



# **State of Oklahoma**

# **Incentive Evaluation Commission**

## **Draft Excise Tax Exemption on Aircraft Sales Evaluation**

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**Contents**

Key Findings and Recommendations .....3  
Introduction .....7  
Background..... 10  
Incentive Usage and Administration..... 14  
Economic and Fiscal Impact ..... 19  
Incentive Benchmarking.....21  
Appendices .....23



# **Key Findings and Recommendations**



## Overview

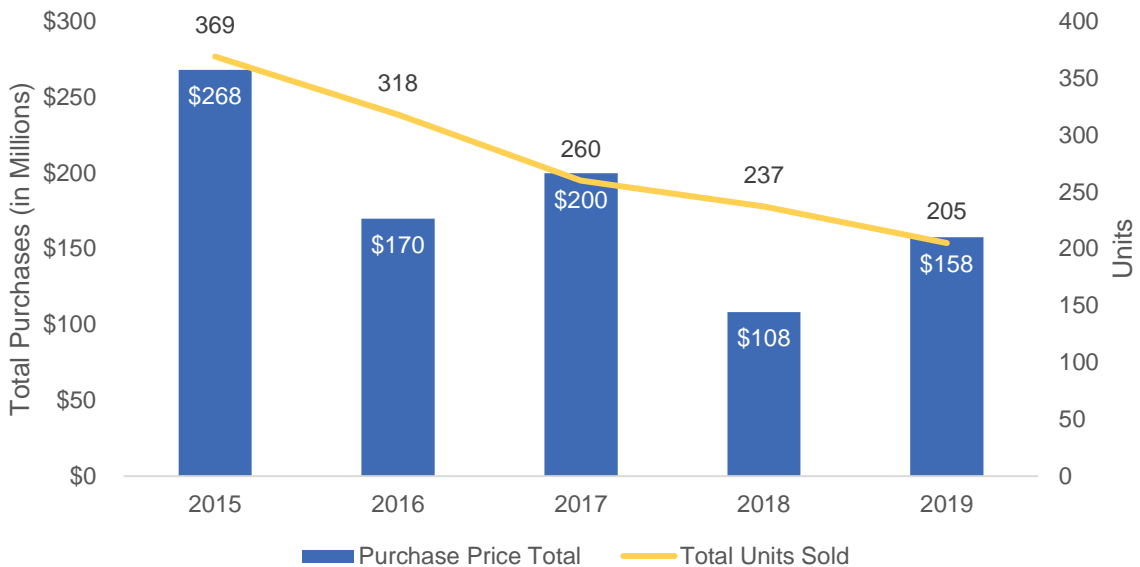
The State of Oklahoma levies an excise tax of 3.25 percent on the purchase price of each aircraft that is to be registered with the Federal Aviation Administration (FAA) upon the transfer of legal ownership of any such aircraft or use of any such aircraft in the state. The excise tax is due at the time of the transfer of legal ownership or first registration in Oklahoma. State statute provides for an exemption from the aircraft excise tax for 17 types of aircraft sales.

**Recommendation: The project team recommends reconfiguring the existing excise tax exemptions for aircraft sales by focusing them on a specific policy goal.**

## Key Findings

- **Annual aircraft sales in Oklahoma – as well as associated total sales prices – have decreased in recent years.** The number of aircraft sold in Oklahoma decreased from 369 in FY2015 to 205 in FY2019 – a compound annual growth rate (CAGR) of -13.7 percent over the time period. Similarly, total sales prices have declined by a CAGR of -12.4 percent.

**Figure 1: Aircraft Sales in Oklahoma, FY2015-FY2019**



Source: Oklahoma Tax Commission  
\* FY2020 data as of April 9, 2020

- **Aircraft sales transactions in Oklahoma that are exempt from the excise tax have also decreased in recent years.** The number of aircraft sales in Oklahoma exempt from the excise tax decreased from 54 in FY2015 (14.6 percent of total units sold in the state) to 14 in FY2019 (6.8 percent of the total) – a CAGR of -28.6 percent over the time period. As a percent of total units sold in the state, exempt units have fluctuated between 6.8 percent and 14.6 percent and have declined by a CAGR of -17.3 percent over the time period.



- **Oklahoma has a high number of aircraft registrations relative to surrounding states.**<sup>1</sup> According to the FAA, with a total of more than 6,500 aircraft registrations, Oklahoma has fewer than Texas, nearly as many as Colorado and has more than Arkansas, Kansas, Missouri and New Mexico. On a per-100,000 resident basis, with 165, Oklahoma has more than most surrounding states, with the exception of Kansas (at 179).

**Table 1: Aircraft Registrations, Oklahoma and Surrounding States**

State	Aircraft Registrations	Aircraft Registrations per 100,000 Residents
Oklahoma	6,541	165
Texas	26,426	91
Colorado	6,742	117
Kansas	5,219	179
Missouri	5,110	83
Arkansas	3,328	110
New Mexico	3,081	147

Source: Federal Aviation Administration, U.S. Census Bureau Population Estimates (7/1/19)

- **Growth in employment within Oklahoma’s aerospace and parts manufacturing industry is increasing considerably.** Between 2009 and 2019, the state’s industry employment grew by a CAGR of 10.7 percent – significantly higher than in neighboring states.

**Table 2: Private Aerospace and Parts Manufacturing Employment**

Year	Oklahoma	Arkansas	Colorado	Kansas	Missouri	New Mexico	Texas
2009	4,901	4,164	7,308	37,464	14,922	1,259	48,141
2010	5,030	3,439	7,063	32,818	14,657	1,075	48,029
2011	5,600	3,298	6,970	32,196	14,490	1,080	48,391
2012	6,218	3,228	6,824	32,409	14,235	1,063	47,940
2013	6,687	2,913	6,691	31,725	17,689	1,071	47,285
2014	7,085	3,305	6,658	30,479	17,778	1,056	44,698
2015	7,013	3,400	7,048	29,991	16,778	936	43,609
2016	7,132	3,301	7,259	29,823	16,044	899	44,639
2017	7,079	2,996	7,395	29,795	15,814	815	44,121
2018	13,004	2,997	7,568	31,438	16,127	734	46,060
2019	13,545	4,045	8,117	33,182	17,406	696	49,412
<b>CAGR</b>	<b>10.7%</b>	<b>-0.3%</b>	<b>1.1%</b>	<b>-1.2%</b>	<b>1.6%</b>	<b>-5.8%</b>	<b>0.3%</b>

Source: BLS Quarterly Census of Employment and Wages, NAICS 3364

- **There is insufficient information to assess the economic impacts of the excise tax exemption on aircraft sales.** The exemption helps support the aircraft manufacturing industry in Oklahoma by exempting locally manufactured aircraft and helps maintain the presence of rental aircraft at private fixed base operators (FBOs) located in Oklahoma’s commercial and general aviation airports. While

<sup>1</sup> One of the criteria for evaluation is the growth in sales of exempted aircraft within Oklahoma compared to other states. During the course of the project team’s analysis, it was determined that such comparable sales data does not exist. The project team used state aircraft registration data as a proxy for sales, generally, but detailed historical data is not available, and does not account for sales subject to exemptions. As of 2019, the FAA plans to modernize its outdated civil aviation registry systems.



business in general is supported, there is no reporting on economic activity associated with the aircraft sales; for example, whether jobs are created or retained or the purpose and use of the aircraft itself.

- **The current data collection process makes detailed evaluation challenging.** The Oklahoma Tax Commission (OTC) requires that every person licensed as a dealer in aircraft report, within 30 days, the transfer of legal ownership. While the form used requires current owners to provide a significant amount of information, it does not require the dealer to explain whether the sale was taxable or exempt, and if exempt, for what reason. Moreover, the OTC's ability to routinely extract information from dealer filings is limited, though it does receive aircraft registration data from the FAA on a monthly basis.
- **Comparable exemptions are common among states.** Each state neighboring Oklahoma offers tax exemptions for various types of aircraft sales, and many states with a strong aerospace industry presence also offer similar tax preferences.

### Recommendations

- **Focus the excise tax exemptions around a specific policy goal.** As currently structured, none of the State's excise tax exemptions for aircraft sales include policy goals. According to tax policy experts, effective tax incentives are designed in support of well-defined policy goals and objectives. Goals and objectives provide metrics that can support rigorous analysis of program effectiveness and return on investment. Well-defined goals facilitate the identification of policy targets (e.g., private sector jobs) and the identification and design of specific policy instruments (e.g., wage-based corporate tax credits to promote employment creation).<sup>2</sup> In this case of this incentive, a specific policy goal might be to increase aerospace manufacturing industry employment.
- **Improve the data collection process.** The OTC may consider updating its exemption application form to require that the dealer explain whether the sale was taxable or exempt, and if exempt, for what reason.
- **Identify the history of/basis for each excise tax exemption and evaluate whether it aligns with the State's economic and policy goals.** If an exemption is found to be out of alignment, consider repealing the specific tax preference.

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<sup>2</sup> Bruce, D. and M. Murray, "Best Practices for the Design and Evaluation of State Tax Incentive Programs for Economic Development," (January 2017).



# Introduction



## Incentive Evaluation Commission Overview

In 2015, HB 2182 established the Oklahoma Incentive Evaluation Commission (the Commission). It requires the Commission to conduct evaluations of all qualified state incentives over a four-year timeframe. Between 2016 and 2019, the Commission conducted more than 40 evaluations.

The Excise Tax Exemption on Aircraft Sales, first evaluated in 2016, is one of nine programs scheduled for an updated review by the Commission in 2020. Based on this evaluation and their collective judgment, the Commission will make recommendations to the Governor and the Legislature related to this incentive.

## 2016 Evaluation Findings and Recommendations

Key findings from the 2016 evaluation are displayed in the following table:

**Table 3: Summary of Findings, 2016 Evaluation**

Fiscal and Economic Impact	Fiscal Impact: An average of \$2.6 million in excise tax revenue is foregone annually, which is about 40 percent of actual collections. Collections are earmarked to support the operations of the Oklahoma Aeronautics Commission, so they do not have a broad programming impact.  Economic Impact: The available data was insufficient to conduct an economic impact analysis.
Adequate Protections for Future Fiscal Impact?	The available data was insufficient to conduct a comprehensive future fiscal impact analysis. Absent a material change in this industry in Oklahoma, it is unlikely that these exemptions will have a significant future fiscal impact.
Effective Administration?	Useful information related to the identity of the purchaser and the purchased aircraft is collected; however, dealers are not required to explain whether the reported sale was taxable or tax exempt, and if exempt, for what reason.
Achieving Its Goals?	Goals are not identified, and data does not provide a ready method of determining overall impact on the industry in the state.
Changes to Improve Future Evaluation	Require dealer reporting on aircraft transactions to identify the rationale for exempting sales from excise tax.

Based on these findings, the 2016 recommendation was to reconfigure the program by focusing it around a policy goal. The Commission voted 5-0 to approve this recommendation. While the Legislature did not implement this suggestion, it did modify the exemption for aircraft purchased or used by commercial airlines to require that it cannot operate under Part 91 of Title 14 of the Code of Federal Regulations for more than 50 percent of its annual operations. The 2016 evaluation – and its recommendation – were cited in the debate around this change.





While not directly related to the excise tax exemption for aircraft sales, effective November 1, 2017, the State increased its aircraft registration fees by 50 percent as part of an effort to provide fiscal stability to the Oklahoma Airport System.<sup>3</sup> Prior to the increase, the fees had not been adjusted since they were established in 1976.

### **2020 Criteria for Evaluation**

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation. In the case of this program, a specific goal is not provided.

To assist in a determination of program effectiveness, the Commission adopted the following criteria:

- Growth in sales of exempted aircraft within the state – comparison to the period prior to the exemption and with other comparable states;
- Growth in employment in aircraft industry within the state – comparison to the period prior to the exemption and with other comparable states;
- Return on investment related to economic impact from exemption versus its cost;
- Use with other related State business incentives.

### **2020 Evaluation Approach**

To conduct its 2020 review of the Excise Tax Exemption on Aircraft Sales, the project team conducted the following activities:

- Submitted an information request to the OTC;
- Reviewed and analyzed OTC-provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from OTC and the Oklahoma Aeronautics Commission (OAC);
- Benchmarked Oklahoma's incentive relative to peer state programs;
- Conducted an economic impact analysis of the incentive.

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<sup>3</sup> The cost of registering an aircraft is dependent on the type and weight of the aircraft.



# Background



## Oklahoma Aerospace Background and History

The roots of Oklahoma’s aerospace and aviation industries date back to the early 20<sup>th</sup> century, when Clyde Cessna began testing aircraft in the state. According to historians at the University of Tulsa, following World War I, two airlines were founded in the state (both of which were eventually purchased by American Airlines). In the 1930s, Oklahoma was home to U.S. aviation pioneers Will Rogers and Wiley Post. During World War II, two large industrial facilities were built in the state to manufacture bombers for the U.S. Army Airforce. One of the facilities became Tinker Air Force Base, the largest aircraft maintenance complex and military-aviation logistics center in the world.<sup>4</sup>

In August 2017, the Oklahoma Aeronautics Commission published a study of the estimated economic benefits of aviation and aerospace in Oklahoma.<sup>5</sup> The analysis measured the economic impacts associated with three key contributors: 109 public general aviation and commercial airports; off-airport employers engaged in aviation/aerospace; and military aviation. The study concluded that each year, the industry supports \$11.7 billion in payroll, accounts for \$32.3 billion in spending and generates a total of \$43.7 billion in economic activity.

**Table 4: Total Annual Statewide Economic Impacts of Aviation and Aerospace**

	<b>Payroll (billions)</b>	<b>Spending (billions)</b>	<b>Economic Activity (billions)</b>
Public General Aviation & Commercial Airports	\$3.6	\$7.0	\$10.6
Off-Airport Aviation/Aerospace Employers	\$3.4	\$10.5	\$13.9
Military Aviation	\$4.7	\$14.6	\$19.3
<b>Total Impact</b>	<b>\$11.7</b>	<b>\$32.2</b>	<b>\$43.7</b>

Source: Oklahoma Aeronautics Commission – Oklahoma Aviation and Aerospace Economic Impact Study

Note: Numbers may not add due to rounding

## Aircraft Sales and Registrations

### Aircraft Sales

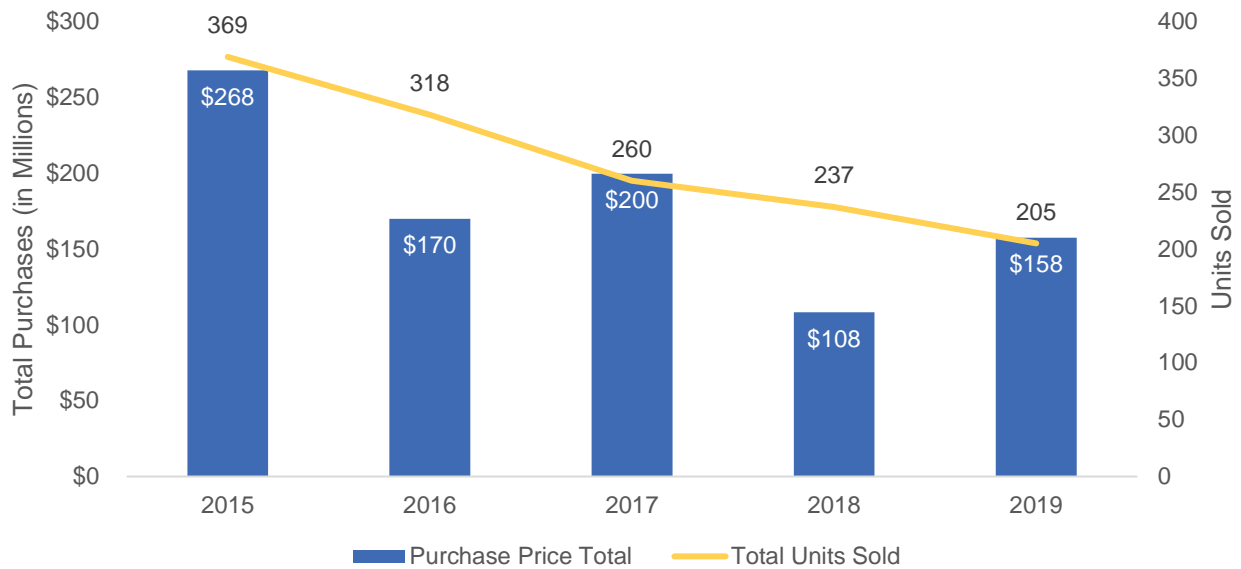
As shown in the following figure, both total aircraft sold and total sales prices have decreased in recent years. Total units sold declined by a compound annual growth rate (CAGR) of -13.7 percent between FY2015 and FY2019, while total sales have declined by a CAGR of -12.4 percent over the same period. On average, the purchase price per aircraft averaged just over \$650,000 and ranged between \$457,000 and \$768,000.

<sup>4</sup> The University of Tulsa Department of Special Collections and University Archives, “The Rise of the Aerospace and Aviation Industries in Oklahoma,” (February 18, 2013). Available at <http://orgs.utulsa.edu/spcol/?p=2798>

<sup>5</sup> Oklahoma Aeronautics Commission, “Oklahoma Aviation and Aerospace Economic Impact Study Fact Sheet.” Available at [https://oac.ok.gov/sites/g/files/gmc221/f/Fact%20Sheet%20%28Oklahoma%20Aviation%20%26%20Aerospace%20Economic%20Impact%29\\_0.pdf](https://oac.ok.gov/sites/g/files/gmc221/f/Fact%20Sheet%20%28Oklahoma%20Aviation%20%26%20Aerospace%20Economic%20Impact%29_0.pdf)



**Figure 2: Aircraft Sales in Oklahoma, FY2015-FY2019**



Source: Oklahoma Tax Commission  
 \* FY2020 data as of April 9, 2020

#### Aircraft Registrations by State

Based on the project team’s research of available data sources, comparable aircraft sales data is not readily available for other states. What is available, however, is the FAA’s most recent 30-day record of aircraft registrations on a state-by-state basis, as shown in the following table.<sup>6</sup> Oklahoma ranks favorably among states in the aggregate, with the fifth highest number of recent aircraft registrations.

**Table 5: Recent Aircraft Registrations by State**

State	Count	Rank
Texas	298	1
Florida	272	2
California	260	3
Delaware	141	4
<b>Oklahoma</b>	<b>140</b>	<b>5</b>
Washington	119	6
Ohio	109	7
Utah	93	8
Minnesota	91	9
Georgia	90	10

Source: FAA Registry, “Current Registration Inquiry” results

According to the FAA, in total, there are currently 6,541 aircraft registered in Oklahoma. As shown in the following table, when compared to surrounding states, Oklahoma ranks below Texas, nearly equals registrations in Colorado and has more registrations than in Arkansas, Kansas, Missouri and New Mexico.<sup>7</sup>

<sup>6</sup> This query allows users to view all aircraft registered within the last 30 days. Each working day, the oldest registrations will drop off the list and the previous day’s registrations will be added.

<sup>7</sup> Federal Aviation Administration, “FAA Registry.” Available at [https://registry.faa.gov/AircraftInquiry/statecounty\\_inquiry.aspx](https://registry.faa.gov/AircraftInquiry/statecounty_inquiry.aspx)



With 165 aircraft registrations per 100,000 residents, Oklahoma has more than most surrounding states, with the exception of Kansas (at 179).

**Table 6: Aircraft Registrations, Oklahoma and Surrounding States**

State	Aircraft Registrations	Aircraft Registrations per 100,000 Residents
Oklahoma	6,541	165
Texas	26,426	91
Colorado	6,742	117
Kansas	5,219	179
Missouri	5,110	83
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Source: Federal Aviation Administration, U.S. Census Bureau Population Estimates (7/1/19)

*Aerospace Manufacturing Employment by State*

Growth in employment within Oklahoma's aerospace and parts manufacturing industry is increasing considerably. Between 2009 and 2019, the state's industry employment grew by a CAGR of 10.7 percent – significantly higher than in neighboring states.

**Table 7: Private Aerospace and Parts Manufacturing Employment**

Year	Oklahoma	Arkansas	Colorado	Kansas	Missouri	New Mexico	Texas
2009	4,901	4,164	7,308	37,464	14,922	1,259	48,141
2010	5,030	3,439	7,063	32,818	14,657	1,075	48,029
2011	5,600	3,298	6,970	32,196	14,490	1,080	48,391
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2019	13,545	4,045	8,117	33,182	17,406	696	49,412
<b>CAGR</b>	<b>10.7%</b>	<b>-0.3%</b>	<b>1.1%</b>	<b>-1.2%</b>	<b>1.6%</b>	<b>-5.8%</b>	<b>0.3%</b>

Source: BLS Quarterly Census of Employment and Wages, NAICS 3364



# **Incentive Usage and Administration**



## Incentive Characteristics

Enacted in 1984, Oklahoma State Statute provides for a 3.25 percent excise tax on the purchase price of aircraft sold in the State. Revenue derived from this source primarily supports the Oklahoma Aeronautics Commission. The following table summarizes annual aircraft excise tax collections and distributions. Total excise tax revenue collected was essentially flat between 2010 and 2019, decreasing at a CAGR of -0.2 percent. While most of the revenue has been deposited to the OAC Revolving Fund, in FY2017, \$1.1 million was deposited to the General Fund, and in FY2019, \$0.1 million was transferred there as well.

**Table 8: Oklahoma Aircraft Excise Tax Revenue Collections and Distributions, FY2010-FY2019**

Fiscal Year	Total Revenue Collected	Distribution of Revenue		
		OAC Revolving Fund	General Revenue Fund	Refunded
2010	\$4,706,866	\$4,695,452	\$0	\$11,414
2011	\$4,196,930	\$4,180,717	\$0	\$16,213
2012	\$5,708,245	\$5,703,459	\$0	\$4,786
2013	\$4,852,322	\$4,852,322	\$0	\$0
2014	\$3,748,715	\$3,748,715	\$0	\$0
2015	\$3,492,082	\$3,492,082	\$0	\$0
2016	\$4,652,043	\$4,652,043	\$0	\$0
2017*	\$5,632,781	\$4,500,000	\$1,132,781	\$0
2018	\$3,683,481	\$3,683,481	\$0	\$0
2019	\$4,632,903	\$4,500,000	\$132,903	\$0

Source: Oklahoma Tax Commission Annual Reports

\* Effective November 1, 2015, HB 2241 capped aircraft excise tax revenues apportioned to the Aeronautics Commission Revolving Fund at \$4.5 million in FY2016 and after. Any funds in excess of the cap are to be deposited into the General Revenue Fun).

State statute provides a series of 17 types of aircraft sales that are exempt from the excise tax, as follows:

**Table 9: Aircraft Sales Exempt from Excise Tax**

	Exemption
1	Aircraft manufactured under an FAA-approved certificate and which are owned and in the physical possession of the manufacturer of the aircraft.
2	Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. <sup>8</sup>
3	Aircraft of the federal or state government.
4	Aircraft transferred from one corporation or LLC to another corporation or LLC pursuant to reorganization of the corporation or LLC.
5	Aircraft purchased or used by commercial airlines.
6	Aircraft transferred in connection with the dissolution or liquidation of a corporation or LLC if included in a payment in kind to the shareholders or members.
7	Aircraft transferred to a corporation for the purpose of organizing such corporation.

<sup>8</sup> For this exemption to apply, the dealer shall be licensed in accordance with Section 254.1 of Title 3 of the Oklahoma Statutes



Exemption	
8	Aircraft transferred to a partnership or LLC when the organization of the partnership or LLC is by the former owners of the aircraft.
9	Aircraft transferred from a partnership or LLC to the members of the partnership or LLC if made in payment in kind in the dissolution of the partnership.
10	Aircraft transferred or conveyed to a partner of a partnership or shareholder/member of a LLC or other person who, after such sale, owns a joint interest in the aircraft and on which sales or use tax or excise tax have previously been paid on the aircraft.
11	Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied in Oklahoma has been paid by the person using the aircraft in Oklahoma.
12	Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance.
13	Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law.
14	Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given.
15	Aircraft which is purchased by a resident of this state and used exclusively in Oklahoma for agricultural spraying purposes.
16	Aircraft which have a selling price in excess of \$2.5 million which are transferred to a purchaser who is not a resident of Oklahoma for immediate transfer out of state.
17	Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

Source: 68 O.S. § 6003

In recent years, several modifications have been made to the excise tax and these exemptions, including:

- HB 2241, effective November 1, 2015, enacted an annual cap of \$4.5 million on aircraft excise tax revenues apportioned to the Oklahoma Aeronautics Commission Revolving Fund for FY2016 and succeeding fiscal years. Any funds in excess of the cap are deposited into the General Revenue Fund.
- Effective January 1, 2018, SB 645 sunsetted the exemption for “rotary-wing aircraft purchased to be used exclusively for the purpose of training U.S. military personnel or other training authorized by the U.S. Government.” The exemption had been in place since November 1, 2013.
- Effective May 10, 2018, HB 2253 required that a “charter aircraft” qualifying for the exemption under the “aircraft purchased or used by commercial airlines” be used in that capacity for at least 50 percent of its annual operations.<sup>9</sup> It also modified the aircraft excise tax exemption for aircraft purchased or used by commercial airlines by providing that the aircraft, in order to qualify for this exemption, cannot operate under Part 91 of Title 14 of the Code of Federal Regulations for more than 50 percent of its annual operations.

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<sup>9</sup> And such operations may not include those chartered by the aircraft owner as an individual or as a business entity in which the aircraft owner owns a majority interest to fall within the definition of commercial airline for purposes of the aircraft excise tax exemption in 68 O.S. §6003. The legislation also modified the exemption for “aircraft purchased or used by commercial airlines” by clarifying that in order to qualify for the exemption, aircraft cannot operate under Part 91 of Title 14 of the Code of Federal Regulations for more than fifty percent of its annual operations.





## Historic Use of the Exemption

The following table summarizes excise tax exemption claims related to the sale of aircraft in Oklahoma between FY2015 and FY2020. While the aggregate selling price of purchases decreased by a CAGR of -12.4 percent, tax collections increased by a CAGR of 3.2 percent, and foregone revenues decreased by a CAGR of -41.0 percent.

**Table 10: Collected and Foregone Aircraft Excise Tax Revenue, FY2015-FY2020**

Fiscal Year	Total Purchases	Tax Collected	Foregone Tax Revenue
2015	\$267,966,538	\$4,083,546	(\$3,991,205)
2016	\$169,897,764	\$4,236,426	(\$1,285,249)
2017	\$199,693,565	\$5,499,437	(\$990,604)
2018	\$108,243,115	\$2,631,704	(\$886,197)
2019	\$157,525,515	\$4,635,240	(\$484,339)
2020*	\$50,038,147	\$1,410,347	(\$215,893)
<b>Total</b>	<b>\$953,364,644</b>	<b>\$22,496,700</b>	<b>(\$7,853,486)</b>
<b>CAGR**</b>	<b>-12.4%</b>	<b>3.2%</b>	<b>-41.0%</b>

Source: Oklahoma Tax Commission

\* FY2020 data as of April 9, 2020

\*\* CAGR for fiscal years FY2015-FY2019

This dynamic is due, in part, to the number of aircraft sold that are exempt from the excise tax as well as exemptions relative to total sales. The number of exempt units has decreased in recent years by a CAGR of -28.6 percent, and the share of exempt units relative to total units has also decreased (by a CAGR of -17.3 percent).

**Table 11: Oklahoma Aircraft Sales, FY2015-FY2020**

Fiscal Year	Total Units	Exempt Units	Exempt Units as % of Total
2015	369	54	14.6%
2016	318	38	11.9%
2017	260	25	9.6%
2018	237	28	11.8%
2019	205	14	6.8%
2020*	70	7	10.0%
<b>Total</b>	<b>1,459</b>	<b>166</b>	<b>11.4%</b>
<b>CAGR</b>	<b>-13.7%</b>	<b>-28.6%</b>	<b>-17.3%</b>

Source: Oklahoma Tax Commission

\* FY2020 data as of April 9, 2020

\*\* CAGR for fiscal years FY2015-FY2019

## Incentive Administration

Exemptions from an excise tax are a much different type of incentive than income tax credits typically utilized as state business incentives. While those claiming an income tax credit generally do so on their tax return (and provide any specific schedules necessary to justify the claim of the credit), excise taxes are generally collected by the seller, and they are required to gather and submit any supporting information to justify the exemption from the purchaser.



The OTC requires that every person licensed as a dealer in aircraft report, within 30 days, the transfer of legal ownership. To register an aircraft, taxpayers must fill out OTC Form 13-34, Oklahoma Application for Registration of Aircraft and Report of Excise Tax (used for aircraft purchased on or after November 1, 2017). This form requires current owners to provide a significant amount of information, including:

- The name and address of the purchaser;
- A description of the aircraft, including the name of the manufacturer, the FAA registration number of the aircraft, the type and year manufactured, the serial number, the date of the transfer and the amount of the sale price.

It does not, however, require the dealer to explain whether the sale was taxable or exempt, and if exempt, for what reason. Moreover, the OTC's ability to routinely extract information from dealer filings is limited, though it does receive aircraft registration data from the FAA on a monthly basis.



# **Economic and Fiscal Impact**



## **Economic Impacts**

The excise tax exemption for aircraft sales helps support the aircraft manufacturing industry in Oklahoma by exempting locally manufactured aircraft. In addition, the incentive helps maintain the presence rental aircraft at private fixed base operators (FBOs) located in Oklahoma's commercial and general aviation airports. Access to these private aircraft facilitates transportation and business activity across the State. In these ways, the excise tax exemption help support business activity in Oklahoma.

While business in general is supported, there is no reporting on economic activity associated with the aircraft sales; for example, whether jobs are created or retained or the purpose and use of the aircraft itself. Further, exemptions may include transfers among related entities which are unlikely to have implications for job creation or retention. As a result, there is insufficient information to assess economic impacts of the aircraft sales excise tax exemption.



# Incentive Benchmarking



## Comparison to Peer States

Detailed descriptions of the comparable state programs discussed in this chapter are provided in **Appendix B**.

For evaluation purposes, benchmarking provides information related to how peer states use and evaluate similar incentives. At the outset, it should be understood that no states are ‘perfect peers’ – there will be multiple differences in economic, demographic and political factors that will have to be considered in any analysis; likewise, it is exceedingly rare that any two state incentive programs will be exactly the same.<sup>10</sup> These benchmarking realities must be taken into consideration when making comparisons – and, for the sake of brevity, the report will not continually re-make this point throughout the discussion.

The process of creating a comparison group for incentives typically begins with bordering states. This is generally the starting point, because proximity often leads states to compete for the same regional businesses or business/industry investments. Second, neighboring states often (but not always) have similar economic, demographic or political structures that lend themselves to comparison.

In the case of this incentive, each state neighboring Oklahoma offers various aircraft exemptions and tax policy preferences, as do many states with strong aerospace industry presence, including Florida, Georgia, Michigan, North Carolina, Ohio, New York, Utah and Virginia. Among the most common such incentives are the following:

- **Casual Sale (“Yard Sale Rule”):** Applies to the sale of aircraft by individuals or companies not regularly engaged in the aircraft sale business. Among the 15 comparison states, Oklahoma and six others do not have a casual sale exemption. Four states do, and four others have a limited version of the exemption.
- **Fly Away Exemption:** Gives transient aircraft owners and operators a certain number of days to remove the aircraft from the state before becoming subject to sales and excise tax laws. Oklahoma is among four states with limited fly away exemptions (in Oklahoma, the exemption is for sales prices of \$2.5 million). Seven states fully exempt these sales, and the remaining four offer no such exemption.
- **Trade-In Allowance:** A partial exemption which results in the exclusion of a portion of the purchase price of the aircraft for the value of a trade-in. Including Oklahoma, five states do not offer a trade-in allowance; the remaining 10 do, however.

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<sup>10</sup> The primary instances of exactly alike state incentive programs occur when states choose to ‘piggyback’ onto federal programs.



# Appendices



## Appendix A: Incentive Statute (68 O.S. § 6003)

Recommended statutory change: Include statement which focuses incentive around a policy goal

The following aircraft shall be exempt from provisions of Section 6001 et seq. of this title:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of the aircraft. The aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;
2. Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. In order for this exemption to apply, the dealer shall be licensed in accordance with Section 254.1 of Title 3 of the Oklahoma Statutes;
3. Aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;
4. Aircraft transferred from one corporation or limited liability company to another corporation or limited liability company pursuant to reorganization of the corporation or limited liability company. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;
5. Aircraft purchased or used by commercial airlines as defined by paragraph 2 of Section 6001 of this title, provided any such aircraft does not operate under Part 91 of Title 14 of the Code of Federal Regulations, 14 C.F.R., Part 91, for more than fifty percent (50%) of its annual operations. If the operations of such aircraft are not at least fifty percent (50%) Part 135 charter operations annually, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. An aircraft owner shall provide a report to the Oklahoma Tax Commission on an annual basis detailing the operations of the aircraft and any supporting flight, maintenance or charter log books required by the Commission. For the purpose of satisfying this requirement, such operations may not include those chartered by the aircraft owner as an individual or as a business entity in which the aircraft owner owns a majority interest;
6. Aircraft transferred in connection with the dissolution or liquidation of a corporation or limited liability company and only if included in a payment in kind to the shareholders or members;
7. Aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;
8. Aircraft transferred to a partnership or limited liability company when the organization of the partnership or limited liability company is by the former owners of the aircraft. However, the former owners of the aircraft must have control of the partnership in proportion to their interest in the aircraft prior to the transfer;
9. Aircraft transferred from a partnership or limited liability company to the members of the partnership or limited liability company and if made in payment in kind in the dissolution of the partnership;
10. Aircraft transferred or conveyed to a partner of a partnership or shareholder or member of a limited liability company or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;
11. Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount





less than the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

12. Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;
13. Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;
14. Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given;
15. Aircraft which is purchased by a resident of this state and used exclusively in this state for agricultural spraying purposes; provided, if such aircraft is sold, leased or used outside this state or for a purpose other than agricultural spraying at any time within three (3) years from the date of purchase, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. For purposes of this subsection, "agricultural spraying" means the aerial application of any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants and animals;
16. Aircraft which have a selling price in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and which are transferred to a purchaser who is not a resident of this state for immediate transfer out of state;
17. Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke; and
18. Rotary-wing aircraft purchased to be used exclusively for the purpose of training U.S. military personnel or other training authorized by the U.S. Government. The exemption provided by this paragraph shall cease to be effective on January 1, 2018.



### Appendix B: Comparable Incentives, Select States

State	Casual Sale "Yard Sale Rule"	Fly Away Rule	Trade In Value	Credit for Tax Paid	Manufacturing - Parts	Manufacturing - Labor	Aircraft Registration Fee	Personal Property Tax
OK	No	Limited (to sale price over \$2.5M)	No	Yes	Yes	Yes	Yes (tiered by weight and type)	No
<b>Neighboring States</b>								
AR	No	Yes	Yes	Yes	No (with one exception)	No	No	Yes (average mileage = 38)
TX	Yes	Yes	Yes	Yes	No	No	No	Yes (for business aircraft)
CO	No	Yes	Yes	No	Yes	Yes	No	No
NM	Yes	No	Yes	No	Yes	Yes	Yes (tiered by age)	No
KS	Limited	Yes	Yes	Yes	Yes	Yes	No	Yes (30% with exemptions)
MO	Limited	Yes	Yes	Yes	Yes	Yes	No	Yes (\$5.06 per \$100 of assessed value)
<b>States with Strong Aerospace Industries</b>								
FL	No	Limited	Yes	Yes	Yes (for aircraft more than 2,000 lbs. CTOW)	Yes (for aircraft more than 2,000 lbs. CTOW)	No	No
GA	Limited	Limited (aircraft must be manufactured in GA)	Yes	Yes	Limited (aircraft must be removed upon completion of work)	Yes (when separately stated on invoice)	No	Yes (40% of market value x mileage [average 25 miles])
MI	Limited	Yes	No	Yes	Conditional	Yes	Yes (\$0.01 per pound)	No



State	Casual Sale "Yard Sale Rule"	Fly Away Rule	Trade In Value	Credit for Tax Paid	Manufacturing - Parts	Manufacturing - Labor	Aircraft Registration Fee	Personal Property Tax
NC	Yes	No	No	Yes	No	Yes	No	Yes (range from \$0.59 to \$1.41 per \$100 valuation)
OH	Yes	No	No	Yes	Yes	Yes	Yes (\$15 per seat)	No
NY	No	No	Yes	Yes	Yes	Yes	No	No
UT	No	Limited (to out of state buyer and seller)	Yes	No	No	No	Yes (0.4% of aircraft value)	No
VA	No	Yes	No	Yes	No	Yes	Yes (\$5)	Yes (based on county)

Source: Aircraft Owners and Pilots Association (AOPA) State Advocacy, Possible Exemptions to Sales Tax and Other Non-Sales Related Taxes