

### **Sales Tax**

Sales of aircraft within Texas are subject to state and local sales taxes. Taxes are based on the sales price, which does not include the value of any aircraft taken as a trade-in on the purchase.

Local sales tax rates vary throughout the state, from zero up to 2 percent. City and county taxes are based upon the location of the seller's place of business, while transit authority taxes are based upon the location where the customer takes delivery of the aircraft. More information on local taxes can be found on our Local Sales and Use Tax Web site at <http://www.window.state.tx.us/taxinfo/local/rateinfo.html>.

### **Use Tax**

Sales of aircraft outside of Texas are subject to state and local use taxes if an aircraft is brought into Texas within one year of its purchase. Local use tax rates also vary throughout the state, but are based upon the location where the aircraft is hangared. The owner may pay use tax on a regular sales tax report form, by contacting one of the Comptroller's local field offices, or by calling 1-800-688-6829, extension 5-9884.

Some factors to be considered in determining whether an aircraft is hangared in Texas include:

- the owner owns or leases hangar space in Texas;
- the aircraft is subject to local property taxes; and
- the owner states to the Federal Aviation Administration, an insurer, or any taxing authority that the aircraft is stored in Texas.

No use tax is due if the aircraft is hangared outside Texas and more than 50 percent of its use is outside the state. To determine percentage of use within the state, the Comptroller will consider flight time in Texas, including the portion of interstate flights in Texas airspace as shown by applicable flight, engine, passenger, airframe, and other logs and records.

### **Charters**

Chartering an aircraft - leasing or renting an aircraft with pilot or crew - is a non-taxable transportation service. Charters are not subject to sales or use taxes, even if the charge for the aircraft is stated separately from other charges, so long as the pilot or crew remains under the supervision and control of the aircraft's owner. The company providing the charter service may owe sales or use tax, however, when purchasing aircraft used to provide the non-taxable transportation service.

### **Fractional Ownership**

The purchase of an interest in an aircraft may be taxable.

No tax is due if the interest is part of a fractional aircraft program where the sponsor/seller places several aircraft in a lease exchange pool under the control of a management company. Such interest is considered a non-taxable transportation service since the management company provides all flight crews, maintenance, and administrative services required to operate the aircraft. The sponsor/seller cannot purchase aircraft used in the program tax-free for resale.

Tax is due, however, if the co-owners either fly the aircraft themselves or directly hire and fire the flight crew.

### **Exemptions**

No sales and use tax is due if the aircraft is purchased, leased, or rented by a:

- **licensed and certificated carrier.** The carrier must be authorized by the Federal Aviation Administration (FAA) to operate as a common or contract carrier, and use the aircraft exclusively to transport persons or property for hire in the regular course of business.

- **flight school, flight instructor, or student.** The school, instructor, or student must use the aircraft exclusively for FAA-approved flight instruction.
- **person for use and registration in another state or nation before any use in Texas.** At the time of sale, both the seller and the purchaser must sign an exemption certificate, form 01-907, available online at <http://window.state.tx.us/taxinfo/taxforms/01-forms.html>. The completed certificate should be sent to:

Texas Comptroller  
 Business Activity Research Team  
 Post Office Box 13003  
 Austin, Texas 78701-3003

Training in the aircraft in Texas and then flying the aircraft out of state does not constitute use in Texas.

- **foreign government.**

A person who claims an exemption should issue a completed exemption certificate to the seller to document that no tax is due on the sale.

An owner renting or leasing aircraft must have a sales tax permit in order to purchase the aircraft tax-free for resale. If the owner rents or leases an aircraft to a lessee who claims an exemption, the owner must accept and keep a completed exemption certificate to document the fact that no tax is due on the lease or rental.

A person who claims an exemption and then uses an aircraft for a non-exempt purpose must remit use tax based on the fair market rental value for the period of non-exempt use. The person may choose to cease paying tax on the fair market rental value at any time and instead pay the sales tax on the original purchase price, without credit for any taxes previously paid.

#### **Exemption as Occasional Sale**

The purchase of an aircraft may also be exempt if it is purchased from a non-permitted seller who makes an occasional sale. An "occasional sale" is one made by a person who does not habitually engage in the business of selling taxable items and who sells no more than two taxable items during a twelve-month period. To document the exemption, a purchaser should ask the seller to provide a signed statement that the transaction qualifies for the occasional sale exemption as defined in Texas Administrative Code Rule 3.316 (b). The purchaser must retain the statement in their records for four years following the date of the purchase.

Occasional sale exemptions do not apply to leases and rentals, and cannot be made by sellers who have sales tax permits in Texas or similar licenses or permits in any other state. See Texas Administrative Code Rule 3.316 (b).

A person who holds a sales tax permit must pay use tax on an aircraft purchased from a person who does not hold a sales tax permit and who has sold two or fewer taxable items during the twelve-month period immediately prior to the sale.

#### **Exemption as an Identifiable Segment of a Business**

The purchase of an aircraft may be exempt from sales or use tax if prior to the sale of the aircraft the income and expenses attributable to the aircraft could be separately established from the books of account or record. "Income" is revenue generated by the aircraft, and "expenses" means those operating expenses incurred in providing the aircraft rental or service.

The purchaser and seller must keep records to document such an exemption.

#### **Maintenance and Repair**

Labor charges to repair, remodel, maintain, or restore an aircraft are not taxable. For example, a labor charge to replace a tire or avionics on an aircraft is not subject to sales tax.

When a repairman bills a single charge for parts and labor, the repairman should not collect sales tax from the customer. The repairman should pay tax, however, when buying the parts from his supplier.

If the invoice separates charges for labor and parts, the repairman should collect tax on the parts. There is no sales tax on the labor charges. When buying parts from its supplier, the repairman may give a resale certificate in lieu of paying sales tax.

A repairman who performs services under an extended warranty must collect sales tax on charges for any parts. No sales tax is due on parts furnished by a manufacturer for repairs under a manufacturer's warranty.

Tax is due on consumable supplies, tools, and equipment (not incorporated into the aircraft) used in repairs for customers other than certificated carriers or flight schools. The person making repairs should pay tax to its supplier and may not collect tax from customers on any charges for these items.

No sales tax is due on parts for aircraft exempt from sales tax. (See Exemptions, above.) In other words, there is no tax due on parts, machinery, tools, supplies or equipment for aircraft used by licensed carriers or flight schools exclusively for exempt purposes. The exemption covers such things as air cargo containers that are secured or attached to the aircraft while in flight, radar equipment or other electronic devices used for navigational or communications purposes, food carts, smoke detectors, fire extinguishers, seats, battery chargers, and diagnostic equipment. The exemption does not apply, however, to machinery, tools, and equipment that support the overall aviation operation, such as baggage loading and handling, garbage and other waste disposal, and booking reservations.

#### **Repair of Jet Turbines**

No tax is due on machinery, equipment, or replacement parts and accessories with a useful life of more than six months used in the overhaul or repair of jet turbine aircraft engines. The exemption covers aluminum oxide, nitric acid, and sodium cyanide used in electrochemical plating, as well as electricity or natural gas used in the off-wing processing, overhaul or repair of a jet turbine engine or its parts for a licensed and certificated carrier.