

GOTHCA STATES

What, you may ask, is a “Gotcha State”? For purposes of this article, a “Gotcha State” is a state that may subject an aircraft to a tax in their state even though the aircraft is registered and paying all the appropriate taxes to the state where it is predominately hangared, maintained, registered, etc. This can be of huge concern to owners/operators of aircraft as it is sometimes difficult to keep with and understand which states may tax non-resident aircraft.

Below are a few of the states that fall into this category. Some states are more aggressive than others and more states are getting aggressive in collecting taxes and fees that they feel are due to them. In addition, state tax law can change quickly so it is necessary for an aircraft owner to remain knowledgeable of the state taxes in the states where their aircraft goes on a frequent basis.

ARIZONA	If the owner of an aircraft is not a resident of Arizona but brings an aircraft into Arizona for more than 90 days in a calendar year, but less than 210 days, the aircraft is subject to a .1% (1/10%) of FMV Aircraft License Tax. However, if it is found that the owner is either a resident or the aircraft is in the state more than 210 days, the owner will owe the .5% (1/2%) of FMV Aircraft License Tax.
CALIFORNIA	The State Board of Equalization (SBE) is extremely aggressive. It is not a question of whether the aircraft owner will receive a letter, but when. If an aircraft spends any significant time in California there is the likelihood of correspondence from the SBE. In addition, aircraft operated under FAR 91 Subpart K “Fractional Ownership” and Part 135 are subject to property tax based on the amount of time the aircraft spends in the state.
FLORIDA	Aircraft, owned by a non-resident, are only exempt from the use tax imposed under this chapter if the aircraft enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase.
KENTUCKY	The Commonwealth of Kentucky will subject any commercial aircraft that come into the state to their property tax based on the amount of time the aircraft spends in the state.
MINNESOTA	Any aircraft owned by a nonresident of this state and transiently or temporarily using the air space overlying this state or the airports thereof shall be exempt from taxation unless it uses the airspace overlying this state or the airports thereof for more than 60 days in the tax period. The operation of an aircraft in the air space overlying this state or the use of airports within this state for any purpose at any time during one day shall be considered as use for one complete day.
MISSOURI	There is exposure for property tax unless the aircraft owner can prove that they do not have sufficient nexus in the state. This is because Missouri defines a commercial aircraft as any aircraft that weighs more than 3,000 pounds and all commercial aircraft are taxed based on the amount of time the aircraft spends in and over the state.
NEVADA	Nevada implemented a program to determine if residents are evading sales and use taxes by registering property in a state or jurisdiction which either does not levy a sales/use tax or does so at a lower rate than Nevada's. If the state determines that a Nevada resident is attempting to

evade the tax, a 10% penalty on the amount owed, plus 1% interest per month the tax is not paid, could be assessed. In some cases, the penalty could be as high as 300%.

OREGON Oregon is a no sales/use tax state. However, they have a corporate activity tax imposed on commercial activity (317A.116). This corporate activity tax is imposed on each person with taxable commercial activity for the privilege of doing business in this state. The tax is imposed upon persons with substantial nexus with this state....'A taxpayer is subject to the annual corporate activity tax for doing business during any portion of such tax year.'

VIRGINIA Aircraft, which are owned by nonresidents and are based in Virginia more than 90 days in a calendar year are required to be licensed in the Commonwealth. In addition, before any aircraft can be licensed by the Department of Aviation, the owner of the aircraft must have satisfied the 2% Aircraft Sales and Use Tax imposed by the Virginia Department of Taxation or show that 2% or more sales/use tax was paid to another state.

WASHINGTON Aircraft owned by nonresidents if the aircraft is in the state for less than 90 days are exempt from registration. However, if an aircraft qualifies as being operated by a Public Utility Companies, the company operating the aircraft could be subject to additional taxation.

If you have any questions or would like to discuss in more detail, you may contact me via email at nel@stubbssaviationadvisors.com.