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Senate Bill 437 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Finance

Date Completed: 6-4-01

RATIONALE

The General Sales Tax Act exempts from the sales tax sales to a domestic air carrier of an aircraft or parts and material affixed to an aircraft that has a maximum certified takeoff weight of at least 6,000 pounds for use in the transport of air cargo and/or passengers. (A domestic air carrier is an entity engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.) This exemption and a similar exemption under the Use Tax Act were established by Public Acts 204 and 200 of 2000. Public Act 204 also extended an exemption that had applied to aircraft with a maximum takeoff weight of at least 12,500 pounds, purchased after 1992.

A question has arisen over the application of the sales tax to aircraft that are purchased for subsequent lease. Reportedly, at least one charter aircraft company in Michigan purchases its aircraft through its holding company, which then leases the aircraft to the operating company for use in charter flights. The company has been unable to claim the existing sales tax exemption for aircraft because the General Sales Tax Act does not specifically allow an exemption for the purchase of aircraft for subsequent lease. It has been suggested that an exemption be allowed for such transactions.

CONTENT

The bill would amend the General Sales Tax Act to exempt from the tax, beginning January 1, 1996, sales of an aircraft or parts and materials affixed to an aircraft that had a maximum certified takeoff weight of at least 6,000 pounds for use in the transport of air cargo and/or passengers, that were sold to a

person for lease to a domestic air carrier operating under a certificate for on demand charter issued by the Federal Aviation Administration.

The bill would require the State Treasurer to determine by January 1 each year the amount of revenue lost from the State School Aid Fund (SAF) in the preceding State fiscal year due to the current and proposed exemption for aircraft and parts and materials affixed to aircraft. The State Treasurer would be required to deposit that amount into the SAF from the General Fund.

MCL 205.54x

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A charter airline company in Michigan, Aerogenesis, has a business structure that contains a holding company and an operating company. The holding company purchases aircraft and parts and materials and then leases those items to the operating company. Under the Act, sales of an aircraft or parts and materials to be affixed to an aircraft (with a maximum takeoff weight of at least 6,000 pounds for use in the transport of air cargo and/or passengers) are exempt from the tax if sold to a domestic air carrier. The Act does not specify that such sales are exempt if the purchaser is a company that intends to lease the purchased property to a charter airline. As such an entity, the Aerogenesis holding

company has been unable to claim the exemption. It is unclear why a company should not be allowed to claim the exemption simply because of its business structure, when similar sales that do not involve a leasing arrangement are exempt. By specifically exempting sales that do involve a leasing arrangement, the bill would extend the availability of an exemption that for many years has been in place in various forms for sales of aircraft. The bill thus would help to ensure that charter airline companies would not be reluctant, because of tax policy, to base their operations in Michigan.

Opposing Argument

The bill would provide a retroactive exemption to one company. It is not wise tax policy for the State to provide retroactive tax relief for individual taxpayers.

Legislative Analyst: G. Towne

FISCAL IMPACT

State Government. It is estimated that this bill would eliminate a current contested liability, covering several years, totaling less than \$400,000. This liability has not been paid, so under this bill the State would not have to issue a refund. It is also estimated that this bill would have very minimal, if any, impact on sales tax revenue on an ongoing basis. The School Aid Fund (SAF), which receives about 73% of sales tax collections, would be held harmless under the bill; however, due to the way the hold-harmless section is worded, the SAF would be held harmless from the loss in sales tax revenue due to the total exemption granted domestic carriers when purchasing airplanes, and not just on the expanded exemption proposed in this bill. It is not known at this time how much revenue the SAF would gain under this proposal, and how much the General Fund/General Purpose budget would lose, but it could potentially be several million dollars.

Local Government. Changes in sales tax collections can have an impact on local revenue sharing, but it appears this bill would not have any appreciable impact on local governments.

Fiscal Analyst: J. Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.