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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (kkk) of subsection (7) 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



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11 are hereby specifically exempt from the tax imposed by this
12 chapter.

13 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
14 entity by this chapter do not inure to any transaction that is
15 otherwise taxable under this chapter when payment is made by a
16 representative or employee of the entity by any means,
17 including, but not limited to, cash, check, or credit card, even
18 when that representative or employee is subsequently reimbursed
19 by the entity. In addition, exemptions provided to any entity by
20 this subsection do not inure to any transaction that is
21 otherwise taxable under this chapter unless the entity has
22 obtained a sales tax exemption certificate from the department
23 or the entity obtains or provides other documentation as
24 required by the department. Eligible purchases or leases made
25 with such a certificate must be in strict compliance with this
26 subsection and departmental rules, and any person who makes an
27 exempt purchase with a certificate that is not in strict
28 compliance with this subsection and the rules is liable for and
29 shall pay the tax. The department may adopt rules to administer
30 this subsection.

31 (kkk) *Certain machinery and equipment.*—

32 1. Industrial machinery and equipment purchased by eligible
33 manufacturing businesses which is used at a fixed location in
34 ~~within this state, or a mixer drum affixed to a mixer truck~~
35 ~~which is used at any location within this state to mix, agitate,~~
36 ~~and transport freshly mixed concrete in a plastic state,~~ for the
37 manufacture, processing, compounding, or production of items of
38 tangible personal property for sale is ~~shall be~~ exempt from the
39 tax imposed by this chapter. ~~Parts and labor required to affix a~~



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40 ~~mixer drum exempt under this paragraph to a mixer truck are also~~
41 ~~exempt.~~ If, at the time of purchase, the purchaser furnishes the
42 seller with a signed certificate certifying the purchaser's
43 entitlement to exemption pursuant to this paragraph, the seller
44 is not required to collect ~~is relieved of the responsibility for~~
45 ~~collecting~~ the tax on the sale of such items, and the department
46 shall look solely to the purchaser for recovery of the tax if it
47 determines that the purchaser was not entitled to the exemption.

48 2. For purposes of this paragraph, the term:

49 a. "Eligible manufacturing business" means any business
50 whose primary business activity at the location where the
51 industrial machinery and equipment is located is within the
52 industries classified under NAICS codes 31, 32, ~~and~~ 33, and
53 423930.

54 b. "Eligible postharvest activity business" means a
55 business whose primary business activity, at the location where
56 the postharvest machinery and equipment is located, is within
57 the industries classified under NAICS code 115114.

58 ~~c. As used in this subparagraph,~~ "NAICS" means those
59 classifications contained in the North American Industry
60 Classification System, as published in 2007 by the Office of
61 Management and Budget, Executive Office of the President.

62 ~~d.~~ "Primary business activity" means an activity
63 representing more than 50 percent of the activities conducted at
64 the location where the industrial machinery and equipment or
65 postharvest machinery and equipment is located.

66 ~~e.~~ "Industrial machinery and equipment" means tangible
67 personal property or other property that has a depreciable life
68 of 3 years or more and that is used as an integral part in the



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69 manufacturing, processing, compounding, or production of
70 tangible personal property for sale. The term includes tangible
71 personal property or other property that has a depreciable life
72 of 3 years or more which is used as an integral part in the
73 recycling of metals for sale. A building and its structural
74 components are not industrial machinery and equipment unless the
75 building or structural component is so closely related to the
76 industrial machinery and equipment that it houses or supports
77 that the building or structural component can be expected to be
78 replaced when the machinery and equipment are replaced. Heating
79 and air conditioning systems are not industrial machinery and
80 equipment unless the sole justification for their installation
81 is to meet the requirements of the production process, even
82 though the system may provide incidental comfort to employees or
83 serve, to an insubstantial degree, nonproduction activities. The
84 term includes parts and accessories for industrial machinery and
85 equipment only to the extent that the parts and accessories are
86 purchased before ~~prior to~~ the date the machinery and equipment
87 are placed in service.

88 f. "Postharvest activities" means services performed on
89 crops, after their harvest, with the intent of preparing them
90 for market or further processing. Postharvest activities
91 include, but are not limited to, crop cleaning, sun drying,
92 shelling, fumigating, curing, sorting, grading, packing, and
93 cooling.

94 g. "Postharvest machinery and equipment" means tangible
95 personal property or other property with a depreciable life of 3
96 years or more which is used primarily for postharvest
97 activities. A building and its structural components are not



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98 postharvest industrial machinery and equipment unless the
99 building or structural component is so closely related to the
100 postharvest machinery and equipment that it houses or supports
101 that the building or structural component can be expected to be
102 replaced when the postharvest machinery and equipment is
103 replaced. Heating and air conditioning systems are not
104 postharvest machinery and equipment unless the sole
105 justification for their installation is to meet the requirements
106 of the postharvest activities process, even though the system
107 may provide incidental comfort to employees or serve, to an
108 insubstantial degree, nonpostharvest activities.

109 3. Postharvest machinery and equipment purchased by an
110 eligible postharvest activity business which is used at a fixed
111 location in this state is exempt from the tax imposed by this
112 chapter. All labor charges for the repair of, and parts and
113 materials used in the repair of and incorporated into, such
114 postharvest machinery and equipment are also exempt. If, at the
115 time of purchase, the purchaser furnishes the seller with a
116 signed certificate certifying the purchaser's entitlement to
117 exemption pursuant to this subparagraph, the seller is not
118 required to collect the tax on the sale of such items, and the
119 department shall look solely to the purchaser for recovery of
120 the tax if it determines that the purchaser was not entitled to
121 the exemption.

122 4.3. A mixer drum affixed to a mixer truck which is used at
123 any location in this state to mix, agitate, and transport
124 freshly mixed concrete in a plastic state for sale is exempt
125 from the tax imposed by this chapter. Parts and labor required
126 to affix a mixer drum exempt under this subparagraph to a mixer



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127 truck are also exempt. If, at the time of purchase, the
128 purchaser furnishes the seller with a signed certificate
129 certifying the purchaser's entitlement to exemption pursuant to
130 this subparagraph, the seller is not required to collect the tax
131 on the sale of such items, and the department shall look solely
132 to the purchaser for recovery of the tax if it determines that
133 the purchaser was not entitled to the exemption. This
134 subparagraph paragraph is repealed April 30, 2017.

135 Section 2. Effective upon this act becoming a law and
136 operating retroactively to January 1, 2016, paragraph (n) of
137 subsection (1) and paragraph (c) of subsection (2) of section
138 220.03, Florida Statutes, are amended to read:

139 220.03 Definitions.—

140 (1) SPECIFIC TERMS.—When used in this code, and when not
141 otherwise distinctly expressed or manifestly incompatible with
142 the intent thereof, the following terms shall have the following
143 meanings:

144 (n) "Internal Revenue Code" means the United States
145 Internal Revenue Code of 1986, as amended and in effect on
146 January 1, 2016 ~~2015~~, except as provided in subsection (3).

147 (2) DEFINITIONAL RULES.—When used in this code and neither
148 otherwise distinctly expressed nor manifestly incompatible with
149 the intent thereof:

150 (c) Any term used in this code has the same meaning as when
151 used in a comparable context in the Internal Revenue Code and
152 other statutes of the United States relating to federal income
153 taxes, as such code and statutes are in effect on January 1,
154 2016 ~~2015~~. However, if subsection (3) is implemented, the
155 meaning of a term shall be taken at the time the term is applied



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156 under this code.

157 Section 3. Effective upon this act becoming a law and
158 operating retroactively to January 1, 2016, paragraph (e) of
159 subsection (1) of section 220.13, Florida Statutes, is amended
160 to read:

161 220.13 "Adjusted federal income" defined.—

162 (1) The term "adjusted federal income" means an amount
163 equal to the taxpayer's taxable income as defined in subsection
164 (2), or such taxable income of more than one taxpayer as
165 provided in s. 220.131, for the taxable year, adjusted as
166 follows:

167 (e) *Adjustments related to federal acts.*—Taxpayers shall be
168 required to make the adjustments prescribed in this paragraph
169 for Florida tax purposes with respect to certain tax benefits
170 received pursuant to the Economic Stimulus Act of 2008, the
171 American Recovery and Reinvestment Act of 2009, the Small
172 Business Jobs Act of 2010, the Tax Relief, Unemployment
173 Insurance Reauthorization, and Job Creation Act of 2010, the
174 American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase
175 Prevention Act of 2014, and the Consolidated Appropriations Act,
176 2016.

177 1. There shall be added to such taxable income an amount
178 equal to 100 percent of any amount deducted for federal income
179 tax purposes as bonus depreciation for the taxable year pursuant
180 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
181 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
182 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
183 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L.
184 No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,



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185 for property placed in service after December 31, 2007, and
186 before January 1, 2021 ~~2015~~. For the taxable year and for each
187 of the 6 subsequent taxable years, there shall be subtracted
188 from such taxable income an amount equal to one-seventh of the
189 amount by which taxable income was increased pursuant to this
190 subparagraph, notwithstanding any sale or other disposition of
191 the property that is the subject of the adjustments and
192 regardless of whether such property remains in service in the
193 hands of the taxpayer.

194 2. There shall be added to such taxable income an amount
195 equal to 100 percent of any amount in excess of \$128,000
196 deducted for federal income tax purposes for the taxable year
197 pursuant to s. 179 of the Internal Revenue Code of 1986, as
198 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
199 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
200 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
201 No. 113-295, for taxable years beginning after December 31,
202 2007, and before January 1, 2015. For the taxable year and for
203 each of the 6 subsequent taxable years, there shall be
204 subtracted from such taxable income one-seventh of the amount by
205 which taxable income was increased pursuant to this
206 subparagraph, notwithstanding any sale or other disposition of
207 the property that is the subject of the adjustments and
208 regardless of whether such property remains in service in the
209 hands of the taxpayer.

210 3. There shall be added to such taxable income an amount
211 equal to the amount of deferred income not included in such
212 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
213 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There



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214 shall be subtracted from such taxable income an amount equal to
215 the amount of deferred income included in such taxable income
216 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
217 as amended by s. 1231 of Pub. L. No. 111-5.

218 4. Subtractions available under this paragraph may be
219 transferred to the surviving or acquiring entity following a
220 merger or acquisition and used in the same manner and with the
221 same limitations as specified by this paragraph.

222 5. The additions and subtractions specified in this
223 paragraph are intended to adjust taxable income for Florida tax
224 purposes, and, notwithstanding any other provision of this code,
225 such additions and subtractions shall be permitted to change a
226 taxpayer's net operating loss for Florida tax purposes.

227 Section 4. (1) The Department of Revenue is authorized, and
228 all conditions are deemed to be met, to adopt emergency rules
229 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
230 implementing the amendments made by this act to ss. 220.03(1)(n)
231 and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida
232 Statutes.

233 (2) Notwithstanding any other provision of law, emergency
234 rules adopted pursuant to subsection (1) are effective for 6
235 months after adoption and may be renewed during the pendency of
236 procedures to adopt permanent rules addressing the subject of
237 the emergency rules.

238 (3) This section expires January 1, 2020.

239 Section 5. Effective upon this act becoming a law and
240 applicable to taxable years beginning on or after January 1,
241 2016, section 220.222, Florida Statutes, is amended to read:

242 220.222 Returns; time and place for filing.-



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243 (1) (a) Returns required by this code shall be filed with
244 the office of the department in Leon County or at such other
245 place as the department may by regulation prescribe. All returns
246 required for a DISC (Domestic International Sales Corporation)
247 under paragraph 6011(c) (2) of the Internal Revenue Code shall be
248 filed on or before the 1st day of the 10th month after ~~following~~
249 the close of the taxable year; all partnership information
250 returns shall be filed on or before the 1st day of the 4th ~~5th~~
251 month after ~~following~~ the close of the taxable year; and all
252 other returns shall be filed on or before the 1st day of the 5th
253 ~~4th~~ month after ~~following~~ the close of the taxable year or the
254 15th day after ~~following~~ the due date, without extension, for
255 the filing of the related federal return for the taxable year,
256 unless under subsection (2) one or more extensions of time, not
257 to exceed 6 months in the aggregate, for any such filing is
258 granted.

259 (b) Notwithstanding paragraph (a), for taxable years
260 beginning before January 1, 2026, returns of taxpayers with a
261 taxable year ending on June 30 shall be filed on or before the
262 1st day of the 4th month after the close of the taxable year or
263 the 15th day after the due date, without extension, for the
264 filing of the related federal return for the taxable year,
265 unless under subsection (2) one or more extensions of time for
266 any such filing is granted.

267 (2) (a) When a taxpayer has been granted an extension or
268 extensions of time within which to file its federal income tax
269 return for any taxable year, and if the requirements of s.
270 220.32 are met, the filing of a request for such extension or
271 extensions with the department shall automatically extend the



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272 due date of the return required under this code until ~~15 days~~
273 ~~after the expiration of the federal extension or until~~ the
274 expiration of 6 months from the original due date, ~~whichever~~
275 ~~first occurs.~~

276 (b) The department may grant an extension or extensions of
277 time for the filing of any return required under this code upon
278 receiving a prior request therefor if good cause for an
279 extension is shown. However, the aggregate extensions of time
280 under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~
281 not exceed 6 months. An ~~No~~ extension granted under this
282 paragraph is not ~~shall be~~ valid unless the taxpayer complies
283 with ~~the requirements of~~ s. 220.32.

284 (c) For purposes of this subsection, a taxpayer is not in
285 compliance with ~~the requirements of~~ s. 220.32 if the taxpayer
286 underpays the required payment by more than the greater of
287 \$2,000 or 30 percent of the tax shown on the return when filed.

288 (d) For taxable years beginning before January 1, 2026, the
289 6-month time period in paragraphs (a) and (b) shall be 7 months
290 for taxpayers with a taxable year ending June 30 and shall be 5
291 months for taxpayers with a taxable year ending December 31.

292 Section 6. Effective upon this act becoming a law and
293 applicable to taxable years beginning on or after January 1,
294 2017, section 220.241, Florida Statutes, is amended to read:

295 220.241 Declaration; time for filing.-

296 (1) A declaration of estimated tax under this code shall be
297 filed before the 1st day of the 6th ~~5th~~ month of each taxable
298 year, except that if the minimum tax requirement of s. 220.24(1)
299 is first met:

300 (a) ~~(1)~~ After the 3rd month and before the 6th month of the



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301 taxable year, the declaration shall be filed before the 1st day
302 of the 7th month;

303 (b)~~(2)~~ After the 5th month and before the 9th month of the
304 taxable year, the declaration shall be filed before the 1st day
305 of the 10th month; or

306 (c)~~(3)~~ After the 8th month and before the 12th month of the
307 taxable year, the declaration shall be filed for the taxable
308 year before the 1st day of the succeeding taxable year.

309 (2) Notwithstanding subsection (1), for taxable years
310 beginning before January 1, 2026, taxpayers with a taxable year
311 ending on June 30 shall file declarations before the 1st day of
312 the 5th month of each taxable year, unless paragraph (1) (a),
313 paragraph (1) (b), or paragraph (1) (c) applies.

314 Section 7. Effective upon this act becoming a law and
315 applicable to taxable years beginning on or after January 1,
316 2017, subsection (1) of section 220.33, Florida Statutes, is
317 amended to read:

318 220.33 Payments of estimated tax.—A taxpayer required to
319 file a declaration of estimated tax pursuant to s. 220.24 shall
320 pay such estimated tax as follows:

321 (1) If the declaration is required to be filed before the
322 1st day of the 6th ~~5th~~ month of the taxable year, the estimated
323 tax shall be paid in four equal installments. The first
324 installment shall be paid at the time of the required filing of
325 the declaration; the second and third installments shall be paid
326 before the 1st day of the 7th month and before the 1st day of
327 the 10th month of the taxable year, respectively; and the fourth
328 installment shall be paid before the 1st day of the next taxable
329 year.



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330 Section 8. Effective upon this act becoming a law and
331 applicable to taxable years beginning on or after January 1,
332 2017, paragraph (c) of subsection (2) of section 220.34, Florida
333 Statutes, is amended to read:

334 220.34 Special rules relating to estimated tax.—

335 (2) No interest or penalty shall be due or paid with
336 respect to a failure to pay estimated taxes except the
337 following:

338 (c) The period of the underpayment for which interest and
339 penalties apply shall commence on the date the installment was
340 required to be paid, determined without regard to any extensions
341 of time, and shall terminate on the earlier of the following
342 dates:

343 1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after
344 ~~following~~ the close of the taxable year;

345 2. For taxable years beginning before January 1, 2026, for
346 taxpayers with a taxable year ending June 30, the 1st day of the
347 4th month after the close of the taxable year; or

348 3.2. With respect to any portion of the underpayment, the
349 date on which such portion is paid.

350
351 For purposes of this paragraph, a payment of estimated tax on
352 any installment date shall be considered a payment of any
353 previous underpayment only to the extent such payment exceeds
354 the amount of the installment determined under subparagraph
355 (b)1. for such installment date.

356 Section 9. For the 2016-2017 fiscal year, the sum of
357 \$100,374 in nonrecurring funds is appropriated from the General
358 Revenue Fund to the Department of Revenue for the purpose of



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359 implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33 and
360 220.34, Florida Statutes, as amended by this act.

361 Section 10. Except as otherwise expressly provided in this
362 act and except for this section, which shall take effect upon
363 this act becoming a law, this act shall take effect July 1,
364 2016.

365
366 ===== T I T L E A M E N D M E N T =====

367 And the title is amended as follows:

368 Delete everything before the enacting clause
369 and insert:

370 A bill to be entitled
371 An act relating to taxation; amending s. 212.08, F.S.;
372 revising definitions regarding certain industrial
373 machinery and equipment; removing the expiration date
374 on the exemption for purchases of certain machinery
375 and equipment; revising the definition of the term
376 "eligible manufacturing business" for purposes of
377 qualification for the sales and use tax exemption;
378 providing definitions for certain postharvest
379 machinery and equipment, postharvest activities, and
380 eligible postharvest activity businesses; providing an
381 exemption for the purchase of such machinery and
382 equipment; amending s. 220.03, F.S.; adopting the 2016
383 version of the Internal Revenue Code; providing
384 retroactive applicability; amending s. 220.13, F.S.;
385 incorporating a reference to a recent federal act into
386 state law for the purpose of defining the term
387 "adjusted federal income"; revising the treatment by



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388 this state of certain depreciation of assets allowed
389 for federal income tax purposes; providing retroactive
390 applicability; authorizing the Department of Revenue
391 to adopt emergency rules; amending s. 220.222, F.S.;
392 revising due dates for partnership information returns
393 and corporate tax returns; amending s. 220.241, F.S.;
394 revising due dates to file a declaration of estimated
395 corporate income tax; amending s. 220.33, F.S.;
396 revising the due date of estimated payments of
397 corporate income tax; amending 220.34, F.S.; revising
398 the dates for purposes of calculating interest and
399 penalties on underpayments of estimated corporate
400 income tax; providing an appropriation; providing
401 effective dates.