

F.A.A. Rule Requires Use of State and Local Tax Revenues for Airport Purposes

11/25/2015 Update! See attached 1) State of California Action Plan in Response to FAA Policy Change 79 FR 66282-01; Docket FAA-2013-0988 dated November 25, 2015 and 2) Suggested Action Plan for Local Governments from the State of California.

A recently adopted amendment to a federal regulation by the Federal Aviation Administration clarifies the rule that the proceeds of state and local taxes on aviation fuel at an airport must be used for airport-related purposes, including capital and operations, state aviation programs and airport noise mitigation. The FAA is allowing a three year period until December 8, 2017, during which FAA will withhold enforcement actions and state and local agencies must develop compliance plans.

In California, motor vehicle fuel - other than jet fuel – used in propelling aircraft is exempt from sales and use tax. However, proceeds of some taxes on aircraft jet fuel are affected by the FAA rule.ⁱ The rule does NOT apply to taxes in effect on December 31, 1987 including the local Bradley Burns 1.25% rate or the 4.75% state general fund rate in effect at the time. However, several other state rates may be affected, as well as most local transactions and use tax rates.

I. Background: Federal Law and Federal Grant Provisions Restrict the Use of Revenues Generated by Airports, Including Proceeds of Taxes

When an airport operator receives federal grant funds, it signs a document which includes many "grant assurances." The FAA's Airport Operator Grant Assurance #25 provides that "All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other facilities which are owned and operated by the owner of operator of the airport....."ⁱⁱ

Federal lawⁱⁱⁱ says "local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of (1) the airport; (2) the local airport system; or (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

II. A Recent FAA Rule Confirms Federal Policy Earmarking Certain State and Local Revenues for Aviation Support

In November 2014, the Federal Aviation Administration adopted an amendment to its "Revenue Use Policy" originally adopted in February 1999.^{iv} The FAA Revenue Use Policy interprets federal law to require that airport operators that have received federal assistance may use airport revenues only for aviation related purposes.

Effective December 8, 2014, the 2014 FAA rule amendment confirms that this requirement extends to proceeds of taxes on aviation fuel. That is, with certain exceptions, the FAA’s revenue use requirements apply to “state and local government taxes on aviation fuel, as well as to revenues received directly by an airport operator.”^v Many state and local governments had instead interpreted the rule not to apply where an airport was managed by an independent airport authority rather than by a state or locality.

In its November 2014, the FAA asserts that its action “confirms FAA’s longstanding policy on Federal requirements for the use of proceeds from taxes on aviation fuel.”^{vi} The FAA first published the proposed rule amendment in November 2013. The agency’s 60 day comment period closed in January 2014 and, despite what the agency insists was a “robust public engagement process,” received relatively little reaction.

III. The Rule: Proceeds of Taxes on Aviation Fuel Must Be Used for Aviation Purposes

In summary the adopted regulation provides:

- An airport operator submitting an application for funding under the Airport Improvement Program must provide assurance that the revenues from state and local government taxes on aviation fuel will be used for certain aviation-related purposes.
- For the purpose of complying with this rule, aviation-related purposes include airport capital and operating costs, and state aviation programs. This may include the general debt obligations or other facilities of the owner or operator and noise mitigation purposes on or off the airport.^{vii}
- The requirement applies to any tax not in effect on December 30, 1987.^{viii}
- The FAA acknowledges the difficulty of changing state and local policies and procedures to comply with this rule. “For existing taxes that do not qualify for grandfathering (which are State or local taxes on aviation fuel in effect on December 30, 1987), the FAA will allow for an up to three-year transition period” during which state and local officials to prepare an “action plan” to initiate the process of amending local ordinances and State laws as necessary. The action plan should be submitted no later than December 8, 2015. The three-year transition period during which the FAA agrees not to enforce the revenue use requirement extends through December 8, 2017.

IV. Local Bradley Burns 1% and ¼% TDA Rates are Exempt

The FAA rule does not apply to taxes in effect on December 31, 1987. The 1.25% Bradley Burns rate, which includes the ¼% local transportation rate allocated to counties was in effect prior to 1987. A state general fund rate of 4.75% was also in effect prior to 1987 and is therefore exempt from the rule.

V. Revenues Affected include about \$53 million of State Revenues, Including \$35 million Allocated to Local Programs, and \$24 million of Local Revenue from Local Add-On Rates.

The California State Board of Equalization (BOE) estimates that net taxable aviation jet fuel sales totaled \$3.526 Million in 2013-14. In an analysis of the various current components of California Sales and Use Tax, BOE staff recently estimated that affected revenues from state-imposed portions of the sales tax total about \$53 million, \$17.6 million allocated to counties for realigned health and social services programs through the Local Revenue Fund and \$17.6 million allocated to counties and some cities for law enforcement purposes under Proposition 172 of 1993. BOE staff estimate that locally adopted Transactions and Use Tax rates applied to aviation fuel sales generate about \$23.7 million per year.

California Sales and Use Tax Components

	Revenue & Taxation Code	Year Enacted	Rate	Estimated \$ Aviation Fuel Tax ^x (millions)	FAA Rule Applies?
State General Fund	6051	1974	4.75%	-	No
Local Bradley Burns (City/county ops and county transportation)	7203.1	1972	1.25%	-	No
State General Fund	6051.3	1991	0.25%	\$8.8	Yes
State: Local Revenue Fund (county-realignment)	6051.2	1991	0.50%	\$17.6	Yes
State: Local Public Safety Fund (Proposition 172)	Calif. Const. Sec35 ArtXIII	1993	0.50%	\$17.6	Yes
Proposition 30 (expires December 31, 2016)		2012	0.25%	\$8.8	No ^x
Local Transactions and Use Taxes	7251	Varies	varies	\$23.7	Yes (many)

VI. Some Local Transactions and Use Taxes Are Exempt from the FAA Rule

A number of local transactions and use tax rates (add-on sales tax rates) were in effect on December 31, 1987. Some of these were later renewed prior to expiration. The applicability in an expiration/renewal situation may be debated.

The following transactions and use tax rates are exempt from the FAA use rule:

	Rate	Enacted
Alameda County Transportation Authority	0.50%	04/01/1987 ¹
SF Bay Area Rapid Transit District (BART)	0.50%	04/01/1970
Fresno County Transportation Authority	0.50%	07/01/1987

¹ The Alameda County Transportation Authority rate enacted April 1, 1987 was to expire on March 31, 2002 but was renewed by voter approval in 2001 and remains in effect.

Los Angeles County Transportation Commission	0.50%	07/01/1982
San Mateo County Transit District	0.50%	07/01/1982
Santa Clara County Transit District	0.50%	07/01/1976
Santa Cruz Metropolitan Transit District	0.50%	07/01/1979

VII. Some Local Transactions and Use Taxes Were Approved By Voters for Specific Purposes Which May or May Not Encompass Aviation Related Purposes as Defined by the FAA

Local tax increases in California require voter approval. Taxes approved with restriction as to the use of proceeds for particular purposes are “special taxes” and require two-thirds voter approval. A number of local transactions and use taxes that may be applied to aviation jet fuel are special taxes. In fact, of total revenue collected for transactions and use taxes, nearly 90% comes from countywide taxes levied for transportation purposes.

In order to comply with the FAA rule, proceeds of these rates applied to the sale of aviation jet fuel will need to be expended on an aviation purpose that also conforms to the purpose of the rate. Otherwise, according to the FAA rule, the tax should not be applied to the sale of aviation fuel. It is unclear if the FAA rule would be satisfied if the taxing agency demonstrated that a like amount of general purpose (or other) revenue was expended for qualifying purposes. A list of local transactions and use special tax rates earmarked for particular purposes is contained in Attachment Two.

VIII. Take Action: Determine How this Affects Your Agency and Make it Known

There are three possible areas of response to this FAA action: 1) legal, 2) legislative, 3) compliance. First, determine:

- a) the amount of revenues that are at issue for your agency, and
- b) your ability to identify qualifying expenditures that may satisfy the rule, and
- c) the net financial impact of full compliance.

Then, if you determine that your agency is adversely affected:

- 1) Get your agency legal counsel involved and review your legal position. Legal counsel for the League of California cities, the National League of Cities, the State of California and others have studied and conferred on possible legal challenge to the FAA action but until FAA attempts to actually enforce the rule, such action is unlikely.
- 2) Contact your representatives in the US Senate and Congress. Outline your objections and the impacts on your agency and your constituents. Coordinate your efforts with the League of California Cities and the California State Association of Counties.
- 3) Develop a plan to comply. State and local governments to whom the regulation applies must provide a plan for compliance to the FAA by December 8, 2015.

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Thanks to MuniServices LLC who has provided great leadership and insight on this issue and to League Special Counsel Betsy Strauss for her legal review.

ATTACHMENT ONE: Federal Law

49 U.S. Code § 47107 - Project grant application approval conditioned on assurances about airport operations

(b) Written Assurances on Use of Revenue.—

(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

49 U.S. Code § 47133 - Restriction on use of revenues

(a) Prohibition.— Local taxes on aviation fuel (except taxes in effect on December 30, 1987) or the revenues generated by an airport that is the subject of Federal assistance may not be expended for any purpose other than the capital or operating costs of—

(1) the airport;

(2) the local airport system; or

(3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) Exceptions.—

(1) Prior laws and agreements.— Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(2) Sale of private airport to public sponsor.— In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

(A) the sale is approved by the Secretary;

(B) funding is provided under this subchapter for any portion of the public sponsor’s acquisition of airport land; and

(C) an amount equal to the remaining unamortized portion of any airport improvement grant made to that airport for purposes other than land acquisition, amortized over a 20-year period, plus an amount equal to the Federal share of the current fair market value of any land acquired with an

airport improvement grant made to that airport on or after October 1, 1996, is repaid to the Secretary by the private owner.

(3) Treatment of repayments.— Repayments referred to in paragraph (2)(C) shall be treated as a recovery of prior year obligations.

(c) Rule of Construction.— Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

ATTACHMENT TWO: Local Transactions and Use Special Tax Rates Earmarked for Specific Use

Agency / Measure Title	Rate	Use
Alameda County Essential Health Care Services Tax	0.50%	Medical Services
Alameda County Transportation Improvement Authority ²	0.50%	Transportation
Amador County Fire Protection and Emergency Medical Services	0.50%	Fire / Medical
Contra Costa Transportation Authority	0.50%	Transportation
City of El Cerrito Street Improvements Tax	0.50%	Streets / roads
Del Norte County Fairgrounds Transactions and Use Tax	0.25%	Fairgrounds
City of Placerville Public Safety Transactions and Use Tax	0.25%	Fire / Police
City of Placerville Special Transactions and Use Tax	0.25%	Wastewater Treatment
Fresno County Public Library Transactions and Use Tax	0.50%	Libraries
Fresno County Zoo Authority	0.10%	Zoo
City of Clovis Public Safety Transactions and Use Tax	0.30%	Fire / Police
City of Huron Public Safety Special Transactions and Use Tax	1.00%	Fire / Police
City of Reedley Public Safety Transactions and Use Tax	0.50%	Fire / Police
City of Sanger Public Safety Transactions and Use Tax	0.75%	Fire / Police
City of Selma Public Safety Transactions and Use Tax	0.50%	Fire / Police
Imperial County Local Transportation Authority	0.50%	Transportation
Calexico Heffernan Memorial Hospital District	0.50%	Medical
City of Clearlake Public Safety Transactions and Use Tax	0.50%	Fire / Police
Los Angeles County Transportation Commission ³	0.50%	Transportation
City of Avalon Municipal Hospital and Clinic Tax	0.50%	Medical
Madera County Transportation Authority	0.50%	Transportation
Marin Parks/Open Space/Farmland Preservation	0.25%	Parks / Open Space
Marin County Transportation Authority	0.50%	Transportation
Sonoma-Marín Area Rail Transit District	0.25%	Transit
Mariposa County Healthcare Transactions and Use Tax	0.50%	Medical
Mendocino Library Special Transactions and Use Tax	0.125%	Libraries
City of Fort Bragg Maintain City Streets Tax	0.50%	Streets / Roads
City of Fort Bragg CV Starr Center Special Tax	0.50%	Community Center
City of Los Banos Public Safety Transactions and Use Tax	0.50%	Fire / Police
Mammoth Lakes Parks, Recreation, and Trails Tax	0.50%	Parks / Open Space
Monterey-Salinas MST Special Transit District	0.125%	Transit
City of Monterey Special Transactions and Use Tax	1.00%	Streets / Drainage
Napa County Flood Protection Authority Tax	0.50%	Flood Protection
Nevada County Public Library Transactions and Use Tax	0.125%	Libraries
City of Nevada City Street Improvements Tax	0.50%	Streets / Roads
Town of Truckee Road Maintenance Tax	0.50%	Streets / Roads
Town of Truckee Trails Transactions and Use Tax	0.25%	Parks / Open Space
Orange County Local Transportation Authority	0.50%	Transportation
Riverside County Transportation Commission	0.50%	Transportation
Sacramento Transportation Authority	0.50%	Transportation

² Alameda Co. Transportation rate is in addition to the pre-1987 Alameda Co. Transportation ½ cent rate.

³ Los Angeles Co. Transportation rate is in addition to the pre-1987 Los Angeles Co. Transportation ½ cent rate.

City of Galt Public Safety Transactions and Use Tax	0.50%	Fire / Police
San Benito County Council of Governments	0.50%	Transportation
San Bernardino County Transportation Authority	0.50%	Transportation
San Diego County Regional Transportation Commission	0.50%	Transportation
City of El Cajon Public Safety Facilities Tax	0.50%	Fire / Police
San Francisco County Public Finance Authority	0.25%	Public Facilities
San Francisco County Transportation Authority	0.50%	Transportation
San Joaquin Transportation Authority	0.50%	Transportation
City of Lathrop Public Safety/Essentials Services Tax	1.00%	Fire / Police
City of Manteca Public Safety Transactions and Use Tax	0.50%	Fire / Police
City of Stockton Public Safety Transactions and Use Tax	0.25%	Fire / Police
San Mateo County Transportation Authority	0.50%	Transportation
Santa Barbara County Local Transportation Authority	0.50%	Transportation
Santa Clara County Valley Transportation Authority	0.50%	Transportation
Santa Clara VTA BART Operating and Maintenance Tax	0.125%	Transit
Santa Cruz County Public Library Transactions and Use Tax	0.25%	Libraries
Santa Cruz Metropolitan Transit District	0.50%	Transit
City of Watsonville Public Safety Transactions and Use Tax	0.50%	Fire / Police
City of Mt. Shasta Libraries Transactions and Use Tax	0.25%	Libraries
Solano County Public Library Transactions and Use Tax	0.125%	Libraries
Sonoma County Open Space Authority	0.25%	Parks / Open Space
Sonoma County Transportation Authority	0.25%	Transportation
Sonoma County Agricultural Presv & Open Space Tax	0.25%	Ag Presv / Open Space
City of Santa Rosa Public Safety Transactions and Use Tax	0.25%	Fire / Police
Stanislaus County Library Transactions and Use Tax	0.125%	Libraries
City of Ceres Public Safety Transactions and Use Tax	0.50%	Fire / Police
Tulare County Transportation Authority	0.50%	Transportation
City of Dinuba Police and Fire Protection Trans. and Use Tax	0.75%	Fire / Police
City of Porterville Public Safety, Police and Fire Protection	0.50%	Fire / Police
City of Visalia Public Safety Transactions and Use Tax	0.25%	Fire / Police

NOTES

ⁱ Regulation 1598(b)(1) exempts the sale of motor vehicle fuel used in propelling aircraft (other than jet fuel).
<https://www.boe.ca.gov/lawguides/business/current/btlg/voll/sutr/1598.html> <https://www.boe.ca.gov/sutax/strf.htm>

ⁱⁱ http://www.faa.gov/airports/aip/grant_assurances/

ⁱⁱⁱ 49 USC 47107(b) and 47133

^{iv} Docket No. FAA-2013-0988 see <https://www.federalregister.gov/articles/2014/11/07/2014-26408/policy-and-procedures-concerning-the-use-of-airport-revenue-proceeds-from-taxes-on-aviation-fuel>

^v “Policy and Procedures Concerning the Use of Airport Fuel,” Federal Register

^{vi} *ibid*

^{vii} 49 U.S. Code § 47107(b)(1) and § 47133 (a)(1)

^{viii} 49 U.S. Code § 47107 (b)(1) and § 47133 (a)

^{ix} “New Federal Aviation Administration (FAA) Policy Revenue Estimate. 2/12/2014.” State of California Board of Equalization.

^x The FAA policy includes an allowable phase-in period not to exceed three years, or January 1, 2017. The Proposition 30 ¼ percent sales and use tax rate is set to expire on that date. Therefore, we assume proceeds from this rate are not affected.



November 25, 2015

Randall S. Fiertz
Director, Airport Compliance and Management Analysis
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

Re: *The State of California's Action Plan in Response to FAA Policy Change
79 FR 66282-01; Docket FAA-2013-0988*

Dear Mr. Fiertz:

The State of California responds to the FAA's amendment of its Policy and Procedures Concerning the Use of Airport Revenue with the following action plan. The FAA interprets restrictions on the use of "local taxes on aviation fuel (except taxes in effect on December 30, 1987)" in 49 U.S.C. § 47107(b) and 49 U.S.C. § 47133(a) to include state general sales tax revenue derived from aviation fuel in addition to local aviation fuel excise taxes. The policy change says that states should submit an action plan by December 8, 2015 providing for the expenditure of such general sales tax revenues derived from aviation fuel on airport capital and operating costs, and implement the action plan by December 8, 2017.

Because California's tax system is extensive, wide-ranging, and extremely complicated, determining compliance with the policy change is inherently difficult. Sales taxes are levied by the state, 58 counties, 482 cities, and 205 special districts. The state has enacted three general sales tax rates—two of which are restricted to specific expenditures—since December 30, 1987 that will be in effect on December 8, 2017:

- 0.5% rate enacted by state voters in 1993 and constitutionally restricted to local public safety services (Cal. Const., art. XIII, § 35 [Proposition 172])
- 0.5% rate enacted in 1991 and restricted to health, mental health, and social services programs that the state realigned to counties (Cal. Rev. & Tax Code §§ 6051.2, 6201.2)
- 0.25% rate enacted in 1991 (Cal. Rev. & Tax. Code §§ 6051.3, 6201.3)

The state does not segregate general sales tax revenue derived from aviation and jet fuel from other taxable sales. A reliable estimate of the portion of general sales tax revenues derived from aviation fuel is not easily determined, as it is, among other challenges, difficult to track necessary information due to confidentiality protections for taxpayer data and determine the amount of military and international flight tax exemptions. In addition, any estimate is subject to volatility based on the fluctuating price of aviation fuel and other calculations. That said, the most recent rough estimate of state general sales tax revenues potentially affected by the FAA's policy change is approximately \$25 million annually based on current fuel prices.

However, California devotes significant resources in support of aviation programs and capital and operating costs for its 244 public use airports, which range from global hubs such as Los Angeles International Airport and the San Francisco International Airport to small municipal airports. State expenditures on airport capital and operating costs include, but are not limited to:

- Fire protection services
- Public safety services
- National security and emergency response services
- Access to and from the airports, including roads, highways, and public transportation
- Infrastructure, including water, electricity, and sewer
- Community college and university aviation and aviation-related skilled trade programs
- State health and safety oversight, including food handling and disposal
- Environmental and noise mitigation
- Weather services
- Tax credits and subsidies related to the activities above

The state believes these state expenditures exceed the above estimate of state general sales tax revenues derived from aviation fuel and the state is in compliance with federal law.

Over the next two years, the state will continue to work with taxing authorities, local jurisdictions and other entities to coordinate the collection of data to refine (1) estimates of state general sales tax revenues derived from aviation fuel and (2) estimates of state expenditures on and investment in local public use airports, to confirm California complies with federal law.

If, contrary to current estimates, the state determines that its expenditures on airport capital and operating costs do not exceed general sales tax revenues derived from aviation fuel, it will act accordingly, including considering legislative solutions, to comply with applicable federal law.

Sincerely,



MICHAEL COHEN
Director

FAA Policy Change on the Use of General Sales Tax Revenues

Background:

The FAA recently amended its Policy and Procedures Concerning the Use of Airport Revenue, effective December 8, 2014. This policy change interprets restrictions on the use of “local taxes on aviation fuel (except taxes in effect on December 30, 1987)” in 49 U.S.C. § 47107(b) and 49 U.S.C. § 47133(a) to include state and local general sales tax revenue derived from aviation fuel in addition to local aviation fuel excise taxes. According to the policy, the portion of state and local general sales tax revenues derived from aviation fuel (imposed after December 30, 1987, as taxes imposed prior to that date are grandfathered in) should be spent on aviation programs, noise mitigation, and airport capital and operating costs. The policy says that state and local governments that impose such sales taxes should submit to the FAA an action plan to comply with the policy change by December 8, 2015, and implement the action plan by December 8, 2017.

For guidance from the FAA on this issue, please see:

<http://www.regulations.gov/#!docketDetail;D=FAA-2013-0988>

Some local jurisdictions have requested advice on their action plans. Below are suggested outlines for your jurisdiction’s action plan, depending on whether your jurisdiction has made any changes to its sales taxes since December 30, 1987.

Suggested Response if No Changes to Sales Taxes Since December 30, 1987:

State the local jurisdiction has not imposed any general sales taxes on aviation fuel that were not in effect on December 30, 1987 and therefore does not require an action plan.

Suggested Action Plan if Changes to Sales Taxes Since December 30, 1987:

- Identify general sales tax imposed on aviation fuel in the jurisdiction affected by the FAA’s policy, such as sales tax rates imposed after December 31, 1987. Explain if there are restrictions on the use of those taxes, including whether it would take a vote of the electorate to amend restrictions on their use.
- Identify relevant local airports.
- Describe the local jurisdiction’s specific administrative complexities in estimating general sales tax revenue derived from aviation fuel. For example:
 - [Local Jurisdiction] does not currently segregate the general sales tax revenue derived from aviation and jet fuel from other taxable sales. It is difficult to estimate the portion of general sales tax revenues derived from aviation fuel because of the confidential nature of taxpayer data and other logistical problems. In addition, any estimate is subject to volatility based on the fluctuating price of aviation fuel and other calculations.

- Consider providing a rough estimate of affected sales tax revenue, if possible. For example:
 - The portion of [Local Jurisdiction’s] affected general sales tax revenues derived from aviation fuel is roughly \$_____.
- Explain that this revenue is exceeded by the local jurisdiction’s expenditures in support of the local airport(s) by identifying and quantifying specific expenditures that benefit the local airport(s). For example:
 - [Local Jurisdiction] spends more on aviation programs and capital and operating costs for [Local Airport(s)] than the relevant sales tax revenue estimated to be derived from aviation fuel. [Local Jurisdiction’s] expenditures on airport capital and operating costs include, but are not limited to:
 - Fire protection services
 - Public safety services
 - Emergency response services
 - Access to and from the airports, including roads, highways, and public transportation
 - Infrastructure, including water, electricity, and sewer
 - Government–supplied employee services
 - Aviation and aviation-related skilled trade programs
 - State health and safety oversight, including food handling and disposal
 - Environmental and noise mitigation
 - Weather services
 - Tax credits and subsidies
- State the local jurisdiction’s action plan to confirm that its expenditures on the local airport(s) exceed affected sales tax revenues. For example:
 - Over the next two years, [Local Jurisdiction] intends to confirm that it complies with the FAA policy based on its expenditures of impacted sales tax revenues on capital and operating costs for [Local Airport(s)]. [Local Jurisdiction] will therefore continue to refine its estimates of both relevant sales tax revenue and expenditures on capital and operating costs for [Local Airport(s)] to certify that [Local Jurisdiction] complies with the FAA policy.
- Commit to attempt to amend relevant laws if further work on the issue reveals that expenditures on local airport(s) do not exceed impacted revenues. For example:
 - If, contrary to current expectations, [Local Jurisdiction] determines that its expenditures on airport capital and operating costs do not exceed sales tax revenues derived from aviation fuel, it will consider legislative solutions.

Send the Action Plan to:

Randall S. Fiertz
 Director, Airport Compliance and Management Analysis
 Federal Aviation Administration
 800 Independence Ave., SW
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