

H205 Testimony by George S. Coy

Good afternoon, I am here today to testify on H205 concerning sales tax and on Aircraft sales and sales tax on aircraft parts.

I have been an aircraft dealer for over 20 years in Vermont. I have also been an importer and exporter of aircraft for more than 20 years and in that capacity have imported over 350 aircraft from the former East Bloc countries and have exported over 150 aircraft to Russia and other countries. I have also operated Border, the FBO at Franklin County Airport since 1995. I currently have 4 aircraft that I operate in a flight school. I have acted as a broker for the sale for aircraft into Vermont and out of Vermont during that period. I have advised many aircraft owners on the Vermont sales tax laws concerning aircraft. As an FBO I have sold many parts for aircraft to aircraft owners.

I wish to divide my testimony into two parts the first as regards to the sales tax on aircraft and the second to the sales tax on aircraft parts.

Sales Tax on aircraft:

I am sure your committee is aware that the current law imposes a 6% sales tax on the purchase of aircraft that are registered to a Vermont address. I specifically worded it that way as the tax department presently does not have a way of determining that the aircraft is in Vermont except by reviewing the FAA records.

The registration and subsequent of mobile assets is a general problem worldwide. The International conventions require the United States to register aircraft and any liens against aircraft and generally maintain all title records, much as a town clerk would maintain title records on land in a town. There is a separate international register for large aircraft and their engines that also registers aircraft title liens so they cannot be sold from country to country to avoid repaying lien holders.

There are some areas of exemptions that need to be clarified under the law, but **I do not support the portion of the bill that would repeal the sales tax on aircraft.** I believe that despite the fact we are surrounded by states that do not charge a sales tax on aircraft, that it is a fairness issue that aircraft should be treated and taxed as any other personal property.

I do not feel that repealing the tax would significantly increase the number of aircraft moving to Vermont. In my experience, the sales tax for general aviation personal aircraft has not been a deal breaker when making a buying decision for an aircraft. Aircraft purchase for some business purposes are already exempt from the tax. There was no tax collected on the four aircraft in my flight school, as we collect sales tax on the rental of the aircraft.

I am sure you are aware that it is relatively easy to avoid the tax altogether by simply registering the aircraft with a mailing address that is not in Vermont. In particular, in the south east portion of Vermont that is not served by a local airport, the aircraft would be based in New Hampshire and registered to a New Hampshire address. Likewise it is easy to register an aircraft in New York, Massachusetts or even Quebec. As aircraft may easily operate in other states so it is difficult for the tax department to recognize this and even more difficult to prove it. I assume you are aware that the state of Maine attempted to levy a tax on all aircraft that were in Maine for a 30 day period. It is my understanding that as a result of the uproar it created over the tax bills sent to the sales tax was subsequently repealed. How about the Florida resident who summers in Vermont? Will the six months and a day rule for residency be the determining factor and how difficult is that to prove without sending threatening letters to aircraft owners parked here for the summer.

People have suggested that Vermont should have a state registry to solve the problem. In my opinion, that would be more detrimental to aircraft sales in Vermont than the sales tax itself. I happened to be a member of the Vermont Legislature and serve on House Transportation in 1979 when we removed the requirement for registration of aircraft in Vermont. It was done for precisely the same reasons as the tax department has trouble determining the owner's real residency today. The cost to have a part time person traveling around the state writing down the registration numbers of every aircraft and forcing every hangar owner to open their hangar for inspection would be excessive. There hassle factor alone would cause people to reconsider buying an aircraft. Never mind the tax letter sent to the lady who brought her airplane here for paint and it was here for 2 months, or the guy who lives on a field that does not plow in the winter and brings it here for 4 months of the year.

Larger aircraft with a price tag in several hundred thousand dollars and up are probably not going to pay the tax in any case. They will register it to a separate leasing company in Delaware and avoid the sales tax. A Delaware corporation is very easy to set up and maintain. It only costs a few hundred dollars a year. I have one I use for large aircraft that I am exporting. I did it for additional shield from liability rather than tax avoidance, as I do not pay tax as a dealer on aircraft that I sell out of state. In my case I still used a Vermont mailing address.

TAX Issues that need to be considered

As I mentioned there are some issues that need clarification. The first is the definition of casual sales under section 9701 where aircraft are exempted from causal sales. This is not fair to people who sell their aircraft out of state not realizing the state will come after them for the sales tax. If I sell my \$20,000 zero turn mower to my brother in the New Hampshire, I am not expected to collect the sales tax, but if I sell my airplane then the tax department will come after me for the sales tax. Again I consider this as a fairness issue. By the way, most small low end aircraft are bought and sold for a similar the price of a decent boat. Airplanes are not just wealthy people toys.

The second issue that needs clarification is that there is no clarity on the tax liability when a person sells their aircraft buy's another one within a reasonable time, that tax due is on the difference in value, not the whole price. This again is a fairness issue and in keeping with the way other similar personal property mobile assets are treated. As I understand it can be done, but only by a Vermont aircraft dealer and then only if the transaction happens simultaneously.

Sales Tax on aircraft parts:

I feel that re-imposing the tax on aircraft parts would be very detrimental to not only aircraft owners, but very detrimental to aircraft maintenance organizations. Simply put if I can save several more than the price of the fuel and the slight inconvenience, I would take my airplane to an out of state facility for the maintenance.

When the sales tax on parts was rescinded, there was a determination made that it was necessary in order to stay competitive with surrounding states. To wit:

Title 32 Chapter 233 § 9706. Statutory purposes

(p) The statutory purpose of the exemption for aircraft and depreciable parts for commercial and private use in subdivision 9741(29) of this title is to promote the growth of the aircraft maintenance industry in Vermont by lowering the cost of parts and equipment relative to other states with private airplane maintenance facilities

It is my relocation that at the time that subdivision 29 was changed and made temporary to expire on July 1 2018 so that we would see what other states in our surrounding area were doing and if it made any significant difference to in state business. It would also give you the ability to automatically re-impose the tax if other states returned to taxing parts. It would also give the tax department a chance to see how much the revenues were impacted.

I can say definitely were the sales tax were it imposed at the time it would have prevented Green Mt Avionics from becoming the business it is today. The impact of their business on Middlebury airport includes increased fuel sales, increased restaurant visits, increased rental car business etc. They are a very competitive avionics installer in New England. I have purchased over \$35,000 worth of equipment from them in the last 12 months. I could have gone to Plattsburg and saved \$2,100 in tax had there been sales tax in Vermont. They would have lost not only the \$35,000 of sales, but would have lost all the labor to install the equipment.

It would affect major work done on aircraft in our shop. We recently had a client come for an engine overhaul. The engine overhaul itself was \$19,500. Had we needed to charge tax, he would have gone elsewhere. We got the labor as well.

There is a general perception that Airplanes are for "RICH" people. I must that in some segments of the market, that is true, but there is a vast segment of aircraft owners who are middle income people. You can buy a pretty good used aircraft for \$30,000. The cost is similar to a boat, motorcycle or an RV.

If you allow the sales tax exemption to expire in 2018, then you also should remove the Title 32 Chapter 233§ 9706 (p) language as well.

Regards,

Georg Coy