

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 2253

By: Brumbaugh of the House

and

Fields of the Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2011, Sections 6001 and 6003, as amended by Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp. 2016, Section 6003), which relate to aircraft excise tax; modifying definition; modifying provisions related to certain exemption; 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. 2011, 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;

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

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

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

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

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

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

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

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

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

1 5. Aircraft purchased or used by commercial airlines as defined
2 by paragraph 2 of Section 6001 of this title, provided any such
3 aircraft does not operate under Part 91 of Title 14 of the Code of
4 Federal Regulations, 14 C.F.R., Part 91, for more than fifty percent
5 (50%) of its annual operations;

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

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

13 8. Aircraft transferred to a partnership or limited liability
14 company when the organization of the partnership or limited
15 liability company is by the former owners of the aircraft. However,
16 the former owners of the aircraft must have control of the
17 partnership in proportion to their interest in the aircraft prior to
18 the transfer;

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

23 10. Aircraft transferred or conveyed to a partner of a
24 partnership or shareholder or member of a limited liability company

1 or other person who after such sale owns a joint interest in the
2 aircraft and on which the sales or use tax levied pursuant to the
3 provisions of this title or the excise tax levied pursuant to the
4 provisions of Section 6002 of this title have previously been paid
5 on the aircraft;

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

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

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

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

23 15. Aircraft which is purchased by a resident of this state and
24 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 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;

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; and

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

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

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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