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SFA BILL ANALYSIS

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Senate Bills 491 and 492 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Committee: Finance

Date Completed: 5-29-01

RATIONALE

Under both the Use Tax Act and the General Sales Tax Act, 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. The Acts exempt from the taxes sales to a domestic air carrier of an aircraft or parts and materials affixed to an aircraft that has a maximum certified takeoff weight of at least 6,000 pounds for use in the transport of air cargo and/or passengers. There has been some concern expressed recently regarding the applicability of the taxes to such an aircraft when it is purchased by a third party for lease to a domestic air carrier.

Northwest Airlines has stated that its primary method of obtaining aircraft is through sale/leaseback financing; that is, a third party (lessor) purchases a plane and leases it to Northwest (which is a domestic air carrier). According to Northwest, the leasing of the aircraft to it is exempt from taxation under the Acts, but the purchase of the aircraft by the lessor is taxable if the transaction is completed in Michigan and certain registration requirements of the Department of Treasury are not satisfied. Reportedly, the airline avoids this tax liability by completing the transaction in any of several states that allow nontaxable closing of aircraft sale/leaseback purchases. It has been suggested that the Acts be amended specifically to exempt sales of aircraft for subsequent lease, so that these arrangements could be completed in Michigan without creating a tax liability.

CONTENT

<u>Senate Bill 491</u> would amend the Use Tax Act, and <u>Senate Bill 492</u> would amend the General Sales Tax Act, to exempt from the taxes sales of aircraft to a person for subsequent lease to a domestic air carrier operating under a certificate issued by the Federal Aviation Administration for use solely in the regularly scheduled transport of passengers.

MCL 205.94 (S.B. 491)
205.54x (S.B. 492)

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

Aircraft are enormously expensive, and the sales or use tax on the purchase of an aircraft can be substantial. In Michigan, neither the sales tax nor the use tax is imposed on sales of certain aircraft and parts to domestic air carriers; however, apparently the taxes do apply to aircraft purchased by a person for lease to a domestic air carrier if Department of Treasury registration and administrative requirement are not fulfilled. As a result, Northwest Airlines (which has its largest hub in Detroit) and any other domestic air carrier in the State strive to complete sale/leaseback transactions for aircraft in states that do not tax such purchases, in order to avoid either paying the tax or complying with burdensome administrative requirements. This means that domestic air carriers must reroute aircraft to close these transactions, which can lead to operational disruptions and delays. By allowing domestic air carriers to complete sale/leaseback arrangements for aircraft without a tax liability, the bill would eliminate the necessity for domestic air carriers to fly planes to other states just to close a nontaxable sale.

Legislative Analyst: G. Towne

FISCAL IMPACT

These bills would have no fiscal impact on State or local government. Under current law, domestic air carriers licensed to provide regularly scheduled passenger service are exempt from the sales and use taxes when acquiring airplanes, as are other companies that purchase airplanes for the purpose of leasing them to a domestic passenger air carrier. These bills simply would help make it easier for domestic air carriers who are licensed to provide regularly scheduled passenger service to finalize airplane acquisitions in Michigan without being subject to the State sales or use taxes

Fiscal Analyst: J. Wortley

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