

1 STATE OF OKLAHOMA

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

3 SENATE BILL 397

By: Daniels

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6 AS INTRODUCED

7 An Act relating to aircraft excise tax; amending 68
8 O.S. 2011, Sections 6001, as amended by Section 1,
9 Chapter 276, O.S.L. 2018 and 6003, as last amended by
10 Section 2, Chapter 276, O.S.L. 2018 (68 O.S. Supp.
11 2018, Sections 6001 and 6003), which relate to
administration of tax; modifying definition;
eliminating exception to certain exemption and
related requirements; and declaring an emergency.

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

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

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

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

23 2. "Commercial airline" means an air carrier, foreign air
24 carrier or intrastate air carrier, as defined by Section 40102 of

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

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

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

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

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