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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/11/2020	.	
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The Committee on Appropriations (Brandes) recommended the following:

1 **Senate Amendment to Amendment (864620) (with title**
2 **amendment)**

3
4 Between lines 2162 and 2163
5 insert:

6 Section 34. Paragraph (fff) of subsection (7) of section
7 212.08, Florida Statutes, is amended, and paragraph (u) is added
8 to subsection (5) of that section, to read:

9 212.08 Sales, rental, use, consumption, distribution, and
10 storage tax; specified exemptions.—The sale at retail, the



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11 rental, the use, the consumption, the distribution, and the
12 storage to be used or consumed in this state of the following
13 are hereby specifically exempt from the tax imposed by this
14 chapter.

15 (5) EXEMPTIONS; ACCOUNT OF USE.—

16 (u) Aircraft equipment used in governmental contracts.—

17 Equipment, including electric and hydraulic ground power units,
18 jet starter units, oxygen servicing and test equipment, engine
19 trim boxes, and communications and avionics test sets, which is
20 used to service, test, operate, upgrade, or configure aircraft
21 for advanced training purposes as part of any contract with the
22 United States Department of Defense or with a military branch of
23 a recognized foreign government is exempt from the tax imposed
24 by this chapter.

25 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
26 entity by this chapter do not inure to any transaction that is
27 otherwise taxable under this chapter when payment is made by a
28 representative or employee of the entity by any means,
29 including, but not limited to, cash, check, or credit card, even
30 when that representative or employee is subsequently reimbursed
31 by the entity. In addition, exemptions provided to any entity by
32 this subsection do not inure to any transaction that is
33 otherwise taxable under this chapter unless the entity has
34 obtained a sales tax exemption certificate from the department
35 or the entity obtains or provides other documentation as
36 required by the department. Eligible purchases or leases made
37 with such a certificate must be in strict compliance with this
38 subsection and departmental rules, and any person who makes an
39 exempt purchase with a certificate that is not in strict



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40 compliance with this subsection and the rules is liable for and
41 shall pay the tax. The department may adopt rules to administer
42 this subsection.

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

44 1. An aircraft owned by a nonresident is exempt from the
45 use tax imposed under this chapter if the aircraft enters and
46 remains in this state for less than a total of 21 days during
47 the 6-month period after the date of purchase. The temporary use
48 of the aircraft and subsequent removal from this state may be
49 proven by invoices for fuel, tie-down, or hangar charges issued
50 by out-of-state vendors or suppliers or similar documentation
51 that clearly and specifically identifies the aircraft. The
52 exemption provided in this subparagraph is in addition to the
53 exemptions provided in subparagraphs 2. and 3. ~~subparagraph 2.~~
54 and s. 212.05(1) (a).

55 2. An aircraft owned by a nonresident is exempt from the
56 use tax imposed under this chapter if the aircraft enters or
57 remains in this state exclusively for purposes of flight
58 training, repairs, alterations, refitting, or modification. Such
59 purposes shall be supported by written documentation issued by
60 in-state vendors or suppliers which clearly and specifically
61 identifies the aircraft. The exemption provided in this
62 subparagraph is in addition to the exemptions provided in
63 subparagraph 1. and s. 212.05(1) (a).

64 3. 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 to be used in service of a
67 contract with the United States Department of Defense or with a
68 military branch of a recognized foreign government. The



69 exemption provided in this subparagraph is in addition to the
70 exemptions provided in subparagraph 1. and s. 212.05(1)(a).

71 Section 35. Effective October 1, 2020, paragraph (jjj) of
72 subsection (7) of section 212.08, Florida Statutes, is amended
73 to read:

74 212.08 Sales, rental, use, consumption, distribution, and
75 storage tax; specified exemptions.—The sale at retail, the
76 rental, the use, the consumption, the distribution, and the
77 storage to be used or consumed in this state of the following
78 are hereby specifically exempt from the tax imposed by this
79 chapter.

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



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

99 1. Industrial machinery and equipment purchased by eligible
100 manufacturing businesses which is used at a fixed location in
101 this state for the manufacture, processing, compounding, or
102 production of items of tangible personal property for sale is
103 exempt from the tax imposed by this chapter. If, at the time of
104 purchase, the purchaser furnishes the seller with a signed
105 certificate certifying the purchaser's entitlement to exemption
106 pursuant to this paragraph, the seller is not required to
107 collect the tax on the sale of such items, and the department
108 shall look solely to the purchaser for recovery of the tax if it
109 determines that the purchaser was not entitled to the exemption.

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

111 a. "Eligible manufacturing business" means any business
112 whose primary business activity at the location where the
113 industrial machinery and equipment is located is within the
114 industries classified under NAICS codes 31, 32, 33, 112511, and
115 423930.

116 b. "Eligible postharvest activity business" means a
117 business whose primary business activity, at the location where
118 the postharvest machinery and equipment is located, is within
119 the industries classified under NAICS code 115114.

120 c. "NAICS" means those classifications contained in the
121 North American Industry Classification System, as published in
122 2007 by the Office of Management and Budget, Executive Office of
123 the President.

124 d. "Primary business activity" means an activity
125 representing more than 50 percent of the activities conducted at
126 the location where the industrial machinery and equipment or



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127 postharvest machinery and equipment is located.

128 e. "Industrial machinery and equipment" means tangible
129 personal property or other property that has a depreciable life
130 of 3 years or more and that is used as an integral part in the
131 manufacturing, processing, compounding, or production of
132 tangible personal property for sale. The term includes tangible
133 personal property or other property that has a depreciable life
134 of 3 years or more which is used as an integral part in the
135 recycling of metals for sale. A building and its structural
136 components are not industrial machinery and equipment unless the
137 building or structural component is so closely related to the
138 industrial machinery and equipment that it houses or supports
139 that the building or structural component can be expected to be
140 replaced when the machinery and equipment are replaced. Heating
141 and air conditioning systems are not industrial machinery and
142 equipment unless the sole justification for their installation
143 is to meet the requirements of the production process, even
144 though the system may provide incidental comfort to employees or
145 serve, to an insubstantial degree, nonproduction activities. The
146 term includes parts and accessories for industrial machinery and
147 equipment only to the extent that the parts and accessories are
148 necessary for the continued operation of the industrial
149 machinery or equipment or were purchased before the date the
150 machinery and equipment were ~~are~~ placed in service.

151 f. "Postharvest activities" means services performed on
152 crops, after their harvest, with the intent of preparing them
153 for market or further processing. Postharvest activities
154 include, but are not limited to, crop cleaning, sun drying,
155 shelling, fumigating, curing, sorting, grading, packing, and



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156 cooling.

157 g. "Postharvest machinery and equipment" means tangible
158 personal property or other property with a depreciable life of 3
159 years or more which is used primarily for postharvest
160 activities. A building and its structural components are not
161 postharvest industrial machinery and equipment unless the
162 building or structural component is so closely related to the
163 postharvest machinery and equipment that it houses or supports
164 that the building or structural component can be expected to be
165 replaced when the postharvest machinery and equipment is
166 replaced. Heating and air conditioning systems are not
167 postharvest machinery and equipment unless the sole
168 justification for their installation is to meet the requirements
169 of the postharvest activities process, even though the system
170 may provide incidental comfort to employees or serve, to an
171 insubstantial degree, nonpostharvest activities.

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



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

And the title is amended as follows:

Delete line 3832

and insert:

circumstances; providing applicability; amending s.
212.08, F.S.; providing a sales tax exemption for
certain aircraft equipment used as part of certain
governmental contracts; providing a use tax exemption
for certain aircraft owned by nonresidents and used in
service of certain governmental contracts; providing
construction; providing a sales tax exemption for
parts and accessories necessary for the continued
operation of certain industrial machinery or
equipment; creating s.