
SUBSTITUTE HOUSE BILL 1707

State of Washington

63rd Legislature

2013 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Springer, Warnick, Parker, Lias, Manweller, and Lytton)

READ FIRST TIME 04/25/13.

1 AN ACT Relating to the taxation of large airplanes; amending RCW
2 47.68.250, 82.48.100, and 82.48.100; adding a new section to chapter
3 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new
4 section to chapter 43.136 RCW; creating a new section; providing
5 effective dates; and providing expiration dates.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that Washington is
8 home to one of the workforces most skilled in the world in the
9 manufacture, repair, and modification of aircraft. However, in a
10 global marketplace, aircraft are increasingly delivered to out-of-state
11 facilities for services like repair, cleaning, alteration, improvement,
12 and storage, because Washington's current tax structure is
13 disadvantageous, relative to the tax structures of other jurisdictions.
14 As a result of this competitive disadvantage, Washington businesses are
15 less likely to win contracts for the repair, cleaning, alteration,
16 improvement, and storage of large private airplanes that are directly
17 worth tens of millions of dollars to the Washington businesses, with
18 indirect benefits to the state that may amount to several times the
19 contract value. To help maintain and build upon Washington's aerospace

1 industry, create jobs, and increase state revenues, the legislature
2 intends to change its taxation of the modification, repair, storage,
3 and sale of large airplanes, so as to help local businesses compete for
4 these contracts against out-of-state businesses, on a level playing
5 field.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
7 to read as follows:

8 (1)(a) The tax levied by RCW 82.08.020 does not apply to:

9 (i) Sales of large private airplanes to nonresidents of this state;
10 and

11 (ii) Sales of or charges for labor and services rendered in respect
12 to repairing, cleaning, altering, or improving large private airplanes
13 owned by nonresidents of this state.

14 (b) The exemption provided by this section applies only when the
15 large private airplane is not required to be registered with the
16 department of transportation, or its successor, under chapter 47.68
17 RCW.

18 (2) Sellers making tax-exempt sales under this section must either
19 obtain an exemption certificate from the buyer or must capture the
20 relevant data elements, including proof of out-of-state ownership, as
21 allowed under the streamlined sales and use tax agreement. The
22 exemption certificate must be in a form and manner prescribed by the
23 department. The seller must retain a copy of the exemption certificate
24 for the seller's files.

25 (3) Upon request, the seller must provide to the department of
26 revenue information needed by the department of revenue to verify that
27 a sale qualified as tax-exempt under this section.

28 (4) For purposes of this section "large private airplane" means an
29 airplane not used in interstate commerce, not owned or leased by a
30 government entity, weighing more than forty-one thousand pounds, and
31 assigned a category A, B, C, or D test flow management system aircraft
32 weight class by the federal aviation administration's office of
33 aviation policy and plans.

34 (5) This section expires January 1, 2024.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
36 to read as follows:

1 (1)(a) The tax levied by RCW 82.12.020 does not apply to the use
2 of:

3 (i) Labor and services rendered in respect to repairing, cleaning,
4 altering, or improving large private airplanes owned by nonresidents of
5 this state; and

6 (ii) Large private airplanes owned by nonresidents of this state.

7 (b) The exemption provided by this section applies only when the
8 large private airplane is not required to be registered with the
9 department of transportation, or its successor, under chapter 47.68
10 RCW. The person claiming an exemption under this section must provide
11 the department of revenue, upon request, any information the department
12 may require.

13 (2) For purposes of this section, "large private airplane" has the
14 same meaning as established in section 2(4) of this act.

15 (3) This section expires January 1, 2024.

16 **Sec. 4.** RCW 47.68.250 and 2003 c 375 s 4 are each amended to read
17 as follows:

18 (1) Every aircraft (~~((shall))~~) must be registered with the department
19 for each calendar year in which the aircraft is operated or is based
20 within this state. A fee of fifteen dollars (~~((shall-be))~~) is charged
21 for each such registration and each annual renewal thereof.

22 (2) Possession of the appropriate effective federal certificate,
23 permit, rating, or license relating to ownership and airworthiness of
24 the aircraft, and payment of the excise tax imposed by Title 82 RCW for
25 the privilege of using the aircraft within this state during the year
26 for which the registration is sought, and payment of the registration
27 fee required by this section (~~((shall-be))~~) are the only requisites for
28 registration of an aircraft under this section.

29 (3) The registration fee imposed by this section (~~((shall))~~) must be
30 payable to and collected by the secretary. The fee for any calendar
31 year must be paid during the month of January, and (~~((shall))~~) must be
32 collected by the secretary at the time of the collection by him or her
33 of the said excise tax. If the secretary is satisfied that the
34 requirements for registration of the aircraft have been met, he or she
35 (~~((shall))~~) must thereupon issue to the owner of the aircraft a
36 certificate of registration therefor. The secretary (~~((shall))~~) must pay

1 to the state treasurer the registration fees collected under this
2 section, which registration fees shall be credited to the aeronautics
3 account in the transportation fund.

4 (4) It ~~((shall))~~ is not ~~((be))~~ necessary for the registrant to
5 provide the secretary with originals or copies of federal certificates,
6 permits, ratings, or licenses. The secretary ~~((shall))~~ must issue
7 certificates of registration, or such other evidences of registration
8 or payment of fees as he or she may deem proper; and in connection
9 therewith may prescribe requirements for the possession and exhibition
10 of such certificates or other evidences.

11 (5) The provisions of this section ~~((shall))~~ do not apply to:

12 ~~((+1))~~ (a) An aircraft owned by and used exclusively in the
13 service of any government or any political subdivision thereof,
14 including the government of the United States, any state, territory, or
15 possession of the United States, or the District of Columbia, which is
16 not engaged in carrying persons or property for commercial purposes;

17 ~~((+2))~~ (b) An aircraft registered under the laws of a foreign
18 country;

19 ~~((+3))~~ (c) An aircraft ~~((which is))~~, owned by a nonresident ~~((and~~
20 ~~registered in another state:—~~ PROVIDED, That if said aircraft shall
21 remain in and/or be based in this state for a period of ninety days or
22 longer it shall not be exempt under this section;

23 ~~((+4))~~, which remains in this state, is based in this state, or
24 both, for a period of less than ninety days;

25 (d) An aircraft engaged principally in commercial flying
26 constituting an act of interstate or foreign commerce;

27 ~~((+5))~~ (e) An aircraft owned by the commercial manufacturer
28 thereof while being operated for test or experimental purposes, or for
29 the purpose of training crews for purchasers of the aircraft;

30 ~~((+6))~~ (f) An aircraft being held for sale, exchange, delivery,
31 test, or demonstration purposes solely as stock in trade of an aircraft
32 dealer licensed under Title 14 RCW;

33 ~~((+7))~~ (g) An aircraft based within the state that is in an
34 unairworthy condition, is not operated within the registration period,
35 and has obtained a written exemption issued by the secretary; and

36 (h) A large private airplane, as defined in section 2(4) of this
37 act, delivered within the state exclusively for the purpose of

1 continual storage of one full calendar year or more, repairs,
2 alterations, or reconstruction, when the airplane:

- 3 (i) Is owned by a nonresident; and
- 4 (ii) Is not flown during the time it is within the state, except
5 when it is flown for the purpose of flight testing related to the
6 repairs, alterations, or reconstruction, and an employee of the
7 facility providing these services is on board during the flight
8 testing.

9 (6) The secretary (~~shall~~) must be notified within thirty days of
10 any change in ownership of a registered aircraft. The notification
11 (~~shall~~) must contain the N, NC, NR, NL, or NX number of the aircraft,
12 the full name and address of the former owner, and the full name and
13 address of the new owner. For failure to so notify the secretary, the
14 registration of that aircraft may be canceled by the secretary, subject
15 to reinstatement upon application and payment of a reinstatement fee of
16 ten dollars by the new owner.

17 (7) A municipality or port district that owns, operates, or leases
18 an airport, as defined in RCW 47.68.020, with the intent to operate,
19 (~~shall~~) must require from an aircraft owner proof of aircraft
20 registration as a condition of leasing or selling tiedown or hanger
21 space for an aircraft. It is the responsibility of the lessee or
22 purchaser to register the aircraft. The airport (~~shall~~) must work
23 with the aviation division to assist in its efforts to register
24 aircraft by providing information about based aircraft on an annual
25 basis as requested by the division.

26 **Sec. 5.** RCW 82.48.100 and 2010 1st sp.s. c 12 s 2 are each amended
27 to read as follows:

28 This chapter does not apply to:

- 29 (1) Aircraft owned by and used exclusively in the service of any
30 government or any political subdivision thereof, including the
31 government of the United States, any state, territory, or possession of
32 the United States, or the District of Columbia, which are not engaged
33 in carrying persons or property for commercial purposes;
- 34 (2) Aircraft registered under the laws of a foreign country;
- 35 (3) Aircraft (~~which~~) that are owned by a nonresident and
36 registered in another state(~~.— However, if any such aircraft remains~~
37 ~~in and/or is based in this state for a period of ninety days or longer~~

1 ~~it is not exempt under this section~~)), if the aircraft remains in this
2 state or is based in this state, or both, for a period less than ninety
3 days;

4 (4)(a) Aircraft engaged principally in commercial flying (~~(which)~~)
5 that constitutes interstate or foreign commerce(~~(; and)~~), except as
6 provided in (b) of this subsection.

7 (b) The exemption provided by (a) of this subsection does not apply
8 to aircraft engaged principally in commercial flying that constitutes
9 interstate or foreign commerce when such aircraft will be in this state
10 exclusively for the purpose of continual storage of not less than one
11 full calendar year;

12 (5) Aircraft owned by the manufacturer thereof while being operated
13 for test or experimental purposes, or for the purpose of training crews
14 for purchasers of the aircraft;

15 ~~((+5))~~ (6) Aircraft being held for sale, exchange, delivery, test,
16 or demonstration purposes solely as stock in trade of an aircraft
17 dealer licensed under Title 14 RCW;

18 ~~((+6))~~ (7) Aircraft owned by a nonresident of this state if the
19 aircraft is kept at an airport in this state and that airport is
20 jointly owned or operated by a municipal corporation or other
21 governmental entity of this state and a municipal corporation or other
22 governmental entity of another state, and the owner or operator of the
23 aircraft provides the department with proof that the owner or operator
24 has paid all taxes, license fees, and registration fees required by the
25 state in which the owner or operator resides; and

26 ~~((+7))~~ (8) Aircraft that are: (a) Owned by a nonprofit
27 organization that is exempt from federal income taxation under 26
28 U.S.C. Sec. 501(c)(3) of the federal internal revenue code; and (b)
29 exclusively used to provide emergency medical transportation services.

30 **Sec. 6.** RCW 82.48.100 and 1999 c 302 s 3 are each amended to read
31 as follows:

32 This chapter (~~shall~~) does not apply to:

33 (1) Aircraft owned by and used exclusively in the service of any
34 government or any political subdivision thereof, including the
35 government of the United States, any state, territory, or possession of
36 the United States, or the District of Columbia, which are not engaged
37 in carrying persons or property for commercial purposes;

1 (2) Aircraft registered under the laws of a foreign country;

2 (3) Aircraft (~~(which)~~) that are owned by a nonresident and
3 registered in another state(~~(:—PROVIDED, That if any such aircraft~~
4 ~~shall remain in and/or be based in this state for a period of ninety~~
5 ~~days or longer it shall not be exempt under this section))~~, if the
6 aircraft remains in this state or is based in this state, or both, for
7 a period less than ninety days;

8 (4)(a) Aircraft engaged principally in commercial flying (~~(which)~~)
9 that constitutes interstate or foreign commerce(~~(;—and)~~), except as
10 provided in (b) of this subsection.

11 (b) The exemption provided by (a) of this subsection does not apply
12 to aircraft engaged principally in commercial flying that constitutes
13 interstate or foreign commerce when such aircraft will be in this state
14 exclusively for the purpose of continual storage of not less than one
15 full calendar year;

16 (5) Aircraft owned by the manufacturer thereof while being operated
17 for test or experimental purposes, or for the purpose of training crews
18 for purchasers of the aircraft;

19 (6) Aircraft being held for sale, exchange, delivery, test, or
20 demonstration purposes solely as stock in trade of an aircraft dealer
21 licensed under Title 14 RCW;

22 (7) Aircraft owned by a nonresident of this state if the aircraft
23 is kept at an airport in this state and that airport is jointly owned
24 or operated by a municipal corporation or other governmental entity of
25 this state and a municipal corporation or other governmental entity of
26 another state, and the owner or operator of the aircraft provides the
27 department with proof that the owner or operator has paid all taxes,
28 license fees, and registration fees required by the state in which the
29 owner or operator resides.

30 NEW SECTION. Sec. 7. A new section is added to chapter 43.136 RCW
31 to read as follows:

32 (1) The legislature finds that accountability and the effectiveness
33 of attempts to foster job creation and retention are important aspects
34 of setting tax policy. In order to make policy choices regarding the
35 best use of limited state resources, the legislature needs to know how
36 the incentives are used, and the degree to which they meet the
37 legislature's intent.

1 (2) To determine whether the tax preferences are achieving their
2 intended purpose of promoting economic development, the joint
3 legislative audit and review committee must review the performance of
4 the tax preferences with respect to the following performance
5 benchmarks:

6 (a) The number and value of contracts for modification, completion
7 work, retrofitting, or any other repair work or storage performed on
8 planes owned by taxpayers claiming the tax preferences, subject to data
9 availability; and

10 (b) The difference in the amount of business and occupation tax
11 revenue reported to the state under chapter 82.04 RCW by Washington
12 businesses making tax exempt sales of planes and labor and services
13 pursuant to the exemptions created in this act, as compared to the 2012
14 baseline.

15 (3) The department of revenue, department of employment security,
16 and sellers making tax exempt sales pursuant to the preferences created
17 in this act must cooperate with the joint legislative audit and review
18 committee by providing any data requested.

19 NEW SECTION. **Sec. 8.** Section 5 of this act expires January 1,
20 2020.

21 NEW SECTION. **Sec. 9.** (1) Except as provided otherwise in this
22 section, this act takes effect January 1, 2014.

23 (2) Section 6 of this act takes effect January 1, 2020.

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