

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

2. **Bill Number** SB 1188

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Aircraft Sales and Use Tax: Exemptions for
Certain Aircraft

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would provide an exemption from the aircraft sales and use tax beginning July 1, 2011 and ending December 31, 2015 for any aircraft sold or leased by a qualified company. In order to be eligible for this exemption, the qualified company must i) be headquartered in the Commonwealth, ii) make a new capital investment of at least \$4 million in aviation-related real estate and real estate improvements in the Commonwealth related to public-use airports between January 1, 2010 and December 31, 2015, iii) create at least 50 new jobs between January 1, 2010 and December 31, 2015 paying at least one and a half times the prevailing average wage in the locality in which the jobs are located, iv) own or use aircraft not previously subject to the Virginia aircraft sales and use tax that are primarily used for intrastate, interstate, or foreign commerce. The investment and jobs would be required to be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into on or before December 31, 2015. Persons qualifying for this proposed exemption would be entitled to a refund for any aircraft sales and use tax paid between January 1, 2011, and before December 31, 2015.

The bill would also exempt aircraft sold in the Commonwealth and registered outside of the Commonwealth from the aircraft sales and use tax so long as the aircraft is removed from the Commonwealth within 60 days of the date of purchase on the Bill of Sale. If the aircraft is removed within 60 days of the date of purchase, the time between the date of purchase and the removal of the aircraft would not be counted for purposes of determining whether an aircraft is required to be licensed in the Commonwealth.

Under current law, the aircraft sales and use tax is generally imposed at the rate of 2% on the retail sale of every aircraft sold in Virginia and upon the use in Virginia of any aircraft required to be licensed by the Department of Aviation. All aircraft owned by residents of the Commonwealth or owned by nonresidents, if they are based in Virginia more than 60 days in a 12-month period, are required to be licensed. Aircraft sold in Virginia but removed within 60 days are not subject to the licensure requirement or subject to the tax.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Costs Impact

TAX would not incur any costs in the implementation of this bill.

Revenue Impact

As the number and value of qualifying aircraft sold and licensed each year are unknown, the revenue loss of this bill is unknown.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Aviation

10. Technical amendment necessary: No.

11. Other comments:

Background

Under current law, the aircraft sales and use tax is generally imposed at the rate of 2% on the retail sale of every aircraft sold in Virginia and upon the use in Virginia of any aircraft required to be licensed by the Department of Aviation. Revenues from the tax are deposited into a special fund within the Commonwealth Transportation Fund for the administration of aviation laws by the Department of Aviation, for the construction, maintenance and improvement of airports and landing fields, and for the promotion of aviation. The purchaser must file a return with TAX and pay the tax prior to filing for a license with the Department of Aviation. Upon receipt of payment, TAX will certify the payment to the Department of Aviation.

Commercial dealers in aircraft may elect to license for commercial use one or more aircraft held for lease, rental, charter or other compensatory use, without payment of the Virginia Aircraft Sales and Use Tax based upon the sale price. Commercial dealers that make this election are subject to the Aircraft Sales and Use Tax at the rate of two percent of the monthly gross receipts from the lease, charter or other use of any aircraft licensed for commercial use instead.

Virginia requires all aircraft owned by residents of the Commonwealth or owned by nonresidents, if they are based in Virginia more than 60 days in a 12-month period, to be licensed. The annual aircraft license fee for a private, noncommercial aircraft is \$5.00 and the fee for a private aircraft which is used for commercial purposes is \$10.00. Aircraft owners and aircraft dealers who market or sell either their own aircraft or aircraft owned

by a manufacturer to the public may be licensed as Commercial Dealers or Noncommercial Dealers in lieu of having a Commercial License to cover each aircraft.

Proposal

This bill would provide an exemption from the aircraft sales and use tax beginning July 1, 2011 and ending December 31, 2015 for any aircraft sold or leased by a qualified company. In order to be eligible for this exemption, the qualified company must i) be headquartered in the Commonwealth, ii) make a new capital investment of at least \$4 million in aviation-related real estate and real estate improvements in the Commonwealth related to public-use airports between January 1, 2010 and December 31, 2015, iii) create at least 50 new jobs between January 1, 2010 and December 31, 2015 paying at least one and a half times the prevailing average wage in the locality in which the jobs are located, iv) own or use aircraft not previously subject to the Virginia aircraft sales and use tax that are primarily used for intrastate, interstate, or foreign commerce. The investment and jobs would be required to be made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into on or before December 31, 2015. Persons qualifying for this proposed exemption would be entitled to a refund for any aircraft sales and use tax paid between January 1, 2011, and before December 31, 2015.

The bill would also exempt aircraft sold in the Commonwealth and registered outside of the Commonwealth from the aircraft sales and use tax so long as the aircraft is removed from the Commonwealth within 60 days of the date of purchase on the Bill of Sale. If the aircraft is removed within 60 days of the date of purchase, the time between the date of purchase and the removal of the aircraft would not be counted for purposes of determining whether an aircraft is required to be licensed in the Commonwealth.

The effective date of this bill is not specified.

Similar Legislation

House Bill 2221 is identical to this bill.

cc : Secretary of Finance

Date: 1/24/2011 AM
DLAS File Name: SB1188F161.doc