

By: West

S.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

relating to the tax on the sale and use of aircraft; imposing a tax; providing civil and criminal penalties.

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

SECTION 1. Section 151.308(a), Tax Code, is amended to read as follows:

(a) The following are exempted from the taxes imposed by this chapter:

- (1) oil as taxed by Chapter 202;
- (2) sulphur as taxed by Chapter 203;
- (3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162;
- (4) cement as taxed by Chapter 181;
- (5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001;
- (6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183;
- (7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent

1 or employee is acting as the agent of the members of the club and if  
2 the beverages are to be served on the premises of the club;

3 (8) oil well service as taxed by Subchapter E, Chapter  
4 191; ~~and~~

5 (9) insurance premiums subject to gross premiums  
6 taxes; and

7 (10) aircraft as taxed by Chapter 163.

8 SECTION 2. Section 151.3111(b), Tax Code, is amended to  
9 read as follows:

10 (b) Subsection (a) does not apply to the performance of a  
11 service on:

12 (1) tangible personal property that would be exempted  
13 solely because of the exempt status of the seller or the property;

14 (2) tangible personal property that is exempted solely  
15 because of the application of Section 151.303, 151.304, or 151.306;

16 (3) motor vehicles, trailers, or semitrailers as  
17 defined, taxed, or exempted by Chapter 152; ~~or~~

18 (4) a taxable boat or motor as defined by Section  
19 160.001; i

20 (5) aircraft as defined, taxed, or exempted under  
21 Chapter 163; or ~~[-]~~

22 (6) tangible ~~[Tangible]~~ personal property exempt  
23 under Section 151.326.

24 SECTION 3. Sections 151.328(a), (b), (d), and (e), Tax  
25 Code, are amended to read as follows:

26 (a) In this section, "aircraft" and "certificated carrier"  
27 have the meanings assigned by Section 163.001 ~~[Aircraft are~~

1 ~~exempted from the taxes imposed by this chapter if:~~

2           ~~[(1) sold to a person using the aircraft as a~~  
3 ~~certificated or licensed carrier of persons or property;~~

4           ~~[(2) sold to a person who:~~

5                   ~~[(A) has a sales tax permit issued under this~~  
6 ~~chapter; and~~

7                   ~~[(B) uses the aircraft for the purpose of~~  
8 ~~providing flight instruction that is:~~

9                           ~~[(i) recognized by the Federal Aviation~~  
10 ~~Administration;~~

11                           ~~[(ii) under the direct or general~~  
12 ~~supervision of a flight instructor certified by the Federal~~  
13 ~~Aviation Administration; and~~

14                           ~~[(iii) designed to lead to a pilot~~  
15 ~~certificate or rating issued by the Federal Aviation Administration~~  
16 ~~or otherwise required by a rule or regulation of the Federal~~  
17 ~~Aviation Administration;~~

18           ~~[(3) sold to a foreign government;~~

19           ~~[(4) sold in this state to a person for use and~~  
20 ~~registration in another state or nation before any use in this state~~  
21 ~~other than flight training in the aircraft and the transportation~~  
22 ~~of the aircraft out of this state; or~~

23           ~~[(5) sold in this state to a person for use exclusively~~  
24 ~~in connection with an agricultural use, as defined by Section~~  
25 ~~[23.51](#), and used for:~~

26                   ~~[(A) predator control;~~

27                   ~~[(B) wildlife or livestock capture;~~

1                   ~~[(C) wildlife or livestock surveys,~~  
2                   ~~[(D) census counts of wildlife or livestock,~~  
3                   ~~[(E) animal or plant health inspection services,~~  
4 ~~or~~  
5                   ~~[(F) crop dusting, pollination, or seeding].~~

6           (b) Repair, remodeling, and maintenance services to  
7 aircraft, including an engine or other component part of aircraft,  
8 that are exempted from tax under Section 163.201, 163.202, 163.206  
9 or 163.207 ~~[operated by a person described by Subsection (a)(1),~~  
10 ~~(a)(2), or (a)(5)]~~ are exempted from the taxes imposed by this  
11 chapter.

12           (d) Machinery, tools, supplies, and equipment used or  
13 consumed exclusively in the repair, remodeling, or maintenance of  
14 aircraft, aircraft engines, or aircraft component parts by or on  
15 behalf of a certificated carrier or a person described by Section  
16 163.202 ~~[Subsection (a)(1) or (a)(2)]~~ are exempted from the taxes  
17 imposed by this chapter.

18           (e) Tangible personal property that is permanently affixed  
19 or attached as a component part of an aircraft owned or operated by  
20 a certificated carrier or a person described by Section 163.202  
21 ~~[Subsection (a)(1) or (a)(2)]~~, or that is necessary for the normal  
22 operations of the aircraft and is pumped, poured, or otherwise  
23 placed in the aircraft, is exempted from the taxes imposed by this  
24 chapter.

25           SECTION 4. Subtitle E, Title 2, Tax Code, is amended by  
26 adding Chapter 163 to read as follows:

1           CHAPTER 163. TAXES ON SALE AND USE OF AIRCRAFT

2                   SUBCHAPTER A. GENERAL PROVISIONS

3           Sec. 163.001. DEFINITIONS. In this chapter:

4           (1) "Affiliate" means an entity that would be  
5 classified as a member of an affiliated group under 26 U.S.C.  
6 Section 1504.

7           (2) "Agricultural use" has the meaning assigned by  
8 Section 23.51.

9           (3) "Aircraft" does not include a balloon, glider,  
10 rocket, missile, or unmanned aircraft, but does include:

11                   (A) a fixed-wing, heavier-than-air craft that is  
12 driven by propeller or jet and is supported by the dynamic reaction  
13 of the air against its wings;

14                   (B) a helicopter; and

15                   (C) an airplane flight simulation training  
16 device approved by the Federal Aviation Administration under  
17 Appendices A and B, 14 C.F.R. Part 60.

18           (4) "Aircraft dealer" means a person engaged in the  
19 business of selling, exchanging, or acting as a broker of aircraft  
20 who holds a Dealer's Aircraft Registration Certificate issued by  
21 the Federal Aviation Administration under 14 C.F.R. Part 47.

22           (5) "Certificated carrier" means a person authorized  
23 by the Federal Aviation Administration to operate an aircraft to  
24 transport persons or property for hire in compliance with the  
25 certification and operation specification requirements of 14  
26 C.F.R. Parts 121, 125, and 135. A letter of authorization,  
27 certificate of inspection, or airworthiness certificate is not

1 evidence of authorization by the Federal Aviation Administration to  
2 operate as a certificated carrier.

3 (6) "Flight time" means the period of time beginning  
4 when an aircraft moves under its own power for the purpose of flight  
5 and ending when the aircraft comes to rest after landing.

6 (7) "In this state" means within the exterior limits  
7 of Texas and includes all territory within these limits ceded to or  
8 owned by the United States.

9 (8) "Sale for resale" means the sale of an aircraft to  
10 an aircraft dealer for the sole purpose of reselling it in the  
11 United States in the normal course of business.

12 (9) "Seller" means any person who makes a sale of an  
13 aircraft the receipts from the sale of which are included in the  
14 measure of the sales or use tax imposed by this chapter. The term  
15 includes:

16 (A) a person in the business of making sales at  
17 auction of aircraft owned by the person or another person;

18 (B) a person regarded by the comptroller as a  
19 retailer or seller under Section 151.024; and

20 (C) a person who, under an agreement with another  
21 person who has title to or another ownership interest in an  
22 aircraft:

23 (i) is given possession of the aircraft;  
24 and

25 (ii) is authorized to sell the aircraft  
26 without additional action by the person who has title to or another  
27 ownership interest in the aircraft.

1       Sec. 163.002. SALE. (a) "Sale" means the transfer of  
2 title to or possession of an aircraft for consideration.

3       (b) "Sale" includes:

4           (1) an installment or credit sale;

5           (2) an exchange of property for property or money;

6           (3) an exchange in which property is transferred but  
7 the seller retains title to the property as security for payment of  
8 the purchase price; and

9           (4) any other closed transaction described by  
10 Subsection (a).

11       (c) "Sale" does not include a rental or an operating lease.

12       Sec. 163.003. TOTAL CONSIDERATION. (a) "Total  
13 consideration" means the amount paid or to be paid for an aircraft,  
14 including accessories and component parts attached on or before the  
15 sale, without deducting:

16           (1) the cost of the aircraft;

17           (2) the cost of material, labor, service, interest,  
18 loss, or any other expense;

19           (3) the cost of transportation and delivery of the  
20 aircraft; or

21           (4) the amount of any manufacturers' or importers'  
22 excise tax imposed on the aircraft by the United States.

23       (b) "Total consideration" does not include an amount  
24 separately stated on the bill or contract for:

25           (1) a cash discount or manufacturer's rebate;

26           (2) the amount charged for an aircraft returned by a  
27 purchaser if the total amount charged is refunded by cash or credit;

1           (3) a financing, carrying, or service charge or  
2 interest on credit extended on the aircraft sold under a  
3 conditional sale or other deferred payment contract; or

4           (4) the value of an aircraft taken by an aircraft  
5 dealer as all or part of the consideration for sale of the item.

6           Sec. 163.004. USE. (a) Except as provided by Subsections  
7 (b) and (c), "use" means the exercise of a right or power over an  
8 aircraft incidental to ownership of the aircraft.

9           (b) "Use" includes:

10           (1) leasing or renting an aircraft to another person;

11           (2) transferring possession or control of an aircraft  
12 to another person through a management agreement or other  
13 agreement; and

14           (3) storing, parking, housing, hangaring, or  
15 otherwise attaching or tying down an aircraft on an airport apron,  
16 parking ramp, or other location used to secure aircraft.

17           (c) "Use" does not include:

18           (1) the storage, retention, demonstration, or display  
19 of an aircraft held exclusively for sale by an aircraft dealer; or

20           (2) the sale of an aircraft in the normal course of  
21 business.

22           (d) For purposes of this chapter, an aircraft is not used  
23 during any period in which the aircraft is being manufactured,  
24 completed, repaired, remodeled, or restored.

25           Sec. 163.005. DUTIES OF COMPTROLLER. The comptroller shall  
26 collect the taxes imposed by this subchapter as provided by Chapter  
27 111.



1       Sec. 163.006. RULES. The comptroller may adopt any rules to  
2 implement this chapter.

3       Sec. 163.007. APPLICABILITY OF OTHER LAW. (a) This  
4 chapter controls over Chapter 151 to the extent of any conflict.

5       (b) A reference in this chapter to a provision of federal  
6 law means that law as it existed on January 1, 2015.

7       SUBCHAPTER B. IMPOSITION AND COLLECTION OF SALES TAX

8       Sec. 163.021. SALES TAX IMPOSED. (a) A tax is imposed on  
9 each sale of an aircraft in this state.

10       (b) The rate of the tax is 6.25 percent of the total  
11 consideration.

12       Sec. 163.022. COLLECTION BY SELLER. A seller who makes a  
13 sale subject to the tax imposed by this chapter shall add the amount  
14 of the tax to the sales price, and when the amount of the tax is  
15 added:

16               (1) it becomes part of the sales price;

17               (2) it is a debt of the purchaser to the seller until  
18 paid; and

19               (3) if unpaid, it is recoverable at law in the same  
20 manner as the original sales price.

21       Sec. 163.023. GROSS RECEIPTS PRESUMED SUBJECT TO TAX.

22       (a) All gross receipts of a seller are presumed to be subject to  
23 the sales tax under this subchapter unless the seller accepts a  
24 properly completed resale or exemption certificate as provided by  
25 this section.

26       (b) A sale is exempt if the seller receives in good faith  
27 from an aircraft dealer a resale certificate stating that the

1 aircraft is acquired for the purpose of selling the aircraft in the  
2 normal course of business.

3 (c) A sale is exempt if the seller receives in good faith  
4 from a purchaser an exemption certificate that states the  
5 qualifications for an exemption under Subchapter F.

6 (d) A seller should have possession of a properly completed  
7 resale or exemption certificate at the time the sale occurs. The  
8 comptroller shall disallow a deduction from the seller's gross  
9 receipts if the seller does not deliver to the comptroller a resale  
10 or exemption certificate on which the deduction is based not later  
11 than the 60th day after the date the comptroller gives the seller  
12 written notice requiring the seller to deliver the certificate. If  
13 the seller delivers the certificate to the comptroller before the  
14 60th day after the date the comptroller gives written notice, the  
15 comptroller may verify the reason or basis for the exemption  
16 claimed in the certificate before allowing a deduction from the  
17 seller's gross receipts based on the certificate.

18 Sec. 163.024. PROCEEDINGS AGAINST PURCHASER. The  
19 comptroller may proceed against the purchaser for the amount of a  
20 tax imposed by this subchapter but not paid by the purchaser.

21 SUBCHAPTER C. IMPOSITION AND COLLECTION OF USE TAX

22 Sec. 163.051. USE TAX ON AIRCRAFT USED IN THIS STATE.

23 (a) Except as provided by Subsection (b), a use tax is imposed on  
24 the use in this state of an aircraft brought into this state for use  
25 and regularly based in this state.

26 (b) The tax does not apply to an aircraft brought into this  
27 state by a person who has used the aircraft outside of this state

1 for a period of at least one year if during that year:

2 (1) the aircraft was not regularly based in this  
3 state; and

4 (2) more than 50 percent of this aircraft's flight time  
5 was outside of this state.

6 (c) The rate of the tax is 6.25 percent of the total  
7 consideration paid or, if the aircraft was not purchased by the  
8 person using the aircraft in this state, of the fair market value of  
9 the aircraft.

10 (d) A person who purchases an aircraft outside of this state  
11 and transfers possession of the aircraft to another person for use  
12 in this state through an operating lease, management agreement, or  
13 other agreement:

14 (1) uses the aircraft in this state; and

15 (2) is subject to tax under this section.

16 Sec. 163.052. USE TAX ON AIRCRAFT BROUGHT BACK INTO THIS  
17 STATE. (a) Except as provided by Subsection (b), a use tax is  
18 imposed on the purchaser of an aircraft that was purchased tax-free  
19 under Section 163.205 and that is brought back into this state for  
20 use in this state.

21 (b) The tax does not apply to an aircraft brought into this  
22 state by a person who used the aircraft outside of this state for a  
23 period of at least one year if during that year:

24 (1) the aircraft was not regularly based in this  
25 state; and

26 (2) more than 50 percent of the aircraft's flight time  
27 was outside of this state.

1       (c) The tax is imposed at the time the aircraft is first used  
2 in this state.

3       (d) The rate of the tax is 6.25 percent of the total  
4 consideration.

5       (e) A person is entitled to a credit against the tax for any  
6 sales or use tax paid to another state before the aircraft was  
7 brought back into this state for use.

8       Sec. 163.053. REGULARLY BASED IN THIS STATE. For purposes  
9 of Sections 163.051 and 163.052, an aircraft is regularly based in  
10 this state if:

11           (1) the owner of the aircraft registers the aircraft  
12 with the Federal Aviation Administration or another taxing  
13 authority using an address in this state;

14           (2) the aircraft is used more in this state than in any  
15 other state; or

16           (3) the aircraft is used in this state more than 90  
17 days in a calendar year.

18       Sec. 163.054. USER LIABLE FOR TAX. (a) The use tax imposed  
19 under this subchapter is an obligation of and shall be paid by the  
20 person who uses the aircraft in this state.

21       (b) The purchaser and the person who brings an aircraft into  
22 this state for use are jointly and severally liable for the use tax  
23 imposed under this subchapter if the person who brings the aircraft  
24 into this state for use:

25           (1) is an affiliate of the purchaser; or

26           (2) directly or indirectly through one or more  
27 intermediaries controls, is controlled by, or is under common

1 control with the purchaser.

2 (c) Except as provided by Subsection (d), liability for the  
3 use tax imposed under this subchapter continues until the tax is  
4 paid to this state.

5 (d) A person is not further liable for the use tax imposed  
6 under this subchapter if the person pays the tax to a seller engaged  
7 in business in this state, as provided by Section 151.107, or to  
8 another person authorized by the comptroller to collect the tax and  
9 the person receives from the seller or that other person a  
10 purchaser's receipt issued in the form and manner prescribed by the  
11 comptroller.

12 Sec. 163.055. SELLER ENGAGED IN BUSINESS IN THIS STATE. A  
13 seller engaged in business in this state, as provided by Section  
14 151.107, who makes a sale of an aircraft for use in this state shall  
15 collect the use tax due from the purchaser and give the purchaser a  
16 receipt for the payment.

17 SUBCHAPTER D. RESALE AND EXEMPTION CERTIFICATES

18 Sec. 163.101. RESALE CERTIFICATE. An aircraft dealer may  
19 give a resale certificate for the acquisition of an aircraft if the  
20 aircraft dealer intends to sell the aircraft in the normal course of  
21 business.

22 Sec. 163.102. RESALE CERTIFICATE: FORM. A resale  
23 certificate must:

24 (1) be signed by the aircraft dealer or contain an  
25 electronic form of the aircraft dealer's signature authorized by  
26 the comptroller and contain the aircraft dealer's name and address;

27 (2) state the aircraft dealer's tax permit number or

1 that the aircraft dealer's application for a tax permit is pending  
2 before the comptroller; and

3 (3) identify the aircraft purchased by means of the  
4 aircraft's serial number and Federal Aviation Administration  
5 registry number.

6 Sec. 163.103. RESALE CERTIFICATE: LIABILITY OF PURCHASER.

7 If an aircraft dealer who gives a resale certificate for an aircraft  
8 subsequently uses the aircraft, the aircraft dealer is liable for  
9 payment of the sales tax on the original purchase price of the  
10 aircraft.

11 Sec. 163.104. EXEMPTION CERTIFICATE: FORM. An exemption  
12 certificate must:

13 (1) be signed by the purchaser or contain an  
14 electronic form of the purchaser's signature authorized by the  
15 comptroller and contain the purchaser's name and address;

16 (2) state the reason the purchase is exempt from tax;

17 (3) if the purchase is exempted under Section 163.201  
18 or 163.202, include the number of the certificate issued by the  
19 Federal Aviation Administration to the purchaser; and

20 (4) identify the aircraft purchased by means of the  
21 aircraft's serial number and Federal Aviation Administration  
22 registry number.

23 Sec. 163.105. EXEMPTION CERTIFICATE: LIABILITY OF

24 PURCHASER. A purchaser is liable for the payment of the sales tax  
25 on the original purchase price of an aircraft if the purchaser:

26 (1) certifies in writing to a seller that the aircraft  
27 will be used in a manner or for a purpose that qualifies for an

1 exemption from the taxes imposed by this chapter; and

2 (2) uses the aircraft in a manner or for a purpose  
3 other than the manner or purpose described by Subdivision (1).

4 SUBCHAPTER E. ADMINISTRATION AND RECORDS

5 Sec. 163.151. REGISTRATION OF SELLERS. (a) A seller who  
6 sells an aircraft in this state shall register with the comptroller  
7 in the same manner as is required of a seller under Subchapter F,  
8 Chapter 151.

9 (b) A seller who is engaged in business in this state, as  
10 provided by Section 151.107, and sells an aircraft for use in this  
11 state shall register with the comptroller in the same manner as is  
12 required of a seller under Subchapter F, Chapter 151.

13 Sec. 163.152. REPORTS, PAYMENTS, AND METHODS OF REPORTING.  
14 Except as inconsistent with this chapter and rules adopted under  
15 this chapter, the seller of an aircraft shall report and pay to the  
16 comptroller the tax imposed under this chapter on the seller's  
17 receipts from the sale of aircraft in the same manner as the sales  
18 and use tax is reported and paid by a retailer under Sections  
19 151.401, 151.402, 151.403, 151.405, 151.406, 151.407, 151.408,  
20 151.409, 151.423, 151.424, 151.425, and 151.426.

21 Sec. 163.153. RECORDS. (a) A seller or a person using an  
22 aircraft in this state shall keep the following records in the form  
23 the comptroller requires:

24 (1) records of all gross receipts, including  
25 documentation in the form of receipts, shipping manifests,  
26 invoices, and other pertinent papers, from each sale occurring  
27 during each reporting period;

1           (2) records in the form of receipts, shipping  
2 manifests, invoices, and other pertinent papers that substantiate  
3 each claimed deduction or exclusion authorized by law; and

4           (3) records in the form of sales receipts, invoices,  
5 or other equivalent records showing all sales and use tax, and any  
6 money represented to be sales and use tax, received or collect on  
7 each sale during each reporting period.

8           (b) A record required by Subsection (a) shall be kept for  
9 not less than four years from the date the record is made unless:

10           (1) the comptroller authorizes in writing destruction  
11 of the record at an earlier date; or

12           (2) Section 111.0041 requires the record to be kept  
13 for a longer period.

14           Sec. 163.154. NON-PERMITTED PURCHASERS. A person who is  
15 not registered with the comptroller under Subchapter F, Chapter  
16 151, shall report and pay sales or use tax that is due on the  
17 purchase of an aircraft in the manner the comptroller requires when  
18 the tax is not collected by the seller.

19                                   SUBCHAPTER F. EXEMPTIONS

20           Sec. 163.201. CERTIFICATED CARRIERS. An aircraft is  
21 exempted from the taxes imposed by this chapter if the aircraft is:

22                   (1) sold to a certificated carrier;

23                   (2) identified in the certificated carrier's  
24 operations specifications as required by 14 C.F.R. Part 119; and

25                   (3) flown exclusively under the operational control of  
26 the certificated carrier to transport persons or property for hire.

27           Sec. 163.202. FLIGHT SCHOOLS AND INSTRUCTORS. (a) An



1 aircraft is exempted from the taxes imposed by this chapter if the  
2 aircraft is sold to a person who:

3 (1) holds a flight school or flight instructor  
4 certificate issued by the Federal Aviation Administration; and

5 (2) uses the aircraft for the exclusive purpose of  
6 providing flight instruction that is:

7 (A) recognized by the Federal Aviation  
8 Administration;

9 (B) under the direct or general supervision of a  
10 flight instructor certified by the Federal Aviation Administrator;  
11 and

12 (C) designed to lead to a pilot certificate or  
13 rating issued by the Federal Aviation Administration or otherwise  
14 required by a rule or regulation of the Federal Aviation  
15 Administration.

16 (b) For purposes of this section, an aircraft is considered  
17 to be used for the exclusive purpose of providing flight  
18 instruction if 95 percent of the use of the aircraft is for a  
19 purpose described by Subsection (a)(2).

20 (c) A person who claims an exemption under this section  
21 shall maintain and make available to the comptroller flight records  
22 and passenger lists for all uses of the aircraft.

23 Sec. 163.203. GOVERNMENTAL ENTITIES. An aircraft is  
24 exempted from the taxes imposed by this chapter if the aircraft is  
25 sold to a person who is:

26 (1) a foreign government;

27 (2) a governmental entity listed in Section [151.309](#).

1       Sec. 163.204. RELIGIOUS, EDUCATION, AND PUBLIC SERVICE  
2 ORGANIZATIONS. (a) An aircraft sold to any of the following  
3 organizations is exempted from the taxes imposed by this chapter:

4           (1) an organization created for religious,  
5 educational, or charitable purposes if no part of the net earnings  
6 of the organization benefits a private shareholder or individual  
7 and the aircraft is related to the purpose of the organization;

8           (2) an organization qualifying for an exemption from  
9 federal income taxes under 26 U.S.C. Section 501(c)(3), (4), (8),  
10 (10), or (19), if the use of the aircraft relates to the purpose of  
11 the exempted organization and the aircraft is not used for the  
12 personal benefit of a private stockholder or individual;

13           (3) a nonprofit organization engaged exclusively in  
14 providing athletic competition among persons under 19 years old if  
15 no financial benefit goes to an individual or shareholder; or

16           (4) a company, department, or association organized  
17 for the purpose of answering fire alarms and extinguishing fires or  
18 for the purpose of answering fire alarms, extinguishing fires, and  
19 providing emergency medical services, the members of which receive  
20 no compensation or only nominal compensation for their services  
21 rendered, if the aircraft is used exclusively by the company,  
22 department, or association.

23       (b) For purposes of obtaining a refund of or claiming a  
24 credit for taxes paid under this chapter on the basis of an  
25 exemption under this section, an organization is not eligible for  
26 an exemption from the taxes imposed by this chapter before the  
27 earlier of:

1           (1) the date the organization applied for the  
2 exemption with the comptroller; or

3           (2) the date of assessment of the organization's tax  
4 liability by the comptroller as a result of an audit, as applicable.

5           Sec. 163.205. OUT-OF-STATE REGISTRATION AND USE. (a) An  
6 aircraft is exempted from the taxes imposed by this chapter if the  
7 aircraft is sold in this state to a person for use and registration  
8 in another state or nation before any use in this state other than  
9 flight training in the aircraft and the transportation of the  
10 aircraft out of this state.

11           (b) To qualify for the exemption, the person purchasing the  
12 aircraft must sign at the time of purchase an exemption certificate  
13 that:

14           (1) is designated as an exemption certificate for the  
15 purchase of an aircraft for out-of-state registration and use;

16           (2) is on a form designated by the comptroller;

17           (3) contains all of the information the comptroller  
18 requires;

19           (4) is signed by the purchaser at the time of purchase;

20 and

21           (5) provides that the purchaser, by signing the  
22 certificate, authorizes the comptroller to provide a copy of the  
23 certificate to the state or nation of intended use and  
24 registration.

25           (c) A person commits an offense if the person gives an  
26 exemption certificate required under Subsection (b) to a seller for  
27 an aircraft that the person knows, at the time of purchase, will be

1 used in a manner other than the manner expressed in the exemption  
2 certificate or the person gives an exemption certificate with  
3 fraudulent intent or intent to wrongfully evade payment of the  
4 taxes imposed under this chapter. An offense under this subsection  
5 is a misdemeanor punishable by a fine not to exceed \$500.

6 Sec. 163.206. AGRICULTURAL USE. (a) An aircraft is  
7 exempted from the taxes imposed by this chapter if the aircraft is  
8 sold to a person for use exclusively in connection with an  
9 agricultural use including:

- 10 (1) predator control;
- 11 (2) wildlife or livestock capture;
- 12 (3) wildlife or livestock surveys;
- 13 (4) census counts of wildlife or livestock;
- 14 (5) animal or plant health inspection services;

15 or

- 16 (6) crop dusting, pollination, or seeding.

17 (b) For purposes of this section, an aircraft is considered  
18 to be for use exclusively in connection with an agricultural use if  
19 95 percent of the use of the aircraft is for a purpose described by  
20 Subsection (a). Travel from an aircraft's home base of operations  
21 to a location to perform a service described by Subsection (a) does  
22 not disqualify an aircraft from the exemption under this section.

23 (c) A person who claims an exemption under this section  
24 shall maintain and make available to the comptroller flight records  
25 for all uses of the aircraft.

26 Sec. 163.207. SALE FOR RESALE. A sale for resale as defined  
27 by Section 163.001 is exempted from the taxes imposed by this

1 chapter.

2 Sec. 163.208. PREVIOUSLY TAXED AIRCRAFT: USE TAX EXEMPTION  
3 OR CREDIT. (a) The use of an aircraft the sale of which is subject  
4 to the sales tax imposed under Subchapter B is exempted from the use  
5 tax imposed under Subchapter C.

6 (b) A person is entitled to a credit against the use tax  
7 imposed under Subchapter C on an aircraft in an amount equal to the  
8 amount of any similar tax legally due and paid by the person to  
9 another state or any subdivision of another state on the sale,  
10 purchase, or use of the aircraft.

11 Sec. 163.209. TRANSFERS OF COMMON INTEREST IN AIRCRAFT. If  
12 an interest in an aircraft is sold, under the terms of a good faith,  
13 bona fide contractual relationship, to another person who either  
14 before or after the sale owned or owns a joint or undivided interest  
15 in the aircraft with the seller, and if all applicable taxes imposed  
16 by this chapter have previously been paid on the aircraft, the  
17 aircraft is exempted from the taxes imposed by this chapter.

18 Sec. 163.210. TRANSFERS AMONG AFFILIATES. The sale of an  
19 aircraft, including the contribution, distribution, or other  
20 transfer of the aircraft, to an affiliate of the seller is exempted  
21 from the taxes imposed by this chapter if the ultimate ownership of  
22 the aircraft remains unchanged and all applicable taxes imposed by  
23 this chapter were previously paid by the seller or an affiliate of  
24 the seller.

25 Sec. 163.211. EXEMPTIONS REQUIRED BY PREVAILING LAW. An  
26 aircraft that this state is prohibited from taxing by the law of the  
27 United States, the Constitution of the United States, or the Texas

1 Constitution is exempted from the taxes imposed by this chapter.

2 Sec. 163.212. SALES BY OR TO INDIAN TRIBES. An aircraft  
3 sold, leased, or rented to, or stored, used, or consumed by, a  
4 tribal council or a business owned by a tribal council of the  
5 Alabama-Coushatta Indian Tribe, the Tigua Indian Tribe, or the  
6 Texas Band of Kickapoo Indians is exempted from the taxes imposed by  
7 this chapter.

8 Sec. 163.213. OCCASIONAL SALES. (a) An occasional sale of  
9 an aircraft and the use of a single aircraft that is acquired by  
10 means of an occasional sale are exempted from the taxed imposed by  
11 this chapter.

12 (b) In this section, "occasional sale" means the sale of not  
13 more than one aircraft during a 12-month period by an individual if:

14 (1) the aircraft was originally bought by the  
15 individual or a member of the individual's immediate family solely  
16 for the personal use of the individual or the individual's family;

17 (2) all applicable taxes imposed on the original  
18 acquisition of the aircraft by the individual or the individual's  
19 family have been paid;

20 (3) the individual is not an aircraft dealer; and

21 (4) the total receipts from the sale of the aircraft do  
22 not exceed \$200,000.

23 Sec. 163.214. ELIGIBILITY FOR EXEMPTION. Only the  
24 purchaser of an aircraft is eligible to claim an exemption under  
25 this subchapter. The purchaser may qualify for an exemption based  
26 only on the purchaser's own use of the aircraft. A purchaser who is  
27 not otherwise eligible to claim an exemption under this subchapter

1 may not claim an exemption on the basis that the purchaser  
2 transferred ownership or possession of the aircraft to a person who  
3 would have been eligible to claim an exemption if that person had  
4 purchased the aircraft.

5 SUBCHAPTER G. PENALTIES

6 Sec. 163.301. PROHIBITED ACTS AND CIVIL AND CRIMINAL  
7 PENALTIES. The provisions of Subchapter L, Chapter 151, apply to  
8 the taxes imposed under this chapter.

9 SECTION 5. Section 321.002(a), Tax Code, is amended by  
10 adding Subdivision (4) to read as follows:

11 (4) "Taxable item" has the meaning assigned by Section  
12 151.010 and includes aircraft, as defined by Section 163.001.

13 SECTION 6. Section 321.003, Tax Code, is amended to read as  
14 follows:

15 Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles  
16 A and B, Title 2, and Chapters 142, ~~and~~ 151, and 163 apply to the  
17 taxes and to the administration and enforcement of the taxes  
18 imposed by this chapter in the same manner that those laws apply to  
19 state taxes, unless modified by this chapter.

20 SECTION 7. Section 321.201(a), Tax Code, is amended to read  
21 as follows:

22 (a) Each retailer in a municipality that has adopted a tax  
23 authorized by this chapter shall add each sales tax imposed by the  
24 municipality under this chapter and by Chapter 151 or 163 to the  
25 sales price, and the sum of the taxes is a part of the price, a debt  
26 of the purchaser to the retailer until paid, and recoverable at law  
27 in the same manner as the purchase price. If the municipality

1 imposes the tax on gas and electricity for residential use, only the  
2 municipal tax is added to the sales price of sales of gas and  
3 electricity for residential use.

4 SECTION 8. Section 321.204(a), Tax Code, is amended to read  
5 as follows:

6 (a) In each municipality that has adopted the taxes  
7 authorized by this chapter, the taxes imposed by Section 321.104(a)  
8 and the tax imposed by Subchapter D, Chapter 151, or Subchapter C,  
9 Chapter 163, are added together to form a single combined tax rate,  
10 except:

11 (1) in a municipality that imposes the tax on gas and  
12 electricity for residential use only the rate of the municipal tax  
13 is used to determine the amount of tax on the use, storage, or other  
14 consumption of gas and electricity for residential use; and

15 (2) only the rate of the municipal tax is used in a  
16 situation described by Section 321.205(b).

17 SECTION 9. Section 321.205(a), Tax Code, is amended to read  
18 as follows:

19 (a) In determining the incidence of the use tax authorized  
20 by this chapter the name of the municipality adopting the tax is  
21 substituted in Subchapter D, Chapter 151, or Subchapter C, Chapter  
22 163, for "this state" where those words are used to designate the  
23 taxing entity or delimit the tax imposed. However, the excise tax  
24 authorized by this chapter on the use, storage, or consumption of a  
25 taxable item does not apply if the item is first used, stored, or  
26 consumed in a municipality or area that has not adopted the taxes  
27 authorized by this chapter.



1 SECTION 10. Sections 321.207(a) and (b), Tax Code, are  
2 amended to read as follows:

3 (a) The sales tax authorized by this chapter does not apply  
4 to the sale of a taxable item unless the sales tax imposed by  
5 Subchapter C, Chapter 151, or Subchapter B, Chapter 163, also  
6 applies to the sale.

7 (b) The excise tax authorized by this chapter on the use,  
8 storage, or consumption of a taxable item does not apply to the use,  
9 storage, or consumption of a taxable item unless the tax imposed by  
10 Subchapter D, Chapter 151, or Subchapter C, Chapter 163, also  
11 applies to the use, storage, or consumption.

12 SECTION 11. Section 321.208, Tax Code, is amended to read as  
13 follows:

14 Sec. 321.208. STATE EXEMPTIONS APPLICABLE. The exemptions  
15 provided by Subchapter H, Chapter 151, and Subchapter F, Chapter  
16 163, apply to the taxes authorized by this chapter, except as  
17 provided by Sections 151.359(j) and 151.317(b).

18 SECTION 12. Section 321.301, Tax Code, is amended to read as  
19 follows:

20 Sec. 321.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES.  
21 The comptroller shall administer, collect, and enforce any tax  
22 imposed by a municipality under this chapter. The taxes imposed  
23 under this chapter and the taxes [~~tax~~] imposed under Chapters  
24 [~~Chapter~~] 151 and 163 shall be collected together, if [~~both~~] taxes  
25 are imposed under more than one chapter.

26 SECTION 13. Section 321.302(b), Tax Code, is amended to  
27 read as follows:

1 (b) If a municipality requests an additional report, the  
2 comptroller shall make an additional quarterly report to the  
3 municipality including the name, address, and account number, if  
4 any, of, and the amount of tax due from, each person doing business  
5 in the municipality who has failed to pay the tax under this chapter  
6 to the municipality or under Chapter 151 or 163. The additional  
7 report must also include statements:

8 (1) showing whether or not there has been a partial tax  
9 payment by the delinquent taxpayer;

10 (2) showing whether or not the taxpayer is delinquent  
11 in the payment of sales and use taxes to the state; and

12 (3) describing the steps taken by the comptroller to  
13 collect the delinquent taxes.

14 SECTION 14. Section 321.303(b), Tax Code, is amended to  
15 read as follows:

16 (b) Except as otherwise provided by this section for  
17 aircraft, the [The] same sales tax permit, exemption certificate,  
18 and resale certificate required by Chapter 151 for the  
19 administration and collection of the taxes imposed by that chapter  
20 satisfy the requirements of this chapter. For aircraft, as defined  
21 by Section 163.001, the same exemption certificate and resale  
22 certificate required by Chapter 163 for the administration and  
23 collection of the taxes imposed by that chapter satisfy the  
24 requirements of this chapter. No additional permit or exemption or  
25 resale certificate may be required except that the comptroller may  
26 prescribe a separate exemption certificate form for the transition  
27 exemption for prior contracts and bids under Section 321.209.

1 SECTION 15. Section 321.308, Tax Code, is amended to read as  
2 follows:

3 Sec. 321.308. SEIZURE AND SALE OF PROPERTY. If the  
4 comptroller lawfully seizes property for the payment of the taxes  
5 imposed under Chapter 151 or 163 and the property owner is  
6 delinquent in the payment of taxes under this chapter, the  
7 comptroller shall sell sufficient property to pay the delinquent  
8 taxes and penalties of both taxes. The proceeds of a sale of seized  
9 property shall first be applied to the payment of amounts due the  
10 state and the remainder, if any, to the amounts due to the  
11 municipality to which the taxes are due.

12 SECTION 16. Section 321.310(a), Tax Code, is amended to  
13 read as follows:

14 (a) The comptroller or the attorney general may disapprove  
15 of the institution of a suit by a municipality under Section  
16 321.309(b) if:

17 (1) negotiations between the state and the taxpayer  
18 are being conducted for the purpose of the collection of delinquent  
19 taxes owed to the state and the municipality seeking to bring suit;

20 (2) the taxpayer owes substantial taxes to the state  
21 and there is a reasonable possibility that the taxpayer may be  
22 unable to pay the total amount owed;

23 (3) the state will bring suit against the taxpayer for  
24 all taxes due under Chapter 151 or 163 and this chapter; or

25 (4) the suit involves a critical legal question  
26 relating to the interpretation of state law or a provision of the  
27 Texas or United States constitution in which the state has an

1 overriding interest.

2 SECTION 17. Section 322.101, Tax Code, is amended to read as  
3 follows:

4 Sec. 322.101. SALES TAX. There is imposed in a taxing  
5 entity a sales tax at the rate authorized and set as provided by the  
6 law authorizing the creation of the taxing entity and applied to the  
7 receipts from the sale within the entity area of all taxable items  
8 that are subject to the sales tax under Chapter 151 or 163.

9 SECTION 18. Section 322.103(a), Tax Code, is amended to  
10 read as follows:

11 (a) Each retailer in an entity area shall add the sales tax  
12 imposed under this chapter, the sales taxes imposed under Chapter  
13 151 or 163, and, if applicable, any sales taxes imposed under  
14 Chapter 321 or 323 to the sales price, and the sum of the taxes is a  
15 part of the price, a debt of the purchaser to the retailer until  
16 paid, and recoverable at law in the same manner as the purchase  
17 price.

18 SECTION 19. Section 322.104(a), Tax Code, is amended to  
19 read as follows:

20 (a) In each taxing entity the tax imposed by Subchapter D,  
21 Chapter 151, the taxes imposed by Subchapter C, Chapter 163, the tax  
22 imposed under Section 321.104(a), if applicable, and the tax  
23 imposed under Section 322.102 are added together to form a single  
24 combined tax rate, except in a situation described by Section  
25 322.105(b).

26 SECTION 20. Section 322.105(a), Tax Code, is amended to  
27 read as follows:

1           (a) In determining the incidence of the use tax of a taxing  
2 entity, the name of the taxing entity is substituted in Subchapter  
3 D, Chapter 151, and Subchapter C, Chapter 163, for "this state"  
4 where those words are used to designate the taxing entity or delimit  
5 the tax imposed. However, the excise tax of a taxing entity on the  
6 use, storage, or other consumption of a taxable item does not apply  
7 if the item is first used, stored, or consumed in an area other than  
8 an entity area.

9           SECTION 21. Sections [322.106](#)(a) and (b), Tax Code, are  
10 amended to read as follows:

11           (a) The sales tax of a taxing entity does not apply to the  
12 sale of a taxable item unless the sales tax imposed under Subchapter  
13 C, Chapter 151, or Subchapter B, Chapter 163, also applies to the  
14 sale.

15           (b) The excise tax of a taxing entity on the use, storage, or  
16 consumption of a taxable item does not apply to the use, storage, or  
17 consumption of an item unless the tax imposed by Subchapter D,  
18 Chapter 151, or Subchapter C, Chapter 163, also applies to the use,  
19 storage, or consumption of the item.

20           SECTION 22. Section [322.201](#)(b), Tax Code, is amended to  
21 read as follows:

22           (b) The sales and use taxes imposed under this chapter, the  
23 taxes imposed under Chapters 321 and 323, and the taxes imposed  
24 under Chapters [~~Chapter~~] 151 and 163 shall be collected together to  
25 the extent that each is imposed in an entity area.

26           SECTION 23. Section [322.205](#)(a), Tax Code, is amended to  
27 read as follows:

1 (a) If the comptroller lawfully seizes property for the  
2 payment of the taxes imposed under Chapter 151 or 163 and the  
3 property owner is delinquent in the payment of taxes under this  
4 chapter, the comptroller shall sell sufficient property to pay the  
5 delinquent taxes and penalties under this chapter, Chapter 151,  
6 Chapter 163, and Chapter 321.

7 SECTION 24. Section 322.207(a), Tax Code, is amended to  
8 read as follows:

9 (a) The comptroller or the attorney general may disapprove  
10 of the institution of a suit by a taxing entity under Section  
11 322.206(b) if:

12 (1) negotiations between the state and the taxpayer  
13 are being conducted for the purpose of the collection of delinquent  
14 taxes owed to the state and the taxing entity seeking to bring suit;

15 (2) the taxpayer owes substantial taxes to the state  
16 and there is a reasonable possibility that the taxpayer may be  
17 unable to pay the total amount owed;

18 (3) the state will bring suit against the taxpayer for  
19 all taxes due under Chapter 151 or 163 and this chapter; or

20 (4) the suit involves a critical legal question  
21 relating to the interpretation of state law or a provision of the  
22 Texas or United States constitution in which the state has an  
23 overriding interest.

24 SECTION 25. Section 323.003, Tax Code, is amended to read as  
25 follows:

26 Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles  
27 A and B, Title 2, and Chapters 142, ~~and~~ 151, and 163 apply to the

1 taxes and to the administration and enforcement of the taxes  
2 imposed by this chapter in the same manner that those laws apply to  
3 state taxes unless modified by this chapter.

4 SECTION 26. Section 323.201(a), Tax Code, is amended to  
5 read as follows:

6 (a) Each retailer in a county that has adopted the tax  
7 authorized by this chapter shall add the sales tax imposed by this  
8 chapter and by Chapter 151 or 163, plus any other applicable sales  
9 tax, to the sales price, and the sum of the taxes is a part of the  
10 price, a debt of the purchaser to the retailer until paid, and  
11 recoverable at law in the same manner as the purchase price.

12 SECTION 27. Section 323.204, Tax Code, is amended to read as  
13 follows:

14 Sec. 323.204. COMPUTATION OF USE TAX. In each county that  
15 has adopted the taxes authorized by this chapter, the tax imposed by  
16 Section 323.104, by other applicable local taxes, and by Subchapter  
17 D, Chapter 151, or Subchapter C, Chapter 163, are added together to  
18 form a single combined tax rate, except only the rate of the county  
19 tax is used in a situation described by Section 323.205(b).

20 SECTION 28. Section 323.205(a), Tax Code, is amended to  
21 read as follows:

22 (a) In determining the incidence of the use tax authorized  
23 by this chapter, the name of the county adopting the tax is  
24 substituted in Subchapter D, Chapter 151, and Subchapter C, Chapter  
25 163, for "this state" where those words are used to designate the  
26 taxing entity or delimit the tax imposed. However, the excise tax  
27 authorized by this chapter on the use, storage, or consumption of a

1 taxable item does not apply if the taxable item is first used,  
2 stored, or consumed in a county that has not adopted the taxes  
3 authorized by this chapter.

4 SECTION 29. Sections 323.206(a) and (b), Tax Code, are  
5 amended to read as follows:

6 (a) The sales tax authorized by this chapter does not apply  
7 to the sale of a taxable item unless the sales tax imposed by  
8 Subchapter C, Chapter 151, or Subchapter B, Chapter 163, also  
9 applies to the sale.

10 (b) The excise tax authorized by this chapter on the use,  
11 storage, or consumption of a taxable item does not apply to the use,  
12 storage, or consumption of an item unless the tax imposed by  
13 Subchapter D, Chapter 151, or Subchapter C, Chapter 163, also  
14 applies to the use, storage, or consumption.

15 SECTION 30. Section 323.207, Tax Code, is amended to read as  
16 follows:

17 Sec. 323.207. STATE EXEMPTIONS APPLICABLE. The exemptions  
18 provided by Subchapter H, Chapter 151, and Subchapter F, Chapter  
19 163, apply to the taxes authorized by this chapter, except as  
20 provided by Sections 151.359(j) and 151.317(b).

21 SECTION 31. Section 323.301, Tax Code, is amended to read as  
22 follows:

23 Sec. 323.301. COMPTROLLER TO COLLECT AND ADMINISTER TAXES.  
24 The comptroller shall administer, collect, and enforce any tax  
25 imposed by a county under this chapter. The tax imposed under this  
26 chapter and the taxes [~~tax~~] imposed under Chapters [~~Chapter~~] 151  
27 and 163 shall be collected together, if [~~both~~] taxes are imposed



1 under more than one chapter.

2 SECTION 32. Section 323.302(b), Tax Code, is amended to  
3 read as follows:

4 (b) If a county requests an additional report, the  
5 comptroller shall make an additional quarterly report to the county  
6 including the name, address, and account number, if any, of, and the  
7 amount of tax due from, each person doing business in the county who  
8 has failed to pay the tax under this chapter to the county or under  
9 Chapter 151 or 163. The additional report must also include  
10 statements:

11 (1) showing whether or not there has been a partial tax  
12 payment by the delinquent taxpayer;

13 (2) showing whether or not the taxpayer is delinquent  
14 in the payment of sales and use taxes to the state; and

15 (3) describing the steps taken by the comptroller to  
16 collect the delinquent taxes.

17 SECTION 33. Section 323.303(b), Tax Code, is amended to  
18 read as follows:

19 (b) Except as provided by this section for aircraft, the  
20 [The] same sales tax permit, exemption certificate, and resale  
21 certificate required by Chapter 151 for the administration and  
22 collection of the taxes imposed by that chapter satisfy the  
23 requirements of this chapter. For aircraft, as defined by Section  
24 163.001, the same exemption certificate and resale certificate  
25 required by Chapter 163 for the administration and collection of  
26 the taxes imposed by that chapter satisfy the requirements of this  
27 chapter. No additional permit or exemption or resale certificate

1 may be required.

2 SECTION 34. Section 323.308, Tax Code, is amended to read as  
3 follows:

4 Sec. 323.308. SEIZURE AND SALE OF PROPERTY. If the  
5 comptroller lawfully seizes property for the payment of the taxes  
6 imposed under Chapter 151 or 163 and the property owner is  
7 delinquent in the payment of taxes under this chapter, the  
8 comptroller shall sell sufficient property to pay the delinquent  
9 taxes and penalties of both taxes. The proceeds of a sale of seized  
10 property shall first be applied to the payment of amounts due the  
11 state, any remainder to the amounts due to a municipality to which  
12 the taxes are due under Chapter 321, and any remainder to the  
13 amounts due to a county to which taxes are due.

14 SECTION 35. Section 323.310(a), Tax Code, is amended to  
15 read as follows:

16 (a) The comptroller or the attorney general may disapprove  
17 of the institution of a suit by a county under Section 323.309(b)  
18 if:

19 (1) negotiations between the state and the taxpayer  
20 are being conducted for the purpose of the collection of delinquent  
21 taxes owed to the state and the county seeking to bring suit;

22 (2) the taxpayer owes substantial taxes to the state  
23 and there is a reasonable possibility that the taxpayer may be  
24 unable to pay the total amount owed;

25 (3) the state will bring suit against the taxpayer for  
26 all taxes due under Chapter 151 or 163 and this chapter; or

27 (4) the suit involves a critical legal question

1 relating to the interpretation of state law or a provision of the  
2 Texas or United States constitution in which the state has an  
3 overriding interest.

4 SECTION 36. Sections 151.328(c), (f), (g), and (h), Tax  
5 Code, are repealed.

6 SECTION 37. The change in law made by this Act does not  
7 affect tax liability accruing before the effective date of this  
8 Act. That liability continues in effect as if this Act had not been  
9 enacted, and the former law is continued in effect for the  
10 collection of taxes due and for civil and criminal enforcement of  
11 the liability for those taxes.

12 SECTION 38. This Act takes effect September 1, 2015.