

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2099

By: O'Donnell

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Sections 6001 and 6003, as last amended by  
9 Sections 1 and 2, Chapter 276, O.S.L. 2018 (68 O.S.  
10 Supp. 2018, Sections 6001 and 6003), which relate to  
11 aircraft excise tax; modifying definition; broadening  
12 certain exemption; eliminating requirement to make  
13 certain report to the Oklahoma Tax Commission; and  
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 68 O.S. 2011, Section 6001, as  
17 amended by Section 1, Chapter 276, O.S.L. 2018 (68 O.S. Supp. 2018,  
18 Section 6001), is amended to read as follows:

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

20 1. "Aircraft" means and includes every self-propelled plane,  
21 airplane, helicopter, or balloon or sailplane manufactured by mass  
22 production or individually constructed or assembled, used, or  
23 designed for navigation or flight in the air or airspace, and  
24 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 last amended by Section 2, Chapter 276, O.S.L. 2018 (68 O.S. Supp.  
3 2018, 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;

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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. If the operations of such aircraft~~  
6 ~~are not at least fifty percent (50%) Part 135 charter operations~~  
7 ~~annually, the excise tax levied pursuant to the provisions of~~  
8 ~~Section 6002 of this title shall be due and payable. An aircraft~~  
9 ~~owner shall provide a report to the Oklahoma Tax Commission on an~~  
10 ~~annual basis detailing the operations of the aircraft and any~~  
11 ~~supporting flight, maintenance or charter log books required by the~~  
12 ~~Commission. For the purpose of satisfying this requirement, such~~  
13 ~~operations may not include those chartered by the aircraft owner as~~  
14 ~~an individual or as a business entity in which the aircraft owner~~  
15 ~~owns a majority interest;~~

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

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

23           8. Aircraft transferred to a partnership or limited liability  
24 company when the organization of the partnership or limited

1 liability company is by the former owners of the aircraft. However,  
2 the former owners of the aircraft must have control of the  
3 partnership in proportion to their interest in the aircraft prior to  
4 the transfer;

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

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

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

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

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

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

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

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

1        17. Aircraft which is transferred without consideration between  
2 an individual and an express trust which that individual or the  
3 spouse, child or parent of that individual has a right to revoke;  
4 and

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

9        SECTION 3. This act shall become effective November 1, 2019.

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11        57-1-7098        MB        01/07/19

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