HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 442

By: Fields, Kidd, Pittman and Pederson of the Senate

and

Brumbaugh and Wright of the House

COMMITTEE SUBSTITUTE

An Act relating to aircraft taxation; amending 68 O.S. 2011, Section 6001, which relates to aircraft definitions; modifying certain term; amending 68 O.S. 2011, Section 6003, as amended by Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp. 2016, Section 6003), which relates to aircraft exemptions; modifying certain term; 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;

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 Part 135 thereof; provided that any such aircraft used to provide such services operates under Part 135 for at least fifty percent (50%) of its annual operations. For the purpose of satisfying this requirement, such operations may not include those chartered by the aircraft owner as an individual or as a business entity in which the aircraft owner owns a majority interest;

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 Section 6001 et seq. of this title, the term "use" does not apply to 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.

SECTION 2. AMENDATORY 68 O.S. 2011, Section 6003, as amended by Section 1, Chapter 380, O.S.L. 2013 (68 O.S. Supp. 2016, 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 title:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of the aircraft. The 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. In order for this exemption to apply, the dealer shall be licensed in accordance with Section 254.1 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; provided that such an aircraft does not operate under Part 91 of Title 14 of the Code of Federal Regulations, 14 CFR, Part 91, for more than fifty percent (50%) of its annual operations. If the operations of such aircraft are not at least fifty percent (50%) Part 135 charter operations annually, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. An aircraft owner shall provide a report to the Oklahoma Tax Commission on an annual basis detailing the operations of the aircraft and any supporting flight, maintenance or charter log books required by the Commission. For the purpose of satisfying this requirement, such operations may not include those chartered by the aircraft owner as an individual or as a business entity in which the aircraft owner owns a majority interest;

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 04/18/2017 - DO PASS, As Amended and Coauthored.