

REG-1-096, Motorboats

096.01 Motorboat as used in this regulation shall mean any watercraft included under Section 37-1204 of the Nebraska Revised Statutes. Every motorboat dealer in Nebraska is required to obtain a sales tax permit for each place of business in this state even though they make no sales other than sales of motorboats. The dealer shall file a tax return reporting gross sales in the same manner as all other retailers.

096.01A Motorboats means any watercraft propelled by a permanently or temporarily attached motor and shall include, among others, open or closed bow outboards, inboards, inboard/outboard boats, personal watercraft (jet skis, wave runners), air boats, cabin cruisers, houseboats, pontoons, canoes, jon boats, sail boats, and rowboats.

096.01B If a trailer is sold with a motorboat, the dealer must separately state the selling price of the trailer on the purchaser's invoice and furnish the purchaser with a Nebraska Sales/Use Tax and Tire Fee Statement for Motor Vehicles and Trailer Sales, Form 6, for the trailer.

096.02 The sales and use tax imposed upon the sale of a motorboat shall be the liability of the purchaser and the tax shall be collected by the county treasurer or other designated county official at the time the purchaser makes application for registration of the motorboat for operation in this state. If the purchaser retains such motorboat in this state and does not register it for operation within thirty days of the purchase date, the tax shall be paid immediately to the county treasurer or other county official. If the tax is not paid within thirty days of the purchase date, the county treasurer or other designated official shall collect the tax, interest from the thirtieth day until the date of payment, and a penalty of five dollars (\$5.00).

096.03 The dealer or seller is not authorized to collect the tax on the sale of motorboats but shall, at the time of the sale, state on the sales invoice the dollar amount of the tax and furnish the purchaser a Nebraska Sales and Use Tax Statement for Motorboat Sales, Form 6MB.

096.03A The tax due shall be computed on the difference between the total sales price and the total of any trade-in allowance for another motorboat taken by any person and any rebates used to reduce the selling price of the motorboat.

096.03A(1) The selling price of a motorboat includes charges for the boat, motor, destination fees, import custom fees, document processing fee, and warranty transfers. The selling price also includes charges for accessories, and service and maintenance agreements unless such charges are separately invoiced. When these charges are separately invoiced the dealer or seller collects and remits sales tax on these charges.

096.03B All information requested by the Nebraska Department of Revenue must be furnished and a copy of each Form 6MB must be sent to the Nebraska Department of Revenue by the seller at the time the sales and use tax return is filed. Any dealer or seller who fails or refuses to furnish such information may be found guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense.

096.03C Any dealer or seller who willfully prepares a false or fraudulent sales or use tax return or Form 6MB may be found guilty of a Class IV felony and shall, upon conviction, be fined not more than ten thousand dollars (\$10,000.00), or be imprisoned not more than five years, or both.

096.03D Any purchaser, or agent thereof, who completes Nebraska Sales and Use Tax Statement for Motorboat Sales, Form 6MB, claiming an exemption for any purchase which is not exempt from sales and use tax under sections 77-2701 through 77-27,135 of the Nebraska Revised Statutes, shall be subject to a penalty of one hundred dollars (\$100.00) or ten times the tax, whichever amount is larger.

Any purchaser, or agent thereof, who fraudulently signs a Form 6MB with the intention to avoid payment of the tax may, in addition to the above penalty, be found guilty of a class IV misdemeanor.

096.03E Any seller who willfully understates the amount upon which the sales tax is due shall be subject to an administrative penalty of one thousand dollars (\$1,000.00).

096.04 County treasurers or other designated county officials are appointed as sales and use tax collectors for all sales of motorboats made outside of this state to purchasers and users of motorboats required to be registered in this state. The county treasurer, or other designated county official, shall collect the applicable use tax from the purchaser of a motorboat purchased outside of this state at the time application for registration is made. The full use tax on the purchase price shall be collected by the county treasurer or other designated county official if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use tax must be collected on the difference as a condition for registration in this state.

096.05 The purchase of a licensed motorboat may be exempt for any of the following reasons:

096.05A If the owner of a motorboat is, or was, a nonresident of this state and establishes as a fact that he or she purchased the motorboat outside of this state and there registered and titled the motorboat, then the use tax is not required for licensing or registering in this state;

096.05B The motorboat is purchased for the purpose of renting or leasing with the rental or lease payment set at a fair market value, and the purchaser holds a sales tax permit so as to remit tax on the lease or rental receipts;

096.05C The motorboat is a gift to the applicant or received through inheritance and tax was previously paid by the donor or prior owner;

096.05D The purchase of the motorboat is exempt under paragraphs 012.02C or 012.02D of Reg-1-012, Exemptions;

096.05E The motorboat is sold pursuant to an occasional sale as set out in Reg-1-022, Occasional Sales.

096.06 If the purchase of a licensed motorboat is exempt for any of the reasons in paragraph 096.05, the county treasurer or other designated county official may, after obtaining a properly completed Form 6MB accurately identifying the basis of exemption, complete the registration without collecting the tax.

096.07 The lessor of a motorboat must collect tax on the gross receipts from rental or lease of a motorboat which is registered for operation within this state and which is rented or leased for periods of one year or more or which is delivered by the lessor within this state and is rented or leased for a period of less than one year.

096.08 A rebate received by the purchaser from a manufacturer after the sale does not reduce the sales and use tax base. The retail price remains at the amount agreed upon at the time of the sale which is the amount upon which the tax must be collected.

096.08A A rebate received from a manufacturer that is used to reduce the selling price of the motorboat reduces the sales and use tax base. A rebate is used to reduce the selling price of the motorboat when it is transferred to the dealer at the time of the sale and is shown on the sales invoice as a price reduction, partial payment, or a down payment.

(Sections 77-2701.24, and 77-2701.35, R.R.S. 2003, and sections 77-2701.16, 77-2703(1)(j), and 77-2703.01, R.S.Supp., 2004. July 16, 2005.)