

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 398

By: Capps, Martin and
Wilcoxson of the Senate

and

Nations and Webb of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 1991, Sections 6003, as last amended by Section 27, Chapter 294, O.S.L. 1997 and 6005, as amended by Section 1, Chapter 303, O.S.L. 1998 (68 O.S. Supp. 1998, Sections 6003 and 6005), which relate to aircraft excise taxes; modifying exemptions from aircraft excise tax; providing for certain credit against aircraft excise tax liability; providing for eligibility therefor; modifying apportionment of certain revenues; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 6003, as last amended by Section 27, Chapter 294, O.S.L. 1997 (68 O.S. Supp. 1998, Section 6003), is amended to read as follows:

Section 6003. The following aircraft shall be exempt from provisions of Section 6001 et seq. of this article title:

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 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 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.~~ 17. 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 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6003.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby allowed a credit against the excise tax levied pursuant to the provisions of Section 6002 of Title 68 of the Oklahoma Statutes with respect to the sale of aircraft with a selling price in excess of Five Million Dollars (\$5,000,000.00) for expenditures by the person owing the tax for the benefit of airports located in this state. To be eligible to be claimed as a credit pursuant to the provisions of this section, expenditures for the benefit of airports located in this state must be certified as such by the Oklahoma Aeronautics Commission. For purposes of the credit allowed herein, amounts expended during a given year for the benefit of airports located in this state which are in excess of the amount of aircraft excise tax due with respect to the sale of aircraft with a selling price in excess of Five Million Dollars (\$5,000,000.00) may be carried forward in order as a credit against such aircraft excise tax liability for a period not to exceed ten (10) years. A credit allowed pursuant to the provisions of this section shall not be assignable or transferable.

SECTION 3. AMENDATORY 68 O.S. 1991, Section 6005, as amended by Section 1, Chapter 303, O.S.L. 1998 (68 O.S. Supp. 1998, Section 6005), is amended to read as follows:

Section 6005. A. ~~Except as provided in subsection B of this section~~ For fiscal years beginning prior to July 1, 1999, all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature.

B. 1. ~~Beginning~~ For the fiscal year beginning July 1, 1999, ~~sixty-six and sixty-seven one-hundredths percent (66.67%)~~ fifty percent (50%) of all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the ~~Oklahoma~~ Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, and ~~thirty-three and thirty-three one-hundredths percent (33.33%)~~ fifty percent (50%) of the revenues shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund ~~to be used for aviation education and safety programs; and~~

2. ~~Beginning~~ For the fiscal year beginning July 1, 2000, ~~thirty-three and thirty-three one-hundredths percent (33.33%)~~ of all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, and ~~sixty-six and sixty-seven one-hundredths percent (66.67%)~~ and for each fiscal year thereafter, one hundred percent (100%) of the revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Tax Commission to the State Treasurer and shall be placed to the

credit of the Oklahoma Aeronautics Commission Revolving Fund ~~to be used for aviation education and safety programs; and~~

~~3. Beginning July 1, 2001, three percent (3%) of all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, and ninety-seven percent (97%) of the revenues shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund to be used for aviation education and safety programs.~~

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 500.6a of Title 68, unless there is created a duplication in numbering, reads as follows:

All revenue from the tax of eight one-hundredths of one cent (\$0.0008) per gallon imposed pursuant to the provisions of subsection B of Section 500.4 of Title 68 of the Oklahoma Statutes, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be apportioned and distributed monthly as follows:

1. For the fiscal year beginning July 1, 1999, one-third shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund and two-thirds shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes;

2. For the fiscal year beginning July 1, 2000, two-thirds shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund and one-third shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes; and

3. For the fiscal year beginning July 1, 2001, and for each fiscal year thereafter, all such revenue shall be paid to the State

Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund.

SECTION 5. This act shall become effective July 1, 1999.

SECTION 6. 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.

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