

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 2856

INTRODUCER: Commerce Committee and Senator Wise

SUBJECT: Tax Exemptions/Aircraft

DATE: April 16, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Fav/CS
2.			FT	
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 2856 creates an additional exemption from sales and use taxes on certain aircraft that enter Florida for fewer than 21 days during the 6 months after purchase. Eligible aircraft are those for which no Florida sales tax was paid when they were purchased, and which were purchased by non-Floridians.

The aircraft owners must prove to the state Department of Revenue (DOR) that the plane was temporarily in Florida with certain types of documentation, such as invoices for fuel, tie-downs, or hangar charges issued by out-of-state vendors or suppliers, or by similar documentation.

This new exemption is allowed in addition to the existing aircraft tax-exemption provision provisions of s. 212.06(1)(a), F.S., which provides an exemption from state and local sales taxes on the purchase of an aircraft if the aircraft leaves Florida within 10 days of its purchase, or within 20 days after the completion of repairs or alterations.

CS/SB 2856 amends s. 212.08(7) of the Florida Statutes.

II. Present Situation:

Aviation-related State Tax Exemptions

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's 6-percent sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. The statutes currently provide more than 200 different exemptions.

Several aviation-related exemptions have been enacted by the Legislature over the years. Some exemptions are based on the type of aircraft, while others are based on whether, or how long, the plane stays in Florida. Currently exempt from sales and use taxes are:

- Aircraft repair and maintenance labor charges – For qualified aircraft, as defined in s. 212.02(33), F.S., for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.¹
- Equipment used in aircraft repair and maintenance – For qualified aircraft, for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.²
- Aircraft sales and leases – For qualified aircraft and for aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations.³
- Aircraft purchased in Florida, but which will not be used or stored in this state. Such aircraft may receive either a full or partial sales tax exemption, depending on the circumstances.

The fourth category listed above comprises exemptions in three different sections of ch. 212, F.S.:

- Section 212.05, F.S., provides exemptions from the sales and use tax on the purchase of an aircraft if the purchaser removes the aircraft from the state either within 10 days after the date of purchase, or when the aircraft is repaired or altered, within 20 days after completion of the repairs or alterations. The aircraft purchaser must provide proof to DOR that the aircraft has been removed from the state within the applicable time period in order to maintain the tax-exempt status. Any purchaser who fails to remove the aircraft within 10 days of purchase or 20 days after repairs, returns to Florida within 6 months after purchase, or does not submit correct information to the DOR must pay the use tax on the cost of the aircraft and a non-waivable penalty equal to the tax payable. Any purchaser who submits fraudulent information to avoid tax liability is subject to payment of the tax due, a mandatory penalty of 200 percent of the tax, and a fine of up to \$5,000 and imprisonment for up to five years.
- Section 212.06, F.S., exempts from the sales and use tax tangible property (such as aircraft) used in another state, territory of the United States, or in the District of Columbia for 6 months or longer before being brought into Florida, because it is presumed that the item was not purchased for use here. The section also provides that aircraft exported

¹ Section 212.08(7)(ee), F.S.

² Section 212.08(7)(rr), F.S.

³ Section 212.08(7)(ss), F.S.

- outside of the continental U.S. is tax-exempt when the purchaser provides a validated U.S. customs declaration and the canceled U.S. registry of the aircraft.
- Section 212.08(11), F.S., provides that the sales tax imposed on an aircraft dealer is equal to the amount of sales tax that would be imposed by the state where the aircraft will be domiciled, up to the 6 percent imposed by Florida. This partial exemption applies only if the purchaser is either: a resident of another state who will not use the aircraft in Florida; a purchaser who is a resident of another state and uses the aircraft in interstate or foreign commerce; or if the purchaser is a resident of a foreign country.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., to exempt from state and local sales taxes certain aircraft that are temporarily in Florida. To be eligible, the aircraft must be owned by a non-resident and enters and stays in Florida for fewer than 21 days during the 6-month period following its purchase.

The section also provides that the temporary use of the aircraft in Florida, and its subsequent removal from the state, may be proven by invoices for fuel, tie-downs, or hangar charges issued by out-of-state vendors or suppliers, or by similar documentation that clearly and specifically identifies the aircraft.

Finally, the section specifies that this new exemption is in addition to an existing, aircraft-related exemption in s. 212.05(1), F.S. Under this provision, the purchaser of an aircraft that is removed from Florida either within 10 days of purchase, or within 20 days of repairs or alterations, does not have to pay state and local sales taxes on the plane.

Section 2 provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

On March 28, 2008, the Revenue Estimating Conference (REC) reconsidered an earlier tax estimate of the original Senate bill and its House companion, based on an analysis of

proposed amendments. The REC developed a high and a middle estimate, depending on which amendments were adopted.

In its current form, CS/SB 2856 has an estimated state fiscal cash impact of \$900,000 in FY 08-09 and in FY 09-10.

B. Private Sector Impact:

Pilots who land their planes to refuel in Florida before continuing a long journey, or who attend events such as Lakeland's week-long "Sun n' Fun Fly-In" each year, likely will benefit from the sales tax exemption, if they currently are required to pay sales taxes based on the age and type of their aircraft.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

DOR has requested that the effective date for CS/SB 2856 be changed from July 1, 2008, to January 1, 2009, to give the agency time to notify aircraft owners who will be affected by the law change and to print new forms.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce Committee April 15, 2008:

The CS clarifies:

- To be eligible for the sales tax exemption, a non-resident-owned aircraft can be in Florida fewer than 21 days within the first 60 days following the plane's purchase;
- Documentation must clearly and specifically identify the aircraft in question; and
- The exemption created in CS/SB 2856 is in addition to an existing sales-tax exemption for aircraft in s. 2123.05(1), F.S.

B. Amendments:

None.