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No Missouri Use Tax Due When Aircraft is Purchased for Immediate Lease to a Missouri Common Carrier

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In its recent ruling in *Five Delta Alpha, LLC v. Director of Revenue*, the Missouri Supreme Court has ruled that an aircraft transfer is exempt from Missouri use tax under the “sale or resale” exemption even when the aircraft is leased rather than sold to a Missouri common carrier. Rejecting the suggestion that the lease could not properly be classified as a sale for the purposes of the resale exemption, the Court noted that leases may qualify as sales for purposes of the resale exemption where the right of use is fully transferred, even when the title or ownership of the property is not transferred. Because the right to use the aircraft in this case was fully transferred to the buyer’s lessee, the Court found that the transaction should, for use tax purposes, be classified as a sale.

AUTHORS

- [Gardiner B. Davis](#)

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