

ENROLLED HOUSE  
BILL NO. 2202

By: McCorkell, Bonny,  
Beutler and Langmacher  
of the House

and

Fisher of the Senate

An Act relating to revenue and taxation; amending 3 O.S. 1991, Section 82, as amended by Section 2, Chapter 181, O.S.L. 1995 (3 O.S. Supp. 1995, Section 82), which relates to definitions under the Oklahoma Aeronautics Commission Act; modifying definition of municipality; amending 68 O.S. 1991, Sections 6001, as amended by Section 12, Chapter 337, O.S.L. 1995, and 6003, as last amended by Section 13, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1995, Sections 6001 and 6003), which relate to aircraft excise taxes; modifying definition; modifying reference to certain definition; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 3 O.S. 1991, Section 82, as amended by Section 2, Chapter 181, O.S.L. 1995 (3 O.S. Supp. 1995, Section 82), is amended to read as follows:

Section 82. As used in ~~this act~~ the Oklahoma Aeronautics Commission Act, unless the context otherwise requires:

(a) "Aeronautics" means the science, art, and practice of flight including, but not limited to, transportation by aircraft and matters relating to air commerce; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(b) "Aircraft" means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

(c) "Airport" means an area of land or water that is used, or intended to be used, for the landing and takeoff of aircraft, and buildings and facilities, if any.

(d) "Airspace" means that portion of the atmosphere overlying a designated geographical area considered as subject to territorial jurisdiction or international law in respect to its use by aircraft, guided missiles, and rockets.

(e) "Commission" means the Oklahoma Aeronautics Commission.

(f) "Director" means the Director of Aeronautics of Oklahoma.

(g) "State" or "this state" means the State of Oklahoma.

(h) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(i) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(j) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, and appliances.

(k) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(l) "Municipality" means any incorporated city, village, or town of this state and any county or political subdivision or district in this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical navigation facilities.

(m) "Aeronautical hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport that is otherwise hazardous to the operation and navigation of aircraft.

(n) "Resources" means services, facilities, funds, equipment, property, personnel, and such other activities as are customarily included within the term.

(o) "Helipad" means a small, designated area, usually with a prepared surface, on a heliport, airport, landing or takeoff area, apron or ramp, or movement area used for takeoff, landing or parking of helicopters.

(p) "Heliport" means an area of land, water or structure used or intended to be used for the landing and takeoff of helicopters and includes its buildings and facilities, if any.

(q) "Commercial service airport" means an airport meeting the current Federal Aviation Administration definition for commercial service airport.

(r) "Primary commercial service airport" means an airport meeting the current Federal Aviation Administration definition for primary commercial service airport.

(s) "Reliever airport" means an airport designated by the Federal Aviation Administration as a reliever airport and which provides substantial capacity or instrument training relief to a primary commercial service airport.

(t) "General aviation airport" means an airport not meeting the criteria for definition as a commercial service or reliever airport.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 6001, as amended by Section 12, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1995, Section 6001), is amended to read as follows:

Section 6001. As used in Section 6001 et seq. of this title:

1. "Aircraft" means and includes every self-propelled plane, airplane, helicopter, or balloon or sailplane manufactured by mass production or individually constructed or assembled, used, or

designed for navigation or flight in the air or airspace, and subject to registration with the Federal Aviation Administration;

2. "Commercial airline" means an air carrier, foreign air carrier or intrastate air carrier, as defined by Section 40102 of Title 49 of the United States Code, 49 U.S.C., Section 40102, and operating pursuant to Part 121 or 129 of Title 14 of the Code of Federal Regulations, 14 CFR, Part 121 or 129, or conducting scheduled or unscheduled services pursuant to ~~Section 135.2 of Subpart A,~~ Part 135 thereof;

3. "Purchase price" means the total amount paid for the aircraft whether paid in money or otherwise. "Purchase price" is further defined as the fair market value when no current purchase is involved; and

4. "Use" means and includes the operation or basing of an aircraft on or from any airport in this state for a period of thirty (30) days or more. For purposes of this article, the term "use" does not include aircraft which are intended for exclusive use in another state, but which are stored in this state pending shipment to such other state, or aircraft which are retained in this state solely for fabrication, repair, testing, alteration, modification, refurbishing or maintenance, nor does the term "use" include aircraft which are operating within this state pursuant to the terms of a lease, the lease value of which is subject to the provisions of the Oklahoma Sales Tax Code, Section 1350 et seq. of this title.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 6003, as last amended by Section 13, Chapter 337, O.S.L. 1995 (68 O.S. Supp. 1995, Section 6003), is amended to read as follows:

Section 6003. The following aircraft shall be exempt from provisions of this article:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of said aircraft. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

2. Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. Said aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

3. Aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;

4. Aircraft transferred from one corporation or limited liability company to another corporation or limited liability company pursuant to reorganization of the corporation or limited liability company. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;

5. Aircraft purchased or used by commercial airlines as defined by paragraph 4 2 of Section 6001 of this title;

6. Aircraft transferred in connection with the dissolution or liquidation of a corporation or limited liability company and only if included in a payment in kind to the shareholders or members;

7. Aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;

8. Aircraft transferred to a partnership or limited liability company when the organization of the partnership or limited liability company is by the former owners of the aircraft. However, the former owners of the aircraft must have control of the

partnership in proportion to their interest in the aircraft prior to the transfer;

9. Aircraft transferred from a partnership or limited liability company to the members of the partnership or limited liability company and if made in payment in kind in the dissolution of the partnership;

10. Aircraft transferred or conveyed to a partner of a partnership or shareholder or member of a limited liability company or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;

11. Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount less than the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

12. Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;

13. Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;

14. Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given;

15. Aircraft which is purchased by a resident of this state and used exclusively in this state for agricultural spraying purposes; provided, if such aircraft is sold, leased or used outside this state or for a purpose other than agricultural spraying at any time within three (3) years from the date of purchase, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. For purposes of this subsection, "agricultural spraying" means the aerial application of any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants and animals;

16. Aircraft manufactured in the State of Oklahoma with a selling price in excess of Five Million Dollars (\$5,000,000.00);

17. Aircraft which have a selling price in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and which are transferred to a purchaser who is not a resident of this state for immediate transfer out of state; and

18. Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

SECTION 4. This act shall become effective July 1, 1996.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 29th day of May, 1996.

Speaker of the House of  
Representatives

Passed the Senate the 30th day of May, 1996.

President of the Senate