

## REG-1-067, Aircraft and Related Services

067.01 Sales of property to and by any airline engaged in the transportation of persons or property as a common or contract carrier are taxable in the same manner as are sales to and by other firms, persons, or corporations except as set out in this regulation.

067.02 Sales of aircraft, and aircraft repair and replacement parts for such aircraft, operated by air carriers authorized and certified by the United States Department of Transportation or another federal authority or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce are exempt from the sales or use tax.

067.03 Aircraft and repair parts sold for private use or business use other than as a common or contract carrier are taxable.

067.03A A nonresident individual, or other person with a business location outside this state may purchase an aircraft in this state without the payment of tax if the aircraft will not be based or registered in this state and is removed from the state within ten days of its purchase.

067.03B A nonresident individual, or other person with a business location outside this state may purchase repair parts or repair services for an aircraft in this state without the payment of tax if the aircraft will not be based or registered in this state, the parts or services are delivered at an airport, and the airplane is removed from the state within ten days.

067.03C Equipment owned by persons holding an authority described in 067.02, but who operate such equipment primarily as a private carrier does not qualify for the exemption on the purchase of aircraft, repair, and replacement parts. (Reg-1-069, Common and Contract Carrier Vehicles.)

067.04 Charges for flying lessons to obtain a private pilot's license and all dual instruction, banner towing, crop-dusting, patrols, air ambulance, search and rescue, livestock feeding, sky diving and parachuting, and charter services, when the pilot or instructor is the owner of the aircraft or employed by the aircraft owner, are exempt. Except as provided in 067.02, the purchase or use of an aircraft in providing such services is taxable based on the sales price to the purchaser.

067.05 If a customer, rather than the aircraft owner, furnishes the pilot, the use of the airplane is a rental which is taxable. See Reg-1-018, Rent or Lease of Tangible Personal Property, for sourcing of rentals or leases.

67.06 Retailers engaged in the business of selling aircraft, including retailers in the business of renting aircraft, who take aircraft originally purchased tax free through a resale certificate or from inventory (stock) for personal or business use, consumption, or gift, must report and pay a use tax on such aircraft. Such retailers must enter on their books the cost of all such aircraft and pay the applicable tax on their purchase price of the aircraft. The cost of those aircraft taken from stock is to be reported on the applicable line of the Nebraska and Local Sales and Use Tax Return, Form 10.

067.07 A retailer of aircraft as provided in 067.06 may, in lieu of paying tax on the sales price of the aircraft, elect to pay use tax on the gross receipts realized from the use of such aircraft. Gross receipts shall mean the total amount valued in money, whether received in money or otherwise, realized by retailers from the use of aircraft for any purpose, including but not necessarily limited to, those purposes enumerated in 067.04 above, except the receipts realized from the transportation of persons or property for hire as a common or contract carrier shall not be included in the gross receipts.

067.08 If such an election is made, it shall be pursuant to the following conditions:

067.08A Notice shall be filed with the Department of Revenue and such election shall be effective only upon approval;

067.08B The election, when made and approved by the Department of Revenue, shall remain in force and effect for a period of not less than two years and thereafter until such time as the retailer notifies the Department in writing of its intention to terminate the election and such termination is acknowledged by the Department;

067.08C The election shall apply to all aircraft in inventory;

067.08D When an aircraft is sold, destroyed, or otherwise removed from inventory, the appropriate tax shall be computed without any deduction, credit, or refund of use tax on gross receipts paid pursuant to this election; and

067.08E Retailers making the election must account for the gross receipts realized (as defined in 067.07 ) each time an aircraft is used and report the use tax on the applicable line of the Nebraska and Local Sales and Use Tax Return, Form 10.

067.09 The election shall be requested in writing and, in addition to general information, shall contain a list of all aircraft in inventory by name, model, year, and registration number.

067.10 If an aircraft is brought into Nebraska within one year of purchase and is either regularly based within this state or more than one-half of the aircraft's operating hours are within this state, such aircraft is taxable in this state.

067.10A Operating hours shall not include the operation of the aircraft for purpose of maintenance, repair, or fabrication if the aircraft is subsequently removed from the state upon the completion of the maintenance, repair, or fabrication.

*(Sections 77-2701.32, 77-2704.11, 77-2704.26, 77-2704.30, 77-2704.44, 77-2704.50, and 77-2706.01, R.R.S. 2003, and section 77-2703.01, R.S.Supp., 2004. April 12, 2005.)*