

By Senator Altman

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1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.02, F.S.; defining the
4 term "fractional aircraft ownership program"; amending
5 s. 212.08, F.S.; providing tax exemptions on the sale
6 or use of aircraft primarily used in a fractional
7 aircraft ownership program and for the parts and labor
8 used in the maintenance, repair, and overhaul of such
9 aircraft; creating s. 212.0597, F.S.; providing a
10 maximum tax on the sale or use of fractional aircraft
11 ownership interests; providing an effective date.
12

13 WHEREAS, Florida has identified aviation and aerospace as
14 industries suitable for economic development, and

15 WHEREAS, Florida has determined that the synergy in the
16 space, aerospace, and aviation industries attracts the world's
17 leading businesses to the state, and

18 WHEREAS, Florida employs approximately 80,000 people in the
19 aviation and aerospace industries at an average annual wage of
20 \$52,000, and

21 WHEREAS, Florida has the third-largest aviation
22 maintenance, repair, and overhaul cluster in the United States
23 and has strategies directed toward expanding these aviation
24 support services, and

25 WHEREAS, Florida intends to remain competitive with other
26 states as additional innovative commercial air transportation
27 products are developed, NOW, THEREFORE,

28
29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Subsection (34) is added to section 212.02,
32 Florida Statutes, to read:

33 212.02 Definitions.—The following terms and phrases when
34 used in this chapter have the meanings ascribed to them in this
35 section, except where the context clearly indicates a different
36 meaning:

37 (34) "Fractional aircraft ownership program" means a
38 program that meets the requirements of 14 C.F.R part 91, subpart
39 K, relating to fractional ownership operations, except that the
40 business or affiliated group, as defined by s. 1504(a) of the
41 Internal Revenue Code, must own or lease a minimum of 25
42 aircraft. Such aircraft must be used in the fractional aircraft
43 ownership program providing the program.

44 Section 2. Paragraph (ggg) is added to subsection (7) of
45 section 212.08, Florida Statutes, to read:

46 212.08 Sales, rental, use, consumption, distribution, and
47 storage tax; specified exemptions.—The sale at retail, the
48 rental, the use, the consumption, the distribution, and the
49 storage to be used or consumed in this state of the following
50 are hereby specifically exempt from the tax imposed by this
51 chapter.

52 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
53 entity by this chapter do not inure to any transaction that is
54 otherwise taxable under this chapter when payment is made by a
55 representative or employee of the entity by any means,
56 including, but not limited to, cash, check, or credit card, even
57 when that representative or employee is subsequently reimbursed
58 by the entity. In addition, exemptions provided to any entity by

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59 this subsection do not inure to any transaction that is
60 otherwise taxable under this chapter unless the entity has
61 obtained a sales tax exemption certificate from the department
62 or the entity obtains or provides other documentation as
63 required by the department. Eligible purchases or leases made
64 with such a certificate must be in strict compliance with this
65 subsection and departmental rules, and any person who makes an
66 exempt purchase with a certificate that is not in strict
67 compliance with this subsection and the rules is liable for and
68 shall pay the tax. The department may adopt rules to administer
69 this subsection.

70 (ggg) Fractional aircraft ownership programs.—The sale or
71 use of aircraft primarily used in a fractional aircraft
72 ownership program, and any parts or labor used in the
73 completion, maintenance, repair, or overhaul of such aircraft.
74 The exemption is not allowed unless the purchaser or lessee
75 furnishes the dealer with a certificate stating that the lease,
76 purchase, repair, or maintenance is for aircraft primarily used
77 in a fractional aircraft ownership program and that the
78 purchaser or lessee qualifies for the exemption. If a purchaser
79 or lessee makes tax-exempt purchases on a continual basis, the
80 purchaser or lessee may allow the dealer to keep the certificate
81 on file. The purchaser or lessee must inform a dealer that keeps
82 the certificate on file if the purchaser or lessee no longer
83 qualifies for the exemption. The department shall adopt rules to
84 administer this section, including rules determining the format
85 of the certificate.

86 Section 3. Section 212.0597, Florida Statutes, is created
87 to read:

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88 212.0597 Maximum tax on fractional aircraft ownership
89 interests.—The maximum tax imposed under this chapter, including
90 any discretionary sales surtax under s. 212.055, is limited to
91 \$300 on the sale or use in this state of a fractional ownership
92 interest in aircraft pursuant to a fractional aircraft ownership
93 program. The tax applies to the total consideration paid for the
94 fractional ownership interest, including any amounts paid by the
95 fractional owner as monthly management or maintenance fees. The
96 tax applies only if the fractional ownership interest is sold by
97 or to the operator of the fractional aircraft ownership program,
98 or if the fractional ownership interest is transferred upon the
99 approval of the operator of the fractional aircraft ownership
100 program.

101 Section 4. This act shall take effect July 1, 2010.