

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; amending s. 212.052, F.S.; deleting an
 4 exception to an exemption from the tax for research or
 5 development costs; amending s. 212.08, F.S.; exempting
 6 machinery and equipment used predominantly for research
 7 and development activities or by a space flight business;
 8 providing definitions; authorizing the Department of
 9 Revenue to adopt rules administering and implementing the
 10 exemption; providing requirements and procedures for
 11 claiming the exemption; requiring an affidavit to be given
 12 by a taxpayer claiming entitlement to the exemption;
 13 providing penalties for fraudulently claiming the
 14 exemption; providing recordkeeping requirements; providing
 15 an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Subsection (2) of section 212.052, Florida
 20 Statutes, is amended to read:

21 212.052 Research or development costs; exemption.--

22 (2) Notwithstanding any provision of this chapter to the
 23 contrary, any person, including an affiliated group as defined
 24 in s. 1504 of the Internal Revenue Code of 1954, as amended, who
 25 manufactures, produces, compounds, processes, or fabricates in
 26 any manner tangible personal property for such taxpayer's own
 27 use directly and solely in research or development shall not be
 28 subject to the tax imposed by this chapter upon the cost of the

29 product so manufactured, produced, compounded, processed, or
 30 fabricated. ~~However, the tax imposed by this chapter shall be~~
 31 ~~due on the purchase, rental, or repair of real property or~~
 32 ~~tangible personal property employed in research or development~~
 33 ~~which is subject to the tax imposed by this chapter at the time~~
 34 ~~of purchase or rental.~~

35 Section 2. Paragraph (r) is added to subsection (5) of
 36 section 212.08, Florida Statutes, to read:

37 212.08 Sales, rental, use, consumption, distribution, and
 38 storage tax; specified exemptions.--The sale at retail, the
 39 rental, the use, the consumption, the distribution, and the
 40 storage to be used or consumed in this state of the following
 41 are hereby specifically exempt from the tax imposed by this
 42 chapter.

43 (5) EXEMPTIONS; ACCOUNT OF USE.--

44 (r) Machinery and equipment used predominantly for
 45 research and development or by a space flight business.--

46 1. Machinery and equipment used predominantly for research
 47 and development or by a space flight business as defined in s.
 48 212.031(1)(a)13. in designing or creating a space flight vehicle
 49 or components of a space flight vehicle are exempt from the tax
 50 imposed by this chapter.

51 2. For purposes of this paragraph:

52 a. "Machinery and equipment" includes, but is not limited
 53 to, molds, dies, machine tooling, other appurtenances or
 54 accessories to machinery and equipment, testing and measuring
 55 equipment, test beds, computers, and software, whether purchased
 56 or self-fabricated, and, if self-fabricated, includes materials

57 and labor for design, fabrication, and assembly.
 58 b. "Predominantly" means at least 50 percent of the time.
 59 c. "Research and development" means research that has one
 60 of the following as its ultimate goal:
 61 (I) Basic research in a scientific field of endeavor;
 62 (II) Advancing knowledge or technology in a scientific or
 63 technical field of endeavor;
 64 (III) The development of a new product, whether or not the
 65 new product is offered for sale;
 66 (IV) The improvement of an existing product, whether or
 67 not the improved product is offered for sale;
 68 (V) The development of new uses of an existing product,
 69 whether or not a new use is offered as a rationale to purchase
 70 the product; or
 71 (VI) The design and development of prototypes, whether or
 72 not a resulting product is offered for sale.
 73
 74 The term "research and development" does not include ordinary
 75 testing or inspection of materials or products used for quality
 76 control, market research, efficiency surveys, consumer surveys,
 77 advertising and promotions, management studies, or research in
 78 connection with literary, historical, social science,
 79 psychological, or other similar nontechnical activities.
 80 3. The department may adopt rules that provide for
 81 administering and implementing this exemption.
 82 4. A person who claims the exemption provided in this
 83 paragraph shall furnish the vendor of the machinery or
 84 equipment, including the vendor of materials and labor used in

85 self-fabrication of the machinery or equipment, an affidavit
 86 stating that the item or items for which an exemption is claimed
 87 are machinery and equipment that will be used predominantly for
 88 research and development or by a space flight business as
 89 required by this paragraph. A purchaser who claims the exemption
 90 by refund shall include the affidavit with the refund
 91 application. The affidavit must contain the purchaser's name,
 92 address, sales and use tax registration number, and, if
 93 applicable, federal employer's identification number. Any person
 94 fraudulently furnishing an affidavit to the vendor for the
 95 purpose of evading payment of any tax imposed under this chapter
 96 shall be subject to the penalty set forth in s. 212.085 and as
 97 otherwise provided by law.

98 5. In lieu of furnishing an affidavit, a purchaser
 99 claiming the exemption provided in this paragraph who has a
 100 direct-pay permit may furnish the vendor with a copy of the
 101 direct-pay permit and shall maintain all documentation necessary
 102 to prove the exempt status of the purchases and fabrication
 103 activity.

104 6. Purchasers shall maintain all documentation necessary
 105 to prove the exempt status of purchases and fabrication activity
 106 and make such documentation available for inspection pursuant to
 107 the requirements of s. 212.13(2).

108 Section 3. This act shall take effect July 1, 2006.