

Adopted	Rejected
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COMMITTEE REPORT

YES:	20
NO:	0

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1490, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Between the enacting clause and line 1, begin a new paragraph and
- 2 insert:
- 3 "SECTION 1. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007,
- 4 SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 8. (a) As used in this section, "new motor vehicle"
- 6 has the meaning set forth in IC 9-13-2-111.
- 7 (b) Transactions involving tangible personal property other than a
- 8 new motor vehicle are exempt from the state gross retail tax if the
- 9 person acquiring the property acquires it for resale, rental, or leasing in
- 10 the ordinary course of the person's business without changing the form
- 11 of the property.
- 12 (c) The following transactions involving a new motor vehicle are
- 13 exempt from the state gross retail tax:
- 14 (1) A transaction in which a person that has a franchise in effect

1 at the time of the transaction for the vehicle trade name, trade or
 2 service mark, or related characteristics acquires a new motor
 3 vehicle for resale, rental, or leasing in the ordinary course of the
 4 person's business.

5 (2) A transaction in which a person that is a franchisee appointed
 6 by a manufacturer or converter manufacturer licensed under
 7 IC 9-23 acquires a new motor vehicle that has at least one (1)
 8 trade name, service mark, or related characteristic as a result of
 9 modification or further manufacture by the manufacturer or
 10 converter manufacturer for resale, rental, or leasing in the
 11 ordinary course of the person's business.

12 (3) A transaction in which a person acquires a new motor vehicle
 13 for rental or leasing in the ordinary course of the person's
 14 business.

15 (d) The rental or leasing of accommodations to a promoter by a
 16 political subdivision (including a capital improvement board) or the
 17 state fair commission is not exempt from the state gross retail tax, if the
 18 rental or leasing of the property by the promoter is exempt under
 19 IC 6-2.5-4-4.

20 (e) This subsection applies only **to aircraft acquired** after June 30,
 21 2008. **Except as provided in subsection (j)**, a transaction in which a
 22 person acquires an aircraft for rental or leasing in the ordinary course
 23 of the person's business is not exempt from the state gross retail tax
 24 unless the person establishes, under guidelines adopted by the
 25 department in the manner provided in IC 4-22-2-37.1 for the adoption
 26 of emergency rules, that the annual amount of the **gross** lease revenue
 27 derived from leasing **or rental of** the aircraft is equal to or greater than:

28 (1) ~~ten percent (10%) of the greater of the original cost or the~~
 29 ~~book value of the aircraft, if the original cost of the aircraft was~~
 30 ~~less than one million dollars (\$1,000,000); as published in the~~
 31 **Vref Aircraft Value Reference guide for the aircraft; or**

32 ~~(2) seven and five-tenths percent (7.5%) of the greater of the~~
 33 ~~original cost or the book value of the aircraft, if the original cost~~
 34 ~~of the aircraft was at least one million dollars (\$1,000,000).~~

35 **(2) the net acquisition price for the aircraft.**

36 **If a person meets or exceeds this revenue threshold, the aircraft is**
 37 **presumptively exempt from gross retail tax and the department**
 38 **has the burden of showing that the aircraft is not exempt. If a**

1 person acquires the aircraft below the Vref Aircraft Value
2 reference guide book value, the person may appeal to the
3 department for a lease or rental threshold equal to the actual
4 acquisition price paid if the person demonstrates that the
5 transaction was completed in a commercially reasonable manner
6 based on the aircraft's age, condition, and equipment. In
7 determining whether a person meets the requirements in this
8 subsection, the department shall consider all lease or rental
9 revenue derived from leasing or renting the aircraft, regardless of
10 the relationship, if any, between the person and the lessee or renter
11 of the aircraft.

12 (f) A person who does not meet the minimum lease or rental
13 requirements of subsection (e) in a tax year may apply to the
14 department for a waiver for that tax year of the imposition of the
15 gross retail tax and the department shall grant the waiver if the
16 person is unable to meet the lease or rental requirements because
17 of:

- 18 (1) economic conditions;
- 19 (2) shortage of key personnel;
- 20 (3) weather;
- 21 (4) aircraft is out of service for extended maintenance;
- 22 (5) regulatory requirements of the Federal Aviation
23 Administration; or
- 24 (6) other conditions acceptable to the department.

25 (g) A person must meet the requirements of subsection (e) for
26 thirteen (13) years for the purchase of the aircraft to be exempt
27 from the gross retail tax.

28 (h) If a transaction is exempt from the gross retail tax under
29 subsection (e), the person shall remit the gross retail tax on a
30 taxable lease or rental transaction for the aircraft.

31 (i) If the department determines that an aircraft is not exempt
32 under subsection (e), the department in determining the amount of
33 use tax that is due, shall deduct the amount of gross retail tax
34 previously remitted to the department relating to the rental or
35 lease of the aircraft.

36 (j) A person who acquires an aircraft with the intent to rent or
37 lease the aircraft to another person for predominant use in public
38 transportation by the other person or by an affiliate of the other

1 **person may, instead of requesting a one hundred percent (100%)**
2 **exemption from gross retail tax under this section, elect to claim a**
3 **partial exemption equal to seventy-five percent (75%) of the**
4 **aircraft's net acquisition price. If a person claims a partial**
5 **exemption under this subsection and pays the department gross**
6 **retail tax equal to twenty five percent (25%) of the aircraft's net**
7 **acquisition price, the department may not at any future time:**

8 **(1) assess the person gross retail or use tax with respect to the**
9 **seventy five percent (75%) partial exemption claimed by the**
10 **person in connection with its acquisition and use of the**
11 **aircraft;**

12 **(2) require the person to meet the revenue threshold in**
13 **subsection (e) with respect to its leasing or rental of the**
14 **aircraft; or**

15 **(3) require the person to submit annual reports, financial**
16 **records, billing information, flight logs, insurance**
17 **information, or other documentation to support application**
18 **of the partial exemption.".**

19 **Renumber all SECTIONS consecutively.**

(Reference is to HB 1490 as introduced.)

and when so amended that said bill do pass.

Representative Crawford