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P.L.1999, CHAPTER 246, *approved October 15, 1999*
Assembly Committee Substitute (*First Reprint*) for
Assembly, Nos. 1952 and 977

1 AN ACT providing an exemption for certain aircraft ¹**[sales and]**¹
2 repairs under the sales and use tax, amending P.L.1980, c.98.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1980, c.98 (C.54:32B-8.35) is amended to read
8 as follows:

9 1. Receipts from:

10 a. sales of aircraft and repairs thereto including machinery or
11 equipment to be installed on such aircraft and replacement parts
12 therefor when utilized by an air carrier as defined by the Civil
13 Aeronautics Board or the Code of Federal Regulations having its
14 principal place of operations within the State and engaging in
15 interstate, foreign, or intrastate air commerce; and

16 b. ¹**[sales of aircraft and]**¹ repairs ¹**[thereto]** on aircraft having
17 a maximum certificated takeoff weight, as contained in the certificate
18 type issued by the Federal Aviation Administration, of 6,000 pounds
19 or more,¹ including machinery or equipment to be installed on such
20 aircraft and replacement parts therefor ¹**[on aircraft having a**
21 maximum certificated takeoff weight, as contained in the certificate
22 type issued by the Federal Aviation Administration, of 6,000 pounds
23 or more]¹;

24 are exempt from the tax imposed under the Sales and Use Tax Act.
25 (cf: P.L.1980, c.98, s.1)

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27 2. This act shall take effect on the first day of the third month
28 following enactment.

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33 Exempts repairs to certain aircraft from sales and use tax.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted February 18, 1999.

ASSEMBLY, No. 1952

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED APRIL 20, 1998

Sponsored by:

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS R. FELICE

District 40 (Bergen and Passaic)

SYNOPSIS

Exempts certain aircraft from sales and use tax.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing an exemption for certain aircraft sales and repairs
2 under the sales and use tax, amending P.L.1980, c.98.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 1 of P.L.1980, c.98 (C.54:32B-8.35) is amended to read
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11 equipment to be installed on such aircraft and replacement parts
12 therefor when utilized by an air carrier as defined by the Civil
13 Aeronautics Board or the Code of Federal Regulations having its
14 principal place of operations within the State and engaging in
15 interstate, foreign, or intrastate air commerce; and

16 b. sales of aircraft and repairs thereto including machinery or
17 equipment to be installed on such aircraft and replacement parts
18 therefor on aircraft having a maximum certificated takeoff weight, as
19 contained in the certificate type issued by the Federal Aviation
20 Administration, of 6,000 pounds or more;

21 are exempt from the tax imposed under the Sales and Use Tax Act.
22 (cf: P.L.1980, c.98, s.1)

23

24 2. This act shall take effect on the first day of the third month
25 following enactment.

26

27

28

STATEMENT

29

30 This bill expands the current sales and use tax exemption for sales
31 and repairs of certain aircraft. Currently, aircraft sold to regulated
32 commercial carriers and the repairs to such aircraft are exempt. This
33 bill would also exempt from the sales and use tax aircraft having a
34 maximum certificated takeoff weight, as contained in the certificate
35 type issued by the Federal Aviation Administration, of 6,000 pounds
36 or more.

37 The new exemption is directed at the business jet aviation market.
38 Since ready access to air transportation is vital in today's economy, the
39 current State sales and use tax on business aircraft may be considered
40 as a less than friendly attitude towards business. The State of
41 Connecticut has acknowledged the importance of business aircraft in
42 today's economy and has eliminated the sales tax on such aircraft. The
43 Commonwealth of Massachusetts has similar legislation pending, and

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

A1952 DECROCE, FELICE

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1 the State of Delaware has no sales tax. To continue New Jersey's
2 efforts to promote a "business friendly" climate, our State should
3 likewise eliminate the sales tax on business aircraft.

ASSEMBLY TRANSPORTATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1952

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Transportation Committee reports favorably Assembly Bill No. 1952.

This bill expands the current sales and use tax exemption for sales and repairs of certain aircraft. Currently, aircraft sold to regulated commercial carriers and the repairs to such aircraft are exempt. This bill would also exempt from the sales and use tax aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1952 and 977

STATE OF NEW JERSEY

DATED: OCTOBER 5, 1998

The Assembly Appropriations Committee reports favorably Assembly Committee Substitute for Assembly Bill Nos. 1952 and 977.

The Assembly Committee Substitute for Assembly Bill Nos. 1952 and 977 expands the current sales and use tax exemption for sales and repairs of certain aircraft. Currently, aircraft sold to regulated commercial carriers and the repairs to such aircraft are exempt. This substitute would also exempt from the sales and use tax aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more.

Assembly Bill No. 1952 was reported favorably by the Assembly Transportation Committee on June 15, 1998.

The State of Connecticut has recently exempted these aircraft and the Commonwealth of Massachusetts has legislation pending for this type of exemption. The State of Delaware has no sales tax.

FISCAL IMPACT:

The Division of Taxation stated there are no data available to accurately estimate the loss of sales tax revenue. The Division has collected \$3 million in sales tax from fixed base operators, however, some of this is on maintenance of any aircraft. Corporations using their jets in the State must pay a use tax, however, no data are available on this. Estimates range from \$900,000 to \$15 million, but there is no hard data to justify this range.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 1952 and 977

STATE OF NEW JERSEY

DATED: JUNE 17, 1999

The Senate Budget and Appropriations Committee reports favorably the Assembly Committee Substitute for Assembly Bill Nos. 1952 and 977 (1R).

This bill expands the current sales and use tax exemption for repairs of aircraft. Currently, sales of aircraft to regulated commercial carriers and the repairs to such aircraft are exempt. The bill would extend the exemption to the cost of repairs on other aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more, including machinery or equipment to be installed on such aircraft and replacement parts therefor.

This bill is identical to Senate Bill No. 487 (1R).

FISCAL IMPACT

The Office of Legislative Services (OLS) has received from the Division of Taxation in the Department of the Treasury information indicating that the Division received approximately \$3 million in 1997 from fixed-base operators performing repair and maintenance services for aircraft of all types (other than commercial carrier aircraft, which are already exempt). This estimated amount includes revenue from servicing smaller aircraft that would not be exempt under the bill; on the other hand, it does *not* include revenue from sales of machinery and equipment and replacement parts, which *are* included in the exemption under the legislation.

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 1952 and 977

with Assembly Floor Amendments
(Proposed By Assemblyman DECROCE)

ADOPTED: FEBRUARY 18, 1999

This amendment removes from the substitute a provision that would have exempted the sales of certain aircraft from the Sales and Use Tax.

FISCAL NOTE

ASSEMBLY, No. 1952

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: OCTOBER 27, 1998

Assembly Bill No. 1952 of 1998 would expand the current sales and use tax exemption for sales and repairs of certain aircraft. This bill would exempt from the sales and use tax aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more. The exemption, which would apply to twin engine turbo-prop and larger aircraft, impacts business aviation primarily. Currently, aircraft sold to regulated commercial carriers and the repairs to such aircraft are exempt.

The Division of Taxation has prepared a fiscal note to Senate Bill No. 981 of 1998, an identical bill to Assembly Bill No. 1952. The Division states there are no data available to estimate the loss of sales tax revenue to the State. The Federal Aviation Administration does not collect data on aircraft by maximum certificated takeoff weight or sales of aircraft by State. The division indicates, however, it is possible to make a maximum estimate using 1997 sales tax data on revenue derived from the aircraft category. That year the division received approximately \$3 million from fixed base operators in the State.

The Office of Legislative Services (OLS) does not agree with the division's estimate. First, not all of the \$3 million estimated by the Division would be lost as a result of this bill. The figure includes both maintenance and repair to any aircraft, large or small, and sales of aircraft by fixed operators. Second, and potentially more significant, the \$3 million does not include Use Tax payments made by large corporations. The OLS has been told that large corporations, generally the main purchasers of jet aircraft, make the purchase out-of-state and remit the Use Tax. The OLS is not aware of any separate reporting of these payments. Base prices on these aircraft soar upward from \$30 million per airplane. A single transaction could produce a Use Tax payment of a minimum of \$1.8 million in a given year. More likely the single payment could be \$2.4 million or more depending on the state of interior fittings. From information the OLS

has obtained from a corporate aircraft supplier New Jersey may receive Use Tax payments during fiscal years 1999 and 2000 that will range from \$7.5 million to \$15 million or more. The annual amounts may vary significantly with economic conditions. This estimate is in addition to the payments from fixed base operators that are compiled by the division.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 981

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED APRIL 2, 1998

Sponsored by:

Senator C. LOUIS BASSANO

District 21 (Essex and Union)

Senator ROBERT W. SINGER

District 30 (Burlington, Monmouth and Ocean)

SYNOPSIS

Exempts certain aircraft from sales and use tax.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing an exemption for certain aircraft sales and repairs
2 under the sales and use tax, and amending P.L.1980, c.98.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1980, c.98 (C.54:32B-8.35) is amended to read
8 as follows:

9 1. Receipts from:

10 a. sales of aircraft and repairs thereto including machinery or
11 equipment to be installed on such aircraft and replacement parts
12 therefor when utilized by an air carrier as defined by the Civil
13 Aeronautics Board or the Code of Federal Regulations having its
14 principal place of operations within the State and engaging in
15 interstate, foreign, or intrastate air commerce are exempt from the tax
16 imposed under the Sales and Use Tax Act; and

17 b. sales of aircraft and repairs thereto including machinery or
18 equipment to be installed on such aircraft and replacement parts
19 therefor on aircraft having a maximum certificated takeoff weight, as
20 contained in the certificate type issued by the Federal Aviation
21 Administration, of 6,000 pounds or more, are exempt from the tax
22 imposed under the Sales and Use Tax Act.

23 (cf: P.L.1980, c.98, s.1)

24

25 2. This act shall take effect immediately.

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27

28

STATEMENT

29

30 This bill expands the current sales and use tax exemption for sales
31 and repairs of certain aircraft. Currently, aircraft sold to regulated
32 commercial carriers and the repairs to such aircraft are exempt. This
33 bill would also exempt from the sales and use tax aircraft having a
34 maximum certificated takeoff weight, as contained in the certificate
35 type issued by the Federal Aviation Administration, of 6,000 pounds
36 or more.

37 The new exemption is directed at the business jet aviation market.
38 Since ready access to air transportation is vital in today's economy, the
39 current State sales and use tax on business aircraft may be considered
40 as a less than friendly attitude towards business. Adjacent states such
41 as Connecticut and Delaware have acknowledged the importance of
42 business aircraft in today's economy and have eliminated their state's
43 sales tax on such aircraft. To continue New Jersey's efforts to

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Matter underlined thus is new matter.

S981 BASSANO, SINGER

3

- 1 promote a "business friendly" climate, our State should likewise
- 2 eliminate the sales tax on business aircraft.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 981

STATE OF NEW JERSEY

DATED: MAY 21, 1998

The Senate Transportation Committee reports favorably Senate Bill No. 981.

This bill expands the current sales and use tax exemption for sales and repairs of certain aircraft. Currently, aircraft sold to regulated commercial carriers and the repairs to such aircraft are exempt. The bill would also exempt from the sales and use tax aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more.

The new exemption is directed to the business jet aviation market. Adjacent states such as Connecticut and Delaware have eliminated their state's sales tax on such aircraft.

FISCAL NOTE

SENATE, No. 981

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: DECEMBER 14, 1998

Senate Bill No. 981 of 1998 would expand the current sales and use tax exemption for sales and repairs of certain aircraft. This bill would exempt from the sales and use tax aircraft having a maximum certificated takeoff weight, as contained in the certificate type issued by the Federal Aviation Administration, of 6,000 pounds or more. The exemption, which would apply to twin engine turbo-prop and larger aircraft, impacts business aviation primarily. Currently, aircraft sold to regulated commercial carriers and the repairs to such aircraft are exempt.

The Division of Taxation's fiscal note on this bill states there are no data available to estimate the loss of sales tax revenue to the State. The Federal Aviation Administration does not collect data on aircraft by maximum certified takeoff weight or sales of aircraft by State. The division indicates, however, it is possible to make a maximum estimate using 1997 sales tax data on revenue derived from the aircraft category. That year the division received approximately \$3 million from fixed base operators in the State.

The Office of Legislative Services (OLS) does not agree with the division's estimate. First, not all of the \$3 million estimated by the Division would be lost as a result of this bill. The figure includes both maintenance and repair to any aircraft, large or small, and sales of aircraft by fixed based operators. Second, and potentially more significant, the \$3 million does not include Use Tax payments made by large corporations. The OLS has been told that large corporations, generally the main purchasers of jet aircraft, make the purchase out-of-state and remit the Use Tax. The OLS is not aware of any separate reporting of these payments. Base prices on these aircraft soar upward from \$30 million per airplane. A single transaction could produce a Use Tax payment of a minimum of \$1.8 million in a given year. More likely the single payment could be \$2.4 million or more depending on the state of interior fittings. From information the OLS has obtained from a corporate aircraft supplier New Jersey may receive Use Tax payments during fiscal years 1999 and 2000 that will range from \$7.5 million to \$15 million or more. The annual amounts

may vary significantly with economic conditions. This estimate is in addition to the payments from fixed base operators that are compiled by the division.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Stephanie Bell
609-777-2600

RELEASE: October 15, 1999

**Governor Forms Advisory Committee To Review Sales and Use
Tax Legislation; Signs Legislation with Understanding that
Committee Will Review Effect**

In order to ensure a stable revenue base that is affordable, reliable and easy to collect for New Jersey, Gov. Whitman today formed an advisory committee that will study all pending proposals to expand or reduce portions of the sales tax base. The committee will also review any newly enacted legislation within three years of the enactment to recommend whether the legislation has been effective in advancing its goals.

"The sales and use tax in New Jersey has provided a stable source of revenue and must continue to do so," said Gov. Whitman. "By ensuring the stability of the sales and use tax we are able to keep the rate at six percent and are not in need of other alternative funding mechanisms."

"Currently, over \$5 billion is generated from the sales and use tax. We must ensure that when we reduce or expand this tax that we carefully consider the outcome and take into account the programs being funded and provided to the public as a result of the steady source of financial support," she continued. "This advisory committee will enable us to keep the sales and use tax simple to collect and easy to enforce and it will keep it a stable revenue generator."

The Governor said she would need to seriously consider the recommendations of the committee before acting on any further legislation concerning sales and use tax reductions or expansion. This will allow the Governor under the advisement of the committee to ensure that the benefits of the action provide significant results and are not simply unwarranted, meaningless erosion of the sales tax base.

Executive Order Number 103, creates the Advisory Committee on the Sales and Use Tax. The committee, comprised of up to eleven members will include: the state Treasurer, or a designee, a representative of a state agency or department to be appointed by the Governor, a professor of higher education with substantial expertise in the area of State tax policy, five members of the public to be appointed by the Governor and two appointees of the Legislature, one by the Speaker of the Assembly and one by the Senate President.

The goal of the advisory committee is to provide the Governor and the Legislature with a comprehensive and coordinated review of all legislation that would reduce or expand the base of the sales tax prior to it becoming law. The committee will also review currently enacted laws that perform the aforementioned functions.

Governor Whitman today signed the following legislation addressing issues of sales and use tax exemptions. All of the legislation will be subject to review by the newly formed committee.

A-2139, sponsored by Assembly Members Guy Gregg (R-Sussex/Hunterdon/Morris) and Neil Cohen (D-Union) and Senators Anthony Bucco (R-Morris) and Robert Littell (R-Sussex/ Hunterdon/Morris), increases amount of exemption under the sales and use tax for sales through coin-operated vending machines from \$0.10 to \$0.25.

A-2420 "The Firearm Accident Prevention Act", sponsored by Assemblyman Neil Cohen (D-Union) and Senate President Donald DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Senator John Lynch (D-Middlesex/Somerset/Union) exempts the sale of firearm trigger locks and other devices that would make a firearm inoperable by anyone other than an authorized person from the sales and use tax.

A-2421, "The Secure Firearm Storage Act", sponsored by Assemblymen Neil Cohen (D-Union) and Guy Gregg (R-Sussex/Hunterdon/Morris) and Senate President Donald DiFrancesco (R-Middlesex/Morris/Somerset/Union) and Senator John Lynch (D- Middlesex/Somerset/Union) exempts the sale of firearm vaults from sales and use tax.

ACS for A-1952/977, sponsored by Assemblymen Alex DeCroce (R- Essex/Morris/Passaic) and Nicholas Felice (R-Bergen/Passaic), Kenneth LeFevre (R-Atlantic) and Francis Blee (R-Atlantic) and Senator James Cafiero (R-Cape May/Atlantic/Cumberland), exempts certain aircraft repairs from sales and use tax. The bill applies to repairs on private aircraft weighing more than 6,000 pounds.