

By Senator Gruters

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1 A bill to be entitled
2 An act relating to tax exemptions; amending s. 212.08,
3 F.S.; providing a sales tax exemption for certain
4 aircraft equipment used as part of certain
5 governmental contracts; providing a use tax exemption
6 for certain aircraft owned by nonresidents and used in
7 service of certain governmental contracts; providing
8 construction; providing a sales tax exemption for
9 parts and accessories necessary for the continued
10 operation of certain industrial machinery or
11 equipment; providing effective dates.

12
13 Be It Enacted by the Legislature of the State of Florida:
14

15 Section 1. Paragraph (fff) of subsection (7) of section
16 212.08, Florida Statutes, is amended, and paragraph (u) is added
17 to subsection (5) of that section, to read:

18 212.08 Sales, rental, use, consumption, distribution, and
19 storage tax; specified exemptions.—The sale at retail, the
20 rental, the use, the consumption, the distribution, and the
21 storage to be used or consumed in this state of the following
22 are hereby specifically exempt from the tax imposed by this
23 chapter.

24 (5) EXEMPTIONS; ACCOUNT OF USE.—

25 (u) Aircraft equipment used in governmental contracts.—
26 Equipment, including electric and hydraulic ground power units,
27 jet starter units, oxygen servicing and test equipment, engine
28 trim boxes, and communications and avionics test sets, which is
29 used to service, test, operate, upgrade, or configure aircraft

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30 for advanced training purposes as part of any contract with the
31 United States Department of Defense or with a military branch of
32 a recognized foreign government is exempt from the tax imposed
33 by this chapter.

34 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
35 entity by this chapter do not inure to any transaction that is
36 otherwise taxable under this chapter when payment is made by a
37 representative or employee of the entity by any means,
38 including, but not limited to, cash, check, or credit card, even
39 when that representative or employee is subsequently reimbursed
40 by the entity. In addition, exemptions provided to any entity by
41 this subsection do not inure to any transaction that is
42 otherwise taxable under this chapter unless the entity has
43 obtained a sales tax exemption certificate from the department
44 or the entity obtains or provides other documentation as
45 required by the department. Eligible purchases or leases made
46 with such a certificate must be in strict compliance with this
47 subsection and departmental rules, and any person who makes an
48 exempt purchase with a certificate that is not in strict
49 compliance with this subsection and the rules is liable for and
50 shall pay the tax. The department may adopt rules to administer
51 this subsection.

52 (fff) *Aircraft temporarily in the state.*—

53 1. An aircraft owned by a nonresident is exempt from the
54 use tax imposed under this chapter if the aircraft enters and
55 remains in this state for less than a total of 21 days during
56 the 6-month period after the date of purchase. The temporary use
57 of the aircraft and subsequent removal from this state may be
58 proven by invoices for fuel, tie-down, or hangar charges issued

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59 by out-of-state vendors or suppliers or similar documentation
60 that clearly and specifically identifies the aircraft. The
61 exemption provided in this subparagraph is in addition to the
62 exemptions provided in subparagraphs 2. and 3. ~~subparagraph 2.~~
63 and s. 212.05(1)(a).

64 2. An aircraft owned by a nonresident is exempt from the
65 use tax imposed under this chapter if the aircraft enters or
66 remains in this state exclusively for purposes of flight
67 training, repairs, alterations, refitting, or modification. Such
68 purposes shall be supported by written documentation issued by
69 in-state vendors or suppliers which clearly and specifically
70 identifies the aircraft. The exemption provided in this
71 subparagraph is in addition to the exemptions provided in
72 subparagraph 1. and s. 212.05(1)(a).

73 3. An aircraft owned by a nonresident is exempt from the
74 use tax imposed under this chapter if the aircraft enters or
75 remains in this state exclusively to be used in service of a
76 contract with the United States Department of Defense or with a
77 military branch of a recognized foreign government. The
78 exemption provided in this subparagraph is in addition to the
79 exemptions provided in subparagraph 1. and s. 212.05(1)(a).

80 Section 2. Effective October 1, 2020, paragraph (jjj) of
81 subsection (7) of section 212.08, Florida Statutes, is amended
82 to read:

83 212.08 Sales, rental, use, consumption, distribution, and
84 storage tax; specified exemptions.—The sale at retail, the
85 rental, the use, the consumption, the distribution, and the
86 storage to be used or consumed in this state of the following
87 are hereby specifically exempt from the tax imposed by this

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88 chapter.

89 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
90 entity by this chapter do not inure to any transaction that is
91 otherwise taxable under this chapter when payment is made by a
92 representative or employee of the entity by any means,
93 including, but not limited to, cash, check, or credit card, even
94 when that representative or employee is subsequently reimbursed
95 by the entity. In addition, exemptions provided to any entity by
96 this subsection do not inure to any transaction that is
97 otherwise taxable under this chapter unless the entity has
98 obtained a sales tax exemption certificate from the department
99 or the entity obtains or provides other documentation as
100 required by the department. Eligible purchases or leases made
101 with such a certificate must be in strict compliance with this
102 subsection and departmental rules, and any person who makes an
103 exempt purchase with a certificate that is not in strict
104 compliance with this subsection and the rules is liable for and
105 shall pay the tax. The department may adopt rules to administer
106 this subsection.

107 (jjj) *Certain machinery and equipment.*—

108 1. Industrial machinery and equipment purchased by eligible
109 manufacturing businesses which is used at a fixed location in
110 this state for the manufacture, processing, compounding, or
111 production of items of tangible personal property for sale is
112 exempt from the tax imposed by this chapter. If, at the time of
113 purchase, the purchaser furnishes the seller with a signed
114 certificate certifying the purchaser's entitlement to exemption
115 pursuant to this paragraph, the seller is not required to
116 collect the tax on the sale of such items, and the department

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117 shall look solely to the purchaser for recovery of the tax if it
118 determines that the purchaser was not entitled to the exemption.

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

120 a. "Eligible manufacturing business" means any business
121 whose primary business activity at the location where the
122 industrial machinery and equipment is located is within the
123 industries classified under NAICS codes 31, 32, 33, 112511, and
124 423930.

125 b. "Eligible postharvest activity business" means a
126 business whose primary business activity, at the location where
127 the postharvest machinery and equipment is located, is within
128 the industries classified under NAICS code 115114.

129 c. "NAICS" means those classifications contained in the
130 North American Industry Classification System, as published in
131 2007 by the Office of Management and Budget, Executive Office of
132 the President.

133 d. "Primary business activity" means an activity
134 representing more than 50 percent of the activities conducted at
135 the location where the industrial machinery and equipment or
136 postharvest machinery and equipment is located.

137 e. "Industrial machinery and equipment" means tangible
138 personal property or other property that has a depreciable life
139 of 3 years or more and that is used as an integral part in the
140 manufacturing, processing, compounding, or production of
141 tangible personal property for sale. The term includes tangible
142 personal property or other property that has a depreciable life
143 of 3 years or more which is used as an integral part in the
144 recycling of metals for sale. A building and its structural
145 components are not industrial machinery and equipment unless the

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146 building or structural component is so closely related to the
147 industrial machinery and equipment that it houses or supports
148 that the building or structural component can be expected to be
149 replaced when the machinery and equipment are replaced. Heating
150 and air conditioning systems are not industrial machinery and
151 equipment unless the sole justification for their installation
152 is to meet the requirements of the production process, even
153 though the system may provide incidental comfort to employees or
154 serve, to an insubstantial degree, nonproduction activities. The
155 term includes parts and accessories for industrial machinery and
156 equipment only to the extent that the parts and accessories are
157 necessary for the continued operation of the industrial
158 machinery or equipment or were purchased before the date the
159 machinery and equipment were ~~are~~ placed in service.

160 f. "Postharvest activities" means services performed on
161 crops, after their harvest, with the intent of preparing them
162 for market or further processing. Postharvest activities
163 include, but are not limited to, crop cleaning, sun drying,
164 shelling, fumigating, curing, sorting, grading, packing, and
165 cooling.

166 g. "Postharvest machinery and equipment" means tangible
167 personal property or other property with a depreciable life of 3
168 years or more which is used primarily for postharvest
169 activities. A building and its structural components are not
170 postharvest industrial machinery and equipment unless the
171 building or structural component is so closely related to the
172 postharvest machinery and equipment that it houses or supports
173 that the building or structural component can be expected to be
174 replaced when the postharvest machinery and equipment is

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175 replaced. Heating and air conditioning systems are not
176 postharvest machinery and equipment unless the sole
177 justification for their installation is to meet the requirements
178 of the postharvest activities process, even though the system
179 may provide incidental comfort to employees or serve, to an
180 insubstantial degree, nonpostharvest activities.

181 3. Postharvest machinery and equipment purchased by an
182 eligible postharvest activity business which is used at a fixed
183 location in this state is exempt from the tax imposed by this
184 chapter. All labor charges for the repair of, and parts and
185 materials used in the repair of and incorporated into, such
186 postharvest machinery and equipment are also exempt. If, at the
187 time of purchase, the purchaser furnishes the seller with a
188 signed certificate certifying the purchaser's entitlement to
189 exemption pursuant to this subparagraph, the seller is not
190 required to collect the tax on the sale of such items, and the
191 department shall look solely to the purchaser for recovery of
192 the tax if it determines that the purchaser was not entitled to
193 the exemption.

194 Section 3. Except as otherwise expressly provided in this
195 act, this act shall take effect July 1, 2020.