OTPA

New York State Department of Taxation and Finance

REPORT TO THE GOVERNOR AND LEGISLATURE

Office of Tax Policy Analysis

May 2009

A Review of the Sales and Use Tax Exemption for Private Aircraft Parts and Service

Effective December 1, 2004 and Scheduled to Expire on December 1, 2009

Robert L. Megna
Commissioner

Contents

Executive Summary

On December 1, 2004, Chapter 60 of the Laws of 2004 amended Section 1115(dd) of the Tax Law to provide that receipts from sales of the services of installing tangible personal property in aircraft and of maintaining, servicing or repairing aircraft are exempt from state and local sales and use taxes. Prior to enactment of this exemption, similar services performed on commercial aircraft were already exempt. Chapter 60 expanded to private aircraft the repair and maintenance sales tax exemption provided to aircraft used for commercial purposes. The exemption is scheduled to expire on December 1, 2009.

The enacting legislation required the Department of Taxation and Finance and the Department of Transportation to analyze and report the economic and revenue impact experienced by the general aviation sector, whether related to employment, aircraft maintenance or associated hangaring costs.

This report examined several data sources to determine what impact, if any, the private aircraft sales tax exemption had on airport businesses during the first three years of the exemption period. First, national general aviation data were examined to determine how the industry as whole did during the period of the exemption as a baseline comparison for New York. Second, sales tax return data were examined for a limited universe of fixed based operators (FBO's) over time to determine what impact the exemption had on reported taxable sales. Third, a survey was sent to FBOs located at numerous airports throughout the State. The general findings of this report can be summarized as follows:

- During the period from 2001 to 2003, the general aviation sector in the United States was in a period of decline, likely attributable to the economic recession experienced by the industry as a whole during this period. From the period 2004 through 2007, U.S. general aviation shipments and billings entered a period of increased demand, likely the result of demand for jets and other aircraft as economic conditions improved for businesses.

- Taxable sales information examined for a panel of FBO's indicated that taxable sales decreased in the first year of implementation, but increased in subsequent years (2006 and 2007). While it would be expected that reported taxable sales would decrease following a sales tax exemption, it is not clear why taxable sales would have increased dramatically in subsequent years. Since these FBO's also sold jets, one possible explanation is that these FBO's made increased aircraft sales in New York during these years.

- A group of FBO's surveyed overwhelmingly indicated that the exemption had a positive impact on their businesses. Repair and maintenance service orders increased by 15 percent from 2004 (the year preceding the exemption) to 2005 (the year following the exemption). Employment for this group of FBO's increased by 3 percent from 2004 to 2005.

Based on these findings, it is clear that the selected FBO's in New York State reported an increase in taxable sales in the years following the exemption. However, it is not clear whether the increase in FBO sales was a direct result of the tax exemption, since several of the larger FBO's examined were also involved in other segments of the aviation sector (e.g., the sale of private aircraft). Information reported to the Tax Department by businesses in the aviation sector do not contain the level of data that are necessary to definitively answer the question of whether the tax exemption had a positive revenue impact on the economy of the State.

Introduction

On December 1, 2004, Chapter 60 of the Laws of 2004 amended Section 1115(dd) of the Tax Law to provide that receipts from sales of the services of installing tangible personal property in aircraft and of maintaining, servicing or repairing aircraft are exempt from state and local sales and use taxes. The exemption is scheduled to expire on December 1, 2009. The enacting legislation required the Department of Taxation and Finance and the Department of Transportation to analyze and report the economic and revenue impact experienced by the general aviation sector, whether related to employment, aircraft maintenance or associated hangaring costs. This report summarizes these findings.

Background

Aircraft and the New York State Tax Law

Generally, aircraft can be broken down into two classifications based on the nature of the use of the aircraft: commercial aircraft and general aviation aircraft. The New York State Tax Law provides for a definition of commercial aircraft and provides specific exemptions for aircraft used for commercial purposes, while remaining silent on other types and uses of aircraft.

Commercial aircraft is defined in section 1101(b)(17) of the Tax Law as aircraft (1) used primarily to transport persons or property for hire, (2) or used by the purchaser primarily to transport tangible personal property in the conduct of such person's business, (3) or used primarily for both purposes.[1] Commercial aircraft primarily engaged in intrastate, interstate or foreign commerce is exempt from sales and use tax (sales tax) under section 1115(a)(21) of the Tax Law. This exemption includes the machinery or equipment installed on commercial aircraft as well as property used by or purchased for the use of such aircraft for maintenance and repairs. In addition, flight simulators purchased by commercial airlines are exempt from the sales tax.[2]

The Tax Law does not specifically address "general aviation" aircraft. General aviation typically includes all other aircraft other than aircraft used for commercial or military purposes. Examples of general aviation include private aircraft powered by propeller or jet engines and helicopters. Under the Tax Law, general aviation aircraft are subject to the sales tax as "tangible personal property."

[1]The State Budget for fiscal year 2009-10 contains a provision that narrows the sales tax exemption for commercial aircraft. Tax Law section 1101(b)(17) has been amended to provide that transporting persons for hire does not include transporting agents, employees, officers, members, partners, managers or directors of affiliated persons. This change is effective June 1, 2009.
[2]A description of the exemption and estimates of the State sales tax benefits provided can be found in the Tax Expenditure Report.

The major components of general aviation use include:

- Business Flying. Use of an aircraft not for compensation or hire by an individual for the purposes of transportation required by a business in which he or she is engaged.
- Executive (Corporate) Aviation. Use of an aircraft by a corporation, company or other organization for the purpose of transporting its employees. This does not include contract carriers for hire, which are typically considered aircraft for commercial uses.
- Personal Aviation. Use of an aircraft by an individual for private or recreational use.[3]

Other States' Taxation of General Aviation Aircraft

Forty five states and the District of Columbia impose state sales taxes.[4] Tax rates (combined state and local) in these states range from 4.5 percent to 12.7 percent. With few exceptions, most of these states tax the sale of private aircraft when purchased by a resident of that state. While tax exemptions for aircraft do exist in some states, the exemptions are usually narrow and often include specific obligations. For example, roughly a dozen states have "fly-away" exemptions. A fly-away exemption is when a person purchases an aircraft in a state but must fly the plane out of the state within a certain period of time (e.g., within 5 days) without incurring a tax liability. Restrictions may also apply regarding whether the aircraft can return at a later date to the state where purchased, without triggering tax liabilities.

Nevertheless, of the states in close proximity to New York State, only Pennsylvania does not have an exemption for private aircraft or private aircraft parts.[5] Other neighboring states have provisions in their respective tax laws that

[3] Levy, Norman J. General Aviation: A Flight Plan for Economic Prosperity-A Study and Report on New York's General Aviation Industry with Recommendations. (1995). Legislative Commission on Critical Transportation Choices.

[4] Alaska, Delaware, Montana, New Hampshire and Oregon do not have a state sales tax.

[5] In 2007, legislation was introduced in the Pennsylvania legislature that would have exempted private and corporate aircraft from the sales tax, but the legislation was not enacted.

address, in some way, private aircraft. These include the following:

- Massachusetts exempts from the sales tax the sale of private aircraft, including repair or replacement parts exclusively for use in aircraft or in significant overhauling or rebuilding of aircraft or aircraft parts or components on a factory basis.[6]

- Connecticut has a limited exemption for aircraft. Connecticut law exempts the sale and storage of private aircraft with a takeoff weight greater than 6,000 lbs. Thus, a typical single-engine turbine plane with the capacity to carry six passengers (with a weight around 2,500 lbs.) is subject to the sales tax.

- New Jersey has a limited aircraft exemption. New Jersey exempts the sale of equipment, parts and repairs of aircraft with a takeoff weight greater than 6,000 lbs. The purchase of the aircraft, however, remains subject to tax. This exemption was specifically crafted for business jets. An aircraft purchased by a New Jersey nonresident is also exempt from the tax. However, to qualify for the exemption, the aircraft cannot be hangared in the state (i.e., “flyaway exemption”).

- Vermont enacted legislation in 2007 that exempts from the sales tax private aircraft parts, machinery and equipment installed in an aircraft. Private aircraft still remain subject to the sales tax. Similar with New York, the Vermont legislation has a sunset date in 2011.

Thus, while it appears that most state’s sales apply to general aviation aircraft, New York State is among a cluster of northeastern states that have chosen to provide some form of exemption.

[6] In 2008, Massachusetts Governor Deval Patrick proposed eliminating the exemption as part of a plan to close a looming budget gap in the state. The Massachusetts legislature, however, voted to keep the exemption in place.

New York State Sales Tax Exemption for General Aviation Aircraft Parts and Services

Under the rationale of remaining competitive with surrounding states, the general aviation industry began an effort in New York around 2002-2003 for a sales tax exemption for private aircraft parts and services. On December 1, 2004, Chapter 60 of the Laws of 2004 amended Section 1115(dd) of the Tax Law to provide that receipts from sales of the services of installing tangible personal property in aircraft and of maintaining, servicing or repairing aircraft are exempt from state and local sales and use taxes. The exemption applies to receipts from sales of tangible personal property purchased by the person providing the exempt services, provided that the property becomes a physical component part of the aircraft. The exemption also applies to lubricants applied to an aircraft by the person who performs exempt services.

The Tax Department has determined that exempt services to aircraft include, but are not limited to, the following:

- Cleaning, repairing or replacing upholstery of seating, walls, etc.;
- Painting and repairing the interior or exterior of aircraft;
- Interior and exterior cleaning of aircraft, including ordinary janitorial services such as, dusting, cleaning and washing of walls, floors and windows;
- Mechanical services;
- Ramp services to aircraft, such as emptying lavatories and de-icing; and
- Operating tugs to tow an aircraft or operating other equipment to provide maintenance, service or repair to the aircraft.

The Tax Department has identified exempt items (provided the items are purchased by the person who performs an exempt service to aircraft and the item becomes a physical component part of the aircraft) to include, but not be limited to, the following:

- Machinery and equipment installed on the aircraft;
- Engine parts;
- Waxing and polishing agents;
- Headsets that are hardwired into the aircraft and plug-in headsets used by the flight crew;
- Paint;
- Light bulbs; and
- Cloth and other material purchased to repair or replace upholstery of seating, walls, etc.

Also exempted by the legislation, if purchased by the person performing a qualifying exempt service, are lubricants applied to aircraft, such as engine oil and grease. Glycol or other antifreeze sprayed on aircraft for de-icing, whether purchased by the owner or lessee of the aircraft or the person performing exempt services on the aircraft, is not exempt since it is not a lubricant and does not become a physical component part of the aircraft.

Chapter 60 also exempted receipts from the sale of the service of storing aircraft if provided by a person in conjunction with and during the rendering of an exempt service to the aircraft.

The New York exemption is scheduled to expire on December 1, 2009. Table 1 below summarizes how New York State and its surrounding neighbors treat the sale of private aircraft and services.

Table 1: Sales Tax Treatment of Private Aircraft Sales and Services by State

State	Tax Treatment of:	
	Sale of Private Aircraft Purchased by Resident	**Service and Repairs Performed on Private Aircraft**
New York	Taxed	Exempt
Connecticut	Limited Exemption*	Limited Exemption*
Massachusetts	Exempt	Exempt
New Jersey	Taxed	Limited Exemption*
Pennsylvania	Taxed	Taxed
Vermont	Taxed	Exempt

The general aviation industry in New York strongly supported the exemption for aircraft parts and services. Industry and supporters anticipated that this legislation would serve as an economic stimulus for general aviation airports throughout the State as new job opportunities arose and ancillary services from aircraft maintenance increased. While no specific estimates of these benefits were provided, Chapter 60 contained a provision that required the analysis of all statistical data available for the purpose of determining the economic and revenue impact of this sales tax exemption. Specifically, the legislation required that:

> "…the commissioner of taxation and finance, in conjunction with the commissioner of transportation, shall review and analyze all statistical data available for such purposes of determining the economic and revenue impact of the sales and use tax exemptions provided in this act; such report shall include, but not be limited to, any increases in aviation related to employment, airplane maintenance, and increases in hangaring in New York state; such report shall be transmitted to the governor, senate majority leader and speaker of the assembly."

The Tax Department initially estimated that State and local governments would forgo approximately $4 million annually in State and local sales taxes as a direct result of the legislation. The State General Fund was estimated to lose approximately $2 million annually. The estimated cumulative reduction of this exemption, from December 1, 2004 through December 1, 2009, to the State General Fund was estimated at approximately $10 million. These estimates did not account for any indirect effects that may result from this legislation, such as increased wages, spending or services provided by suppliers to airport fixed based operators ("FBO's"). Because actual aircraft repair and maintenance sales by airports were not known by the Tax Department, the estimates above were based on the number of active general aviation aircraft in New York as reported by the General Aviation Manufacturers Association[7] and average

[7] General Aviation Statistical Databook: 2002. (2002). General Aviation Manufacturers Association.

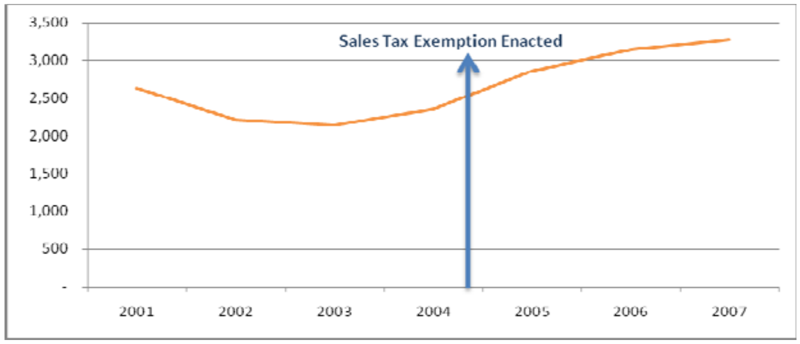
annual expenditures on aircraft service and repairs as reported in an analysis by the New York State Department of Transportation.[8]

A good measure for gauging the overall economic health of the general aviation industry is the demand for general aviation aircraft (e.g., piston aircraft, turboprops, business jets). Strong economic growth has historically led to increases in general aviation aircraft production levels. When economic conditions are vibrant, increases in the demand for private aircraft often follow as business activity expands and individuals have more disposable income to purchase recreational aircraft. Businesses that sell and service these aircraft benefit as more aircraft enter into circulation. Because the general aviation industry is highly sensitive to economic conditions, it is this segment of aircraft that typically is the first in the industry to suffer during a prolonged economic downturn.[9]

The 2002 recession provides a good illustration. From 2001 to 2002, general aviation aircraft shipments[10] in the U.S declined by 15.2 percent and total billings dropped by 9.9 percent (approximately $800 million in total billings). From 2002 to 2003, general aviation aircraft shipments in the U.S. declined by 3.2 percent and total billings dropped by 16.7 percent (approximately $1.3 billion in total billings).[11] As businesses and the economy began to improve by 2003, so did aircraft manufacturing and billings. From 2003 to 2004, general aviation aircraft shipments in the U.S. increased by 10.2 percent and total billings increased by 5.9 percent (approximately $400 million in total billings). From 2004 to 2005, general aviation aircraft shipments in the U.S. increased by 21.3 percent and total billings increased by 27.2 percent (approximately $1.85 billion in total billings). As can be seen in charts 1 and 2, growth continued in U.S. aircraft manufacturing and billings from 2005 through 2007, the most recent data year available.

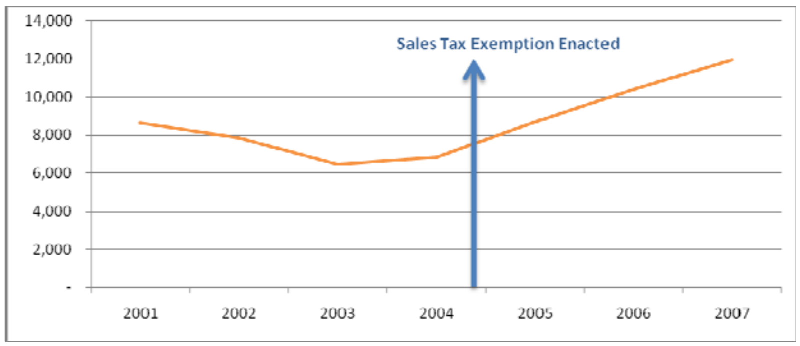
[8] "1999 Aircraft Owners and Aviation Users Marketing Survey and Regional Analysis." (1999). Prepared for the New York State Department of Transportation by the New York State Small Business Development Center.
[9] Royce, Douglas. "Slowdown Foreseen in Booming General Aviation/Utility Market." (Press Release, 2007). Forecast International, Inc.
[10] Aircraft manufactured in the U.S. under FAA production certificate.
[11] All data are from the General Aviation Manufacturing Association.

Chart 1: Total Shipments for General Aviation Manufactured in the United States: 2001 through 2007



Source: General Aviation Manufacturers Association

Chart 2: Total Billings (in millions of dollars) for General Aviation Aircraft Manufactured in the United States: 2001 through 2007



Source: General Aviation Manufacturers Association

As shown in the charts, in the year prior to enactment of the sales tax exemption in New York for aircraft parts and services, aircraft manufacturing was in a period of decline nationally. As the economy slowed, so too did demand for private aircraft. By 2004, general aviation shipments began to recover at the national level. It was during this same period that the New York State sales tax exemption was enacted (December, 1, 2004). While it is clear that aircraft demand at the national level experienced growth following 2004, comparable state data is not available. In an effort to look beyond national trend data and specifically at how this exemption may have affected New York airport businesses, Tax Department sales tax return information was examined.

New York State Tax Department Return Data

According to statistics compiled by the New York State Department of Transportation, airline passenger services are provided at 18 airports located in urban and rural areas throughout the State. These airports are served largely by commercial air carriers. In addition to airline airports, there are approximately 140 non-airline public-use (general aviation) airports throughout the State providing services such as charter flights for business and executives, medical emergencies and law enforcement, flight training and tourism and recreational flying.[12]

In the aviation industry, a fixed base operator, or FBO, is a service center located at an airport to provide a myriad of services to aircraft. The FBO may be a private enterprise or a subsidiary of the airport or municipality it serves. Typically, FBO's service private aircraft at general aviation airports. Services provided by FBO's vary, but often include fueling, deicing, hangar storage, aircraft charter rental, flight training, office rentals, ground handling services (e.g., towing) and a wide range of crew and passenger amenities (e.g., parking). In addition to providing services, some FBO's make new and used aircraft sales. Thus, FBO's are the central businesses that perform the services covered by the sales tax exemption, and are the businesses most likely to benefit from this exemption.

To explore the impact of the exemption on New York FBO's, sales tax return data were examined for a select number of FBO's. With assistance from the New York Aviation Management Association ("NYAMA"), a list of New York based FBO's was provided to the Tax Department. For these FBO's, taxable sales information was examined for a period of 4 years – one year preceding the exemption (December 2003 through November 2004) and three years following the exemption (December 2004 through November 2007).[13] Data were available for 15

[12] "New York Statewide Airport Economic Benefits Study." New York State Department of Transportation. (2003).

[13] Taxable sales includes nearly all retail sales of tangible personal property and certain services. Tangible property and services that are exempt from the sales tax are not included in this number. Thus, receipts from exempt services are not captured in taxable sales data.

FBO's for all periods.[14] The selection of FBO's was not a statistically valid sample, and any findings cannot be generalized to the entire population of New York FBO's. In addition, a small number of the selected FBOs in the panel comprised a large share of the reported taxable sales for the entire panel. However, the panel illustrates how a group of selected FBO's[15] in New York performed prior to and following the exemption. Table 2 below summarizes these data by year:

Table 2: Total Taxable Sales of FBO Panel

Sales Tax Quarters	Annual Taxable Sales (millions)
December 2003 thru November 2004	$10.8
December 2004 thru November 2005	$9.4
December 2005 thru November 2006	$18.0
December 2006 thru November 2007	$29.9

Source: New York State Department of Taxation and Finance.

Looking at four years of data, all other things equal, we would expect that reported taxable sales of these 15 businesses would have declined following enactment of a sales tax exemption for parts and services if in fact these businesses were solely performing such services. This is based on the rationale that once a service becomes exempt, sales of that service would no longer be reported as "taxable sales" and, therefore, reported taxable sales would decline. In the first year (Dec. 2004 – Nov. 2005) following enactment of the sales tax exemption, reported taxable sales by the selected group of FBO's declined by roughly 13 percent. However, in the second year (Dec. 2005 – Nov. 2006) following the exemption, reported taxable sales by these same FBO's increased by nearly 100 percent. In the third year (Dec. 2006 – Nov. 2007) following the exemption, reported taxable sales increased another 40 percent from the previous year. Because businesses, when

[14] The list of FBO's provided to the Tax Department by NYAMA contained the names of 69 FBO's (several FBO's had multiple locations throughout New York). The Tax Department was able to associate a federal employment identification number to roughly 26 of these businesses (with approximately 40 locations throughout New York). Approximately 15 of these businesses contained taxable sales information for all 16 quarterly sales tax periods.

[15] FBO's who had taxable sales in all periods from 2003 to 2007.

reporting taxable sales information to the Tax Department, are not required to distinguish or itemize their taxable sales (e.g., sales of aircraft, parts, accessories or hangaring fees), it is not known what factor specifically could have caused the increase in reported taxable sales. Since several of these FBO's were known to be making aircraft sales, it is possible that such a large increase in taxable sales is the result of increased big-ticket item purchases such as aircraft. However, it is not clear why an increase in aircraft sales would have occurred during this same period. That is, it may be that as FBO's experienced increased repair business as a result of the sales tax exemption, sales of other items not covered by the exemption increased as well. It is equally plausible that the sale of aircraft in New York was simply following trends that were occurring nationwide—i.e., double-digit increases in general aviation manufacturing shipments and billings. That is, aircraft sales generally were in a period of growth and would have occurred regardless of whether an aircraft parts and repair exemption was in effect.

Thus, while it is clear that these FBO's reported an increase in taxable sales in the years following the exemption, is not clear that this increase was a direct result of the sales tax exemption. Information in the Tax Department's return database does not allow us to answer this question. Given that some of the FBO's examined also made new and used aircraft sales, it is plausible that an overall improving national economy was a factor.

Survey of Aviation Service Businesses in New York

In an effort to meet the State Legislature's requirement that all statistical data available relevant to this exemption be analyzed, and to overcome tax return data limitations as described above, the Tax Department, in conjunction with the Department of Transportation, constructed a survey to attempt to measure the impact the exemption had on FBO's economic situation following the exemption. The intent of this survey was to get a more detailed profile of sales by FBO's that fall specifically within the scope of the exemption.

A draft of the survey was also provided to NYAMA, the industry group representing the FBO's. After consultation with NYAMA, it was agreed that the survey would be administered anonymously and would not require FBO's to identify themselves. The main reason for this decision was to assure FBO's that the financial information (e.g., gross sales) provided would not be used for purposes other than the economic study. The downside to maintaining anonymity among FBO's is that only one survey could be administered, since a follow-up survey could not be linked back to the first (anonymous) survey.

In the summer of 2006, the Tax Department and Transportation Department, with assistance from NYAMA, distributed a survey to a group of over 200 businesses identified by DOT as an airport business or potential FBO in the State (See survey, Appendix A). A total of 66 responses were returned, with 29 responses indicating that they were not FBO's. Thus, 37 survey responses were submitted that contained usable data. The survey asked a number of questions regarding region of state and sales information as it relates to the New York sales tax exemption. The main findings of the surveyed group are summarized below:

- Of the FBO's that returned responses, 27 percent were located in the downstate area (New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester) and 73 percent were in the remaining upstate counties.

- The number of service orders performed on aircraft by the surveyed FBO's that would have qualified under the sales tax exemption increased by 15 percent from 2004 to 2005 (the first year after the exemption). The gross receipt value of these qualifying service orders also increased by 17 percent from 2004 to 2005 (Table 3).

- Specifically exempted under the legislation were hangaring fees incurred by aircraft owners while the aircraft are under repair by the FBO. This situation would occur when an aircraft would need to be stored with the FBO for a period of several days. Receipts in hangaring fees increased by 8 percent from 2004 to 2005, which is not surprising given the fact that the number of qualifying service orders performed also increased (Table 4).

- The number of qualifying exempt service orders performed on aircraft registered to an out-of-state resident increased from 23 percent to 27 percent of total service orders (Table 5).

- The number of persons employed, both full time and part time, within the panel of surveyed FBO's increased by 3 percent from to 2004 to 2005 (Table 6).

- When FBO's in the panel were asked whether the sales tax exemption benefited their company directly, 89 percent indicated the exemption had a positive impact on their business while 11 percent indicated it did not (Table 7).

Table 3.

Number of Qualifying Service Orders Performed			**Total Receipts of Qualifying Service Orders Performed**		
2004	2005	% Change	2004	2005	% Change
20,216	23,224	15%	$31,749,303	$37,141,318	17%

Table 4.

Total Receipts of Hangaring in Conjunction with Repair Service		
2004	2005	% Change
$1,864,884	$2,013,557	8%

Table 5.

Residency of Aircraft Registration:	**2004**	**2005**
New York Resident	77%	73%
Out-of-State Resident	23%	27%

Table 6.

Number of Employed Persons		
2004	2005	% Change
386	396	3%

Table 7.

Has the Sales Tax Exemption Benefitted Your Business?	
Yes	**No**
89%	11%

Summary of Findings

On December 1, 2004, the Tax Law was amended to provide that receipts from sales of the services of installing tangible personal property in aircraft and of maintaining, servicing or repairing aircraft were exempt from state and local sales and use taxes. The exemption is scheduled to expire on December 1, 2009.

This report examined several data sources to determine what impact, if any, the private aircraft sales tax exemption had on airport businesses during the first three years of the exemption period. First, national general aviation data were examined to determine how the industry as whole did during the period of the exemption as a baseline comparison for New York. Second, sales tax return data was examined for a limited universe of FBO's over time to determine what impact the exemption had on reported taxable sales. Third, a survey was sent to FBO's located at numerous airports throughout the State. The general findings of this report can be summarized as follows:

- General aviation aircraft shipments and billings in the United States were in a period of decline from 2001 to 2003, likely attributable to the economic recession experienced by the industry as a whole during this period. From the period 2004 through 2007, U.S. general aviation shipments and billings entered a period of increased demand, likely the result of demand for jets and other aircraft as economic conditions improved for businesses.

- Taxable sales information examined for a panel of FBO's indicated that taxable sales decreased in the first year of implementation, but increased in subsequent years (2006 and 2007). While it would be expected that reported taxable sales would decrease following a sales tax exemption, it is not clear why taxable sales would have increased dramatically in subsequent years. Since these

FBOs also sold jets, one possible explanation is that these FBO’s made increased aircraft sales in New York during these years.

- A group of FBO’s surveyed overwhelmingly indicated that the exemption had a positive impact on their businesses. Repair and maintenance service orders increased by 15 percent from 2004 (the year preceding the exemption) to 2005 (the year following the exemption). Employment for this group of FBO’s increased by 3 percent from 2004 to 2005.

Appendix A

State of New York
Department of Transportation
Albany, N.Y. 12232

http://www.dot.state.ny.us

Thomas J. Madison, Jr.
Commissioner

George E. Pataki
Governor

August 11, 2006

Dear FBO/Airport Business:

The New York State Department of Transportation requests your participation in a statewide survey assessing the economic impact of recent legislation targeting the aircraft maintenance, repair and service industry.

Some background:

⇒ On December 1, 2004, Chapter 60 of the Laws of 2004 amended Section 1115(dd) of the Tax Law to provide that receipts from sales of the services of installing tangible personal property in aircraft and of maintaining, servicing or repairing aircraft became exempt from State and local sales and use taxes,

⇒ The exemption applies to receipts from sales of tangible personal property purchased by the person providing the exempt services, provided that the property becomes a physical component part of the aircraft,

⇒ The exemption also applies to lubricants applied to an aircraft by the person who performs exempt services,

⇒ This exemption only applies to non-commercial aircraft. All of the above services, when applied to commercial aircraft, are already exempt,

⇒ The exemption is scheduled to expire on December 1, 2009.

As part of this legislation, the State Legislature has required the analysis of all statistical data available for the purpose of determining the economic and revenue impact of this sales tax exemption. This survey is important because any action by the Legislature to renew this law after it expires will take into consideration whether the law had a positive effect on the State's economy by increasing aircraft services receipts.

In an effort to satisfy this legislative mandate, we have prepared a survey which will assist the Department in measuring the economic impact of the tax exemption. Enclosed you will find the survey containing several questions regarding the volume and extent of services performed on non-commercial aircraft in the State, which are directly affected by the new sales tax exemption, for calendar years 2004 and 2005.

We ask that you fill out each question, by year, using the most accurate data you have available. In an effort to maintain the confidentiality of the data, we are not requesting identifying information about your company. The survey may be submitted anonymously; however, if you wish to provide the name and phone number of a contact person at your company in case we have questions about your submittal, you may do so.

As a follow-up, a similar survey will be sent out in 2007 and again in 2008. Your responses will provide important information to us as to how the Tax Law change has economically impacted the aviation industry.

The New York Aviation Management Association (NYAMA), which played a key role making this law possible, also requests your participation in this survey. "This legislation represented an important step in gaining support for aviation as a critical economic driver in New York State communities," said Rich Halik, President of NYAMA. "By creating a more business-friendly environment and ensuring equity with neighboring states, aviation businesses are better able to create jobs and build the economy in their area. This survey will help measure the success of the legislation and provide tangible evidence for pursuing other pro-business initiatives," he added.

Please return this survey in the enclosed envelope to our office by September 8, 2006. If you have any questions about this survey, please contact Gerardo Mendoza of my staff at (518) 457-8343 or at gmendoza@dot.state.ny.us .

Thank you for your assistance in completing this important survey.

Sincerely,

Seth Edelman, Director
Aviation Bureau

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
TAX EXEMPTION SURVEY
AUGUST 2006

APPENDIX B

1. Please provide an estimate of the number of maintenance, repair or service orders performed on general aviation aircraft at your business for calendar years 2004 and 2005. If exact figures are not available, please provide your best estimates using available information.

> The Tax Law defines maintenance and repair as keeping the aircraft in a condition of fitness, efficiency, readiness or safety
> or restoring it to such condition. Exempt services would include, but not be limited to:
>
> - annual, 100 hour, or periodic inspections, including, but not limited to, those as listed in 14 CFR parts 43, 91, and 135,
> - compliance with Airworthiness Directives and Service Bulletins,
> - cleaning, repairing or replacing upholstery of seating, walls, etc.,
> - painting and repairing the interior or exterior of aircraft,
> - interior and exterior cleaning of aircraft, including ordinary janitorial services such as, dusting, cleaning and washing of walls, floors and windows,
> - mechanical services,
> - ramp services to aircraft, such as emptying lavatories and de-icing, and
> - operating tugs to tow an aircraft or operating other equipment to provide maintenance, service or repair to the aircraft.

(a) The number of qualifying service orders performed in 2004: ____________.
The number of qualifying service orders performed in 2005: ____________.

(b) Please provide total receipts of qualifying service orders performed in question one above. Total receipts of qualifying service orders performed in 2004: $______________.
Total receipts of qualifying service orders performed in 2005: $______________.

(c) Please provide total receipts received from the service of hangaring general aviation aircraft, if provided in conjunction with and during the rendering of a qualifying service (in question one above) to the aircraft.
Receipts in 2004: $______________.
Receipts in 2005: $______________.

Please indicate, if known, whether the general aviation aircraft on which qualifying services were performed upon was registered to a New York State resident.

Number of aircraft serviced registered to New York State residents in 2004 ___________
Number of aircraft serviced registered to out-of-State residents in 2004 ___________

Number of aircraft serviced registered to New York State residents in 2005 ___________
Number of aircraft serviced registered to out-of-State residents in 2005 ___________

(e) Please provide an estimate of the annual number of employees in your business that were engaged in performing qualifying service orders in question one above:

_____________ Number of part-time employees in 2004.
_____________ Number of full-time employees in 2004.

_____________ Number of part-time employees in 2005.
_____________ Number of full-time employees in 2005.

(f) Please provide an estimate of the average annual salary for part-time and full-time employees working at your business:

$_______________ Part-time employees.
$_______________ Full-time employees.

2. Please provide total receipts of lubricants applied to general aviation aircraft, such as engine oil or grease (but not glycol or other de-icing agents), if purchased by the person/business performing the service.

Receipts in 2004: $_____________.
Receipts in 2005: $_____________.

3. Please provide total receipts of items purchased (provided they are purchased by the person/business who performs the service to aircraft and the item becomes a physical component part of the aircraft).

Exempt items would include, but not be limited to:

machinery and equipment installed on the aircraft,
engine parts,
waxing and polishing agents,
headsets that are hardwired into the aircraft and plug-in headsets used by the flight crew,
paint,
light bulbs, and
cloth and other material purchased to repair or replace upholstery of seating, walls, etc.

Please provide total receipts of qualifying items purchased in question three above.
Total receipts of qualifying items in 2004: $____________.
Total receipts of qualifying items in 2005: $____________.

4. Do you believe the sales tax exemption has directly benefited your business in positive way?
_____ Yes.
_____ No.

Please explain your answer above (add paper if necessary): _______________________
____
____
____
____
____
____

5. Please check box indicating the region where your business is physically located.

¨ Region 1……includes counties of Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester

Region 2……includes all other counties not listed in Region 1 above.

Thank you for your assistance in completing this survey!

For more information concerning the data provided in this publication, please contact:

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
W.A. Harriman State Campus Office
Albany, New York 12227
Phone (518-457-3187)