NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1642 (First Edition)

SHORT TITLE: Conform Tax Rate on Certain Vehicles

SPONSOR(S): Representatives Weiss, Luebke, Insko

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES					
General Fund	**No Estimate Available – See Assumptions and Methodology**				
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: July 1, 2002

BILL SUMMARY: Current law under NC G.S. 105-164.4(a)(1b) levies a 3% sales tax on the purchase of boats, aircraft, railway cars, and locomotives. The maximum tax is $1500 per article. This bill would remove the maximum tax per article on aircraft, railway cars, and locomotives by designating that the maximum applies to boats only.

ASSUMPTIONS AND METHODOLOGY: The removal of the $1500 per article limit on sales tax on aircraft, railway cars, and locomotives would produce negligible, if not slightly negative, sales tax revenue. Use tax revenues would still apply. Fiscal analysis of the change for both industries is noted below:

<u>Aircraft:</u> According to the Federal Aviation Administration (FAA) Registry, there are approximately 7,800 aircraft registered in NC. New registrations by state are not tracked independent of all registrations that occur each year (transfers, recertifications, etc.). Although annual data on the number and value of aircraft sold in North Carolina are kept by the National Business Aviation Association (NBAA), these data are unavailable to Fiscal Research due to privacy issues. They report that 1006 business aircraft were sold in the United States in 2001. The National Association of State Aviation Officials (NASAO) and the Aircraft Owners and Pilots Association (AOPA) keep records of annual aircraft sales on a national basis, but not by state.

In order to approximate the annual number and value of aircraft sales in North Carolina, Fiscal Research attempted to estimate the average value of aircraft based on depreciation. Aircraft, however, have an unlimited life expectancy due to the level of maintenance they undergo on a yearly basis. As an example, Henry Ogradinsky, director of NASAO, pointed out that the majority of the Piper Cubs from the 1947-1949 production period are still in use today. Additionally, aircraft registered in North Carolina as a percentage of registered aircraft in the United States is not necessarily a reliable proxy for North Carolina's share of national aircraft sales.

All of the representatives from the previously mentioned aviation organizations have suggested the potential negative fiscal impact of this change due to cross border effects. Sales tax limits exist in both South Carolina ($300) and Virginia ($2000), thus consumers could choose to have delivery of their purchases in a border state to avoid the North Carolina sales tax. This was the case in Wisconsin when they implemented an excise tax on aircraft. Purchasers took delivery in bordering Illinois to avoid the excise tax, resulting in a nominal revenue gain in Wisconsin from the excise tax on aircraft. The North Carolina Department of Revenue has a program in place with the FAA that helps to track new aircraft registrations. Owners are given the opportunity to identify how they acquired the aircraft and show proof of North Carolina sales tax, or be credited for taxes paid to another state and pay the difference. This program would be a means to track down purchasers in North Carolina who attempt to avoid taxes by requesting delivery in a bordering state.

For aircraft used primarily in North Carolina, the use tax liability would still apply. However, the Department of Revenue data for annual gross use tax collections (which includes aircraft and boats) is relatively low. The average for the past four fiscal years is approximately $95,000. Therefore, no exact fiscal impact on sales tax revenues is available at this time.

<u>Railway Cars and Locomotives:</u> According to the Rail Division of the North Carolina Department of Transportation, there are four types of railway users in the state. Class 1 companies are generally large, multistate organizations. The dominant Class 1 companies operating in North Carolina are CFX and Norfolk Southern. Both of these companies operate in approximately 22 states. Organizations of this size generally buy directly from the manufacturer and take delivery at the manufacturing location. There are no locomotive or rail car manufacturers in North Carolina. This means no North Carolina sales tax would be collected on the sale. If the locomotive or rail car was used primarily in North Carolina, these organizations would have a use tax liability equal to the sales tax, less a credit for any taxes paid. However, because these pieces of equipment are used in several states, North Carolina would be unlikely to collect that use tax revenue.

The second category of rail companies is holding companies that own several short lines. These companies generally have ten to twenty operations across the country. Again these organizations generally buy direct from the manufacturer and take delivery at the manufacturing location. Because there are no rail car producers in North Carolina, very little sales tax revenue would be derived from these sales. In these cases, a corresponding use tax may apply.

Collecting the use tax from these companies would generally be easier, as the equipment would be used primarily on a specific short line. However, neither Fiscal Research nor the Department of Transportation has information on how many rail cars may be sold to these holding companies. Therefore, no exact fiscal estimate is possible. However, the number of rail cars sold to these organizations is expected to be very small.

The third category of rail companies is what the Department terms “mom and pop” short line operators. These companies generally operate on only one short line in a heavy manufacturing area. These companies are generally not very profitable and tend to reply almost exclusively on used and rebuilt machinery. While no data is available on sales to these operators, the Department of Transportation believes that very little machinery changes hands each year.

The fourth category of rail car and locomotive purchasers is the North Carolina Department of Transportation (DOT), Railway Division. Because these items are purchased by DOT they are exempt from sales tax. This legislation would not change their tax status. Therefore, there is no fiscal impact from these types of purchasers.

Given the above information, it is clear that no exact fiscal estimate is available at this time. However, the data from DOT suggests that the impact of this portion of the legislation on the sales tax is likely to be very small.

SOURCES OF DATA: Department of Revenue, Department of Transportation, FAA

TECHNICAL CONSIDERATIONS:

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