

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2540

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senator Siplin

SUBJECT: Sales Tax/Machinery and Equipment

DATE: April 1, 2004

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Krasovsky</u>	<u>Krasovsky</u>	<u>MS</u>	<u>Favorable</u>
2.	<u>Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

This committee substitute broadens an existing sales tax exemption on industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility, by eliminating a requirement that the business pay the first \$50,000 in sales taxes per calendar year on these purchases before the exemption applies. The effect of the committee substitute is to provide a full, rather than partial, sales tax exemption for these industrial machinery and equipment purchases, when the business can demonstrate that the items will be used to increase productive output at the facility by at least 10 percent.

This committee substitute amends section 212.08, Florida Statutes.

## II. Present Situation:

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances.

Industrial machinery and equipment purchased for exclusive use by a *new* business in spaceport activities or for use in a *new* business that manufactures, processes, compounds, or produces for sale items of tangible property at a fixed location are exempt from the tax imposed by ch. 212, F.S.<sup>1</sup> To avail itself of the exemption, a business must demonstrate to the Department of Revenue that the machinery and equipment are used in this state. Additionally, a new business must

---

<sup>1</sup> Section 212.08(5)(b)1., F.S. The term "spaceport activities" refers to activities directed or sponsored by the Florida Space Authority on spaceport territory through its power and duties under the Florida Space Authority Act (s. 212.02(22), F.S.).

purchase the machinery or equipment before the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

A similar, but partial, sales tax exemption is provided for industrial machinery and equipment used exclusively by an *expanding* facility that is engaged in spaceport activities or used in an *expanding* manufacturing facility that manufactures, processes, compounds, or produces for sale items of tangible personal property at a fixed location in this state. In this case, however, the exemption applies to tax amounts in excess of \$50,000 per calendar year on these machinery and equipment purchases. For the exemption to apply to these expanding businesses, the businesses must demonstrate that the machinery and equipment are used to increase productive output by at least 10 percent.<sup>2</sup> When the industrial machinery and equipment are purchased for use in an expanding printing manufacturing facility, the \$50,000 threshold does not apply, and the taxpayer does not have to pay any sales tax amounts related to the purchases.<sup>3</sup>

To receive these exemptions, qualifying businesses must apply to the Department of Revenue for temporary tax exemption permits. A business must maintain all books and records to support the exemption. The department, upon an audit which determines that the business does not meet the criteria for the exemption, shall immediately collect from the business the amount of taxes exempted plus interest and any penalty.<sup>4</sup>

The term “industrial machinery and equipment” refers to “tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities.”<sup>5</sup>

### III. Effect of Proposed Changes:

This committee substitute revises the existing sales and use tax exemption for industrial machinery and equipment purchased for exclusive use in an expanding facility that is engaged in spaceport activities or for use in an expanding manufacturing facility, by removing a limitation in the current law that the exemption applies solely to tax amounts above \$50,000 per calendar year. Thus, the committee substitute makes the sales tax exemption on these purchases a full exemption rather than a partial exemption. The committee substitute retains the requirement that the taxpayer demonstrate that the machinery and equipment will be used to increase productive output by at least 10 percent at the facility.

Current law provides a specific exemption for industrial machinery purchased for exclusive use in an expanding printing manufacturing facility, for which the \$50,000 threshold does not apply. By eliminating the \$50,000 threshold on the spaceport and the general manufacturing exemption, the committee substitute has the effect of making a separately stated and specific exemption for printing manufacturing facilities redundant, as these printing facilities would now be captured within the general manufacturing exemption. Therefore, the committee substitute deletes from

---

<sup>2</sup> Section 212.08(5)(b)2.a., F.S.

<sup>3</sup> Section 212.08(5)(b)2.b., F.S.

<sup>4</sup> Section 212.08(5)(b)3.a.-c., F.S.

<sup>5</sup> Section 212.08(5)(b)6.a., F.S.

current law the separately stated and specific exemption for printing manufacturing facilities codified in s. 212.08(5)(b)2.b., F.S.

The committee substitute has an effective date of July 1, 2004.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

This committee substitute appears to initially fall under s. 18(b), Art. VII, of the State Constitution. Section 18(b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By expanding the sales and use tax exemption for industrial machinery and equipment purchased for exclusive use in an expanding facility that is engaged in spaceport activities or for use in an expanding manufacturing facility, this committee substitute has the effect of expanding an exemption to the local option county sales surtax. In this manner, the committee substitute reduces revenue-raising authority for those counties that may have had authority for local option sales surtaxes on February 1, 1989. However, the local revenue loss associated with the local option sales tax for this committee substitute for all counties is estimated to be approximately \$1.6 million for fiscal year 2004-2005, and would be an amount less than that for those counties that may have had the requisite authority in 1989. Therefore, the committee substitute appears to be exempt from the requirements of s. 18(b) due to the insignificant negative fiscal impact as permitted under s. 18(d), Art. VII, State Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The provisions of this legislation were reviewed by the Revenue Impact Conference (RIC) on March 19, 2004. The findings of the RIC are listed in the table below.

Issue/Fund	Fiscal Year 2004-2005							
	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Machinery and equipment/delete minimum threshold	\$ (25.7)	\$ (28.0)	\$ (0.1)	\$ (0.1)	\$ (4.9)	\$ (5.3)	\$ (30.7)	\$ (33.4)

**B. Private Sector Impact:**

Businesses purchasing industrial machinery and equipment for the purpose of expanding operations and increasing productive output would not be required to pay sales taxes on those purchases.

**C. Government Sector Impact:**

The Department of Revenue reports that the committee substitute will necessitate revisions to the existing administrative rule governing industrial machinery and equipment for use in a new or expanding business. (See rule 12A-1.096, F.A.C.)

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---