

1 State of Arkansas
2 95th General Assembly
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4

A Bill

HOUSE BILL 1857

5 By: Representatives L. Johnson, Henley
6 By: Senator J. Boyd
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE LAW CONCERNING THE COLLECTION OF
10 SALES AND USE TAX ON THE SALE OF A NEW OR USED
11 MOTORBOAT; TO PROVIDE FOR THE DIRECT PAYMENT OF SALES
12 AND USE TAX ON A MOTORBOAT SOLD BY A MOTORBOAT
13 DEALER; AND FOR OTHER PURPOSES.
14

Subtitle

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16
17 TO AMEND THE LAW CONCERNING THE
18 COLLECTION OF SALES AND USE TAX ON THE
19 SALE OF A NEW OR USED MOTORBOAT; AND TO
20 PROVIDE FOR THE DIRECT PAYMENT OF SALES
21 AND USE TAX ON A MOTORBOAT SOLD BY A
22 MOTORBOAT DEALER.
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 5, is
27 amended to add an additional section to read as follows:

28 26-52-524. Direct payment of tax by consumer-user – New and used
29 motorboats sold by motorboat dealer – Definitions.

30 (a) As used in this section, "motorboat" means the same as defined in
31 § 27-101-103.

32 (b)(1)(A) On or before the time for applying for a certificate of
33 number as prescribed by § 27-101-304, a consumer shall pay to the Secretary
34 of the Department of Finance and Administration the tax levied by this
35 chapter and all other gross receipts taxes levied by the state with respect
36 to the sale by a motorboat dealer of a new or used motorboat required to be



1 numbered in this state.

2 (B) The tax levied by this chapter or other gross receipts
3 taxes levied by the state shall not be collected by the motorboat dealer.

4 (2) The secretary shall require the payment of the taxes at the
5 time of registration before issuing a certificate of number for the new or
6 used motorboat.

7 (3) If the consumer fails to pay the taxes when due:

8 (A) There is assessed a penalty equal to ten percent (10%)
9 of the amount of taxes due; and

10 (B) The consumer shall pay to the secretary the penalty
11 under subdivision (b)(3)(A) of this section and the taxes due before the
12 secretary issues a certificate of number for the motorboat.

13 (c)(1)(A) Except as provided in this section, when a used motorboat is
14 taken in trade as a credit or part payment on the sale of a new or used
15 motorboat by a motorboat dealer, the tax levied by this chapter and all other
16 gross receipts taxes levied by the state shall be paid on the net difference
17 between the total consideration for the new or used motorboat sold and the
18 credit for the used motorboat taken in trade.

19 (B)(i) When a used motorboat is sold by a consumer, rather
20 than traded in as a credit or part payment on the sale of a new or used
21 motorboat, and the consumer subsequently purchases a new or used motorboat of
22 greater value from a motorboat dealer within sixty (60) days of the sale, the
23 tax levied by this chapter and all other gross receipts taxes levied by the
24 state shall be paid on the net difference between the total consideration for
25 the new or used motorboat purchased subsequently and the amount received from
26 the sale of the used motorboat sold in lieu of a trade-in.

27 (ii)(a) Upon applying for a certificate of number
28 for the new or used motorboat, a consumer claiming the deduction provided by
29 subdivision (c)(1)(B)(i) of this section shall provide a bill of sale signed
30 by all parties to the transaction that reflects the total consideration paid
31 to the motorboat dealer for the motorboat.

32 (b) A copy of the bill of sale shall be
33 deposited with the Department of Finance and Administration at the time of
34 application for a certificate of number for the new or used motorboat.

35 (c) The deduction provided by this section
36 shall not be allowed unless the taxpayer claiming the deduction provides a

1 copy of a bill of sale signed by all parties to the transaction that reflects
2 the total consideration paid to the motorboat dealer for the motorboat.

3 (iii) If the taxpayer claiming the deduction
4 provided in this section fails to provide a bill of sale signed by all
5 parties to the transaction that reflects the total consideration paid to the
6 motorboat dealer for the motorboat, tax shall be due on the total
7 consideration paid for the new or used motorboat without any deduction for
8 the value of the item sold.

9 (2)(A)(i) When a motorboat dealer removes a motorboat from its
10 inventory and the motorboat is used by the dealership as a service motorboat,
11 the dealer shall obtain a certificate of number, register and obtain a
12 certificate of title, and pay sales tax on the listed retail price of the new
13 motorboat.

14 (ii)(a) When the motorboat dealer returns the
15 service motorboat to inventory as a used motorboat and replaces it with a new
16 motorboat for dealership use as a service motorboat, the dealer shall pay
17 sales tax on the difference between the listed retail price of the new
18 service motorboat to be used by the dealership and the value of the used
19 service motorboat being returned to inventory.

20 (b) The value of the used service motorboat
21 shall be the highest listed wholesale price reflected in the most current
22 edition of a publication that is generally accepted by the motorboat industry
23 as providing an accurate valuation of used motorboats.

24 (B)(i) As used in this subsection, "service motorboat"
25 means a motorboat driven exclusively by an employee of the dealership and
26 used either to transport dealership customers or dealership parts and
27 equipment.

28 (ii) "Service motorboat" does not include a
29 motorboat that is rented by the dealership, used as a demonstration
30 motorboat, or used by a dealership employee for personal use.

31 (d) All parts and accessories purchased by motorboat dealers for
32 resale or used by motorboat dealers for the reconditioning or rebuilding of
33 used motorboats intended for resale are exempt from gross receipts tax,
34 provided that the motorboat dealer meets the requirements of § 26-52-
35 401(12)(A) and applicable rules promulgated by the secretary.

36 (e) This section does not repeal any exemption from this chapter.

1 (f) A credit is not allowed for sales or use taxes paid to another
2 state with respect to the purchase of a motorboat that first obtained a
3 certificate of number or title by the purchaser in Arkansas.

4 (g)(1)(A) Except as provided in subdivision (g)(1)(B) of this section,
5 a motorboat dealer with a permit under § 27-101-302(5) who has purchased a
6 used motorboat may pay the applicable fees and apply for a certificate of
7 number for the used motorboat for the sole purpose of obtaining a certificate
8 of title to the used motorboat without payment of gross receipts tax.

9 (B)(i) The sale of a motorboat from the original franchise
10 dealer to any other dealer, person, corporation, or other entity other than a
11 franchise dealer of the same make of motorboat and which sale is reflected on
12 the statement of origin shall be subject to gross receipts tax.

13 (ii) The motorboat shall be considered a used
14 motorboat that shall have a registered certificate of number and be titled,
15 and tax shall be paid at the time of application for a certificate of number.

16 (2) If a certificate of number is issued for a motorboat under §
17 27-101-302(5)(C), the used motorboat titled by a dealer under this subsection
18 shall not be operated on the waters of this state unless there is displayed
19 on the used motorboat the identifying certificate of number issued under §
20 27-101-302(5)(C).

21 (h)(1) For purposes of this section, the total consideration for a
22 used motorboat shall be presumed to be the greater of the actual sales price
23 as provided on the bill of sale, invoice, or financing agreement or the
24 average loan value price of the motorboat as listed in the most current
25 edition of a publication that is generally accepted by the industry as
26 providing an accurate valuation of used motorboats.

27 (2) If the published loan value exceeds the invoiced price, the
28 taxpayer shall establish to the secretary's satisfaction that the price
29 reflected on the invoice or other document is true and correct.

30 (3) If the secretary determines that the invoiced price is not
31 the actual selling price of the motorboat, the total consideration shall be
32 the published loan value.

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34 SECTION 2. Arkansas Code Title 26, Chapter 53, Subchapter 1, is
35 amended to add an additional section to read as follows:

36 26-53-151. Tax on new and used motorboats – Payment and collection –

1 Definition.

2 (a) As used in this section, "motorboat" means the same as defined in
3 § 27-101-103.

4 (b)(1) Upon applying for a certificate of number in this state, a new
5 or used motorboat sold by a motorboat dealer located outside of the state and
6 required to be registered with a certificate of number in this state is
7 subject to the tax levied in this subchapter and all other use taxes levied
8 by the state.

9 (2)(A)(i) On or before the time for applying for a certificate
10 of number as prescribed by § 27-101-304, the applicant for a certificate of
11 number for the motorboat shall pay the taxes to the Secretary of the
12 Department of Finance and Administration.

13 (ii) The tax levied by this chapter or other use
14 taxes levied by the state shall not be collected by the motorboat dealer.

15 (B) The secretary shall collect the taxes before issuing a
16 certificate of number for the motorboat.

17 (3) If the applicant for a certificate of number for a motorboat
18 fails to pay the taxes when due:

19 (A) There is assessed a penalty equal to ten percent (10%)
20 of the amount of taxes due; and

21 (B) The person making application for a certificate of
22 number for a motorboat shall pay to the secretary the penalty under
23 subdivision (b)(3)(A) of this section and the taxes due before the secretary
24 issues a certificate of number for the motorboat.

25 (c)(1) When a used motorboat is taken in trade as a credit or part
26 payment on the sale of a new or used motorboat by a motorboat dealer located
27 outside of the state, the tax levied in this subchapter and all other use
28 taxes levied by the state shall be paid on the net difference between the
29 total consideration for the new or used motorboat sold and the credit for the
30 used motorboat taken in trade.

31 (2)(A) When a used motorboat is sold by a consumer, rather than
32 traded in as a credit or part payment on the sale of a new or used motorboat,
33 and the consumer subsequently purchases a new or used motorboat of greater
34 value from a motorboat dealer located outside of the state within sixty (60)
35 days of the sale, the tax levied by this chapter and all other gross receipts
36 taxes levied by the state shall be paid on the net difference between the

1 total consideration for the new or used motorboat purchased subsequently and
2 the amount received from the sale of the used motorboat sold in lieu of a
3 trade-in.

4 (B)(i) Upon applying for a certificate of number for the
5 new or used motorboat, a consumer claiming the deduction provided by
6 subdivision (c)(2)(A) of this section shall provide a bill of sale signed by
7 all parties to the transaction that reflects the total consideration paid to
8 the motorboat dealer for the motorboat.

9 (ii) A copy of the bill of sale shall be deposited
10 with the Department of Finance and Administration at the time of registration
11 of the new or used motorboat.

12 (iii) The deduction provided by this subdivision
13 (c)(2) shall not be allowed unless the taxpayer claiming the deduction
14 provides a copy of a bill of sale signed by all parties to the transaction
15 that reflects the total consideration paid to the motorboat dealer for the
16 motorboat.

17 (C) If the taxpayer claiming the deduction provided in
18 this subdivision (c)(2) fails to provide a bill of sale signed by all parties
19 to the transaction that reflects the total consideration paid to the
20 motorboat dealer for the motorboat, tax shall be due on the total
21 consideration paid for the new or used motorboat without any deduction for
22 the value of the item sold.

23 (d) The tax imposed by this subchapter does not apply to a motorboat
24 to be registered by a bona fide nonresident of this state.

25 (e) This section does not repeal any exemption from this subchapter.

26 (f)(1) Upon payment of all applicable fees, a motorboat dealer with a
27 permit under § 27-101-302(5) who has purchased a used motorboat from outside
28 of the state may apply for a certificate of number for the motorboat for the
29 sole purpose of obtaining a certificate of title to the vehicle without
30 payment of use tax.

31 (2) If a certificate of number is issued for a motorboat under §
32 27-101-302(5)(C), the used motorboat titled by a dealer under this subsection
33 shall not be operated on the waters of this state unless there is displayed
34 on the used motorboat the identifying certificate of number issued under §
35 27-101-302(5)(C).

36 (g)(1) For purposes of this section, the total consideration for a

1 used motorboat shall be presumed to be the greater of the actual sales price
2 as provided on a bill of sale, invoice, or financing agreement or the average
3 loan value of the motorboat as listed in the most current edition of a
4 publication which is generally accepted by the motorboat industry as
5 providing an accurate valuation of used motorboats.

6 (2) If the published loan value exceeds the invoiced price, the
7 taxpayer shall establish to the secretary's satisfaction that the price
8 reflected on the invoice or other document is true and correct.

9 (3) If the secretary determines that the invoiced price is not
10 the actual selling price of the motorboat, the total consideration shall be
11 the published loan value.

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13 SECTION 3. EFFECTIVE DATE. Sections 1 and 2 of this act are effective
14 on the first day of the calendar quarter following the effective date of this
15 act.