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FLORIDA SALES AND USE TAX UPDATE

Florida governor Charlie Crist signed a bill which will allow out-of-state non-Florida resident aircraft owners to visit Florida without fear of use tax being assessed.

Current Florida legislation states that an aircraft entering Florida within the first six months of purchase will be presumed to be purchased for use in Florida and may be subject to Florida use tax. This bill does not affect Florida residents and other individuals that have economic and business ties to the state of Florida.

This bill is a major victory for aircraft owners around the country because Florida is a popular destination both for personal and business use aircraft. Orlando and other cities in Florida are major tourist attractions and many pilots visit Florida annually for tradeshow like Sun N Fun in Lakeland in April, or Simcom for recurring training.

The new legislation goes into effect on July 1, 2010 and it will allow non-resident aircraft owners to visit Florida without the risk of incurring a Florida use tax assessment:

- Within 6 months of purchasing an aircraft, out-of-state owners will be able to visit Florida with that aircraft for less than a total of 21 days for any purpose.
- Aircraft purchased within the previous 6 months will be able to visit Florida for an unlimited amount of time for the exclusive purpose of flight training, repairs, alterations, refitting, or modification purposes.

FLORIDA FLY-AWAY EXEMPTION

A word of caution in regard to taking delivery of an aircraft in Florida: this continues to be an area of concern for many aircraft owners. Florida does have a “fly-away” exemption which allows non-residents to purchase an aircraft in Florida without being subject to Florida sales tax – provided that some detailed documentation is submitted to the Florida Department of Revenue within the prescribed time frame to claim this exemption.

A little known fact about the fly-away exemption is that only aircraft purchased from a registered Florida aircraft dealer will qualify for the exemption. Therefore, if you



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purchase an aircraft from a Florida resident and you take delivery of the aircraft in Florida, this transaction will be subject to Florida sales tax, regardless of how soon you remove the plane from Florida after closing.

Despite the enactment of the new Florida legislation exempting non-Florida residents from Florida sales and use tax, there are many scenarios where a lack of proper planning would result in a surprise tax bill from the State of Florida.

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The interaction between the Internal Revenue Code and the Federal Aviation Regulations requires the advice of an aviation tax specialist in order to create an ownership structure that will maximize your income tax benefits and keep you in compliance with the myriad of federal regulations. Please contact Aviation Tax Consultants (ATC) for a review of your current business and tax structure and to determine if you are a candidate for a business aircraft.

Aviation Tax Consultants (ATC) assists aircraft purchasers in acquiring aircraft in a tax efficient manner. Our services include the elimination or reduction of sales and use tax at the time of purchase, maximizing income tax savings, controlling the cost of personal use of the aircraft, avoiding passive activity loss rules and complying with Federal Aviation Regulations. Cooperation with client's current tax and legal advisors is welcome and encouraged.

Disclosure Under IRS Circular 230: To ensure compliance with requirements recently imposed by the IRS, we inform you that any tax advice contained in this communication, including any attachments, was not intended or written to be used, and cannot be used, for the purpose of avoiding federal tax related penalties or promoting, marketing or recommending to another party any tax related matters addressed herein.