



June 19, 2009

Subject: AOPA Aviation Summit

Dear Mark:

Thank you for your recent tax inquiry with regard to AOPA's upcoming Aviation Summit in Tampa, Florida. I hope that your event is a success, and we appreciate the opportunity to provide guidance for aircraft owners that would like to attend.

Your inquiry relates to a concern about out-of-state aircraft owners incurring Florida's use tax when they fly their aircraft into Florida. The concern is understandable. Like other states that impose a sales tax, Florida also imposes a use tax, and that tax could apply when taxable property is used in Florida without the property owner having paid Florida sales tax. However, a brief, recreational use of property in Florida will not, by itself, subject an aircraft owner to use tax. Florida courts have reviewed similar facts and found that type of activity to be insufficient to form the basis of a use tax assessment.¹

So, to be clear, an out-of-state aircraft owner will not incur use tax on his or her aircraft merely for flying in to attend AOPA's Aviation Summit. Rather, in order for Florida's use tax to apply, the aircraft owner or the aircraft must have a more significant connection to Florida, such as, for example, the aircraft owner owning real property in Florida.

Additionally, the Department does not attend "fly-ins" like the Aviation Summit for the purpose of enforcing Florida use tax, nor do we conduct "ramp-checks" for this purpose. Rather, our use tax enforcement efforts are directed at property and property owners with significant connections to Florida.

Lastly, many aircraft owners and organizations are working with Florida legislators to try and develop a "bright line" time frame that aircraft can remain in state without incurring use tax. I recognize that your organization has played a large part in that effort. I encourage you to continue to pursue that option if what you need is a clear statutory standard. However, until then, the Department will continue to rely on Florida's general use tax law, as interpreted by Florida's courts, and under those standards, brief, recreational uses of property within the state cannot alone form the basis of a use tax assessment.

I hope this information is helpful for your organization and the vital industry you serve. If you have any further questions, please feel free to contact me.

Respectfully,

Robert P. Babin
Director, Legislative Services
Florida Department of Revenue

¹ See Dept. of Revenue v. Yacht Futura. Corp., 510 So.2d 1047 (Fla. Ist DCA 1987).