

Tax Alert

New Bill Provides New York Sales and Use Tax Exemption for General Aviation Aircraft

New York State Assemblywoman Donna Lupardo (D) has sponsored a bill (A03431), the “New York Aviation Jobs Act,” that provides an exemption from New York sales and use tax on the sale of general aviation aircraft. Although the bill does not define the term “general aviation aircraft,” the intent of the bill appears to be to broaden existing sales and use tax exemptions (as detailed below) to cover substantially all aircraft, including, in particular, corporate jets and private aircraft.

Under existing New York law, the sale or lease of an aircraft is subject to sales tax unless certain limited exceptions apply. In particular, New York provides a sales and use tax exemption for “commercial aircraft” primarily engaged in intrastate, interstate or foreign commerce. The term “commercial aircraft” generally means aircraft used primarily to transport persons or property for hire and/or to transport an aircraft owner’s property in the conduct of a trade or business. Transporting persons for hire does not include transporting agents, employees, officers, members, partners, managers or directors of certain affiliated persons. New York also currently exempts from sales and use tax the maintenance, installation and other services performed on aircraft—as well as property purchased and actually used in performing these services—provided the property becomes a physical component part of the aircraft.

If the above-described bill is enacted, sales of general aviation aircraft in New York effected between April 1, 2016 and April 1, 2021 would be exempt from New York sales and use tax. The current maximum New York sales and use tax applicable to aircraft is 8.875 percent and is typically passed through to the purchaser. Accordingly, enactment of this bill would provide a significant reduction in the after-tax purchase price of general aviation aircraft sold in New York. Furthermore, Connecticut and Massachusetts already provide similar exemptions for most

general aviation aircraft and, therefore, the bill would make New York more competitive with these neighboring states as a market for the sale and basing of aircraft.

This bill has been referred to the New York State Assembly Committee on Ways and Means. New York State Senator Phillip Boyle (R) has sponsored an identical bill (S00815), which has been referred to the New York Senate Standing Committee on Investigations and Government Operations.

We will continue to monitor the progress of these bills and issue an update if legislation is enacted.

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