HOUSE BILL No. 5445

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February 28, 2012, Introduced by Rep. Gilbert and referred to the Committee on Tax Policy.

A bill to amend 1937 PA 94, entitled

"Use tax act,"

by amending section 4k (MCL 205.94k), as amended by 2009 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 4k. (1) The tax levied under this act does not apply to parts and materials, excluding shop equipment or fuel, affixed to or to be affixed to an aircraft owned or used by a domestic air carrier that is any of the following:

(a) An aircraft for use solely in the transport of air cargo or a combination of air cargo and passengers that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996.

(b) An aircraft that is used solely in the regularly scheduled transport of passengers.

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(c) An aircraft other than an aircraft described in subdivision (b), that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996, and that is designed to have a maximum passenger seating configuration of more than 30 seats and is used solely in the transport of passengers.

(2) The tax levied under this act does not apply to the sale of parts or materials, excluding shop equipment or fuel, affixed or to be affixed to an aircraft that meets all of the following conditions:

(a) The aircraft leaves this state within 15 days after the sooner of the issuance of the final billing or 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 under 14 CFR 91.407.

(b) The aircraft was not based in this state or registered in this state before the parts or materials are affixed to the aircraft and the aircraft is not based in this state or registered in this state after the parts or materials are affixed to the aircraft.

(3) The tax levied under this act does not apply to the sale of an aircraft temporarily located in this state for the purpose of a sale and prepurchase evaluation, customization, improvement, maintenance, or repair if all of the following conditions are satisfied:

(a) The aircraft leaves this state within 15 days after the sale and the completion of any prepurchase evaluation, customization, improvement, maintenance, or repair that is associated with the sale, whichever is later.

(b) The aircraft was not based in this state or registered in this state before the sale and any prepurchase evaluation, customization, improvement, maintenance, or repair associated with the sale is completed and the aircraft is not based in this state or registered in this state after the sale and any prepurchase evaluation, customization, improvement, maintenance, or repair associated with the sale is completed.

(4) For taxes levied after December 31, 1992, the tax levied under this act does not apply to the storage, use, or consumption of rolling stock used in interstate commerce and purchased, rented, or leased by an interstate fleet motor carrier. A refund for taxes paid before January 1, 1997 shall not be paid under this subsection if the refund claim is made after June 30, 1997.

(5) For taxes levied after December 31, 1996 and before May 1, 1999, the tax levied under this act does not apply to the product of the out-of-state usage percentage and the price otherwise taxable under this act of a qualified truck or a trailer designed to be drawn behind a qualified truck, purchased, rented, or leased in this state by an interstate fleet motor carrier and used in interstate commerce.

(6) As used in this section:

(a) "Based in this state" means hangared or stored in this state for not less than 10 days in not less than 3 nonconsecutive months during the immediately preceding 12-month period.

(b) "Customization" means any improvement, maintenance, or repair that is performed on an aircraft that is associated with the sale of the aircraft.

(c) "Domestic air carrier" means a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

(d) "Interstate fleet motor carrier" means a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10% outside of this state in the immediately preceding tax year.

(e) "Out-of-state usage percentage" is a fraction, the numerator of which is the number of miles driven outside of this state in the immediately preceding tax year by qualified trucks used by the taxpayer and the denominator of which is the total miles driven in the immediately preceding tax year by qualified trucks used by the taxpayer. Miles driven by qualified trucks used solely in intrastate commerce shall not be included in calculating the out-of-state usage percentage.

(f) "Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

(g) "Qualified truck" means a commercial motor vehicle power unit that has 2 axles and a gross vehicle weight rating in excess of 10,000 pounds or a commercial motor vehicle power unit that has 3 or more axles.

(h) "Registered in this state" means an aircraft registered with the state transportation department, bureau of aeronautics or registered with the federal aviation administration to an address located in this state.

(i) "Rolling stock" means a qualified truck, a trailer designed to be drawn behind a qualified truck, and parts **OR OTHER TANGIBLE PERSONAL PROPERTY** affixed to **AND DIRECTLY USED IN THE OPERATION OF** either a qualified truck or a trailer designed to be drawn behind a qualified truck.

Enacting section 1. This amendatory act is curative and intended to clarify the original intent of 1996 PA 477.