



Regional Sales And Use Tax Forum

Regional update on the Mid-Western United States. by Christopher B. Younger

This column is the fourth installment in the fourth annual series of quarterly columns describing recent changes to aviation-related state sales and use tax issues and, where pertinent, other aviation related tax issues in various regions of the United States.

As was the case with the last series of quarterly columns, we focus on a particular region of the United States each quarter – namely the Northeastern, Southeastern, Mid-Western or Western States. In this column, we review any recent changes to state sales and use taxes in the states located in the western region of the United States – namely Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming.

Additionally, we will discuss whether or not each state has an exemption from its sales and use tax for casual, isolated or occasional sales of aircraft. An exemption for casual, isolated or occasional sales of aircraft typically permits a buyer of a used aircraft to take delivery and/or use such aircraft in a state with such an exemption without paying that state's sales or use tax provided that the specific conditions of the exemption are met.

Those conditions, which vary from state-to-

state, typically require that either or both of the seller and buyer not be habitually engaged in the sale of aircraft or – in some instances – of any tangible personal property; that the seller and buyer be affiliated business entities; or, in the case of individual buyers and sellers, that they have a certain family relationship with one another.

Following is a summary of aviation related sales and use taxes within the individual states and any changes introduced, or due, within said state.

ALASKA

Alaska does not have state sales and use tax. However, some local jurisdictions impose local sales tax. Municipal sales tax rates typically range from a low of 3% to a high of 6%.

ARIZONA

Arizona has a state sales tax, which is referred to as the transaction privilege tax. The transaction privilege tax is not a true sales tax because it is not imposed on each sale of tangible personal property; its base is generally the gross receipts from such sales.

The statewide transaction privilege tax rate is 6.6% from June 1, 2010 through May 31, 2013. After May 31, 2013, the rate is scheduled

to decrease to 5.6% and, effective July 1, 2021 the rate is scheduled to decrease to 5%. Certain counties also impose additional countywide sales tax.

Casual sales of aircraft are exempt from Arizona transaction privilege tax. A “casual sale” is defined as an occasional transaction of an isolated nature made by a person who is not engaged in the business of selling, within or without Arizona, the same type or character of property as that which was sold.

CALIFORNIA

California has a state sales and use tax imposed at a rate of 7.25%. In addition, California has many special taxing jurisdictions that are funded by sales and use tax at a rate of up to 2.5% that is added to the new 7.25% rate. Sales of aircraft are specifically excluded from the California exemption for occasional or isolated sales of tangible personal property.

COLORADO

Colorado has a state sales and use tax imposed at a rate of 2.9%. In addition, Colorado localities may impose additional sales and use tax at rates between 1% and 6%. Colorado does not provide a sales tax exemption for casual sales of aircraft.

HAWAII

Hawaii has a state sales tax (which is referred to as the general excise tax and is actually a tax on a seller's gross receipts from sales of tangible personal property), and a state use tax. Each tax is imposed at a rate of 4% (4.5% in Oahu).

A casual sale is not subject to Hawaii general excise tax. A "casual sale" is an occasional, isolated, irregular, infrequent, or incidental sale or transaction involving tangible personal property that is sold by a person who is not required to obtain a general excise tax license or that is not ordinarily sold in the business of a person who is regularly engaged in business.

IDAHO

Idaho has a state sales and use tax imposed at a rate of 6% plus a local sales tax (at rates up to 3%) that is imposed by certain resort cities. Sales of aircraft are specifically excluded from the Idaho exemption for occasional or isolated sales of tangible personal property.

MONTANA

Montana does not have state sales and use tax.

NEVADA

Nevada has a state sales and use tax. The general statewide Nevada sales and use tax rate is

6.85%. Additional local sales tax may be imposed at a rate up to 1.25% in addition to the statewide sales and use tax rate.

An isolated or occasional sale of aircraft not held or used by the seller in a manner which requires a seller's permit is exempt from Nevada sales and use tax provided such sale is not one of a series of sales which would require a seller's permit. A person making more than two retail sales within any 12-month period is a retailer and is thus not entitled to this exemption.

NEW MEXICO

In New Mexico, the sales tax is referred to as the "Gross Receipts Tax" (GRT) and the use tax is referred to as the "Compensating Tax" (CT). The GRT rate is 5.125% to 8.6875% and the CT rate is 5.125%.

Isolated or occasional sales of aircraft are exempt from the GRT and CT provided that the seller is not engaged, and does not hold itself out as being engaged, in the business of selling or leasing aircraft.

OREGON

Oregon does not have state sales and use tax.

TEXAS

Texas has a state sales and use tax imposed at a rate of 6.25%. In addition, Texas counties and localities may impose additional sales

and use tax at rates not to exceed 2%.

Texas exempts occasional sales of aircraft from its sales and use tax. 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.

UTAH

Utah has a state sales and use tax imposed at a rate of 4.7% plus additional local sales and use tax of up to 3.65%. Isolated or occasional sales of aircraft are specifically excluded from the Utah exemption for isolated or occasional sales of tangible personal property except where the transfer is of less than 20% of the ownership of the aircraft.

WASHINGTON

The statewide sales and use tax rate in Washington is 6.5%. Washington also has a wide variety of local sales and use tax. As a result, notwithstanding the 6.5% statewide rate, actual rates vary from 7.0% to 9.5% depending on location.

Casual and isolated sales of aircraft are exempt from Washington retail sales tax unless made by a person who is engaged in a business activity that is taxable under the business and occupation tax, or the public utility tax. However, casual and isolated sales are subject to use tax unless another exemption applies under the use tax law. "Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

WYOMING

Wyoming imposes a statewide sales/use tax at a rate of 4% plus local sales/use tax at rates between 0.5% and 2%. Wyoming does not provide a general sales tax exemption for casual sales of aircraft.

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Do you have any questions or opinions on the above topic? Get them answered/published in World Aircraft Sales Magazine. Email feedback to: editorial@avbuyer.com

