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**HOUSE BILL 2236**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Ybarra, Springer, Dent, Goodman, Stokesbary, Hoff, Wylie, Kraft, Orcutt, and Irwin

AN ACT Relating to sales and use tax exemptions for large private airplanes; amending RCW 82.08.215, 82.12.215, 47.68.250, and 82.48.100; amending 2013 2nd sp.s. c 13 ss 1101 and 1906 (uncodified); reenacting and amending RCW 82.48.100; providing an effective date; and providing expiration dates.

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

**Sec.**  RCW 82.08.215 and 2013 2nd sp.s. c 13 s 1103 are each amended to read as follows:

(1)(a) The tax levied by RCW 82.08.020 does not apply to:

(i) Sales of large private airplanes to nonresidents of this state; and

(ii) Sales of or charges made for labor and services rendered in respect to repairing, cleaning, altering, or improving large private airplanes owned by nonresidents of this state.

(b) The exemption provided by this section applies only when the large private airplane is not required to be registered with the department of transportation, or its successor, under chapter 47.68 RCW. The airplane owner or lessee claiming an exemption under this section must provide the department, upon request, a copy of the written statement required under RCW 47.68.250(5)(c)(ii) documenting the airplane's registration exemption and any additional information the department may require.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) Upon request, the department of transportation must provide to the department of revenue information needed by the department of revenue to verify eligibility under this section.

(4) For purposes of this section "large private airplane" means an airplane not used in interstate commerce, not owned or leased by a government entity, weighing more than forty-one thousand pounds, and assigned a category A, B, C, or D test flow management system aircraft weight class by the federal aviation administration's office of aviation policy and plans.

(5) This section expires July 1, 2031.

**Sec.**  RCW 82.12.215 and 2013 2nd sp.s. c 13 s 1104 are each amended to read as follows:

(1)(a) The tax levied by RCW 82.12.020 does not apply to the use of:

(i) Large private airplanes owned by nonresidents of this state; and

(ii) Labor and services rendered in respect to repairing, cleaning, altering, or improving large private airplanes owned by nonresidents of this state.

(b) The exemption provided by this section applies only when the large private airplane is not required to be registered with the department of transportation, or its successor, under chapter 47.68 RCW. The airplane owner or lessee claiming an exemption under this section must provide the department, upon request, a copy of the written statement required under RCW 47.68.250(5)(c)(ii) documenting the airplane's registration exemption and any additional information the department may require.

(2) Upon request, the department of transportation must provide to the department of revenue information needed by the department of revenue to verify eligibility under this section.

(3) For purposes of this section, the conditions, limitation, and definitions in RCW 82.08.215 apply to this section.

(4) This section expires July 1, 2031.

**Sec.**  RCW 47.68.250 and 2017 3rd sp.s. c 25 s 46 are each amended to read as follows:

(1) Every aircraft must be registered with the department for each calendar year in which the aircraft is operated or is based within this state. A fee of fifteen dollars is charged for each such registration and each annual renewal thereof.

(2) Possession of the appropriate effective federal certificate, permit, rating, or license relating to ownership and airworthiness of the aircraft, and payment of the excise tax imposed by Title 82 RCW for the privilege of using the aircraft within this state during the year for which the registration is sought, and payment of the registration fee required by this section are the only requisites for registration of an aircraft under this section.

(3) The registration fee imposed by this section is payable to and collected by the secretary. The fee for any calendar year must be paid during the month of January, and collected by the secretary at the time of the collection by him or her of the ((~~said~~)) excise tax. If the secretary is satisfied that the requirements for registration of the aircraft have been met, he or she must issue to the owner of the aircraft a certificate of registration therefor. The secretary must pay to the state treasurer the registration fees collected under this section, which registration fees must be credited to the aeronautics account.

(4) It is not necessary for the registrant to provide the secretary with originals or copies of federal certificates, permits, ratings, or licenses. The secretary must issue certificates of registration, or such other evidences of registration or payment of fees as he or she may deem proper; and in connection therewith may prescribe requirements for the possession and exhibition of such certificates or other evidences.

(5) The provisions of this section do not apply to:

(a) An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(b) An aircraft registered under the laws of a foreign country;

(c) An aircraft ((~~which~~)) that is owned by a nonresident ((~~and registered in another state. However, if said aircraft remains in and/or is based in this state for a period of ninety days or longer it is not exempt under this section~~)) if:

(i) The aircraft remains in this state or is based in this state, or both, for a period less than ninety days; or

(ii) The aircraft is a large private airplane as defined in RCW 82.08.215 and remains in this state for a period of ninety days or longer, but only when:

(A) The airplane is in this state exclusively for the purpose of repairs, alterations, or reconstruction, including any flight testing related to the repairs, alterations, or reconstruction, or for the purpose of continual storage of not less than one full calendar year;

(B) An employee of the facility providing these services is on board the airplane during any flight testing; and

(C) Within ninety days of the date the airplane first arrived in this state during the calendar year, the nonresident files a written statement with the department indicating that the airplane is exempt from registration under this subsection (5)(c)(ii). The written statement must be filed in a form and manner prescribed by the department and must include such information as the department requires. The department may require additional periodic verification that the airplane remains exempt from registration under this subsection (5)(c)(ii) and that written statements conform with the provisions of chapter 5.50 RCW;

(d) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(e) An aircraft owned by the commercial manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(f) An aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(g) An aircraft based within the state that is in an unairworthy condition, is not operated within the registration period, and has obtained a written exemption issued by the secretary.

(6) The secretary must be notified within thirty days of any change in ownership of a registered aircraft. The notification must contain the N, NC, NR, NL, or NX number of the aircraft, the full name and address of the former owner, and the full name and address of the new owner. For failure to so notify the secretary, the registration of that aircraft may be canceled by the secretary, subject to reinstatement upon application and payment of a reinstatement fee of ten dollars by the new owner.

(7) A municipality or port district that owns, operates, or leases an airport, as defined in RCW 47.68.020, with the intent to operate, must require from an aircraft owner proof of aircraft registration as a condition of leasing or selling tiedown or hangar space for an aircraft. It is the responsibility of the lessee or purchaser to register the aircraft. Proof of registration must be provided according to the following schedule:

(a) For the purchase of tiedown or hangar space, the municipality or port district must allow the purchaser thirty days from the date of the application for purchase to produce proof of aircraft registration.

(b) For the lease of tiedown or hangar space that extends thirty days or more, the municipality or port district must allow the lessee thirty days to produce proof of aircraft registration from the date of the application for lease of tiedown or hangar space.

(c) For the lease of tiedown or hangar space that extends less than thirty days, the municipality or port district must allow the lessee to produce proof of aircraft registration at any point prior to the final day of the lease.

(8) The airport must work with the aviation division to assist in its efforts to register aircraft by providing information about based aircraft on an annual basis as requested by the division.

**Sec.**  RCW 82.48.100 and 2013 2nd sp.s. c 13 s 1105 are each reenacted and amended to read as follows:

This chapter does not apply to:

(1) Aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which are not engaged in carrying persons or property for commercial purposes;

(2) Aircraft registered under the laws of a foreign country;

(3) Aircraft that are owned by a nonresident and registered in another state, if the aircraft remains in this state or is based in this state, or both, for a period less than ninety days;

(4)(a) Aircraft engaged principally in commercial flying that constitutes interstate or foreign commerce, except as provided in (b) of this subsection.

(b) The exemption provided by (a) of this subsection does not apply to aircraft engaged principally in commercial flying that constitutes interstate or foreign commerce when such aircraft will be in this state exclusively for the purpose of continual storage of not less than one full calendar year;

(5) Aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) Aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(7) Aircraft owned by a nonresident of this state if the aircraft is kept at an airport in this state and that airport is jointly owned or operated by a municipal corporation or other governmental entity of this state and a municipal corporation or other governmental entity of another state, and the owner or operator of the aircraft provides the department with proof that the owner or operator has paid all taxes, license fees, and registration fees required by the state in which the owner or operator resides((~~; and~~

~~(8) Aircraft that are: (a) Owned by a nonprofit organization that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code; and (b) exclusively used to provide emergency medical transportation services~~)).

**Sec.**  RCW 82.48.100 and 1999 c 302 s 3 are each amended to read as follows:

This chapter ((~~shall~~)) does not apply to:

(1) Aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which are not engaged in carrying persons or property for commercial purposes;

(2) Aircraft registered under the laws of a foreign country;

(3) Aircraft ((~~which~~)) that are owned by a nonresident and registered in another state((~~: PROVIDED, That if any such aircraft shall remain in and/or be based in this state for a period of ninety days or longer it shall not be exempt under this section~~)), if the aircraft remains in this state or is based in this state, or both, for a period less than ninety days;

(4)(a) Aircraft engaged principally in commercial flying ((~~which~~)) that constitutes interstate or foreign commerce, except as provided in (b) of this subsection.

(b) The exemption provided by (a) of this subsection does not apply to aircraft engaged principally in commercial flying that constitutes interstate or foreign commerce when such aircraft will be in this state exclusively for the purpose of continual storage of not less than one full calendar year; ((~~and~~))

(5) Aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

(6) Aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW; and

(7) Aircraft owned by a nonresident of this state if the aircraft is kept at an airport in this state and that airport is jointly owned or operated by a municipal corporation or other governmental entity of this state and a municipal corporation or other governmental entity of another state, and the owner or operator of the aircraft provides the department with proof that the owner or operator has paid all taxes, license fees, and registration fees required by the state in which the owner or operator resides.

NEW SECTION. **Sec.**  Sections 3 and 5 of this act take effect July 1, 2021.

NEW SECTION. **Sec.**  Sections 3 and 5 of this act expire July 1, 2031.

NEW SECTION. **Sec.**  Section 4 of this act expires July 1, 2021.

**Sec.**  2013 2nd sp.s. c 13 s 1101 (uncodified) is amended to read as follows:

(1) The legislature intends to promote the economic development of our state's aerospace cluster and increase the tax revenues collected by the state through promoting a competitive marketplace for storing and modifying unfurnished, noncommercial aircraft. The legislature finds that Washington is currently losing these types of jobs to other states, resulting in the loss of high-wage jobs and new tax revenue. Further, the legislature finds that the current tax statutes are an impediment to encouraging the development of aerospace clusters in our state. Therefore, the legislature intends to modify our state's tax policy to encourage aerospace cluster development within the state and increase tax revenues.

(2) The joint legislative audit and review committee, as part of its tax preference review process, must estimate the net impact on state tax revenues by comparing the decrease in state revenues resulting from the changes made in ((~~part XI of this act~~)) sections 1 through 5, chapter . . ., Laws of 2020 (sections 1 through 5 of this act) and sections 1101 through 1105, chapter 13, Laws of 2013 2nd sp. sess. to the additional tax revenues generated from the direct, indirect, and induced economic impacts from those changes. The committee must also, to the extent practicable, estimate job growth in the aerospace cluster resulting from the changes made in ((~~part XI of this act~~)) sections 1 through 5, chapter . . ., Laws of 2020 (sections 1 through 5 of this act) and sections 1101 through 1105, chapter 13, Laws of 2013 2nd sp. sess. The committee must conduct its tax preference review of ((~~part XI of this act~~)) sections 1 through 5, chapter . . ., Laws of 2020 (sections 1 through 5 of this act) and sections 1101 through 1105, chapter 13, Laws of 2013 2nd sp. sess. during calendar years 2016 and 2026 and report its findings and recommendations to the legislature by January 1, 2017, and January 1, 2027.

**Sec.**  2013 2nd sp.s. c 13 s 1906 (uncodified) is amended to read as follows:

((~~Part XI of this act expires~~)) Sections 1102 and 1105, chapter 13, Laws of 2013 2nd sp. sess. expire July 1, 2021.

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