

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2253

By: Brumbaugh of the House

and

Fields of the Senate

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6
7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Sections 6001 and 6003, as amended by
9 Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp.
10 2016, Section 6003), which relate to aircraft excise
11 tax; modifying definition; modifying provisions
12 related to certain exemption; providing an effective
13 date; and declaring an emergency.

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to revenue and taxation; amending 68
17 O.S. 2011, Sections 6001 and 6003, as amended by
18 Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp.
19 2016, Section 6003), which relate to aircraft excise
20 tax; modifying definition; modifying provisions
21 related to certain exemption; requiring certain
22 report to the Oklahoma Tax Commission; excluding
23 certain operations from applicability; providing an
24 effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 6001, is
amended to read as follows:

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

1 1. "Aircraft" means and includes every self-propelled plane,
2 airplane, helicopter, or balloon or sailplane manufactured by mass
3 production or individually constructed or assembled, used, or
4 designed for navigation or flight in the air or airspace, and
5 subject to registration with the Federal Aviation Administration;

6 2. "Commercial airline" means an air carrier, foreign air
7 carrier or intrastate air carrier, as defined by Section 40102 of
8 Title 49 of the United States Code, 49 U.S.C., Section 40102, and
9 operating pursuant to Part 121 or 129 of Title 14 of the Code of
10 Federal Regulations, 14 CFR, Part 121 or 129, or conducting
11 scheduled or unscheduled services pursuant to Part 135 thereof,
12 provided any such aircraft used to provide such services operates
13 under Part 135 for at least fifty percent (50%) of its annual
14 operations. For the purpose of satisfying this requirement, such
15 operations may not include those chartered by the aircraft owner as
16 an individual or as a business entity in which the aircraft owner
17 owns a majority interest;

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

22 4. "Use" means and includes the operation or basing of an
23 aircraft on or from any airport in this state for a period of thirty
24 (30) days or more. For purposes of Section 6001 et seq. of this

1 title, the term "use" does not apply to aircraft which are intended
2 for exclusive use in another state, but which are stored in this
3 state pending shipment to such other state, or aircraft which are
4 retained in this state solely for fabrication, repair, testing,
5 alteration, modification, refurbishing or maintenance.

6 SECTION 2. AMENDATORY 68 O.S. 2011, Section 6003, as
7 amended by Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp. 2016,
8 Section 6003), is amended to read as follows:

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

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

16 2. Aircraft owned by dealers and in the dealer's inventory, not
17 including aircraft that are used personally or for business. In
18 order for this exemption to apply, the dealer shall be licensed in
19 accordance with Section 254.1 of Title 3 of the Oklahoma Statutes;

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

23 4. Aircraft transferred from one corporation or limited
24 liability company to another corporation or limited liability

1 company pursuant to reorganization of the corporation or limited
2 liability company. For the purpose of this section the term
3 reorganization means a statutory merger, consolidation, or
4 acquisition;

5 5. Aircraft purchased or used by commercial airlines as defined
6 by paragraph 2 of Section 6001 of this title, provided any such
7 aircraft does not operate under Part 91 of Title 14 of the Code of
8 Federal Regulations, 14 C.F.R., Part 91, for more than fifty percent
9 (50%) of its annual operations. If the operations of such aircraft
10 are not at least fifty percent (50%) Part 135 charter operations
11 annually, the excise tax levied pursuant to the provisions of
12 Section 6002 of this title shall be due and payable. An aircraft
13 owner shall provide a report to the Oklahoma Tax Commission on an
14 annual basis detailing the operations of the aircraft and any
15 supporting flight, maintenance or charter log books required by the
16 Commission. For the purpose of satisfying this requirement, such
17 operations may not include those chartered by the aircraft owner as
18 an individual or as a business entity in which the aircraft owner
19 owns a majority interest;

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

23 7. Aircraft transferred to a corporation for the purpose of
24 organizing such corporation. However, the former owners of the

1 aircraft must have control of the corporation in proportion to their
2 interest in the aircraft prior to the transfer;

3 8. Aircraft transferred to a partnership or limited liability
4 company when the organization of the partnership or limited
5 liability company is by the former owners of the aircraft. However,
6 the former owners of the aircraft must have control of the
7 partnership in proportion to their interest in the aircraft prior to
8 the transfer;

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

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

20 11. Aircraft on which a tax levied pursuant to the provisions
21 of the laws of another state, equal to or in excess of the excise
22 tax levied by Section 6002 of this title, has been paid by the
23 person using the aircraft in this state. Aircraft on which a tax
24 levied pursuant to the laws of another state, in an amount less than

1 the excise tax levied by Section 6002 of this title, has been paid
2 by the person using the aircraft in this state shall be subject to
3 the levy of the excise tax at a rate equal to the difference between
4 the rate of tax levied by Section 6002 of this title and the rate of
5 tax levied by the other state;

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

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

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

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

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

5 17. Aircraft which is transferred without consideration between
6 an individual and an express trust which that individual or the
7 spouse, child or parent of that individual has a right to revoke;
8 and

9 18. Rotary-wing aircraft purchased to be used exclusively for
10 the purpose of training U.S. military personnel or other training
11 authorized by the U.S. Government. The exemption provided by this
12 paragraph shall cease to be effective on January 1, 2018.

13 SECTION 3. This act shall become effective July 1, 2017.

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval."

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23 2. "Commercial airline" means an air carrier, foreign air
24 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

1 operating pursuant to Part 121 or 129 of Title 14 of the Code of
2 Federal Regulations, 14 CFR, Part 121 or 129, or conducting
3 scheduled or unscheduled services pursuant to Part 135 thereof,
4 provided any such aircraft used to provide such services operates
5 under Part 135 for at least fifty percent (50%) of its annual
6 operations;

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

11 4. "Use" means and includes the operation or basing of an
12 aircraft on or from any airport in this state for a period of thirty
13 (30) days or more. For purposes of Section 6001 et seq. of this
14 title, the term "use" does not apply to aircraft which are intended
15 for exclusive use in another state, but which are stored in this
16 state pending shipment to such other state, or aircraft which are
17 retained in this state solely for fabrication, repair, testing,
18 alteration, modification, refurbishing or maintenance.

19 SECTION 6. AMENDATORY 68 O.S. 2011, Section 6003, as
20 amended by Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp. 2016,
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22 Section 6003. The following aircraft shall be exempt from
23 provisions of Section 6001 et seq. of this title:

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2 and which are owned and in the physical possession of the
3 manufacturer of the aircraft. The aircraft shall have an aircraft
4 exemption license as provided for in Section 254 of Title 3 of the
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6 2. Aircraft owned by dealers and in the dealer's inventory, not
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10 3. Aircraft of the federal government, any agency thereof, any
11 territory or possession, any state government, agency, or political
12 subdivision thereof;

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

19 5. Aircraft purchased or used by commercial airlines as defined
20 by paragraph 2 of Section 6001 of this title, provided any such
21 aircraft does not operate under Part 91 of Title 14 of the Code of
22 Federal Regulations, 14 C.F.R., Part 91, for more than fifty percent
23 (50%) of its annual operations;
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1 6. Aircraft transferred in connection with the dissolution or
2 liquidation of a corporation or limited liability company and only
3 if included in a payment in kind to the shareholders or members;

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

8 8. Aircraft transferred to a partnership or limited liability
9 company when the organization of the partnership or limited
10 liability company is by the former owners of the aircraft. However,
11 the former owners of the aircraft must have control of the
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23 provisions of Section 6002 of this title have previously been paid
24 on the aircraft;

1 11. Aircraft on which a tax levied pursuant to the provisions
2 of the laws of another state, equal to or in excess of the excise
3 tax levied by Section 6002 of this title, has been paid by the
4 person using the aircraft in this state. Aircraft on which a tax
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6 the excise tax levied by Section 6002 of this title, has been paid
7 by the person using the aircraft in this state shall be subject to
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9 the rate of tax levied by Section 6002 of this title and the rate of
10 tax levied by the other state;

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