



122096

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
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The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 70 and 71
insert:

Section 3. Effective January 1, 2013, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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



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13 chapter.

14 (5) EXEMPTIONS; ACCOUNT OF USE.—

15 (b) *Machinery and equipment used to increase productive*
16 *output.*—

17 1. Industrial machinery and equipment purchased for
18 exclusive use by a new business in spaceport activities as
19 defined by s. 212.02 or for use in new businesses that
20 manufacture, process, compound, or produce for sale items of
21 tangible personal property at fixed locations are exempt from
22 the tax imposed by this chapter upon an affirmative showing by
23 the taxpayer to the satisfaction of the department that such
24 items are used in a new business in this state. Such purchases
25 must be made before ~~prior to~~ the date the business first begins
26 its productive operations, and delivery of the purchased item
27 must be made within 12 months after that date.

28 2. Industrial machinery and equipment purchased for
29 exclusive use by an expanding facility which is engaged in
30 spaceport activities as defined by s. 212.02 or for use in
31 expanding manufacturing facilities or plant units which
32 manufacture, process, compound, or produce for sale items of
33 tangible personal property at fixed locations in this state are
34 exempt from any amount of tax imposed by this chapter upon an
35 affirmative showing by the taxpayer to the satisfaction of the
36 department that such items are used to increase the productive
37 output of such expanded facility or business by not less than 5
38 ~~10~~ percent.

39 3.a. To receive an exemption provided by subparagraph 1. or
40 subparagraph 2., a qualifying business entity shall apply to the
41 department for a temporary tax exemption permit. The application



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42 shall state that a new business exemption or expanded business
43 exemption is being sought. Upon a tentative affirmative
44 determination by the department pursuant to subparagraph 1. or
45 subparagraph 2., the department shall issue such permit.

46 b. The applicant shall maintain all necessary books and
47 records to support the exemption. Upon completion of purchases
48 of qualified machinery and equipment pursuant to subparagraph 1.
49 or subparagraph 2., the temporary tax permit shall be delivered
50 to the department or returned to the department by certified or
51 registered mail.

52 c. If, in a subsequent audit conducted by the department,
53 it is determined that the machinery and equipment purchased as
54 exempt under subparagraph 1. or subparagraph 2. did not meet the
55 criteria mandated by this paragraph or if commencement of
56 production did not occur, the amount of taxes exempted at the
57 time of purchase shall immediately be due and payable to the
58 department by the business entity, together with the appropriate
59 interest and penalty, computed from the date of purchase, in the
60 manner prescribed by this chapter.

61 d. If a qualifying business entity fails to apply for a
62 temporary exemption permit or if the tentative determination by
63 the department required to obtain a temporary exemption permit
64 is negative, a qualifying business entity shall receive the
65 exemption provided in subparagraph 1. or subparagraph 2. through
66 a refund of previously paid taxes. No refund may be made for
67 such taxes unless the criteria mandated by subparagraph 1. or
68 subparagraph 2. have been met and commencement of production has
69 occurred.

70 4. The department shall adopt rules governing applications



71 for, issuance of, and the form of temporary tax exemption
72 permits; provisions for recapture of taxes; and the manner and
73 form of refund applications, and may establish guidelines as to
74 the requisites for an affirmative showing of increased
75 productive output, commencement of production, and qualification
76 for exemption.

77 5. The exemptions provided in subparagraphs 1. and 2. do
78 not apply to machinery or equipment purchased or used by
79 electric utility companies, communications companies, oil or gas
80 exploration or production operations, publishing firms that do
81 not export at least 50 percent of their finished product out of
82 the state, any firm subject to regulation by the Division of
83 Hotels and Restaurants of the Department of Business and
84 Professional Regulation, or any firm that does not manufacture,
85 process, compound, or produce for sale items of tangible
86 personal property or that does not use such machinery and
87 equipment in spaceport activities as required by this paragraph.
88 The exemptions provided in subparagraphs 1. and 2. shall apply
89 to machinery and equipment purchased for use in phosphate or
90 other solid minerals severance, mining, or processing
91 operations.

92 6. For the purposes of the exemptions provided in
93 subparagraphs 1. and 2., these terms have the following
94 meanings:

95 a. "Industrial machinery and equipment" means tangible
96 personal property or other property that has a depreciable life
97 of 3 years or more and that is used as an integral part in the
98 manufacturing, processing, compounding, or production of
99 tangible personal property for sale or is exclusively used in



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100 spaceport activities. A building and its structural components
101 are not industrial machinery and equipment unless the building
102 or structural component is so closely related to the industrial
103 machinery and equipment that it houses or supports that the
104 building or structural component can be expected to be replaced
105 when the machinery and equipment are replaced. Heating and air-
106 conditioning systems are not industrial machinery and equipment
107 unless the sole justification for their installation is to meet
108 the requirements of the production process, even though the
109 system may provide incidental comfort to employees or serve, to
110 an insubstantial degree, nonproduction activities. The term
111 includes parts and accessories only to the extent that the
112 exemption thereof is consistent with the provisions of this
113 paragraph.

114 b. "Productive output" means the number of units actually
115 produced by a single plant, operation, or product line in a
116 single continuous 12-month period, irrespective of sales.
117 Increases in productive output shall be measured by the output
118 for 12 continuous months selected by the expanding business
119 after ~~following the~~ completion of the installation of such
120 machinery or equipment over the output for the 12 continuous
121 months immediately preceding such installation. However, in no
122 case may such time period begin later than 2 years after
123 ~~following the~~ completion of the installation of the new
124 machinery and equipment. The units used to measure productive
125 output shall be physically comparable between the two periods,
126 irrespective of sales.

127 Section 4. Effective January 1, 2013, and applying to tax
128 years beginning on or after January 1, 2013, subsection (1) of



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129 section 220.14, Florida Statutes, is amended to read:

130 220.14 Exemption.—

131 (1) In computing a taxpayer's liability for tax under this
132 code, there shall be exempt from the tax \$50,000 ~~\$25,000~~ of net
133 income as defined in s. 220.12 or such lesser amount as will,
134 without increasing the taxpayer's federal income tax liability,
135 provide the state with an amount under this code which is equal
136 to the maximum federal income tax credit which may be available
137 from time to time under federal law.

138 Section 5. Effective January 1, 2013, and applying to tax
139 years beginning on or after January 1, 2013, subsection (3) of
140 section 220.63, Florida Statutes, is amended to read:

141 220.63 Franchise tax imposed on banks and savings
142 associations.—

143 (3) For purposes of this part, the franchise tax base shall
144 be adjusted federal income, as defined in s. 220.13, apportioned
145 to this state, plus nonbusiness income allocated to this state
146 pursuant to s. 220.16, less the deduction allowed in subsection
147 (5) and less \$50,000 ~~\$25,000~~.

148 Section 6. (1) The executive director of the Department of
149 Revenue is authorized, and all conditions are deemed met, to
150 adopt emergency rules under ss. 120.536(1) and 120.54(4),
151 Florida Statutes, for the purpose of implementing this act.

152 (2) Notwithstanding any provision of law, such emergency
153 rules shall remain in effect for 6 months after the date adopted
154 and may be renewed during the pendency of procedures to adopt
155 permanent rules addressing the subject of the emergency rules.

156
157 ===== T I T L E A M E N D M E N T =====



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158 And the title is amended as follows:

159 Between lines 9 and 10

160 insert:

161 revising provisions relating to an exemption for
162 machinery and equipment used to increase productive
163 output; amending s. 220.14, F.S.; increasing the
164 amount of income that is exempt from taxation;
165 providing applicability; amending s. 220.63, F.S.;
166 increasing the amount of income that is exempt from
167 the franchise tax imposed on banks and savings
168 associations; providing applicability; authorizing the
169 executive director of the Department of Revenue to
170 adopt emergency rules;