

DEPARTMENT OF TAXATION

2025 Fiscal Impact Statement

1. **Patron** Kim A. Taylor

3. **Committee** House Finance

4. **Title** Aircraft sales and use tax; Credit for tax paid for purchases from brokers for noncommercial aircraft

2. **Bill Number** HB 2703

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow a credit against the Aircraft Sales and Use Tax ("ASUT") for taxes paid to a broker on the purchase of noncommercial aircraft. The amount of the credit would be equal to the amount paid to the broker if the aircraft was purchased for noncommercial use.

Under current law, a credit against ASUT is allowed for aircraft purchased in another state or assembled by the taxpayer from component parts upon which the Retail Sales and Use Tax has been paid. The amount of the credit currently allowed is equal to the tax paid by the taxpayer to another state by reason of imposition of a similar tax on the aircraft's purchase or the amount of sales tax paid on the component parts of the assembled aircraft.

If enacted during the regular session of the 2025 General Assembly this bill would become effective July 1, 2025.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

According to the Department of Aviation (DOAV), noncommercial aircraft represent 2,312 aircraft out of 3,029 total currently registered in Virginia, or 76% percent of total aircraft. Currently, the credit for noncommercial aircraft is restricted to aircraft purchased in another state, based on the amount of a similar tax paid by the taxpayer to another state.

To date, DOAV estimates that 14 taxpayers have claimed the credit for noncommercial aircraft purchased out of state. While it is unknown to what extent additional credits would be claimed under this bill, it is anticipated that it could be significant as currently, there is no mechanism or requirement for brokers, as defined in the bill, to collect and remit aircraft sales and use tax. Accordingly, this bill could have a significant negative impact to the \$12 million in annual revenues from the Aircraft Sales and Use Tax that currently comprise the majority of funding for the Department of Aviation.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Aviation

10. Technical amendment necessary: No.

11. Other comments:

Aircraft Licensing Requirements

Residents of the Commonwealth owning a civil aircraft, nonresidents owning a civil aircraft based in the Commonwealth for more than sixty days during any twelve-month period, and every owner of an aerial application aircraft operating within the Commonwealth or of a civil aircraft operated in the Commonwealth as a for-hire intrastate air carrier shall register such aircraft with DOAV before such aircraft is operated in the Commonwealth. Currently, "civil aircraft" is defined to include any aircraft other than a public aircraft. "Public aircraft" are aircraft used exclusively in the service of any state, or political subdivision thereof, or the federal government. In 2018, the definition of "public aircraft" was amended to include "any fighter or attack jet that is leased or owned by a private entity, provided that the aircraft operations are conducted exclusively for the purpose of military combat training in service to the federal government" with the amended definition sunseting on September 1, 2023. The sunset date was extended to July 1, 2025 in 2022.

Aircraft Sales and Use Tax

Under current law, ASUT is generally imposed at the rate of 2 percent on the retail sale of every aircraft sold in Virginia and upon the use in Virginia of any aircraft required to be licensed by DOAV. Registration by DOAV constitutes licensure for purposes of ASUT. Lease transactions constitute retail sale transactions for purposes of ASUT.

Revenues from the tax are deposited into a special fund within the Commonwealth Transportation Fund for the administration of aviation laws by DOAV, for the construction, maintenance and improvement of airports and landing fields, and for the promotion of aviation. The purchaser must file a return with the Department and pay the tax prior to filing for registration with DOAV. Upon receipt of payment, the Department will certify the payment to DOAV.

A credit is currently permitted against ASUT for aircraft purchased in another state or assembled by the taxpayer from component parts upon which RSUT has been paid. The amount of the credit currently allowed is equal to the tax paid by the taxpayer to another

state by reason of imposition of a similar tax on the aircraft's purchase or the amount of RSUT paid on the component parts of the assembled aircraft. Brokers that are not dealers in aircraft do not currently have a duty to remit tax to the Department.

Proposal

This bill would allow a credit against ASUT for taxes paid to a broker on the purchase of noncommercial aircraft. The amount of the credit would be equal to the amount paid to the broker if the aircraft was purchased for noncommercial use.

The bill would define "broker" as any person not included in the term "air carrier" as defined in § 5.1-89 and not a bona fide employee or agent of any such carrier who, as principal or agent, sells or offers for sale any transportation subject to Chapter 9 of Title 5.1 or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for, such transportation.

If enacted during the regular session of the 2025 General Assembly this bill would become effective July 1, 2025.

Similar Legislation

House Bill 1729 would extend the sunset date for the sales and use tax exemption for parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts from July 1, 2025 to July 1, 2028.

Senate Bill 741 would extend the sunset date for the amended definition of public aircraft that includes fighter or attack jets that are leased or owned by a private entity, provided that the aircraft operations are conducted exclusively for the purpose of military combat training in service to the federal government. The term "fighter or attack jets" is defined as jet-powered aircraft designed for military combat training or operational mission execution. The bill would extend the sunset date from July 1, 2025 to July 1, 2030.

Senate Bill 942 would extend the sunset date for the sales and use tax exemption for parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts from July 1, 2025 to July 1, 2030.

cc : Secretary of Finance

Date: 01/26/2025 VB
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