Sacramento
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Mr.

The question has arisen as to whether persons licensed as Fishing Party Boat Operators under Section 7920 of the Fish and Game Code are required to hold commercial licenses under Section 7850 of the Fish and Game Code in order to qualify for the Watercraft Exemption provided in Section 6368 of the Sales and Use Tax Law and Ruling 51.5.

Under Section 6368 and Ruling 51.5 the gross receipts from the sale of watercraft for use in commercial deep sea fishing operations outside the territorial waters of this State, and tangible personal property becoming a component part thereof, are exempt from sales tax.

Sales of watercraft and components to persons actually engaged in taking fish for profit and licensed as commercial fishermen under Section 7850 of the Fish and Game Code, come within the exemption.

It is our understanding that owners of boats licensed under Section 7920 of the Fish and Game Code, for fishing party operations, are not required to be licensed under Section 7850.

The Board has determined that the use of watercraft for carrying sport fishermen for hire outside the territorial waters of this State for sportfishing, constitutes a commercial deep sea fishing operation. Therefore, sales of watercraft and property becoming a component part thereof for such use are within the terms of the Watercraft Exemption, notwithstanding the fact that the operators are not licensed under Section 7850 of the Fish and Game Code.

Since fishing party boat operators are engaged in commercial fishing operations when they take out fishing parties for hire, they are entitled to claim the exemption provided in Section ~~6359~~ 6368 and Ruling 51.5, if the boats are actually used for such purpose more than 50% of the time outside the territorial waters of this State.

See Section 6368 for rebuttable presumption re gross receipts.