



Q: What are the licensing requirements for an aircraft in Virginia?

A: In general, any aircraft that is based in Virginia or operating in Virginia for more than 60 days over a 12 month period is required to obtain a Virginia Aircraft License.

A Virginia aircraft license cannot be issued unless the aircraft is properly insured and the 2% Aircraft Sales and Use Tax has been paid to the Commonwealth of Virginia.

The Department of Aviation does not require an aircraft license on aircraft that do not have a *Certificate of Airworthiness* from the Federal Aviation Administration.

Q: What is Aircraft Sales and Use Tax?

A: Aircraft Sales and Use Tax is a one time tax that is placed on every aircraft sold in the Commonwealth and the use of any aircraft in the Commonwealth for more than 60 days and that is required to be licensed with the Department of Aviation.

Q: What is the Aircraft Sales and Use Tax rate?

A: The 2% Aircraft Sales and Use Tax is calculated on the sales price of the aircraft or the fair market value of aircraft brought into Virginia six months or more after acquisition, provided the aircraft is required to be licensed with the Department of Aviation.

No credit is allowed for trade-ins. In the absence of a bill of sale or other written evidence of purchase price, the Commonwealth of Virginia uses an average retail price to estimate the taxable amount of the aircraft.

Q: Who is responsible for paying the tax?

A: The "owner", either the individual or entity which holds title to the aircraft, is responsible for payment of the 2% Aircraft Sales and Use Tax.

Q: How did you obtain the average retail price?

A: We use the *Price Digest's Aircraft Bluebook Historical Value Reference*. For aircraft not listed (i.e. kits, assembled from parts, experimental), we determine the average retail price based on the average price of similar aircraft being offered for sale.

The average retail price used for calculating the tax is the purchase amount from the year it was first required to be licensed.

Please note, a bill of sale with a nominal value such as "\$1 and other valuable consideration" will not be considered adequate documentation of the purchase price.

Q: I pay personal property tax every year. Isn't my Aircraft Sales and Use Tax included in these fees?

A: Many people confuse the 2% Aircraft Sales and Use Tax with personal property tax. The 2% Aircraft Sales and Use Tax is based on the sales price, and is due only once on each individual sale. It should be paid to the Virginia Department of Taxation at the time of purchase and prior to applying for an aircraft license. Personal property tax is an annually imposed, locally administered tax.

Q: Aircraft Sales and Use Tax was already paid on the aircraft. What kind of documentation can I use to show this?

A: Please provide a receipt, invoice, or purchase/sales agreement that shows where the 2% Aircraft Sales and Use Tax has been paid. A credit against the 2% Aircraft Sales and Use Tax is allowed for Aircraft Sales and Use Tax paid correctly to another state.

Q: If the aircraft is not airworthy, do I still have to pay the 2% Aircraft Sales and Use Tax?

A: The 2% Aircraft Sales and Use Tax applies uniformly to operable and inoperable aircraft. In the case of inoperable aircraft, the time for payment of such tax is postponed until the aircraft is required to be licensed.

Remember that the 2% Aircraft Sales and Use Tax is based on the sales price of the aircraft at the time it was purchased, unlike property tax, which is based on the current value of the property. The 2% Aircraft Sales and Use Tax is ultimately due based on the sales price of the aircraft, regardless of whether it is later damaged and loses value.

Q: If the Average Retail Price is less than the actual sales price, can I choose to have the 2% Aircraft Sales and Use Tax based on the average instead of the sales price?

A: No. The 2% Aircraft Sales and Use Tax is based on the actual sales price or the value of other consideration paid. The average price is only used in the absence of the actual sales price or if the aircraft was brought into Virginia six months or more after its acquisition.

Q: How do Virginia tax laws, rules and regulations require the 2% Aircraft Sales and Use Tax to be paid on aircraft?

A: The *Code of Virginia §58.1* states that a tax is levied on the retail sale of every aircraft sold in the Commonwealth **and** upon the use in the Commonwealth of any aircraft required to be licensed by the Department of Aviation.

Q: What if I bought the aircraft intending to resell or lease it?

A: To purchase an aircraft exempt from the 2% Aircraft Sales and Use Tax for the purpose of reselling it, a party must be engaged in the business of manufacturing, distributing, or selling aircraft. This party must also make application to the Department of Taxation and receive approval prior to operation of the aircraft under the “dealer exclusion”.

Under the “dealer exclusion”, a 2% tax will be remitted to the Department of Taxation on the monthly gross receipts.

Q: If an airplane is purchased from a private individual, isn't it exempt from the 2% Aircraft Sales and Use Tax?

A: No. Although there is a Retail Sales and Use Tax exemption for “isolated or occasional sales” in the *Code of Virginia §58*, that exemption does not apply to the sale of aircraft.

Q: Are there any exemptions from paying the 2% Aircraft Sales and Use Tax?

A: *Code of Virginia §58.1-1505* allows an exemption from paying the 2% Aircraft Sales and Use Tax on any aircraft sold or used by:

1. United States or federal agency
2. Commonwealth of Virginia or state agency
3. any air carrier operating in intrastate, interstate or foreign commerce providing regularly scheduled air service as defined in §58.1-1501
4. any nonprofit organization which is exempt from taxation under §501(c)(3) of the Internal Revenue Code AND which is operating exclusively for the purpose of providing charitable, long distance, advanced life support, air ambulance services for low-income medical patients in the Commonwealth
5. an organization which is exempt from taxation under §501(c)(3) of the Internal Revenue Code which is organized for the primary purpose of distributing food, clothing, medicines and other necessities for needy persons in the United States and throughout the world.

Q: What if the aircraft in question has been sold?

A: Because the 2% Aircraft Sales and Use Tax is on the **purchase** of property, not on the **possession** of property, the 2% Aircraft Sales and Use Tax is due on the sales price when you purchased the aircraft that was required to be licensed with the Department of Aviation, regardless of whether you still own it.

Q: Does the 2% Aircraft Sales and Use Tax apply to sale price of aircraft kits and inoperable or wrecked aircraft?

A: Yes. The 2% Aircraft Sales and Use Tax applies to aircraft kits, parts and accessories when the aircraft receives a *Certificate of Airworthiness* from the Federal Aviation Administration.

Q: If an individual owns several aircraft and licenses them in his individual name and later desires to form a corporation and transfer ownership of the aircraft to the corporation, is he required to pay the 2% Aircraft Sales and Use Tax before being allowed to license the aircraft in the name of the corporation?

A: Virginia's law is that the 2% Aircraft Sales and Use Tax does not apply when the ownership of an aircraft is transferred from an individual or partnership when such transfer is incidental to the formation, organization or dissolution of a corporation in which the individual or partnership has the majority interest.

Q: How and when are taxes paid on restored aircraft?

A: Once an aircraft has been restored, is airworthy, and is ready to be licensed, the value is based on all of the components purchased such as; airframes, engines, kits, parts, accessories, third party labor and/or installation labor.

Q: Under what circumstances do penalties and interest apply?

A: When any person fails to file a return or pay the full amount of tax required by the Code of Virginia within the thirty days required for filing and payment, a penalty in the amount of 6% is added to the 2% Aircraft Sales and Use Tax. An additional 6% of the tax is charged for each additional thirty-day period. The additional penalty will not exceed 30%.

Interest is determined at a rate in accordance with the *Code of Virginia §58.1-15* and applies to the unpaid amount of the tax from the day after the due date for timely filing. Interest on the payment of the tax will accrue until the tax is paid.

Q: If an aircraft owner did not register the aircraft or pay the 2% Aircraft Sales and Use Tax and it is now destroyed, is the owner still liable for tax payment?

A: Yes. The aircraft owner is liable for the 2% Aircraft Sales and Use Tax if the aircraft was purchased or operated in Virginia for more than 60 days, if required to be licensed with the Department of Aviation and it is within a six-year statute of limitations.

Q: How do I pay the 2% Aircraft Sales and Use Tax when I apply for a license?

A: You can download the *Aircraft License Application* from www.doav.virginia.gov and the *Aircraft Sales and Use Tax Return* from www.tax.virginia.gov . You can mail both forms and payments to:

Virginia Department of Aviation

5702 Gulfstream Road

Richmond, VA 23250

Attn: Aircraft Licensing Division

Make checks payable to Treasurer of Virginia.