



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

AUGUST 13, 2009

## Taxability of the Charter Boat Industry

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This Technical Assistance Notice is part of the Department of Revenue's continuing targeted technical assistance and taxpayer education program. It clarifies the tax responsibilities of persons in the business of chartering boats. For your convenience and ease of understanding, we summarize and cite the statutes and rule sections which apply to chartering activities. This notice discusses:

- Taxability of purchasing a charter boat
- Taxability of owner use
- Taxability of the income from bareboat charters
- Taxability of the income from skippered charters
- Property tax or watercraft excise tax

### **Taxability of Purchasing a Charter Boat**

A bareboat charter is one where a captain or crew is not provided and the owner relinquishes dominion and control of the boat to the customer. You may purchase a boat intended exclusively for bareboat charter without paying sales tax. This resale exemption also extends to purchases of equipment and repairs for the boat.

Caution! Purchasers who misuse a resale certificate/ reseller permit to purchase a boat tax free are subject to a penalty of 50 percent of the tax due, in addition to the tax, interest, and any other penalties imposed by law. A skippered charter is one where a captain and crew is provided with the boat and are under the direction of the customer. If it is intended that the boat will be used for skippered charters or will be used for pleasure by the owner, you must pay sales tax on the boat at the time of the purchase. See RCW 82.04.060, RCW 82.32.291 and WAC 458-20-102.

### **Taxability of Owner Use**

A boat owner, who has purchased a charter boat without paying sales tax, generally may not use the boat for personal purposes, or for skippered charters, without incurring a use tax liability based on the total value of the boat. See RCW 82.12.020 and WAC 458-20-178.

The only way that a boat owner can use the boat for personal pleasure and not owe sales or use tax based on the value of the boat is, before any pleasure use by owner has occurred, to lease the boat to a third party on a long term lease, then lease back the boat for shorter periods of time. In this case, the owner, pays sales tax based on fair rental value for the period of personal use. See WAC 458-20-211.

### **Taxability of Bareboat Charters**

A bareboat charter is a rental of tangible personal property. As such the income is subject to retailing B&O tax and retail sales tax. However, if the rental charge is less than fair rental value, sales tax is due from the customer on the difference. See RCW 82.04.050(4) and WAC 458-20-211.

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**Owners Reporting:**

Owners who directly charter to the public must report charter income under retailing B&O tax and retail sales tax. See WAC 458-20-211.

Owners using a charter agent that charters in the name of the boat owner must report under retailing B&O tax and retail sales tax. If the charter agent remits the sales tax to the Department, the owner may take a deduction from retail sales tax. On the deduction detail pages, identify the deduction as "sales tax reported by agent." See WAC 458-20-159.

Owners using a charter agent that charters in the name of the charter agent report under wholesaling B&O tax. In this situation the boat owner must obtain a resale certificate (through 12/31/2009) or a reseller permit (effective 01/01/2010) from the charter agent. See WAC 458-20-102.

**Agents Reporting:**

Agents that charter in the name of the boat owner must report charter income under retailing B&O tax and retail sales tax. If the agent segregates such income and maintains records in accordance with WAC 458-20-59, a deduction may be taken from retailing B&O tax (identify as "income reported as an agent").

Generally, the agent is responsible for remitting the sales tax to the Department. However, if the boat owner is registered with the Department and otherwise reports sales tax, the agent can remit the sales tax to the boat owner who would report it to the Department. A deduction would be allowed for "sales tax remitted to owner."

Agents that charter in their own name must report charter income under retailing B&O tax and retail sales tax. See WAC 459-20-159.

Charter agents must report commissions earned from chartering and other similar charges to boat owners (i.e., moorage and service fees) under service and other activities B&O tax. See RCW 82.04.290. However, moorage charges are exempt of B&O tax if the owner has contracted for a specific space, slip, or site for 30 days or more. See WAC 458-20-118.

**Skipped Charters:**

The taxability of a skipped charter varies with the purpose of the trip. A skipped charter is taxable as follows:

1. A fishing charter is a retail sale, even if the voyage lasts more than one day. RCW 82.04.050(3)(a).
2. A sightseeing charter is a retail sale if it lasts no more than one day. If it's more than a day long, it falls under (3) below.
3. Other charters are subject to B&O tax under service and other activities classification unless they are bundled with other sales and services. In that case, we advise that you write to the Department and request a ruling by providing the pertinent facts. The public utility tax does not apply to any charter boat service.

**Property Tax or Watercraft Excise Tax**

Boats used in bareboat or skipped charters are commercial vessels which are subject to either property tax or watercraft excise tax. If your charter boat is U.S. Coast Guard documented, you must register with the Special Programs Division of the Department of Revenue. Call (360) 534-1503, option 5 for assistance to list your vessel and pay personal property tax. See RCW 82.40.065.

If your charter boat is not U.S. Coast Guard documented, call the Department of Licensing at (360) 902-3725 to register and pay the watercraft excise tax. See RCW 88.02.020.

**For More Information**

To obtain additional information, boat owners may contact any of our local offices or call our Telephone Information Center at 1-800-647-7706.