

49 U.S. Code § 40116 - State taxation

(a)Definition.—

In this section, “[State](#)” includes the District of Columbia, a territory or possession of the United [States](#), and a political authority of at least 2 [States](#).

(b)Prohibitions.—Except as provided in subsection (c) of this section and [section 40117 of this title](#), a [State](#), a political subdivision of a [State](#), and any [person](#) that has purchased or leased an [airport](#) under [section 47134 of this title](#) may not levy or collect a tax, fee, head charge, or other charge on—

(1)an individual traveling in [air commerce](#);

(2)the transportation of an individual traveling in [air commerce](#);

(3)the sale of [air transportation](#); or

(4)the gross receipts from that [air commerce](#) or transportation.

(c)Aircraft Taking Off or Landing in State.—

A [State](#) or political subdivision of a [State](#) may levy or collect a tax on or related to a flight of a commercial [aircraft](#) or an activity or service on the [aircraft](#) only if the [aircraft](#) takes off or lands in the [State](#) or political subdivision as part of the flight.

(d)Unreasonable Burdens and Discrimination Against Interstate Commerce.—

(1)In this subsection—

(A)“air carrier transportation property” means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B)“assessment” means valuation for a property tax levied by a taxing district.

(C)“assessment jurisdiction” means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D)“commercial and industrial property” means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)

(A)A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i)assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii)levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii)levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(iv)levy or collect a tax, fee, or charge, first taking effect after August 23, 1994, exclusively upon any business located at a commercial service airport or operating as a

permittee of such an [airport](#) other than a tax, fee, or charge wholly utilized for [airport](#) or aeronautical purposes.

(v)except as otherwise provided under section 47133, levy or collect a tax, fee, or charge, first taking effect after the date of enactment of this clause, upon any business located at a commercial service [airport](#) or operating as a permittee of such an [airport](#) that is not generally imposed on sales or services by that [State](#), political subdivision, or authority unless wholly utilized for [airport](#) or aeronautical purposes.

(B)Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for [airport](#) and aeronautical purposes.

(e)Other Allowable Taxes and Charges.—Except as provided in subsection (d) of this section, a [State](#) or political subdivision of a [State](#) may levy or collect—

(1)taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2)reasonable rental charges, landing fees, and other service charges from [aircraft](#) operators for using [airport](#) facilities of an [airport](#) owned or operated by that [State](#) or subdivision.

(f)Pay of Air Carrier Employees.—

(1)In this subsection—

(A)“[pay](#)” means money received by an employee for services.

(B)“[State](#)” means a [State](#) of the United [States](#), the District of Columbia, and a territory or possession of the United [States](#).

(C)an employee is deemed to have earned 50 percent of the employee’s [pay](#) in a [State](#) or political subdivision of

a [State](#) in which the scheduled flight time of the employee in the [State](#) or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2)The [pay](#) of an employee of an [air carrier](#) having regularly assigned duties on [aircraft](#) in at least 2 [States](#) is subject to the income tax laws of only the following:

(A)the [State](#) or political subdivision of the [State](#) that is the residence of the employee.

(B)the [State](#) or political subdivision of the [State](#) in which the employee earns more than 50 percent of the [pay](#) received by the employee from the carrier.

(3)Compensation paid by an [air carrier](#) to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's [aircraft](#) in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

(A)The [State](#) or political subdivision of the [State](#) that is the residence of the employee.

(B)The [State](#) or political subdivision of the [State](#) in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's [aircraft](#).

([Pub. L. 103-272, § 1\(e\)](#), July 5, 1994, [108 Stat. 1111](#); [Pub. L. 103-305, title I, § 112\(e\)](#), title II, § 208, Aug. 23, 1994, [108 Stat. 1576](#), 1588; [Pub. L. 104-264, title I, § 149\(b\)](#), Oct. 9, 1996, [110 Stat. 3226](#); [Pub. L. 104-287, § 5\(66\)](#), Oct. 11, 1996, [110 Stat. 3395](#); [Pub. L. 115-254, div. B, title I, § 159\(a\)](#), Oct. 5, 2018, [132 Stat. 3220](#).)

