

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 500, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 3, between lines 11 and 12, begin a new paragraph and insert:
2 "SECTION 3. IC 6-2.5-3-2, AS AMENDED BY P.L.162-2006,
3 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2007]: Sec. 2. (a) An excise tax, known as the use tax, is
5 imposed on the storage, use, or consumption of tangible personal
6 property in Indiana if the property was acquired in a retail transaction,
7 regardless of the location of that transaction or of the retail merchant
8 making that transaction.
9 (b) The use tax is also imposed on the storage, use, or consumption
10 of a vehicle, an aircraft, or a watercraft, if the vehicle, aircraft, or
11 watercraft:
12 (1) is acquired in a transaction that is an isolated or occasional
13 sale; and
14 (2) is required to be titled, licensed, or registered by this state for
15 use in Indiana.
16 (c) The use tax is imposed on the addition of tangible personal
17 property to a structure or facility, if, after its addition, the property
18 becomes part of the real estate on which the structure or facility is
19 located. However, the use tax does not apply to additions of tangible
20 personal property described in this subsection, if:

- 1 (1) the state gross retail or use tax has been previously imposed
 2 on the sale or use of that property; or
 3 (2) the ultimate purchaser or recipient of that property would have
 4 been exempt from the state gross retail and use taxes if that
 5 purchaser or recipient had directly purchased the property from
 6 the supplier for addition to the structure or facility.
- 7 (d) The use tax is imposed on a person who:
 8 (1) manufactures, fabricates, or assembles tangible personal
 9 property from materials either within or outside Indiana; and
 10 (2) uses, stores, distributes, or consumes tangible personal
 11 property in Indiana.
- 12 (e) Notwithstanding any other provision of this section, the use tax
 13 is not imposed on the keeping, retaining, or exercising of any right or
 14 power over tangible personal property, if:
 15 (1) the property is delivered into Indiana by or for the purchaser
 16 of the property;
 17 (2) the property is delivered in Indiana for the sole purpose of
 18 being processed, printed, fabricated, or manufactured into,
 19 attached to, or incorporated into other tangible personal property;
 20 and
 21 (3) the property is subsequently transported out of state for use
 22 solely outside Indiana.
- 23 **(f) As used in this subsection, "prepurchase evaluation" means**
 24 **an examination of an aircraft by a potential purchaser for the**
 25 **purpose of obtaining information relevant to the potential**
 26 **purchase of the aircraft. Notwithstanding any other provision of**
 27 **this section, the use tax is not imposed on the keeping, retaining, or**
 28 **exercising of any right or power over an aircraft, if:**
 29 **(1) the aircraft is titled, registered, or based (as defined in**
 30 **IC 6-6-6.5-1(m)) in another state or country;**
 31 **(2) the aircraft is delivered to Indiana by or for a nonresident**
 32 **owner or purchaser of the aircraft;**
 33 **(3) the aircraft is delivered to Indiana for the sole purpose of**
 34 **being repaired, refurbished, remanufactured, or subjected to**
 35 **a prepurchase evaluation; and**
 36 **(4) after completion of the repair, refurbishment,**
 37 **remanufacture, or prepurchase evaluation, the aircraft is**
 38 **transported to a destination outside Indiana."**

1 Page 4, delete lines 29 through 36, begin a new paragraph and
2 insert:

3 **"(e) A transaction in which a person acquires an aircraft for**
4 **rental or leasing in the ordinary course of the person's business is**
5 **not exempt from the state gross retail tax unless the person**
6 **establishes, under guidelines adopted by the department in the**
7 **manner provided in IC 4-22-2-37.1 for the adoption of emergency**
8 **rules, that the annual amount of the lease revenue derived from**
9 **leasing the aircraft is equal to or greater than fifteen percent**
10 **(15%) of the greater of the original cost or the book value of the**
11 **aircraft."**

12 Page 5, between lines 23 and 24, begin a new paragraph and insert:

13 "SECTION 8. IC 6-2.5-5-39, AS AMENDED BY P.L.92-2006,
14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2007]: Sec. 39. (a) As used in this section, "cargo trailer"
16 means a vehicle:

- 17 (1) without motive power;
- 18 (2) designed for carrying property;
- 19 (3) designed for being drawn by a motor vehicle; and
- 20 (4) having a gross vehicle weight rating of at least two thousand
21 two hundred (2,200) pounds.

22 (b) As used in this section, "recreational vehicle" means a vehicle
23 with or without motive power equipped exclusively for living quarters
24 for persons traveling upon the highways. The term includes a travel
25 trailer, a motor home, a truck camper with a floor and facilities
26 enabling it to be used as a dwelling, and a fifth wheel trailer.

27 (c) A transaction involving a cargo trailer ~~or~~ a recreational vehicle
28 ~~or an aircraft~~ is exempt from the state gross retail tax if:

- 29 (1) the purchaser is a nonresident;
- 30 (2) upon receiving delivery of the cargo trailer ~~or~~ recreational
31 vehicle, ~~or aircraft~~, the person transports it within thirty (30) days
32 to a destination outside Indiana;
- 33 (3) the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ will be
34 titled or registered for use in another state or country;
- 35 (4) the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ will not be
36 titled or registered for use in Indiana; and
- 37 (5) ~~in the case of a transaction involving a cargo trailer or~~
38 ~~recreational vehicle~~, the cargo trailer or recreational vehicle will

1 be titled or registered in a state or country that provides an
 2 exemption from sales, use, or similar taxes imposed on a cargo
 3 trailer or recreational vehicle that is purchased in that state or
 4 country by an Indiana resident and will be titled or registered in
 5 Indiana.

6 A transaction involving a cargo trailer or recreational vehicle that does
 7 not meet the requirements of subdivision (5) is not exempt from the
 8 state gross retail tax.

9 (d) A purchaser must claim an exemption under this section by
 10 submitting to the retail merchant an affidavit stating the purchaser's
 11 intent to:

12 (1) transport the cargo trailer ~~or~~ recreational vehicle ~~or aircraft~~ to
 13 a destination outside Indiana within thirty (30) days after delivery;
 14 and

15 (2) title or register the cargo trailer ~~or~~ recreational vehicle ~~or~~
 16 ~~aircraft~~ for use in another state or country.

17 The department shall prescribe the form of the affidavit, which must
 18 include an affirmation by the purchaser under the penalties for perjury
 19 that the information contained in the affidavit is true. The affidavit
 20 must identify the state or country in which the cargo trailer ~~or~~
 21 recreational vehicle ~~or aircraft~~ will be titled or registered.

22 (e) The department shall provide the information necessary to
 23 determine a purchaser's eligibility for an exemption claimed under this
 24 section to retail merchants in the business of selling cargo trailers or
 25 recreational vehicles.

26 SECTION 9. IC 6-2.5-5-42 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2007]: **Sec. 42. (a) A transaction involving an aircraft is exempt
 29 from the state gross retail tax if:**

30 **(1) the purchaser is a nonresident;**

31 **(2) the purchaser transports the aircraft to a destination
 32 outside Indiana within thirty (30) days after:**

33 **(A) accepting delivery of the aircraft; or**

34 **(B) a repair, refurbishment, or remanufacture of the
 35 aircraft is completed, if the aircraft remains in Indiana
 36 after the purchaser accepts delivery for the purpose of
 37 accomplishing the repair, refurbishment, or
 38 remanufacture of the aircraft;**

- 1 **(3) the aircraft will be:**
 2 **(A) titled or registered in another state or country; or**
 3 **(B) if a state or country does not require a title or**
 4 **registration for aircraft, based (as defined in**
 5 **IC 6-6-6.5-1(m)) in that state or country; and**
 6 **(4) the aircraft will not be titled or registered in Indiana.**

7 **(b) A purchaser must claim an exemption under subsection (a)**
 8 **by submitting to the seller an affidavit affirming the elements**
 9 **required by subsection (a). In addition, the affidavit must identify**
 10 **the state or country in which the aircraft will be titled, registered,**
 11 **or based.**

12 **(c) Within sixty (60) days after:**
 13 **(1) a purchaser who claims an exemption under this section**
 14 **accepts delivery of the aircraft; or**
 15 **(2) a repair, refurbishment, or remanufacture of the aircraft**
 16 **subject to an exemption under this section is completed, if the**
 17 **aircraft remains in Indiana after the purchaser accepts**
 18 **delivery for the purpose of accomplishing the repair,**
 19 **refurbishment, or remanufacture of the aircraft;**
 20 **the purchaser shall provide the seller with a copy of the**
 21 **purchaser's title or registration of the aircraft outside Indiana. If**
 22 **the state or country in which the aircraft is based does not require**
 23 **the aircraft to be titled or registered, the purchaser shall provide**
 24 **the seller with a copy of the aircraft registration application for the**
 25 **aircraft as filed with the Federal Aviation Administration.**

26 **(d) The department shall prescribe the form of the affidavit**
 27 **required by subsection (b).**

28 SECTION 10. IC 6-2.5-5-43 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2007]: **Sec. 43. (a) As used in this section, "qualified football**
 31 **championship event" means the National Football League**
 32 **championship football game, referred to as the Super Bowl.**

33 **(b) Transactions involving tangible personal property or**
 34 **services are exempt from the state gross retail tax if the following**
 35 **conditions are satisfied:**

36 **(1) Either:**
 37 **(A) the National Football League acquires the property or**
 38 **service to facilitate the holding of a qualified football**

1 **championship event; or**
 2 **(B) a professional football team participating in a qualified**
 3 **football championship event acquires the property or**
 4 **service to facilitate the team's participation.**
 5 **(2) Before acquiring the property or service, the National**
 6 **Football League or professional football team applies for and**
 7 **receives from the department a state gross retail tax**
 8 **exemption certificate under this section. The department shall**
 9 **specify the period for which a state gross retail tax exemption**
 10 **certificate issued under this section is valid."**

11 Page 12, between lines 27 and 28, begin a new paragraph and insert:
 12 "SECTION 14. IC 6-3-3-12, AS ADDED BY P.L.192-2006,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JANUARY 1, 2007 (RETROACTIVE)]: Sec. 12. (a) As used in this
 15 section, "account" has the meaning set forth in IC 21-9-2-2.

16 **(b) As used in this section, "account beneficiary" has the**
 17 **meaning set forth in IC 21-9-2-3.**

18 ~~(a)~~ (c) As used in this section, "college choice 529 education
 19 savings plan" refers to a college choice 529 investment plan established
 20 under IC 21-9.

21 **(d) As used in this section, "non-qualified withdrawal" means**
 22 **a withdrawal or distribution from a college choice 529 education**
 23 **savings plan that is not a qualified withdrawal.**

24 **(e) As used in this section, "qualified higher education expenses"**
 25 **has the meaning set forth in IC 21-9-2-19.5.**

26 **(f) As used in this section, "qualified withdrawal" means a**
 27 **withdrawal or distribution from a college choice 529 education**
 28 **savings plan that is made:**

29 **(1) to pay for qualified higher education expenses, excluding**
 30 **any withdrawals or distributions used to pay for qualified**
 31 **higher education expenses if the withdrawals or distributions**
 32 **are made from an account of a college choice 529 education**
 33 **savings plan that is terminated within twelve (12) months**
 34 **after the account is opened;**

35 **(2) as a result of the death or disability of an account**
 36 **beneficiary;**

37 **(3) because an account beneficiary received a scholarship that**
 38 **paid for all or part of the qualified higher education expenses**

- 1 **of the account beneficiary, to the extent that the withdrawal**
 2 **or distribution does not exceed the amount of the scholarship;**
 3 **or**
 4 **(4) by a college choice 529 education savings plan as the result**
 5 **of a transfer of funds by a college choice 529 education**
 6 **savings plan from one (1) third party custodian to another.**
- 7 ~~(b)~~ **(g)** As used in this section, "taxpayer" means:
 8 (1) an individual filing a single return; or
 9 (2) a married couple filing a joint return.
- 10 ~~(c)~~ **(h)** A taxpayer is entitled to a credit against the taxpayer's
 11 adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for a
 12 taxable year equal to the least of the following:
 13 (1) Twenty percent (20%) of the **excess of:**
 14 **(A) the amount of each contribution total contributions** made
 15 by the taxpayer to a college choice 529 education savings plan
 16 during the taxable year; **over**
 17 **(B) the total amount of non-qualified withdrawals during**
 18 **the taxable year that were made from the account or**
 19 **accounts of a college choice 529 education savings plan to**
 20 **which the taxpayer has made contributions.**
 21 (2) One thousand dollars (\$1,000).
 22 (3) The amount of the taxpayer's adjusted gross income tax
 23 imposed by IC 6-3-1 through IC 6-3-7 for the taxable year,
 24 reduced by the sum of all credits (as determined without regard to
 25 this section) allowed by IC 6-3-1 through IC 6-3-7.
- 26 ~~(d)~~ **(i)** A taxpayer is not entitled to a carryback, carryover, or refund
 27 of an unused credit.
- 28 ~~(e)~~ **(j)** A taxpayer may not sell, assign, convey, or otherwise transfer
 29 the tax credit provided by this section.
- 30 ~~(f)~~ **(k)** To receive the credit provided by this section, a taxpayer
 31 must claim the credit on the taxpayer's annual state tax return or returns
 32 in the manner prescribed by the department. The taxpayer shall submit
 33 to the department all information that the department determines is
 34 necessary for the calculation of the credit provided by this section.
- 35 **(l) A taxpayer who claimed a credit provided by this section in**
 36 **any prior taxable year must repay a part of the credit in a taxable**
 37 **year in which any non-qualified withdrawal is made from a college**
 38 **choice 529 education savings plan to which the taxpayer**

1 **contributed. The amount the taxpayer must repay is equal to the**
 2 **lesser of:**

3 **(1) twenty percent (20%) of the excess of:**

4 **(A) the total amount of non-qualified withdrawals made**
 5 **during the taxable year from the account or accounts of a**
 6 **college choice 529 education savings plan to which the**
 7 **taxpayer has made contributions; over**

8 **(B) the total amount of contributions made by the taxpayer**
 9 **to a college choice 529 education savings plan during the**
 10 **taxable year; or**

11 **(2) the excess of:**

12 **(A) the cumulative amount of all credits provided by this**
 13 **section that were claimed by a taxpayer for all prior**
 14 **taxable years beginning on or after January 1, 2007; over**

15 **(B) the cumulative amount of repayments paid by the**
 16 **taxpayer under this subsection for all prior taxable years**
 17 **beginning on or after January 1, 2007.**

18 **(m) Any required repayment under subsection (l) shall be**
 19 **reported by the taxpayer on the taxpayer's annual state income tax**
 20 **return for the taxable year in which the non-qualified withdrawal**
 21 **is made.**

22 **(n) The executive director of the Indiana education savings**
 23 **authority shall submit or cause to be submitted to the department**
 24 **a copy of all information returns or statements issued to taxpayers**
 25 **for each taxable year with respect to:**

26 **(1) withdrawals or distributions made from a college choice**
 27 **529 education savings plan for the taxable year; or**

28 **(2) account closings for the taxable year."**

29 Page 17, between lines 21 and 22, begin a new paragraph and insert:

30 "SECTION 21. IC 6-6-6.5-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this
 32 chapter, unless the context clearly indicates otherwise:

33 (a) "Aircraft" means a device which is designed to provide air
 34 transportation for one (1) or more individuals or for cargo.

35 (b) "State" means the state of Indiana.

36 (c) "Department" refers to the department of state revenue.

37 (d) "Person" includes an individual, a partnership, a firm, a
 38 corporation, a limited liability company, an association, a trust, or an

1 estate, or a legal representative of such.

2 (e) "Owner" means a person who holds or is required to obtain a
3 certificate of registration from the Federal Aviation Administration for
4 a specific aircraft. In the event an aircraft is the subject of an agreement
5 for the conditional sale or lease with the right of purchase upon the
6 performance of the conditions stated in the agreement and with an
7 immediate right of possession of the aircraft vested in the conditional
8 vendee or lessee, or in the event the mortgagor of an aircraft is entitled
9 to possession, then the conditional vendee or lessee or mortgagor shall
10 be deemed to be the owner for purposes of this chapter.

11 (f) "Dealer" means a person who has an established place of
12 business in this state, is required to obtain a certificate under
13 IC 6-2.5-8-1 or IC 6-2.5-8-3 and is engaged in the business of
14 manufacturing, buying, selling, or exchanging new or used aircraft.

15 (g) "Maximum landing weight" means the maximum weight of the
16 aircraft, accessories, fuel, pilot, passengers, and cargo that is permitted
17 on landing under the best conditions, as determined for an aircraft by
18 the appropriate federal agency or the certified allowable gross weight
19 published by the manufacturer of the aircraft.

20 (h) "Resident" means an individual or a fiduciary who resides or is
21 domiciled within Indiana or any corporation or business association
22 which maintains a fixed and established place of business within
23 Indiana for a period of more than sixty (60) days in any one (1) year.

24 (i) "Taxable aircraft" means an aircraft required to be registered
25 with the department by this chapter.

26 (j) "Regular annual registration date" means the last day of February
27 of each year.

28 (k) "Taxing district" means a geographic area within which property
29 is taxed by the same taxing units and at the same total rate.

30 (l) "Taxing unit" means an entity which has the power to impose ad
31 valorem property taxes.

32 (m) "Base" means the location or place where the aircraft is
33 normally hangared, tied down, housed, parked, or kept, when not in
34 use.

35 (n) "Homebuilt aircraft" means an aircraft constructed primarily by
36 an individual for personal use. The term homebuilt aircraft does not
37 include an aircraft constructed primarily by a for-profit aircraft
38 manufacturing business.

1 (o) "Pressurized aircraft" means an aircraft equipped with a system
2 designed to control the atmospheric pressure in the crew or passenger
3 cabins.

4 (p) "Establishing a base" means renting or leasing a hangar or tie
5 down for a particular aircraft for at least thirty-one (31) days.

6 (q) "Inventory aircraft" means an aircraft held for resale by a
7 registered Indiana dealer.

8 (r) "**Repair station**" means a person who holds a repair station
9 certificate that was issued to the person by the Federal Aviation
10 Administration under 14 CFR Part 145.

11 SECTION 22. IC 6-6-6.5-2 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) Except as
13 otherwise provided in this chapter, any resident of this state who owns
14 an aircraft shall register the aircraft with the department not later than
15 thirty-one (31) days after the purchase date.

16 (b) Except as otherwise provided in this chapter, any nonresident
17 who bases an aircraft in this state for more than sixty (60) days shall
18 register the aircraft with the department under this chapter not later
19 than sixty (60) days after establishing a base in Indiana.

20 (c) Except as otherwise provided in this chapter, an Indiana resident
21 who owns a homebuilt aircraft shall register the aircraft with the
22 department not later than thirty-one (31) days after the date the Federal
23 Aviation Administration has issued the certificate of registration and
24 air worthiness certificate for the aircraft.

25 (d) Notwithstanding subsection (b), if a nonresident bases an aircraft
26 in Indiana with a dealer **or repair station** solely for repairing,
27 remodeling, or refurbishing the aircraft, neither the nonresident nor the
28 dealer **or repair station** is required to register the aircraft with the
29 department under this chapter. However, the dealer **or repair station**
30 shall file a report with the department the month after the end of each
31 calendar quarter. The report must list only:

32 (1) the ~~dealer's~~ name **and** address **and of the dealer or repair**
33 **station;**

34 (2) **either:**

35 (A) **the dealer's** certification number; **or**

36 (B) **the repair station's certificate number;** and

37 (3) the N number of each aircraft that was based in this state for
38 more than sixty (60) days during the preceding quarter."

1 Page 21, after line 23, begin a new paragraph and insert:
2 "SECTION 29. [EFFECTIVE JANUARY 1, 2007
3 (RETROACTIVE)] **IC 6-3-3-12, as amended by this act, applies to**
4 **taxable years beginning after December 31, 2006.**
5 SECTION 30. **An emergency is declared for this act.**"
6 Renumber all SECTIONS consecutively.
 (Reference is to SB 500 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 2.

Kenley

Chairperson