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## MANUFACTURING and SPACEPORT TAX INCENTIVES PASSED by 2010 FLORIDA LEGISLATURE

### Showing 10% Productivity to Receive Complete Sales and Use Tax Exemption

Currently, industrial machinery and equipment purchased for use by a new business in spaceport activities or a new business that manufactures, processes, compounds or produces tangible personal property at fixed locations (manufacturers) is exempt from sales tax on that machinery and equipment. Alternatively, such equipment purchased by these businesses when expanding is also exempt from sales tax if the expanding business can show that the items are used to increase productive output by 10% or more.

Previously, in order to show that an expanding business was increasing productive output by 10% or more, the business needed to show that the number of units actually produced from a single plant or operation in a single continuous 12-month period increased by 10% or more. Further, the business had to ask the Florida Department of Revenue for approval if the business wanted to use a 12-month period, within the 24 months after installation, other than the 12 months immediately following installation of the machinery and equipment.

Beginning July 1, 2010, a business has the option of showing 10% productivity in a product line, rather than a single plant or operation, in order to be eligible for the expanding business sales tax exemption. Further, the business may choose any 12-month period of their choice within the 24 months following installation for their showing of increased productivity, without getting approval from the Florida Department of Revenue.

### Sales and Use Tax Refunds for Manufacturing and Spaceport Machinery and Equipment Purchases

In order to stimulate the purchase of machinery and equipment by spaceport or manufacturing businesses, the Legislature has appropriated \$19 million in sales tax refunds for 2010-2011 and \$24 million in sales tax refunds for 2011-2012 for these businesses on a first come first served basis, beginning July 1, 2010. The hope is that these businesses will buy machinery and equipment to make them more competitive, profitable, and successful and will ultimately hire more Florida workers to service their increased business. The maximum any business may receive in sales tax refunds in any given year is \$50,000. The Governor's Office of Tourism, Trade and Economic Development (OTTED) and the Department of Revenue are authorized to adopt rules to administer the 2-year program.

On July 1, 2010 OTTED will begin accepting applications for sales tax refund allocations from spaceport or manufacturing businesses. The business must reserve an allocation of sales tax refunds. These reservations are first come first served. If every business reserved \$50,000 in sales tax refunds, based on the amount of their anticipated purchase, 380 businesses could receive refunds in the first year and 480 could receive refunds in the second year. Businesses that have applied for their refund application but were unable to be funded in the first year will be first on the list for the second year of allocations. Businesses may apply in both years. Following are specific provisions:

- Eligible business are those purchasing machinery and equipment that are: manufacturing, mining, or spaceport businesses or electric utility, communications, oil or gas exploration/ production operations, and publishing firms that export at least 50% of their finished product out of state.
- Ineligible businesses are those regulated by the Division of Hotels and Restaurants or those that do not manufacture, process, compound, or produce for sale items of tangible personal property or do not use such machinery and equipment in spaceport activities.
- Eligible purchases are those machinery and equipment purchases in excess of any machinery and equipment purchased and placed into service in 2008;
- Eligible equipment is tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities and that is located and placed into service in Florida. Parts and accessories are eligible only to the extent that the exemption of such parts and accessories is consistent with the provisions of the refund program.
- Ineligible equipment is a building and its structural components unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports the building or structural component and can be expected to be replaced when the machinery and equipment is replaced. Also ineligible are heating and air-conditioning systems unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve to an insubstantial degree nonproduction activities.
- An applicant may not be allocated more than \$50,000 in refunds in any given year.
- Preliminary refund allocations that are revoked or voluntarily surrendered shall be available for reallocation.
- To receive a refund, the business must first apply to OTTED for a **“tax refund allocation.”** The applicant must provide information at that time on the cost and actual sales and use tax paid to purchase machinery and equipment located and placed into service in Florida in 2008.
- Within 30 days after receiving an application for a tax refund allocation, OTTED must approve or disapprove the application.
- Tax refunds will be awarded in the same order the applications were received.
- Tax refund allocation applications will be accepted beginning July 1, 2010. Each applicant will be informed of its place in the queue and whether the applicant received an allocation.
- Upon completion of the machinery or equipment purchase, the business that received a tax refund allocation must apply for **“certification of a refund.”** The application for certification of a refund must be made no later than September 1, 2011 for purchases made in 2010-2011 and September 1, 2012 for purchases made in 2011-2012. Documents must accompany the application that confirm the cost of the purchase and the sales and use tax paid. Purchases certified shall be forwarded to the Department of Revenue within 30 days after receipt of the application. Upon certification, the business must apply to the Department of Revenue within 30 days for **payment of the refund** on a form prescribed by DOR. DOR may also request documentation and may adopt emergency rules to administer the refund.