

BRIEFING PAPER
DOCUMENTED BOATS

COAST GUARD DOCUMENTATION REQUIREMENTS:

Vessels of at least 5 net tons are eligible for documentation, provided that the owner or owners are citizens of the United States, a partnership or corporation whose principal officers are citizens, the federal government, or a state government.

Each certificate of documentation contains the name, home port, description, and owner(s) of the vessel, as well as additional information that may be required by the Secretary of Transportation. Certificates of documentation serve as conclusive evidence of nationality for international purposes, but are not conclusive evidence of ownership in a proceeding in which ownership is an issue.

EFFECT OF DOCUMENTATION ON WATERCRAFT SOLD IN VIRGINIA:

VR 12.3.58-685.40 notes that "[v]alid documentation becomes void upon sale and must be reinstated in the name(s) of the purchaser(s)." Accordingly, the regulation provides that "no watercraft will be considered to have a valid marine document when purchased either new or used." Therefore, as the tax is imposed upon the sale and documentation becomes void as of the time of sale, all watercraft purchased in Virginia are subject to the 2 % watercraft sales and use tax only.

DOCUMENTED BOATS BROUGHT INTO VIRGINIA:

Based upon the above regulation, the only time that a watercraft will be subjected to the 4 1/2 % retail sales and use tax is when it has been documented and subsequently is brought into Virginia by its owner(s). Even then, those documented watercraft brought into Virginia in connection with the establishment of a permanent residence or business would generally be exempted by virtue of § 58.1-607 of the Code of Virginia (see attached copy of statute).

CREDIT FOR TAXES PAID TO OTHER STATES

Sales and use taxes paid on watercraft purchased in another state will be credited toward the 4 1/2 % retail sales and use tax due on a documented boat or the 2 % watercraft sales and use tax due on an undocumented boat or a boat purchased new or used. Thus, if a Maryland resident purchases a boat subject to the 5 % Maryland sales tax, documents the boat, and subsequently bases the boat in Virginia, no tax would be due as the 5 % tax paid on the purchase exceeds the 4 1/2 % Virginia tax due.

SUMMARY:

In conclusion, the only watercraft potentially subject to the 4 1/2 % retail sales and use tax are those (1) over 5 net tons, and (2) which have been documented and are subsequently brought into Virginia other than by a person meeting the criteria in Virginia Code § 58.1-607.