

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 1, 1998 Revised: _____

Subject: Sales Tax Exemptions/Aircraft

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Keating</u>	<u>Beggs</u>	<u>WME</u>	<u>Fav/2 amendments</u>
2.	<u>Keating</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
3.	<u> </u>	<u> </u>	<u>CM</u>	<u>Withdrawn</u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

The bill provides a sales tax exemption for replacement engines, parts, and equipment used in the repair or maintenance of certain aircraft and a sales tax exemption on the sale or lease of an aircraft for use by certain common carriers that are regulated under Federal Aviation Regulations. The bill also lowers the maximum certified take off weight from 20,000 pounds to 15,000 pounds, for the sales tax exemption for labor charges for the repair and maintenance of such aircraft. The bill also exempts rotary wing aircraft of more than 10,000 pounds maximum certified take off weight.

This bill substantially amends section 212.08(7) of the Florida Statutes.

II. Present Situation:

Florida's sales and use tax is a 6 percent tax of general applicability which applies to receipts from the sales and use of all tangible personal property unless specifically exempted. Section 212.08, F.S., enumerates specific exemptions to the application of the state's sales and use tax. Section 212.08(7)(ff), F.S., provides a sales tax exemption for all labor charges for the repair and maintenance of aircraft of more than 20,000 pounds maximum certified takeoff weight. Charges for parts and equipment furnished in connection with such labor charges are taxable, except under the following circumstances:

- 1) Pursuant to s. 212.08(5)(i), F.S., parts and services for aircraft modifications resulting in a major change to the aircraft's design and performed under the authority of a supplemental type certificate issued by the Federal Aviation Administration.

- 2) Pursuant to s. 212.06(5)(a)1., F.S., parts and equipment installed on foreign registered aircraft.
- 3) Pursuant to s. 212.0598, F.S., repairs and maintenance for air carriers using mileage apportionment for corporate income tax and electing to be taxed on an apportioned basis.

There are three sales tax provisions governing aircraft sales or leases:

1. Pursuant to s. 212.0598, F.S., under a special air carrier apportionment provision, an air carrier utilizing mileage apportionment for corporate income tax purposes pursuant to chapter 220, F.S., may elect to pay sales and use tax on tangible personal property on a pro-rata basis. The basis of the tax is the ratio of Florida mileage to total mileage. The ratio is determined at the close of the carrier's preceding fiscal year. The ratio is applied each month to the carrier's total system wide gross purchases of tangible personal property and services otherwise taxable in Florida. Any air carrier eligible for the election which does not make the election is subject to the sales tax on the purchase or use of tangible personal property purchased or used in Florida.
2. Pursuant to s. 212.06(5)(a)1., F.S., certain aircraft exported to a destination outside the continental United States limits is not subject to sales tax. A duly signed and validated United States customs declaration and a canceled U.S. registry must be submitted to the DOR. In the case of aircraft parts and equipment installed on aircraft of foreign registry, documentation showing the departure of the aircraft must be submitted to the DOR.
3. Pursuant to s. 212.08(11), F.S., under a partial sales tax exemption provision, certain "flyable aircraft" may not be fully taxed at the state of Florida's sales tax rate. The sale of a "flyable aircraft" will be taxed at the rate of the sales tax in the state in which the aircraft is to be domiciled. The maximum allowable sales tax rate is 6 percent. The exemption applies only if: 1) the purchaser is a Florida resident and does not use the aircraft in Florida; 2) the purchaser is an out-of-state resident and uses the aircraft for interstate or foreign commerce; or 3) the purchaser is a resident of a foreign country. The term "flyable aircraft" is not defined.

III. Effect of Proposed Changes:

The bill amends s. 212.08(7)(ff), F.S., lowering the maximum certified take off weight of aircraft from 20,000 pounds to 15,000 pounds, for the sales tax exemption for labor charges for the repair and maintenance of such aircraft. In addition, labor charges for the repair and maintenance of rotary wing aircraft of more than 10,000 pounds maximum certified take off weight are exempt by this bill.

The bill provides a sales tax exemption for replacement engines, parts, and equipment used in the repair or maintenance of aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified take off weight when

such parts or equipment are installed on such aircraft that is being repaired or maintained in Florida.

The bill also exempts from the sales tax, the sale or lease of an aircraft of more than 15,000 pounds maximum certified takeoff weight for use by a common carrier. The term “common carrier” is defined to mean an airline operating under Federal Aviation Administration regulations contained in Title 14, Chapter I, part 121 or part 129 of the Code of Federal Regulations. The term “aircraft” is not defined. A statutory definition does exist for “aircraft” under ch. 330, F.S., relating to the regulation of aircraft, pilots, and airports. Section 330.27(1), F.S., defines “aircraft” to mean “any motor vehicle or contrivance now known, or hereafter invented, which is used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.”

The exemption applies to sales and leases of aircraft *for use by common carriers* instead of *to common carriers*, the exemption would be broad enough to apply to sales and leases of aircraft by third parties as long as the aircraft is to be used by common carriers.

This bill takes effect upon becoming law. This may not provide the Department of Revenue sufficient time to notify affected parties before the law takes effect.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b), due to insignificant fiscal impact, as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The revenue loss from the sales tax exemption for labor, replacement engines, parts, and equipment used in the repair or maintenance of aircraft of more than 15,000 pounds maximum certified takeoff weight is estimated to be \$1.8 million in General Revenue and \$.2 million in local revenues for a total annualized revenue loss of \$2.0 million.

The revenue loss from the sales tax exemption for replacement engines, parts, and equipment used in the repair or maintenance of rotary wing aircraft of more than 10,000 pounds certified takeoff weight is estimated to be \$.2 million in General Revenue.

The revenue loss from the proposed sales tax exemption for the sale or lease of an aircraft of more than 15,000 pounds maximum takeoff weight for use by a common carrier is estimated to be \$2.7 million in General Revenue and \$.4 million in local revenue for a total annualized revenue loss of \$3.1 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
	\$	\$	\$	\$	\$	\$	\$	\$
Aircraft > 15,000 lbs.								
1. Labor, engine & parts	(1.7)	(1.8)	(*)	(*)	(0.2)	(0.2)	(1.9)	(2.0)
2. Rotary Wing	(0.2)	(0.2)	(*)	(*)	(*)	(*)	(0.2)	(0.2)
3. Sales & Lease	<u>(2.5)</u>	<u>(2.7)</u>	<u>(*)</u>	<u>(*)</u>	<u>(0.3)</u>	<u>(0.4)</u>	<u>(2.8)</u>	<u>(3.1)</u>
Total	(4.4)	(4.7)	(*)	(*)	(0.5)	(0.6)	(4.9)	(5.3)

* Insignificant
** Indeterminate

B. Private Sector Impact:

The sales tax exemption for labor, replacement engines, parts, and equipment used in the repair or maintenance of certain aircraft may promote the expansion of airline repair services in Florida.

The sales tax exemption on the sale or lease of aircraft by certain common carriers may provide tax relief to common carriers or to purchasers or lessors of commercial aircraft for use by common carriers in Florida and may promote the establishment of new and expanding airline hub operations in Florida.

C. Government Sector Impact:

The Department of Revenue does not anticipate the need for additional resources to administer this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
