

Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 627 (Substitute S-2 as reported)
Senate Bill 630 (Substitute S-3 as reported)
Sponsor: Senator Walter H. North (S.B. 627)
Senator Don Koivisto (S.B. 630)
Committee: Finance

Date Completed: 4-26-00

RATIONALE

The Use Tax Act exempts from the tax purchases of certain aircraft, and parts and materials to be affixed to aircraft. In general, the Act exempts commercial aircraft over 12,500 pounds, and parts and materials affixed to aircraft over 6,000 pounds, if the aircraft are used "solely" for transporting cargo or passengers. A question has arisen regarding the exemption of aircraft that are used to transport both passengers and cargo; that is, it apparently is unclear whether the term "solely" means that the exemption applies only if the craft are used for one purpose, or the other, but not both. To resolve this uncertainty, it has been suggested that the Act should specify that the exemption applies to aircraft, and parts and materials for those aircraft, that are used to transport passengers, cargo, or a combination of both. Further, it has been suggested the exemption should apply to leased, as well as purchased, aircraft. In addition, some people believe that the minimum weight required for the use tax exemption for purchased aircraft should be reduced to 6,000 to make it consistent with the parts and materials exemption, and that similar exemptions should be placed in the General Sales Tax Act.

CONTENT

Senate Bill 627 (S-2) would amend the General Sales Tax Act, and Senate Bill 630 (S-3) would amend the Use Tax Act, to exempt from the taxes aircraft, and parts and materials on aircraft, weighing at least 6,000 pounds, sold to or used by a "domestic air carrier". The bills provide that a "domestic air carrier" would be limited to entities engaged in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

Senate Bill 627 (S-2)

The bill would exempt from the sales tax sales to a domestic air carrier of an aircraft, or parts and materials, excluding shop equipment or fuel, affixed

or to be affixed to an aircraft having a maximum certified takeoff weight of at least 6,000 pounds, for use in the transport of air cargo, passengers, or a combination of air cargo and passengers.

Senate Bill 630 (S-3)

The bill would exempt from the use tax the storage, use, or consumption of an aircraft purchased by, or for lease to, a domestic air carrier after September 30, 1996, for use in the transport of air cargo and/or passengers that had a maximum certified takeoff weight of at least 6,000 pounds.

Currently, the Act exempts an aircraft purchased after 1992 for use *solely* in the transport of air cargo that has a maximum certified takeoff weight of at least 12,500 pounds; an aircraft purchased after June 30, 1994, that is used *solely* in the regularly scheduled transport of passengers; and an aircraft purchased after 1994 with a maximum certified takeoff weight of at least 12,500 pounds that is designed to have a maximum passenger seating configuration of more than 30 seats and used *solely* in the transport of passengers. The bill would delete the term "solely" from these provisions, and would limit these exemptions to aircraft purchased before October 1, 1996.

The Act also exempts parts and materials, excluding shop equipment or fuel, affixed or to be affixed in Michigan to an aircraft owned or used by a domestic air carrier that is an aircraft for use solely in the transport of air cargo that has a maximum certified takeoff weight of at least 12,500 pounds for taxes levied before 1997 and at least 6,000 pounds for taxes levied after 1996. The bill would refer to an aircraft for use in the transport of air cargo or a combination of air cargo and passengers. Also, this exemption currently applies to an aircraft that has a maximum certified takeoff weight of at least 12,500 pounds for taxes levied before 1997 and at least 6,000 pounds for taxes levied after 1996 and that is

designed to have a maximum passenger seating configuration of more than 30 seats and used solely in the transport of passengers. The bill would delete the term "solely".

Proposed MCL 205.54x (S.B. 627)
MCL 205.94 & 205.94k (S.B. 630)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The use tax exemption for aircraft, and parts and materials affixed to aircraft, is important to the State's air transportation industry. Many states do not tax the purchase of commercial aircraft, or aircraft parts and materials. If one state does not exempt commercial aircraft from the tax, or the sales tax, it is a simple decision for the companies that fly the aircraft all over the country to decide to purchase, maintain, repair, or refurbish their planes in another state that provides an exemption. Currently, the Use Tax Act exempts commercial aircraft of at least 12,500 pounds used solely to transport passengers or cargo; and parts and materials to be affixed to planes that weigh at least 6,000 pounds and that are used solely to transport passengers and cargo. It has been questioned whether the exemption applies if the aircraft are used to transport both cargo and passengers, and it has been suggested that the industry could benefit if the State expanded the exemption for aircraft by lowering the weight qualification to 6,000 pounds. The bills would solve both these concerns, by making it clear that the exemption applied to aircraft transporting both cargo and passengers, and by reducing to 6,000 pounds the weight at which aircraft qualify for the exemption. Further, Senate Bill 630 (S-3) would apply the use tax exemption not only to aircraft that were purchased, but also to those that were leased. These provisions would help to ensure that airline companies would not be reluctant, because of tax policy, to base their operations in Michigan.

Opposing Argument

The bills would result in reduced sales and use tax collections. Both of these taxes are major sources of funding for the State School Aid Fund; thus, whenever legislation results in sales and use tax reductions, it adversely affects the Fund.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills would reduce sales and use tax collections

an estimated \$1.3 million in FY 1999-2000 and \$0.5 million in FY 2000-01. The higher revenue loss in FY 1999-2000 would result from the retroactive use tax exemption proposed in Senate Bill 630 (S-3) on certain planes purchased after September 30, 1996. This estimated loss in revenue would affect the General Fund and School Aid Fund. General Fund/General Purpose revenue would decline an estimated \$0.9 million in FY 1999-2000 and \$0.3 million in FY 2000-01. School Aid Fund revenue would decline an estimated \$0.4 million in FY 1999-2000 and \$0.2 million in FY 2000-01. These preliminary estimates are based on data collected by the Senate Fiscal Agency in 1997. An attempt is presently being made to update these data.

Fiscal Analyst: J. Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.