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July 7, 2009

Karen King Mitchell, Director
Missouri Department of Revenue
Harry S Truman State Office Building
301 West High Street
Jefferson City, Missouri 65101

RE: Missouri Use-tax collection issue on general aviation aircraft

Dear Ms. Mitchell:

The Aircraft Owners and Pilots Association (AOPA) represents the general aviation interests of 416,000 members, more than two-thirds of the nation's pilots – including more than 7,100 in the state of Missouri. On behalf of our membership, AOPA is committed to ensuring the future viability and development of general aviation as part of a national transportation system.

It has come to our attention that your department is very actively working to collect a use tax on aircraft purchases made out of state by Missouri aircraft owners. Our members tell us that this effort reaches back over a period of several years to bill aircraft purchasers for a 4.225% use tax, including interest and a 25% penalty, when their purchase was out of state.

As Missouri engages in this enforcement action, we urge you to consider that significant confusion exists in the aviation community regarding this tax. Many of our members tell us they were advised verbally by your department when they originally brought their aircraft into the state that use tax was inapplicable, but that they should be sure to pay their property tax. For this reason, there has been a widespread, although erroneous belief that a use tax did not apply to many of these purchases. Many years have passed during which your department seems to have made little effort to collect these taxes, or advise aircraft owners that it applied to their purchases – perpetuating the belief that no tax was in force.

During this time, most Missouri aircraft owners have been paying their ad valorem or personal property tax regularly, and without effort to avoid this obligation. As a result, the State has certainly been aware of each newly purchased aircraft through payment of these property taxes.

On behalf of Missouri's aircraft owners, we suggest that the Department of Revenue should set some reasonable limitation on its efforts to reach back in time to collect a use tax on these aircraft. Further, we suggest that it would be appropriate, in light of the circumstances, to give more recent purchasers against whom the Department continues to assess a tax the opportunity to pay that tax without interest or other penalties.

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We believe that a reasonable interpretation of the existing statutes and court decisions provide ample opportunity for your Department to take a more lenient position on assessing overdue taxes, penalties, and interest. On other occasions, the Missouri Supreme Court has ruled that exercising reasonable prudence and good faith was not a neglect-to-file, that, not possessing superior knowledge of sales/use tax laws was not fraudulent, and that a statute of limitations can be applied and penalties dropped.

General Aviation makes a vital contribution to Missouri's economy and transportation system. In total, General Aviation, including your state's more than 11,000 pilots and 6,200 aircraft at nearly 500 aviation facilities, contribute nearly \$2.5 billion to Missouri's economy. Please keep in mind that on average, just 2 ½ years of property tax equals the one-time use tax percentage. We would suggest that it is better for Missouri to keep these aircraft in state as taxable property, paying these taxes rather than adding another pressure for these owners to sell.

With the right tax and business climate, General Aviation and nonresident pilots can play an ever-increasing role in Missouri's economic prosperity. We stand ready to work with you in increasing the contribution that aviation can make to the state's economy and quality of life. If you or your staff have any questions or would like to discuss this matter personally please do not hesitate to contact me.

Very truly yours,



Gregory Pecoraro
Vice President, Airports and State Advocacy