



# SENATE BILL 552: Modify Sales Tax Remittance: Boat/Jet Repairs.

2017-2018 General Assembly

<b>Committee:</b>	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	April 21, 2017
<b>Introduced by:</b>	Sens. Tillman, Cook	<b>Prepared by:</b>	Cindy Avrette
<b>Analysis of:</b>	First Edition		Staff Attorney

**OVERVIEW:** Senate Bill 552 would simplify the collection and remittance of use tax due and payable on the repair and maintenance of a boat or aircraft. The bill does not change the amount of use tax due on the repair and maintenance of a boat or aircraft.

**CURRENT LAW:** The purchase of a boat or aircraft is subject to sales and uses tax at a lower rate than the combined State and local sales and use tax rate, with a cap. The sales and use tax rate on a boat is a State rate of 3% with a maximum tax of \$1,500. The sales and use tax rate on aircraft is a State rate of 4.75% with a maximum tax of \$2,500. S.L. 2016-94 established a use tax cap on the repair, maintenance, and installation (RMI) charges for a boat or aircraft when the purchaser of the service applies to the Department for a direct pay permit.<sup>1</sup> A direct pay permit allows the purchaser of the service to be exempt from paying sales tax to the retailer, and the permit holder agrees to pay the applicable use tax directly to the Department. If the purchaser of the services does not apply for a direct pay permit, the sales and use tax rate on the repair and maintenance charges for a boat or aircraft is the combined general rate with no cap.

Under the direct pay permit, there is a use tax exemption for the gross receipts derived from RMI service on a boat or aircraft that exceeds \$25,000. That means the maximum amount of State use tax on a transaction is \$1,187.50; the maximum amount of local use tax due is \$25,000 multiplied by the applicable local sales tax rate. The full cost of any parts used to make the repair remain subject to the combined State and local sales tax rate with no cap.

**BILL ANALYSIS:** In practice, the use of the direct pay permit by the purchaser of the repair and maintenance provided for a boat or aircraft has been difficult to implement. The seller of the service must collect and remit sales and use tax on the parts used to make the repair, and the purchaser of the service must apply to the Department for a direct pay permit for the RMI service charges and separately remit the use tax on those charges to the Department. Purchasers do not like the additional steps. Providers of these services have noted a competitive disadvantage because of these additional steps.

The bill would achieve the intent of the legislation enacted last session and simplify the collection and remittance process by allowing the seller to collect and remit the use tax due on behalf of the purchaser when the purchaser so elects. For the use tax cap to apply, the seller must separately state the RMI charges on the documentation given to the purchaser. If the amount is not separately stated, then the full amount of tax is due on the total purchase price.

<sup>1</sup> [E-595RMI: Application for Direct Pay Permit for Certain Boat, Aircraft, and Qualified Jet Engine Charges and Services.](#)

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The bill also makes a conforming change to the sales and use tax exemption statute to recognize and cross-reference the tax amount applicable to RMI services for a boat or aircraft for which the purchaser elects for the seller to collect and remit tax under the direct pay permit statute.

**EFFECTIVE DATE:** The bill would become effective July 1, 2017, and apply to sales made on or after that date.

**BACKGROUND:** North Carolina is a charter member of the interstate Streamlined Sales and Use Tax Agreement (SSTA). Under the SSTA, a state may only have one sales and use tax rate and it may not impose tax caps. The purchase of a boat or aircraft is an exception to that rule. However, since there is not a similar exception under the SSTA for RMI services for a boat or aircraft, the tax cap applicable to RMI services for a boat or aircraft was structured differently. Under the SSTA, a state can allow a cap on the amount of sales and use tax payable if the burden of administering the cap is removed from the retailer. By shifting the taxation of the service to the purchaser through a direct pay permit, the legislation enacted last year achieved the intent of the General Assembly while complying with the SSTA. The Department continued to consult with the Governing Board of the SSTA during the interim about how best to achieve the legislative intent, and the parties agreed that the legislation proposed by this bill would be found to be in compliance with the SSTA.