



BULLETIN

Susan Combs, Texas Comptroller of Public Accounts

Aircraft and the Texas Sales and Use Tax

Sales Tax

Sales of aircraft within Texas are subject to state and local sales taxes. Taxes are based on the sales price, less the value of any aircraft taken as a trade-in on the purchase.

The Texas state sales and use tax rate is 6.25 percent. Local taxing jurisdictions (cities, counties, special purpose districts and transit authorities) may also impose sales and use tax up to 2 percent for a maximum combined rate of 8.25 percent. Local sales taxes are based upon the location of the seller's place of business. In addition to collecting local sales taxes based on its place of business, a seller might be required to collect local *use* taxes for other local taxing jurisdictions in effect at the point of delivery. If the seller is located out of state, then all local use tax is based upon where the customer takes delivery of the aircraft.

Use Tax

The purchase of aircraft outside of Texas is subject to state and local use taxes if the aircraft is brought into Texas within one year of its first use. Local use tax rates vary throughout the state, but are based upon the location where the aircraft is hangared. The owner may pay use tax by using a regular sales tax report form, if the owner is permitted for sales and use tax, or an *Occasional Use Tax Return* (form 01-156) if the owner is not permitted for sales and use tax. Contact one of the Comptroller's local field offices, or call (800) 688-6829, ext. 5-9884 or 5-0141, to obtain the correct form.

Some factors that determine 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 and hangar or storage time in Texas, including the portion of interstate flights in Texas airspace as shown by applicable flight, pilot, engine, passenger, airframe and other logs and aircraft records.



Charters

Chartering 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 pur-

chasing aircraft used to provide the non-taxable transportation service.

Chartering a hot air balloon is a taxable amusement service. Please see *Rule 3.298* for additional information.

Fractional Ownership

No tax is due if the interest purchased 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



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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 must use the aircraft exclusively to transport persons or property for hire in the regular course of business.

- **Flight school or flight instructor.**

The FAA recognized school or certified instructor must use the aircraft exclusively for FAA-approved flight instruction. The exemption includes flight simulation training devices. A student may rent an aircraft tax free for exclusive use in FAA-approved flight instruction. Please see *Texas Tax Code, Section 151.328* for complete exemption qualifications.

- **Person for use and registration in another state or nation before any use in Texas.**

The purchase of an aircraft is exempt if sold in Texas to a person for use and registration in another state or nation before any use of the aircraft is made in Texas other than flight training in the aircraft or the transportation of the aircraft out of this state.*

Note: Bringing the aircraft back into Texas for training, repair or refurbishment is not considered divergent use.

- **Foreign government.**

*At the time of sale, both the seller and the purchaser must sign the *Texas Aircraft Exemption Certificate* (form 01-907). A copy of the completed certificate should be sent to:

Texas Comptroller
Business Activity Research Team
P.O. Box 13003
Austin, Texas 78711-3003

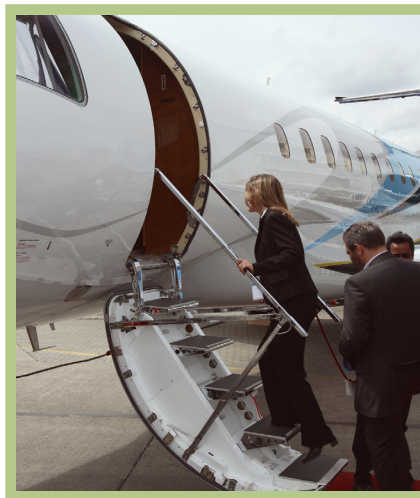
A person who claims an exemption should issue a completed exemption certificate to the seller to document that no tax is due on the sale.

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 statement must be specific as to why the exemption applies (e.g., operating asset, transfer without change in ownership, etc.) 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 (c)*.

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



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taxable items during the 12-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 can 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.

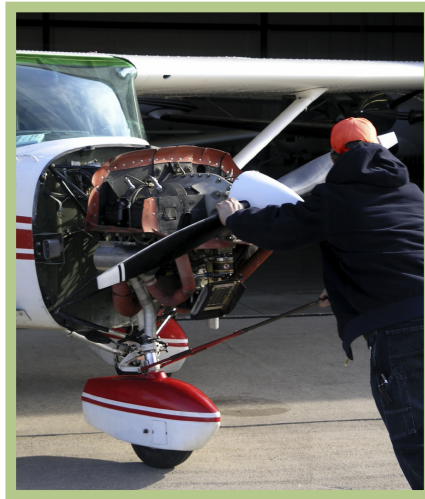
When a repairer bills a single charge for parts and labor, the repairer should not collect sales tax from the customer. The repairer should pay tax, however, when buying the parts from the supplier.

If the invoice separates charges for labor and parts, the repairer should collect tax on the parts. There is no sales tax on the labor charges. When buying parts from its supplier, the repairer may give a *Resale Certificate* (form 01-339) in lieu of paying sales tax.

A repairer who performs services under an extended warranty must collect sales tax on separately stated charges for parts. A repairer performing an extended

warranty that does not separately state and bill for materials should pay tax when buying the parts from the supplier. 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 the supplier and may not collect tax from customers on any charges for these items.



No sales tax is due on component parts for aircraft exempt from sales tax. (See *Exemptions* above.) 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 to overhaul or repair 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.

The Texas Comptroller of Public Accounts is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of any services, programs, or activities.

In compliance with the Americans with Disabilities Act, this document may be requested in alternative formats by calling the toll-free number listed at the bottom of page 1, or by calling (512) 463-4600 in Austin, (512) 475-0900 (FAX).

Appendix 1: Form 01-907



TEXAS AIRCRAFT EXEMPTION CERTIFICATE OUT-OF-STATE REGISTRATION AND USE

Under Ch. 559, Government Code, you are entitled to review, request, and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address or toll-free number listed on this form.

| | |
|---|----------------------------|
| Name of purchaser | |
| Address (Street & number and P.O. Box number) | Phone (Area code & number) |
| City, State, ZIP code | |

| | |
|---|--|
| Name of seller | Seller's Texas sales tax permit number |
| Address (Street & number and P.O. Box number) | Phone (Area code & number) |
| City, State, ZIP code | |

The undersigned hereby certifies that the aircraft described below was purchased on _____ Date of sale
 for a total sales price of \$ _____ of which \$ _____ was allowed as a trade-in,
 resulting in a net sales price of \$ _____ .

| | | | |
|---------------|-------|---------------|---------------------------------------|
| Aircraft make | Model | Serial number | FAA registration number (Tail number) |
|---------------|-------|---------------|---------------------------------------|

The aircraft will be registered in _____, _____ as recorded with Federal Aviation Administration.
City State

The aircraft will be **hangared** in _____ and is not purchased for use in Texas.
City State

My correct mailing and location address are _____
Mailing address

_____ Location address

I claim an exemption from the Texas sales tax pursuant to Texas Tax Code Section 151.328(a)(4) because the aircraft is purchased for registration and use outside Texas.

I understand that by signing this form, I am authorizing the Texas Comptroller of Public Accounts to furnish copies to officials of my home state. I understand that the purpose of providing this information to officials of my home state is to facilitate the enforcement of any taxes imposed on the purchase or use of the aircraft in my home state.

I understand that it is a misdemeanor punishable by a fine not to exceed \$500 to provide this certificate of exemption if I know the aircraft will be used in a manner other than for registration and use outside Texas.

| | |
|-----------------------|------|
| Purchaser's signature | Date |
|-----------------------|------|

| | |
|--------------------|------|
| Seller's signature | Date |
|--------------------|------|

(Original to be retained by seller, seller to send copy to the Texas Comptroller of Public Accounts, Business Activity Research Team, P.O. Box 13003, Austin, Texas, 78711-3003, and copy to the Purchaser.)