

## QUESTION NO. 15

Amendment to the Sales and Use Tax Act of 1955

Senate Bill 311 of the 68th Session

### CONDENSATION (ballot question)

Shall the existing exemption from the sales and use taxes for aircraft purchased or used by commercial air carriers based in Nevada and major components of those aircraft be expanded:

- 1) To apply to purchases or uses by commercial air carriers based in other states; and
- 2) To include machinery, tools and equipment used to repair, remodel or maintain certain aircraft, aircraft engines or component parts of aircraft or aircraft engines?

Yes . . . . .

No . . . . .

### EXPLANATION

Nevada law currently exempts from sales and use taxes the sale of aircraft and major components of aircraft by commercial air carriers based in this state. This exemption has been chal-



lenged on constitutional grounds because it discriminates against carriers based in other states. The proposed amendment to the Sales and Use Tax Act of 1955 would expand the existing exemption to include commercial air carriers based outside the state. The proposal would also provide an exemption for tools, machinery, and other equipment and parts used in maintaining, repairing, or remodeling certain aircraft, aircraft engines or component parts of aircraft or aircraft engines. This proposal affects only the state's portion of the sales and use taxes. The Legislature has already exempted these items from the Local School Support Tax and City-County Relief Tax.

## ARGUMENTS FOR PASSAGE

Almost all states exempt aircraft and components of aircraft from sales taxes. The proposed amendment is needed to comply with the Commerce Clause of the U.S. Constitution and to protect the current exemption from constitutional challenges. If the exemption, as currently written, is declared unconstitutional, Nevada could lose important sources of revenue and many jobs associated with the airline industry.

Commercial air carriers are unlikely to perform significant maintenance to aircraft in a state that does not exempt components of aircraft from sales and use taxes. Aircraft are highly mobile assets which are easily flown great distances to maintenance facilities. Nevada is competing with other states and countries to provide these services. Therefore, the passage of this proposal will make Nevada a more attractive location in which to base an airline or build major maintenance facilities that would provide jobs and other economic benefits to Nevadans.

## ARGUMENTS AGAINST PASSAGE

Nevada should not expand the existing exemption from the sales tax, even for the purpose of promoting economic development of aircraft maintenance facilities in the state. The constitutional challenges result from the fact that Nevada's current law provides a tax exemption to commercial air carriers based in Nevada, which it does not equally provide to out-of-state carriers. It would be constitutional to treat all air carriers equally by eliminating the entire exemption, instead of expanding it. Eliminating the entire exemption would increase the tax revenue collected in this state.

## FISCAL NOTE

**Financial Impact - Yes.** The proposal would expand the exemption from the state portion (2%) of the Sales and Use Tax Act of 1955 provided for aircraft and major components of aircraft. Approval of this question would result in revenue losses to the state.

## FULL TEXT OF THE MEASURE

AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to revise and clarify the provisions governing the exemption for aircraft and parts of aircraft; clarifying the provisions governing the administration of the existing exemption for aircraft and parts of aircraft; contingently creating the same exemption from certain analogous taxes; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA,  
REPRESENTED IN SENATE AND ASSEMBLY, DO  
ENACT AS FOLLOWS:

AN ACT to amend an act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." approved March 29, 1955, as amended.  
THE PEOPLE OF THE STATE OF NEVADA DO ENACT

## AS FOLLOWS:

Section 1. Section 61.5 of the above-entitled act, being chapter 397, Statutes of Nevada 1955, at page 762, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby amended to read as follows:

Sec. 61.5 There are exempted from the taxes imposed by this act the gross receipts from the sale [of aircraft and major components] , and the storage, use or other consumption in this state of:

1. Aircraft, aircraft engines and component parts of aircraft [, such as engines and other components made for use only in aircraft, to an air carrier which:

1. Holds a certificate to engage in air transportation issued pursuant to 49 U.S.C. ° 1371 and is not solely a charter air carrier or a supplemental air carrier as described in Title 49 of the United States Code; and

2. Maintains its central office in Nevada and bases a majority of its aircraft in Nevada.] or aircraft engines which are manufactured exclusively for use in aircraft, sold or purchased for lease to a commercial air carrier for use in the transportation of persons or property in intrastate, interstate or foreign commerce pursuant to a certificate or license issued to the air carrier authorizing such transportation; and

2. Machinery, tools and other equipment and parts which are used exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines or component parts of aircraft or aircraft engines which meet the requirements of subsection 1.

Sec. 2. This act becomes effective on January 1, 1997.

