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BILL ANALYSIS

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Senate Bill 624 (as introduced 6-4-09)
House Bill 4930 (Substitute H-1 as passed by the House)
Sponsor: Senator Jason E. Allen (S.B. 624)
Representative Kate Segal (H.B. 4930)
Senate Committee: Finance
House Committee: New Economy and Quality of Life (H.B. 4930)

Date Completed: 6-11-09

CONTENT

Senate Bill 624 would amend the Use Tax Act and House Bill 4930 (H-1) would amend the General Sales Tax Act to revise tax exemptions for the sale of aircraft that are temporarily in this State, by deleting language that limits the exemptions to used aircraft.

Currently, if specific conditions are met, the use tax and the sales tax do not apply to the sale of an aircraft temporarily located in Michigan for the purpose of prepurchase evaluation or prepurchase evaluation and postsale customization. Senate Bill 624, instead, would exempt from the use tax the sale of an aircraft temporarily in the State for the purpose of prepurchase evaluation, customization, or sale, if the specific conditions were met. House Bill 4930 (H-1) would exempt from the sales tax the sale of an aircraft temporarily in the State for the purpose of a sale and prepurchase evaluation, customization, improvement, maintenance, or repair.

Under the conditions that presently must be met, the aircraft must leave this State within 15 days after authorized approval for final return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required by 14 CFR 91.407 (which prohibits a person from operating any aircraft that has undergone maintenance, rebuilding, or alteration unless it has been approved for return to service by an authorized person and a required maintenance record entry has been made). The bills would delete this language. Instead, the bills would require the aircraft to leave the State within 15 days after the completion of the sale, prepurchase evaluation, customization, or improvement, maintenance, or repair associated with the sale, whichever was later.

In addition, under the Acts, the aircraft may not be based or registered in this State before or after the prepurchase evaluation or the prepurchase evaluation and postsale customization are completed. Under the bills, the aircraft could not be based or registered in the State before or after completion of the sale, prepurchase evaluation, or customization (or improvement, maintenance, or repair associated with the sale, under the House bill).

Both bills would define "customization" as any improvement, maintenance, or repair that is performed on an aircraft that is associated with the sale of the aircraft.

MCL 205.94k (S.B. 624)
205.54x (H.B. 4930)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Under current law, new aircraft brought into Michigan by an out-of-State or foreign manufacturer to have custom finishing work done on the aircraft would be subject to Michigan's sales or use tax if the manufacturer of the aircraft finalized the sale and the new owner took possession of the aircraft in Michigan. This type of work has not been conducted in Michigan in the past, so no sales or use tax has been collected from this type of business activity before; however, at least one Michigan business is just beginning to conduct finishing work on new aircraft, including the installation of customized interiors. Whether the sale of these new aircraft is taxed by a state is important because when a new aircraft is finished at a different site from where it is manufactured, it is frequently convenient and cost effective to have the manufacturer finalize the sale and have the new owner take possession of the aircraft where it is finished, instead of incurring the additional cost of moving it back to the manufacturer's location. Under current law, finalizing the sale of these new aircraft in Michigan would result in a $3.0 million to $4.0 million sales tax liability per aircraft, which is an added expense that both the manufacturer and new owner would want to avoid and would be able to avoid in two ways: 1) The finished aircraft could be moved to another state that exempts this type of transaction from its sales tax and the sale of the aircraft could be finalized in this other state, or 2) the customization work could be done in another state where the sale could be finalized without producing any sales tax liability. Currently, about 26 other states provide such a sales tax exemption on new aircraft. Therefore, given that no Michigan sales tax revenue has been collected from this type of business activity in the past and that out-of-State aircraft manufacturers would likely take actions to avoid Michigan's sales tax by either moving the finished aircraft to another state to finalize the sale or having the finishing customization work done in another state that would allow the eventual sale to be tax exempt, it is estimated these bills would have no fiscal impact on sales or use tax revenue.

Fiscal Analyst: Jay Wortley

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