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Senate Bill 627 (as enrolled)
Senate Bill 630 (as enrolled)
Sponsor: Senator Walter H. North (S.B. 627)
Senator Don Koivisto (S.B. 630)
Senate Committee: Finance
House Committee: Tax Policy

PUBLIC ACT 204 of 2000
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Date Completed: 9-14-00

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 exemption applied to commercial aircraft over 12,500 pounds, and parts and materials affixed to aircraft over 6,000 pounds, if the aircraft was used "solely" for transporting cargo or passengers. A question arose regarding the exemption of aircraft used to transport both passengers and cargo; that is, it apparently was unclear whether the term "solely" meant that the exemption applied only if the craft was used for one purpose, or the other, but not both. To resolve this uncertainty, it was suggested that the Act 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. In addition, some people felt 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 amended the General Sales Tax Act, and Senate Bill 630 amended 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 is an entity engaged primarily 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

The bill exempts 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 solely in the transport of air cargo, passengers, or a combination of air cargo and passengers.

Senate Bill 630

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

Previously, the Act exempted an aircraft purchased after 1992 for use solely in the transport of air cargo that had a maximum certified takeoff weight of at least 12,500 pounds; an aircraft purchased after June 30, 1994, that was 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 was designed to have a maximum passenger seating configuration of more than 30 seats and used solely in the transport of passengers. The bill limits these exemptions to aircraft purchased before October 1, 1996.

The Act also exempted 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 was an aircraft for use solely in the transport of air cargo that had 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 retained the exemption but refers to an aircraft for use in the transport of air cargo or a combination of air cargo and passengers. Further, the bill eliminated the provision that parts and material be affixed in Michigan to qualify for the exemption.

The bill requires the State Treasurer to estimate, on January 1 each year, the revenue "lost by this act from the school aid fund", and to deposit that amount

into the Fund from the State's General Fund.

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 use 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. Previously, the Use Tax Act exempted 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 weighed at least 6,000 pounds and that were used solely to transport passengers and cargo. It was questioned whether the exemption applied if the aircraft were used to transport both cargo and passengers, and it was 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 solve both of these concerns, by making it clear that the exemption applies to aircraft transporting both cargo and passengers, and by reducing to 6,000 pounds the weight at which aircraft qualify for the exemption. These provisions will help to ensure that airline companies are not reluctant, because of tax policy, to base their operations in Michigan.

Opposing Argument

The bills will 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.

Response: Under Senate Bill 630, use tax revenue lost by the State School Aid Fund due to the bill's provisions must be replaced with revenue from the General Fund.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bills will reduce sales and use tax collections an estimated \$3.2 million in FY 1999-2000 and \$2.4 million in FY 2000-01. The higher revenue loss in FY

1999-2000 will result from the retroactive use tax exemption contained in Senate Bill 630 on certain planes purchased after September 30, 1996. This estimated loss in revenue will affect the General Fund, School Aid Fund, and revenue sharing. General Fund/General Purpose revenue will decline an estimated \$2.9 million in FY 1999-2000 and \$0.8 million in FY 2000-01. School Aid Fund revenue will decline an estimated \$0.3 million in FY 1999-2000 and \$1.2 million in FY 2000-01. Revenue sharing payments will be reduced an estimated \$0.4 million in FY 2000-02 due to the reduction in sales tax receipts.

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.