



Be Alert to Oregon and Potential New York Sales Tax Changes

By Jessica Pownell

Aircraft buyers and sellers will frequently agree to close a transaction in one of a few select states because such states either impose no sales or use tax or they have exemptions for aircraft transactions. Recently, however, several states have passed or considered new laws that could end such tax-free status for certain aircraft transactions.

Oregon Developments

Oregon is one such state that has no sales or use tax. Notably, however, effective January 1, 2020, Oregon implemented a tax on the “commercial activity” of persons with “substantial nexus” to Oregon. The tax is \$250.00 plus 0.57% of Oregon commercial activity over \$1MM, and the new law describes several situations where one would have a “substantial nexus,” such as conducting a certain threshold level of commercial activity in Oregon, being a resident of Oregon, or owning or using capital in Oregon. The law further states that the tax is imposed on the person with the commercial activity, and, unlike a sales tax, it is not a transactional tax imposed directly on a purchaser; however, it is expected that the burden will likely be passed on indirectly to the buyer.

New York Developments

As well, in 2015, the business aviation community enthusiastically supported the passage of an exemption for “general aviation aircraft” from New York states sales and use tax. Prior to passage of the new tax law, the sale or use of corporate aircraft in New York could be subject to the full New York sales tax rate. The exemption brought New York in line with a number of other states in the vicinity that offer exemptions for business aircraft sales and usage.

However, in 2019, several Bills were introduced in the New York Legislature to repeal such exemption (specifically, Senate Bill S7135 and Assembly Bill A9053). The 2020 New York Legislative Session was suspended for nearly two months due to the COVID-19 pandemic, and the Bills never made it out of Committee. However, it is possible that the exemption could face repeal again in 2021 or beyond. We will continue to closely monitor any new developments.