

USE TAX ACT (EXCERPT)
Act 94 of 1937

205.94k Tax inapplicable to parts and materials affixed to certain aircraft, sale of aircraft, rolling stock, and qualified truck or trailer; definitions.

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.

(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 or to be affixed to and directly used in the operation of either a qualified truck or a trailer designed to be drawn behind a qualified truck.

History: Add. 1992, Act 5, Imd. Eff. Feb. 27, 1992;—Am. 1995, Act 11, Imd. Eff. Mar. 29, 1995;—Am. 1996, Act 477, Imd. Eff. Dec. 26, 1996;—Am. 1999, Act 70, Imd. Eff. June 25, 1999;—Am. 2000, Act 200, Imd. Eff. June 27, 2000;—Am. 2002, Act 669, Eff. Mar. 31, 2003;—Am. 2006, Act 18, Imd. Eff. Feb. 9, 2006;—Am. 2009, Act 54, Eff. June 11, 2009;—Am. 2012, Act 429, Imd. Eff. Dec. 21, 2012.

Compiler's note: Section 2 of Act 5 of 1992 reads as follows:

"Not later than July 1, 1996, the state treasurer shall report to the House taxation committee and the Senate finance committee on the effects of this amendatory act. The report shall include an estimate of the amount of use tax revenue foregone as a result of this amendatory act and an explanation of how the estimate was determined. The report shall also contain an analysis of the effect of this amendatory act on aircraft maintenance employment within this state, including an estimate of the number of aircraft maintenance jobs created or maintained and an explanation of the methodology for obtaining that estimate."

Enacting section 1 of Act 70 of 1999 provides:

"Enacting section 1. This amendatory act is effective for taxes levied after April 30, 1999."

Enacting section 1 of Act 54 of 2009 provides:

"Enacting section 1. This amendatory act shall be retroactively applied to transactions occurring after June 11, 2009."

Enacting section 1 of Act 429 of 2012 provides:

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