

By: West  
(Paddie)

S.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

relating to the sales and use taxation of aircraft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle E, Title 2, Tax Code, is amended by adding Chapter 163 to read as follows:

CHAPTER 163. SALES AND USE TAXATION OF AIRCRAFT

Sec. 163.001. CERTIFICATED OR LICENSED CARRIERS. (a) For purposes of Chapter 151, "certificated or licensed carrier" means a person authorized by the Federal Aviation Administration to operate an aircraft to transport persons or property in compliance with the certification and operations specifications requirements of 14 C.F.R. Part 121, 125, 133, or 135.

(b) Section 151.328(a)(1) applies with respect to a certificated carrier's acquisition of an aircraft, without regard to whether the certificated carrier acquired the aircraft by purchase, lease, or rental.

Sec. 163.002. RESALE OF AIRCRAFT. (a) For purposes of Section 151.006, "sale for resale" includes the sale of an aircraft to a purchaser who acquires the aircraft for the purpose of leasing, renting, or reselling the aircraft to another person in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the form or condition in which it is acquired.

(b) The leasing or renting of an aircraft under Subsection

1 (a) includes the transfer of operational control of the aircraft  
2 from a lessor to one or more lessees pursuant to one or more written  
3 agreements in exchange for consideration, regardless of whether the  
4 consideration is in the form of a cash payment and regardless of  
5 whether the consideration is fixed, variable, or periodic. For  
6 purposes of this subsection, "operational control" has the meaning  
7 assigned by the Federal Aviation Regulations and includes the  
8 exercise of authority over initiating, conducting, or terminating a  
9 flight.

10 (c) Subsection (a) applies to a purchase of an aircraft  
11 regardless of whether the purchaser, in addition to leasing,  
12 renting, or reselling the aircraft to another person, also uses the  
13 aircraft if, for a period of one year beginning on the date the  
14 purchaser purchases the aircraft, more than 50 percent of the  
15 aircraft's departures are made under the operational control of one  
16 or more lessees pursuant to one or more written agreements as  
17 described by Subsection (b).

18 (d) Section 151.154(a) does not apply to a purchaser of an  
19 aircraft.

20 Sec. 163.003. USE OF AIRCRAFT. For purposes of the tax  
21 imposed under Subchapter D, Chapter 151, an aircraft that is  
22 brought into this state for the sole purpose of being completed,  
23 repaired, remodeled, or restored is not brought into the state for  
24 storage, use, or other consumption in this state.

25 Sec. 163.004. NO PRESUMPTION OF USE. For purposes of the  
26 tax imposed under Subchapter D, Chapter 151, there is no  
27 presumption that an aircraft was purchased for storage, use, or

1 consumption in this state if the person bringing the aircraft into  
2 this state did not acquire the aircraft directly from a seller by  
3 means of a purchase, as that term is defined by Section 151.005.

4 Sec. 163.005. NO IMPOSITION OF TAX FOLLOWING OUT-OF-STATE  
5 USE. (a) No tax is imposed under Subchapter D, Chapter 151, with  
6 respect to an aircraft that is brought into this state if the  
7 aircraft is predominantly used outside of this state for a period of  
8 one year beginning on the later of:

9 (1) the date the aircraft was acquired, whether by  
10 purchase, lease, rental, or otherwise, by the person bringing the  
11 aircraft into this state; or

12 (2) the date the aircraft:

13 (A) was substantially complete in the condition  
14 for its intended use; and

15 (B) conducted its first flight for the carriage  
16 of persons or property.

17 (b) For purposes of this section, an aircraft is  
18 predominantly used outside of this state if more than 50 percent of  
19 the aircraft's departures are from locations outside of this state.

20 Sec. 163.006. CERTAIN TRANSACTIONS BETWEEN RELATED  
21 PERSONS. (a) For purposes of the tax imposed under Chapter 151, a  
22 sale, lease, rental, or other transaction between a person and a  
23 member, owner, or affiliate of the person involving an aircraft  
24 that would not be subject to tax or would qualify for an exemption  
25 from tax if the transaction were between unrelated persons remains  
26 not subject to tax or exempt from tax to the same extent as if the  
27 transaction were between unrelated persons.

1       (b) No tax is imposed under Chapter 151 with respect to the  
2 use of an aircraft by an owner or member of the purchaser of the  
3 aircraft, by an entity that is an affiliate of the purchaser of the  
4 aircraft, or by an owner or member of an affiliate of the purchaser  
5 of the aircraft if:

6           (1) with respect to the purchase of the aircraft, the  
7 purchaser paid the tax imposed under Chapter 151; or

8           (2) the purchaser's purchase of the aircraft was  
9 exempt from the tax imposed under Chapter 151, other than under:

10                   (A) Section 151.302; or

11                   (B) Section 151.304, unless the purchase would  
12 have been exempt from tax under Section 151.304 if the owner,  
13 member, affiliate, or owner or member of the affiliate who is using  
14 the aircraft had been the purchaser.

15       (c) For purposes of this section, the term "affiliate" means  
16 an entity that would be classified as a member of the purchaser's  
17 affiliated group under Section 171.0001.

18       Sec. 163.007. AIRCRAFT OPERATED UNDER FRACTIONAL OWNERSHIP  
19 PROGRAMS. No tax is imposed under Chapter 151 with respect to the  
20 purchase, sale, or use of an aircraft that is operated pursuant to  
21 14 C.F.R. Part 91, Subpart K.

22       Sec. 163.008. NO IMPOSITION OF TAX UNDER THIS CHAPTER.  
23 Nothing in this chapter shall be construed to impose a tax.

24       Sec. 163.009. CONFLICTS WITH OTHER LAW. This chapter  
25 controls over Chapter 151 to the extent of any conflict.

26       SECTION 2. This Act takes effect September 1, 2015.