

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 21-11**

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This ruling is based on the particular facts and circumstances presented and is an interpretation of the law at a specific point in time. The law may have changed since this ruling was issued, possibly rendering it obsolete. The presentation of this ruling in a redacted form is provided solely for informational purposes and is not intended as a statement of Departmental policy. Taxpayers should consult with a tax professional before relying on any aspect of this ruling.

SUBJECT

The application of the Tennessee sales and use tax to airplane parts and components used for repair and refurbishment services.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[TAXPAYER] (the "Taxpayer") designs and sells replacement airplane parts and components. The Taxpayer is the holder of a supplemental type certificate for the design of certain replacement airplane parts and components that may include mainframes, engines, or other airplane accessories (the "Replacement Parts"). The supplemental type certificate is issued and approved by the Federal Aviation Administration (the "FAA") for the specific Replacement Parts the Taxpayer designs and sells.

The Taxpayer's principal business location is in [CITY, STATE], and the Taxpayer maintains no office or other place of business in Tennessee. The Taxpayer has an agreement with a Tennessee-based repair company (the

“Repair Company”) that is qualified¹ to perform repair services related to the Replacement Parts. These repair services are generally performed on airplanes that have a certified maximum take-off weight of 12,500 pounds or greater but are occasionally performed on airplanes with a certified maximum take-off weight of less than 12,500 pounds.

The Repair Company provides repair services to airplane owners that maintain and hangar airplanes in states other than Tennessee (the “Customers” or the “Customer”). A Customer contacts the Repair Company for the repair services on the Customer’s airplane. The Repair Company sources the Replacement Parts for the subject airplane through the Taxpayer, and the Taxpayer enters into a purchase agreement (the “Purchase Agreement”) directly with the Customer for the sale of the Replacement Parts.

Under the terms of the Purchase Agreement, the purchaser of Replacement Parts is the Customer. The Customer pays a down payment at the time the Purchase Agreement is executed and is required under the terms of the Purchase Agreement to pay the balance due prior to shipment. The Replacement Parts are then shipped to the Repair Company in Tennessee for the repair services to be performed. In some instances, payment is made after the repair services are completed and the airplane is returned to the Customer outside Tennessee.

Repair services performed by the Repair Company may include repairs that are only related to the Replacement Parts. In those instances, the repair services are typically completed within thirty days after the delivery of the Replacement Parts to the Repair Company in Tennessee, and the Customer’s airplane is removed from Tennessee within thirty days of delivery of the Replacement Parts. In other instances, the Customer may have additional repairs performed on the airplane, and the Replacement Parts may not be removed from Tennessee within thirty days of delivery to the Repair Company. In either instance, however, the airplane and the Replacement Parts are always removed from Tennessee within fifteen days after the completion of all repair services performed on the airplane.

RULINGS

1. Are repair and refurbishment services performed in Tennessee on an airplane with a situs outside of Tennessee exempt from Tennessee sales and use taxes when the airplane is removed from Tennessee within thirty days from the completion of all repair and refurbishment services?

Ruling: Yes, provided one of the following conditions is met:

- a) The repair and refurbishment services must be performed pursuant to and by a registered owner of a supplemental type certificate issued by the FAA; or
 - b) The repair and refurbishment services must be performed by an authorized service facility designated as an original equipment manufacturer for such service with respect to aircraft qualifying as “transport category aircraft” in accordance with TENN. CODE ANN. § 67-6-313(h)(1)(D)(ii) (Supp. 2020).
2. Are airplane replacement and repair parts (including the mainframe, engine, and other accessories) delivered to a repair person in Tennessee for use on aircraft with a certified maximum take-off weight of less than 12,500 pounds, that are purchased by an airplane owner with a situs outside of Tennessee and removed from Tennessee within thirty days after delivery to the repair person, exempt from Tennessee sales and use tax?

¹ According to the Taxpayer, the Repair Company is an authorized service facility designated by an original equipment manufacturer to perform repair and refurbishment services within Tennessee as described in TENN. CODE ANN. § 67-6-313(h)(1)(D)(ii) (Supp. 2020).

Ruling: No. There is no exemption from Tennessee sales and use tax for airplane replacement and repair parts delivered to a repair person in Tennessee for use on aircraft with a certified maximum take-off weight of less than 12,500 pounds, that are purchased by an airplane owner with a situs outside of Tennessee and removed from Tennessee within thirty days after delivery to the repair person.

3. Are the sales of mainframes, engines, and accessories for large aircraft (aircraft that have a certified maximum take-off weight of 12,500 pounds or greater) ("Large Aircraft Replacement Parts") exempt from Tennessee sales and use tax, provided that such Large Aircraft, Replacement Parts are intended to have a situs outside of Tennessee and are in fact removed from Tennessee within fifteen days from the completion of all the repair and refurbishment services performed on such large aircraft?

Ruling: Yes, such sales are exempt under TENN. CODE ANN. § 67-6-313(k)(2) provided the following conditions are met:

- a) The repair services are performed by an authorized large aircraft service facility² and
- b) The Large Aircraft Replacement Parts are purchased solely for the purpose of repair and refurbishment services performed by an authorized large aircraft service facility.

ANALYSIS

Under the Retailer's Sales Tax Act (the "Act"),³ the retail sale in Tennessee of tangible personal property and specifically enumerated services⁴ are subject to the sales tax, unless an exemption applies. Although performing repairs to tangible personal property is generally one such taxable service,⁵ TENN. CODE ANN. § 67-6-313 provides certain exemptions from Tennessee sales and use tax for the sale of airplane repair parts and service.

REPAIR AND REFURBISHMENT SERVICES

TENN. CODE ANN. § 67-6-313(h)(1)(D) provides an exemption from the sales and use tax for the repair and refurbishment of airplanes and airplane components if certain requirements are met. The aircraft and aircraft components must have their situs outside of Tennessee and be removed from Tennessee within thirty days from the completion of repair and refurbishment services.⁶ Additionally, repairs must either be performed pursuant to and by the registered owner of supplemental type certificate or by an authorized service facility designated by an original equipment manufacturer for such service with respect to aircraft qualifying as "transport category aircraft."⁷

Here, the Repair Company is an authorized service facility designated by an original equipment manufacturer to perform repair and refurbishment services within Tennessee as described in TENN. CODE ANN. § 67-6-

² "Authorized large aircraft service facility" means a repair station located within this state that is engaged in repair and refurbishment services of large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories under a valid air agency certificate issued by the federal aviation administration in accordance with 14 CFR Part 145 of the federal aviation regulations, with an authorized class rating of Air Frame Class IV, and organization designation authority, or such other similar or successor certificate, rating, and authority as the FAA may provide for from time to time." TENN. CODE ANN. § 67-6-302(3)(B) (2018).

³ Tennessee Retailer's Sales Tax Act, ch. 3, §§ 1-18, 1947 Tenn. Pub. Acts Ch. 22, §§ 22-54 (codified as amended at TENN. CODE ANN. §§ 67-6-101 to -907 (2018 & Supp. 2020)).

⁴ TENN. CODE ANN. § 67-6-205 (Supp. 2020).

⁵ TENN. CODE ANN. § 67-6-205(c)(4).

⁶ TENN. CODE ANN. § 67-6-313(h)(1)(D)(i).

⁷ TENN. CODE ANN. § 67-6-313(h)(1)(D)(ii). The term "transport category aircraft" is defined pursuant to 14 CFR parts 25, 29, 91 and 121.

313(h)(1)(D)(ii). Therefore, the repair and refurbishment services performed in Tennessee on an airplane with a situs outside of Tennessee are exempt from Tennessee sales and use taxes when the airplane is a “transport category aircraft” as defined in 14 CFR 25, 29, 91, and 121 and is removed from Tennessee within thirty days from the completion of all repair and refurbishment services.

REPLACEMENT AND REPAIR PARTS

There is no general exemption for aircraft replacement and repair parts. Specific exemptions exist for helicopter parts purchased solely for repair and refurbishment purposes,⁸ and for large aircraft and related equipment purchased solely for repair and refurbishment purposes.⁹ Aircraft replacement and repair parts delivered to the Repair Company that are not for large aircraft and related equipment solely for repair and refurbishment purposes are not exempt from Tennessee sales and use tax.¹⁰

LARGE AIRCRAFT AND RELATED EQUIPMENT

TENN. CODE ANN. § 67-6-313(k)(2) provides that the sale of large aircraft and related equipment solely for the purpose of repair and refurbishment services by an authorized large aircraft facility¹¹ are exempt from Tennessee sales and use tax if the aircraft has a situs outside of Tennessee, and the aircraft is removed within fifteen days from the completion of the repair and refurbishment services. As defined in TENN. CODE ANN. 67-6-313(k)(3)(B), “large aircraft and related equipment” means a large aircraft¹² consisting of a large aircraft mainframe¹³ and large aircraft engine equipment,¹⁴ including any large aircraft accessories¹⁵ associated with large aircraft or aircraft engine, whether installed or uninstalled.¹⁶

The repairs are performed on aircraft that have a certified takeoff weight of 12,500 pounds or greater, which qualifies the aircraft as large aircraft, and the aircraft are removed from Tennessee within fifteen days from the completion of the repair service. For repair and refurbishment of large aircraft, the Large Aircraft Replacement Parts fall under the definition of large aircraft and related equipment, as they comprise large aircraft mainframes, large aircraft engines, or other airplane accessories for large aircraft. Accordingly, the sale of Large Aircraft Replacement Parts for the repair and refurbishment of large aircraft are exempt from sales and use tax

⁸ See TENN. CODE ANN. § 67-6-313(h)(1)(C).

⁹ See TENN. CODE ANN. § 67-6-313(k)(2).

¹⁰ The exemption for the sales of aircraft and related equipment under TENN. CODE ANN. § 67-6-313(h)(1)(A) does not apply to aircraft repair and refurbishment.

¹¹ “Authorized large aircraft service facility” means a repair station located within this state that is engaged in repair and refurbishment services of large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories under a valid air agency certificate issued by the federal aviation administration in accordance with 14 CFR Part 145 of the federal aviation regulations, with an authorized class rating of Air Frame Class IV, and organization designation authority, or such other similar or successor certificate, rating and authority as the federal aviation administration may provide from time to time. TENN. CODE ANN. §§ 67-6-302(c)(3)(B) (2018).

¹² “Large aircraft” means any aircraft that has a certified maximum take-off weight of twelve thousand five hundred pounds (12,500 lbs.) or greater. TENN. CODE ANN. § 67-6-302(c)(3)(C).

¹³ “Large aircraft mainframe” means any aircraft, body, wing, tail assemble, aileron, rudder, landing gear, engine housing, and any other assembly or component integral to the aerodynamic structure of large aircraft. TENN. CODE ANN. § 67-6-302(c)(3)(F).

¹⁴ “Large aircraft engine equipment” means any aircraft engine, including all associated parts, appurtenances, and accessories, for the propulsion of a large aircraft mainframe. TENN. CODE ANN. § 67-6-302(c)(3)(E).

¹⁵ “Large aircraft accessories” means any accessories, appurtenances, equipment, software, systems, or components for installation in or use in connection with any large aircraft mainframes or large aircraft engines. TENN. CODE ANN. § 67-6-302(c)(3)(D).

¹⁶ TENN. CODE ANN. § 67-6-313(k)(3)(B).

so long as the Large Aircraft Replacement Parts are purchased solely for repair and refurbishment services, and the repair and refurbishment services are performed by an authorized large aircraft service facility.

APPROVED: David Gerregano
Commissioner of Revenue

DATE: 11/17/2021