

By Senator Fasano

11-457B-06

1 A bill to be entitled

2 An act relating to research and development and

3 space flight businesses; amending s. 212.052,

4 F.S.; deleting an exception to an exemption

5 from the tax on sales, use, and other

6 transactions for research or development costs;

7 amending s. 212.08, F.S.; providing an

8 exemption for machinery and equipment used

9 predominantly for research and development

10 activities or by a space flight business;

11 defining terms; authorizing the Department of

12 Revenue to adopt rules implementing the

13 exemption; requiring that an affidavit or a

14 direct-pay permit be given by a taxpayer

15 claiming entitlement to the exemption;

16 requiring the retention of records to prove

17 entitlement to the exemption; providing an

18 effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsection (2) of section 212.052, Florida

23 Statutes, is amended to read:

24 212.052 Research or development costs; exemption.--

25 (2) Notwithstanding any provision of this chapter to

26 the contrary, any person, including an affiliated group as

27 defined in s. 1504 of the Internal Revenue Code of 1954, as

28 amended, who manufactures, produces, compounds, processes, or

29 fabricates in any manner tangible personal property for such

30 taxpayer's own use directly and solely in research or

31 development shall not be subject to the tax imposed by this

1 chapter upon the cost of the product so manufactured,
2 produced, compounded, processed, or fabricated. ~~However, the~~
3 ~~tax imposed by this chapter shall be due on the purchase,~~
4 ~~rental, or repair of real property or tangible personal~~
5 ~~property employed in research or development which is subject~~
6 ~~to the tax imposed by this chapter at the time of purchase or~~
7 ~~rental.~~

8 Section 2. Subsection (18) is added to section 212.08,
9 Florida Statutes, to read:

10 212.08 Sales, rental, use, consumption, distribution,
11 and storage tax; specified exemptions.--The sale at retail,
12 the rental, the use, the consumption, the distribution, and
13 the storage to be used or consumed in this state of the
14 following are hereby specifically exempt from the tax imposed
15 by this chapter.

16 (18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR
17 RESEARCH AND DEVELOPMENT OR BY A SPACE FLIGHT BUSINESS.--

18 (a) Machinery and equipment used predominantly for
19 research and development as defined in this subsection, or by
20 a space flight business, as defined in s. 212.031(1)(a)13., in
21 designing or creating a space flight vehicle or component
22 thereof, are exempt from the tax imposed by this chapter.

23 (b) As used in this subsection, the term:

24 1. "Machinery and equipment" includes, but is not
25 limited to, molds, dies, machine tooling, other appurtenances
26 or accessories to machinery and equipment, testing and
27 measuring equipment, test beds, computers, and software,
28 whether purchased or self-fabricated, and, if self-fabricated,
29 includes materials and labor for design, fabrication, and
30 assembly.

1 2. "Predominantly" means at least 50 percent of the
2 time.

3 3. "Research and development" means research that has
4 one of the following as its ultimate goal:

5 a. Basic research in a scientific field of endeavor;

6 b. The advancement of knowledge or technology in a
7 scientific or technical field of endeavor;

8 c. The development of a new product, whether or not
9 the new product is offered for sale;

10 d. The improvement of an existing product, whether or
11 not the improved product is offered for sale;

12 e. The development of new uses of an existing product,
13 whether or not a new use is offered as a rationale to purchase
14 the product; or

15 f. The design and development of prototypes, whether
16 or not a resulting product is offered for sale.

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18 The term "research and development" does not include ordinary
19 testing or inspection of materials or products used for
20 quality control, market research, efficiency surveys, consumer
21 surveys, advertising and promotions, management studies, or
22 research in connection with literary, historical, social
23 science, or other similar nontechnical activities.

24 (c) The department may adopt rules that provide for
25 the implementation of this exemption.

26 (d) A person who claims the exemption provided in this
27 subsection shall furnish the vendor of the machinery or
28 equipment, including the vendor of materials and labor used in
29 self-fabrication of the machinery or equipment, an affidavit
30 stating that the item or items for which an exemption is
31 claimed are machinery and equipment that will be used

1 predominantly for research and development or by a space
2 flight business as required by this subsection. A purchaser
3 who claims the exemption by refund shall include the affidavit
4 with the application for a refund. The affidavit must contain
5 the purchaser's name, address, sales and use tax registration
6 number, and, if applicable, federal employer's identification
7 number. A person who fraudulently furnishes an affidavit to
8 the vendor or to the department for the purpose of evading
9 payment of any tax imposed under this chapter is subject to
10 the penalty set forth in s. 212.085 and as otherwise provided
11 by law.

12 (e) In lieu of furnishing an affidavit, a purchaser
13 claiming the exemption provided in this subsection who has a
14 direct-pay permit may furnish the vendor with a copy of the
15 direct-pay permit and shall maintain all documentation
16 necessary to prove the exempt status of the purchases and
17 fabrication activity.

18 (f) Purchasers must maintain all documentation
19 necessary to prove the exempt status of purchases and
20 fabrication activity and make such documentation available for
21 inspection pursuant to s. 212.13(2).

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

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25 SENATE SUMMARY

26 Deletes an exception to an exemption from the tax on
27 sales, use, and other transactions for research or
28 development costs. Provides an exemption from the sales
29 tax for machinery and equipment used predominantly for
30 research and development activities or by a space flight
31 business. Defines terms. Authorizes the Department of
Revenue to adopt rules implementing the exemption.
Requires that an affidavit or a direct-pay permit be
given by a taxpayer claiming entitlement to the
exemption. Requires the retention of records to prove
entitlement to the exemption.