qualifies for STOD at the sale.
2. If the boat is going to be registered in Ohio, the MI dealer would charge no tax if the purchaser can prove they will be taking the boat to OHIO and paying OHIO USE TAX.

Q: How will dealers be able to program their systems to calculate the tax with this new law?

A: You should speak with your computer software support to see if they offer a fix. Many states currently have STOD and they may have the software version available to you to upgrade.

Q: What penalties will dealers face for not calculating this precisely?

A: Dealers would face the same penalties they face if they underreported sales tax currently. There are no increased penalties.

Q: Will dealers be audited because of this new law?

A: There is definitely a potential for greater audits so please be care.

Q. Is there language that indicates a minimum amount of time a dealer must own a boat before it can resell it to another customer.

A: No

Q: **In the Dealer Manual (which relates mostly to motor vehicles), it indicates that if the customer arranges shipment out of state, the dealer must collect tax. However, in a Department of Treasury form, it seems to allow the purchaser to hire the common carrier and not pay tax. I assume in the manual, the statement refers to delivery to a purchaser representative, and not a carrier, even though the carrier is a representative of the purchaser. Can you clarify.**

A: You are correct – either the seller or buyer can arrange for a third-party common carrier to deliver the purchase out of state.

Watercraft Dealer Manual. On page 10 there is a new statement relating to STOD.
http://www.michigan.gov/documents/sos/SOS_Watercraft_Dealer_Manual_BFS-88_453326_7.pdf

Army Corps of Engineers webpage on lake levels.

http://www.lre.usace.army.mil/Portals/69/docs/GreatLakesInfo/docs/WaterLevels/MBOGLWL-combined_bulletin_and_backpage.pdf

NOT FOR PUBLICATION. The information provided here are opinions. For confirmation you may contact the Michigan Department of Treasury.