



Regional Sales And Use Tax Forum

Update on the Southeastern United States. by Christopher B. Younger

This column is the second installment in the fourth annual series of quarterly columns describing recent changes to aviation-related state sales and use tax issues and, where pertinent, other aviation related tax issues in various regions of the United States. As was the case with the last series of quarterly columns, we focus on a particular region of the United States each quarter – namely the Northeastern, Southeastern, Midwestern and Western States.

In this month's column, we review any recent changes to state sales and use taxes in the states located in the Southeastern region of the United States; namely Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

Additionally, we will discuss whether or not each state has an exemption from its sales and use tax for casual, isolated or occasional sales of aircraft. An exemption for casual, isolated or occasional sales of aircraft typically permits a buyer of a used aircraft to take delivery of, and/or use such aircraft in a state with such an exemption without paying that state's sales or use tax provided that the

specific conditions of the exemption are met.

Those conditions, which vary from state to state, typically require that either or both of the seller and buyer not be habitually engaged in the sale of aircraft or, in some instances, of any tangible personal property, that the seller and buyer be affiliated business entities or, in the case of individual buyers and sellers, that they have a certain family relationship with one another.

Following is a summary of aviation-related sales and use taxes within the individual states along with details of any changes introduced - or due - within said state.

ALABAMA

With respect to sales of aircraft, Alabama has a state-wide general sales tax of 2%, plus potential additional local taxes, which can amount to a combined total sales/use tax of up to 5%.

Although Alabama has an exemption from its sales and use taxes for the casual or isolated sale of tangible personal property by persons not engaged in the business of selling, the exemption does not apply to the sale of aircraft. Aircraft are considered a type of motor vehicle that is taxed at a special 2%

rate, plus authorized municipal or county sales taxes.

ARKANSAS

Arkansas has a state-wide general sales tax of 6%, plus potential additional local taxes, which can amount to a combined total sales/use tax of up to 11%.

Counties and municipalities may only assess their sales tax on the first \$2,500 of gross receipts for the sale of an aircraft. State sales tax is not due if the total gross receipts or gross proceeds from the sale of an aircraft is less than \$2,000.

The border city of Texarkana imposes a special tax rate of 7%, which consists of the state rate (6%) plus an additional 1%.

Sales of aircraft are specifically excluded from the Arkansas exemption for occasional sales of tangible personal property.

FLORIDA

All aircraft sold and/or delivered in Florida are subject to Florida's 6% sales tax unless the transaction is specifically exempted by law. Furthermore, if the aircraft is delivered into a county that imposes a discretionary sales surtax, then dealers must also collect this tax. ➤



However, discretionary sales surtax applies only to the first \$5,000 of the aircraft purchase price.

Sales of aircraft are specifically excluded from the Florida exemption for isolated sales of tangible personal property.

GEORGIA

Georgia has a state-wide general sales tax of 4%, plus potential additional local taxes, which can amount to a combined total sales/use tax of up to 8%.

The Georgia exemption for casual sales of tangible personal property is limited to \$500 of total sales by a seller in a twelve month period and is therefore unlikely to apply to the purchase and sale of most aircraft.

KENTUCKY

Kentucky imposes state-wide sales/use tax at a 6% rate. Kentucky exempts from its sales tax occasional sales in Kentucky of aircraft and from its use tax the storage, use, or other consumption in Kentucky of aircraft transferred to the purchaser by means of an 'occasional sale'.

The term 'occasional sale' includes a sale of tangible personal property not held or used by a seller in the course of an activity for which a Kentucky seller's permit is required. A seller qualifies as a 'retailer' requiring a permit when the seller makes more than two retail sales during any 12-month period.

LOUISIANA

Louisiana imposes a state-wide sales/use tax rate of 4% on aircraft, plus additional local (parish) taxes that can be nearly equal to the state rate. Louisiana exempts from its sales and use tax occasional or isolated sales of aircraft. The exemption of such sales depends upon whether the seller is in the business, or holds itself out to be in the business, of selling tangible personal property.

MISSISSIPPI

Mississippi imposes a statewide sales/use tax rate of 3% on aircraft purchases.

Although Mississippi has an exemption from its sales and use taxes for occasional sales of tangible personal property, the exemption does not apply to the sale of aircraft. Aircraft are considered a type of motor vehicle that is taxed at a special 3% rate.

NORTH CAROLINA

Sales at retail of aircraft, including all accessories attached when the purchaser takes delivery of its aircraft, are subject to sales tax at a rate of 3%, with a maximum \$1,500 tax. Sales of aircraft are not subject to North Carolina local sales tax.

Sales of aircraft by individuals or other sellers that are not engaged in the business of selling aircraft constitute occasional or isolated sales and are not subject to North Carolina sales or use tax.

SOUTH CAROLINA

South Carolina imposes a statewide sales and use tax rate of 5% on aircraft purchases with a maximum tax of \$300. Casual or isolated sales of aircraft by persons not engaged in the business of selling at retail are not taxable.

TENNESSEE

The state-wide Tennessee sales and use tax rate is 7%, plus 2.75% of the sales price in excess of \$1,600 and up to \$3,200. Additionally, local sales/use tax rates of between 1.5–2.75% also apply to the purchase.

Although Tennessee exempts occasional and isolated sales of tangible personal property from its sales and use tax, the exemption does not apply to occasional sales of aircraft. However, sales of aircraft between married persons, lineal relatives, spouses of lineal relatives, or siblings are excluded from taxation.

VIRGINIA

Virginia imposes a special 2% aircraft sales and use tax on aircraft purchases, and aircraft required to be registered in Virginia. Occasional sales of aircraft are not exempt from the Virginia aircraft sales and use tax.

In concluding this month's Regional Sales & Use Tax Forum, you are advised to keep in mind that the above serves as a general and broad overview of state sales and use tax laws and does not constitute legal advice or a legal opinion. Therefore, it is always advisable to consult with qualified aviation counsel when considering any questions regarding the application of sales and use tax in a particular situation, or to a particular transaction.

In the April 2012 Issue of *World Aircraft Sales Magazine*, we will take a state-by-state look at the Midwestern United States, including Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia and Wisconsin.

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