

By the Committees on Budget Subcommittee on Finance and Tax;  
Community Affairs; and Commerce and Tourism; and Senator Altman

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1 A bill to be entitled  
2 An act relating to taxation; amending s. 196.199,  
3 F.S.; providing an exemption from intangible tax for  
4 lessees performing a governmental, municipal, or  
5 public purpose or function; providing for retroactive  
6 application; clarifying that certain provisions of the  
7 act are remedial and do not create a right to a  
8 refund; amending s. 212.08, F.S.; exempting certain  
9 items used to manufacture, produce, or modify aircraft  
10 engines and gas turbine engines and parts from the tax  
11 on sales, use, and other transactions; revising  
12 provisions relating to an exemption for machinery and  
13 equipment used to increase productive output; amending  
14 s. 220.14, F.S.; increasing the amount of income that  
15 is exempt from taxation; providing applicability;  
16 amending s. 220.63, F.S.; increasing the amount of  
17 income that is exempt from the franchise tax imposed  
18 on banks and savings associations; providing  
19 applicability; authorizing the executive director of  
20 the Department of Revenue to adopt emergency rules;  
21 providing effective dates.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Paragraph (a) of subsection (2) of section  
26 196.199, Florida Statutes, is amended to read:

27 196.199 Government property exemption.—

28 (2) Property owned by the following governmental units but  
29 used by nongovernmental lessees shall only be exempt from

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30 taxation under the following conditions:

31 (a) Leasehold interests in property of the United States,  
32 of the state or any of its several political subdivisions, or of  
33 municipalities, agencies, authorities, and other public bodies  
34 corporate of the state shall be exempt from ad valorem taxation  
35 and the intangible tax referenced in paragraph (b) only when the  
36 lessee serves or performs a governmental, municipal, or public  
37 purpose or function, as defined in s. 196.012(6). In all such  
38 cases, all other interests in the leased property shall also be  
39 exempt from ad valorem taxation. However, a leasehold interest  
40 in property of the state may not be exempted from ad valorem  
41 taxation when a nongovernmental lessee uses such property for  
42 the operation of a multipurpose hazardous waste treatment  
43 facility.

44 Section 2. The amendment to s. 196.199, Florida Statutes,  
45 made by this act shall take effect upon this act becoming a law  
46 and shall apply retroactively to all governmental leaseholds in  
47 existence as of January 1, 2011. This section is intended to be  
48 remedial in nature and does not create a right to a refund or  
49 require any governmental entity to refund any tax, penalty, or  
50 interest remitted to the Department of Revenue before the  
51 effective date of this act.

52 Section 3. Paragraph (hhh) is added to subsection (7) of  
53 section 212.08, Florida Statutes, to read:

54 212.08 Sales, rental, use, consumption, distribution, and  
55 storage tax; specified exemptions.—The sale at retail, the  
56 rental, the use, the consumption, the distribution, and the  
57 storage to be used or consumed in this state of the following  
58 are hereby specifically exempt from the tax imposed by this

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59 chapter.

60 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
61 entity by this chapter do not inure to any transaction that is  
62 otherwise taxable under this chapter when payment is made by a  
63 representative or employee of the entity by any means,  
64 including, but not limited to, cash, check, or credit card, even  
65 when that representative or employee is subsequently reimbursed  
66 by the entity. In addition, exemptions provided to any entity by  
67 this subsection do not inure to any transaction that is  
68 otherwise taxable under this chapter unless the entity has  
69 obtained a sales tax exemption certificate from the department  
70 or the entity obtains or provides other documentation as  
71 required by the department. Eligible purchases or leases made  
72 with such a certificate must be in strict compliance with this  
73 subsection and departmental rules, and any person who makes an  
74 exempt purchase with a certificate that is not in strict  
75 compliance with this subsection and the rules is liable for and  
76 shall pay the tax. The department may adopt rules to administer  
77 this subsection.

78 (hhh) Items used in manufacturing and fabricating aircraft  
79 and gas turbine engines.—Chemicals, machinery, parts, and  
80 equipment used and consumed in the manufacture or fabrication of  
81 aircraft engines and gas turbine engines, including cores,  
82 electrical discharge machining (EDM) supplies, brass electrodes,  
83 ceramic guides, reamers, grinding and deburring wheels, Norton  
84 vortex wheels, argon, nitrogen, helium, fluid abrasive cutters,  
85 solvents and soaps, boroscopes, penetrants, patterns, dies, and  
86 molds consumed in the production of castings are exempt from the  
87 tax imposed by this chapter.

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88 Section 4. Effective January 1, 2013, paragraph (b) of  
89 subsection (5) of section 212.08, Florida Statutes, is amended  
90 to read:

91 212.08 Sales, rental, use, consumption, distribution, and  
92 storage tax; specified exemptions.—The sale at retail, the  
93 rental, the use, the consumption, the distribution, and the  
94 storage to be used or consumed in this state of the following  
95 are hereby specifically exempt from the tax imposed by this  
96 chapter.

97 (5) EXEMPTIONS; ACCOUNT OF USE.—

98 (b) *Machinery and equipment used to increase productive*  
99 *output.*—

100 1. Industrial machinery and equipment purchased for  
101 exclusive use by a new business in spaceport activities as  
102 defined by s. 212.02 or for use in new businesses that  
103 manufacture, process, compound, or produce for sale items of  
104 tangible personal property at fixed locations are exempt from  
105 the tax imposed by this chapter upon an affirmative showing by  
106 the taxpayer to the satisfaction of the department that such  
107 items are used in a new business in this state. Such purchases  
108 must be made before ~~prior~~ to the date the business first begins  
109 its productive operations, and delivery of the purchased item  
110 must be made within 12 months after that date.

111 2. Industrial machinery and equipment purchased for  
112 exclusive use by an expanding facility which is engaged in  
113 spaceport activities as defined by s. 212.02 or for use in  
114 expanding manufacturing facilities or plant units which  
115 manufacture, process, compound, or produce for sale items of  
116 tangible personal property at fixed locations in this state are

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117 exempt from any amount of tax imposed by this chapter upon an  
118 affirmative showing by the taxpayer to the satisfaction of the  
119 department that such items are used to increase the productive  
120 output of such expanded facility or business by not less than 5  
121 ~~10~~ percent.

122       3.a. To receive an exemption provided by subparagraph 1. or  
123 subparagraph 2., a qualifying business entity shall apply to the  
124 department for a temporary tax exemption permit. The application  
125 shall state that a new business exemption or expanded business  
126 exemption is being sought. Upon a tentative affirmative  
127 determination by the department pursuant to subparagraph 1. or  
128 subparagraph 2., the department shall issue such permit.

129       b. The applicant shall maintain all necessary books and  
130 records to support the exemption. Upon completion of purchases  
131 of qualified machinery and equipment pursuant to subparagraph 1.  
132 or subparagraph 2., the temporary tax permit shall be delivered  
133 to the department or returned to the department by certified or  
134 registered mail.

135       c. If, in a subsequent audit conducted by the department,  
136 it is determined that the machinery and equipment purchased as  
137 exempt under subparagraph 1. or subparagraph 2. did not meet the  
138 criteria mandated by this paragraph or if commencement of  
139 production did not occur, the amount of taxes exempted at the  
140 time of purchase shall immediately be due and payable to the  
141 department by the business entity, together with the appropriate  
142 interest and penalty, computed from the date of purchase, in the  
143 manner prescribed by this chapter.

144       d. If a qualifying business entity fails to apply for a  
145 temporary exemption permit or if the tentative determination by

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146 the department required to obtain a temporary exemption permit  
147 is negative, a qualifying business entity shall receive the  
148 exemption provided in subparagraph 1. or subparagraph 2. through  
149 a refund of previously paid taxes. No refund may be made for  
150 such taxes unless the criteria mandated by subparagraph 1. or  
151 subparagraph 2. have been met and commencement of production has  
152 occurred.

153 4. The department shall adopt rules governing applications  
154 for, issuance of, and the form of temporary tax exemption  
155 permits; provisions for recapture of taxes; and the manner and  
156 form of refund applications, and may establish guidelines as to  
157 the requisites for an affirmative showing of increased  
158 productive output, commencement of production, and qualification  
159 for exemption.

160 5. The exemptions provided in subparagraphs 1. and 2. do  
161 not apply to machinery or equipment purchased or used by  
162 electric utility companies, communications companies, oil or gas  
163 exploration or production operations, publishing firms that do  
164 not export at least 50 percent of their finished product out of  
165 the state, any firm subject to regulation by the Division of  
166 Hotels and Restaurants of the Department of Business and  
167 Professional Regulation, or any firm that does not manufacture,  
168 process, compound, or produce for sale items of tangible  
169 personal property or that does not use such machinery and  
170 equipment in spaceport activities as required by this paragraph.  
171 The exemptions provided in subparagraphs 1. and 2. shall apply  
172 to machinery and equipment purchased for use in phosphate or  
173 other solid minerals severance, mining, or processing  
174 operations.

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175           6. For the purposes of the exemptions provided in  
176 subparagraphs 1. and 2., these terms have the following  
177 meanings:

178           a. "Industrial machinery and equipment" means tangible  
179 personal property or other property that has a depreciable life  
180 of 3 years or more and that is used as an integral part in the  
181 manufacturing, processing, compounding, or production of  
182 tangible personal property for sale or is exclusively used in  
183 spaceport activities. A building and its structural components  
184 are not industrial machinery and equipment unless the building  
185 or structural component is so closely related to the industrial  
186 machinery and equipment that it houses or supports that the  
187 building or structural component can be expected to be replaced  
188 when the machinery and equipment are replaced. Heating and air-  
189 conditioning systems are not industrial machinery and equipment  
190 unless the sole justification for their installation is to meet  
191 the requirements of the production process, even though the  
192 system may provide incidental comfort to employees or serve, to  
193 an insubstantial degree, nonproduction activities. The term  
194 includes parts and accessories only to the extent that the  
195 exemption thereof is consistent with the provisions of this  
196 paragraph.

197           b. "Productive output" means the number of units actually  
198 produced by a single plant, operation, or product line in a  
199 single continuous 12-month period, irrespective of sales.  
200 Increases in productive output shall be measured by the output  
201 for 12 continuous months selected by the expanding business  
202 after ~~following the~~ completion of the installation of such  
203 machinery or equipment over the output for the 12 continuous

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204 months immediately preceding such installation. However, in no  
205 case may such time period begin later than 2 years after  
206 ~~following the~~ completion of the installation of the new  
207 machinery and equipment. The units used to measure productive  
208 output shall be physically comparable between the two periods,  
209 irrespective of sales.

210 Section 5. Effective January 1, 2013, and applying to tax  
211 years beginning on or after January 1, 2013, subsection (1) of  
212 section 220.14, Florida Statutes, is amended to read:

213 220.14 Exemption.—

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

221 Section 6. Effective January 1, 2013, and applying to tax  
222 years beginning on or after January 1, 2013, subsection (3) of  
223 section 220.63, Florida Statutes, is amended to read:

224 220.63 Franchise tax imposed on banks and savings  
225 associations.—

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

231 Section 7. (1) The executive director of the Department of  
232 Revenue is authorized, and all conditions are deemed met, to



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233 adopt emergency rules under ss. 120.536(1) and 120.54(4),  
234 Florida Statutes, for the purpose of implementing this act.

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

239 Section 8. Except as otherwise expressly provided in this  
240 act and except for this section, which shall take effect upon  
241 this act becoming a law, this act shall take effect July 1,  
242 2012.