

By Representative Barreiro

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions; amending s. 212.08, F.S.;
4 deleting a limitation on the amount of the tax
5 exemption allowed on machinery and equipment
6 purchased by an expanding business used to
7 increase productive output; providing that such
8 exemption also applies if the machinery and
9 equipment improves the environment; removing a
10 provision that prohibits the application of the
11 exemptions for industrial machinery and
12 equipment purchased for use in new or expanding
13 businesses to certain publishing firms;
14 providing an exemption for film, paper, art,
15 and other supplies used to produce printed
16 matter for resale; providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Paragraph (b) of subsection (5) of section
21 212.08, Florida Statutes, 1996 Supplement, is amended, and
22 paragraph (nn) is added to subsection (7) of said section, to
23 read:

24 212.08 Sales, rental, use, consumption, distribution,
25 and storage tax; specified exemptions.--The sale at retail,
26 the rental, the use, the consumption, the distribution, and
27 the storage to be used or consumed in this state of the
28 following are hereby specifically exempt from the tax imposed
29 by this part.

30 (5) EXEMPTIONS; ACCOUNT OF USE.--

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1 (b) Machinery and equipment used to increase
2 productive output.--

3 1. Industrial machinery and equipment purchased for
4 use in new businesses which manufacture, process, compound, or
5 produce for sale, or for exclusive use in spaceport activities
6 as defined in s. 212.02, items of tangible personal property
7 at fixed locations are exempt from the tax imposed by this
8 chapter upon an affirmative showing by the taxpayer to the
9 satisfaction of the department that such items are used in a
10 new business in this state. Such purchases must be made prior
11 to the date the business first begins its productive
12 operations, and delivery of the purchased item must be made
13 within 12 months of that date.

14 2. Industrial machinery and equipment purchased for
15 use in expanding manufacturing facilities or plant units which
16 manufacture, process, compound, or produce for sale, or for
17 exclusive use in spaceport activities as defined in s. 212.02,
18 items of tangible personal property at fixed locations in this
19 state are exempt from any amount of tax imposed by this
20 chapter ~~in excess of \$50,000 per calendar year~~ upon an
21 affirmative showing by the taxpayer to the satisfaction of the
22 department that such items are used to increase the productive
23 output of such expanded business by not less than 10 percent
24 or that such items improve the environment.

25 3.a. To receive an exemption provided by subparagraph
26 1. or subparagraph 2., a qualifying business entity shall
27 apply to the department for a temporary tax exemption permit.
28 The application shall state that a new business exemption or
29 expanded business exemption is being sought. Upon a tentative
30 affirmative determination by the department pursuant to
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1 subparagraph 1. or subparagraph 2., the department shall issue
2 such permit.

3 b. The applicant shall be required to maintain all
4 necessary books and records to support the exemption. Upon
5 completion of purchases of qualified machinery and equipment
6 pursuant to subparagraph 1. or subparagraph 2., the temporary
7 tax permit shall be delivered to the department or returned to
8 the department by certified or registered mail.

9 c. If, in a subsequent audit conducted by the
10 department, it is determined that the machinery and equipment
11 purchased as exempt under subparagraph 1. or subparagraph 2.
12 did not meet the criteria mandated by this paragraph or if
13 commencement of production did not occur, the amount of taxes
14 exempted at the time of purchase shall immediately be due and
15 payable to the department by the business entity, together
16 with the appropriate interest and penalty, computed from the
17 date of purchase, in the manner prescribed by this chapter.

18 d. In the event a qualifying business entity fails to
19 apply for a temporary exemption permit or if the tentative
20 determination by the department required to obtain a temporary
21 exemption permit is negative, a qualifying business entity
22 shall receive the exemption provided in subparagraph 1. or
23 subparagraph 2. through a refund of previously paid taxes. No
24 refund may be made for such taxes unless the criteria mandated
25 by subparagraph 1. or subparagraph 2. have been met and
26 commencement of production has occurred.

27 4. The department shall promulgate rules governing
28 applications for, issuance of, and the form of temporary tax
29 exemption permits; provisions for recapture of taxes; and the
30 manner and form of refund applications and may establish
31 guidelines as to the requisites for an affirmative showing of

1 increased productive output, commencement of production, and
2 qualification for exemption.

3 5. The exemptions provided in subparagraphs 1. and 2.
4 do not apply to machinery or equipment purchased or used by
5 electric utility companies, communications companies,
6 phosphate or other solid minerals severance, mining, or
7 processing operations, oil or gas exploration or production
8 operations, ~~publishing firms that do not export at least 50~~
9 ~~percent of their finished product out of the state,~~ any firm
10 subject to regulation by the Division of Hotels and
11 Restaurants of the Department of Business and Professional
12 Regulation, or any firm which does not manufacture, process,
13 compound, or produce for sale, or for exclusive use in
14 spaceport activities as defined in s. 212.02, items of
15 tangible personal property.

16 6. For the purposes of the exemptions provided in
17 subparagraphs 1. and 2., these terms have the following
18 meanings:

19 a. "Industrial machinery and equipment" means "section
20 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
21 Internal Revenue Code, provided "industrial machinery and
22 equipment" shall be construed by regulations adopted by the
23 Department of Revenue to mean tangible property used as an
24 integral part of the manufacturing, processing, compounding,
25 or producing for sale, or for exclusive use in spaceport
26 activities as defined in s. 212.02, of items of tangible
27 personal property. Such term includes parts and accessories
28 only to the extent that the exemption thereof is consistent
29 with the provisions of this paragraph.

30 b. "Productive output" means the number of units
31 actually produced by a single plant or operation in a single

1 continuous 12-month period, irrespective of sales. Increases
2 in productive output shall be measured by the output for 12
3 continuous months immediately following the completion of
4 installation of such machinery or equipment over the output
5 for the 12 continuous months immediately preceding such
6 installation. However, if a different 12-month continuous
7 period of time would more accurately reflect the increase in
8 productive output of machinery and equipment purchased to
9 facilitate an expansion, the increase in productive output may
10 be measured during that 12-month continuous period of time if
11 such time period is mutually agreed upon by the Department of
12 Revenue and the expanding business prior to the commencement
13 of production; provided, however, in no case may such time
14 period begin later than 2 years following the completion of
15 installation of the new machinery and equipment. The units
16 used to measure productive output shall be physically
17 comparable between the two periods, irrespective of sales.

18 7. Notwithstanding any other provision in this
19 paragraph to the contrary, in order to receive the exemption
20 provided in this paragraph a taxpayer must register with the
21 WAGES Program Business Registry established by the local WAGES
22 coalition for the area in which the taxpayer is located. Such
23 registration establishes a commitment on the part of the
24 taxpayer to hire WAGES program participants to the maximum
25 extent possible consistent with the nature of their business.

26 (7) MISCELLANEOUS EXEMPTIONS.--

27 (nn) Film and other printing supplies.--Also exempt
28 are film, photographic paper, chemicals used in processing
29 printing, art supplies, engravings, mats, art work,
30 typography, lithographic plates, or negatives purchased for
31 use in producing printed, imprinted, overprinted,

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1 lithographic, multilithic, blueprinted, photostatic, or other
2 reproductions of written or graphic matter, for resale.

3 Section 2. This act shall take effect July 1, 1997.

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HOUSE SUMMARY

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8 Deletes a provision that limits, to amounts in excess of
9 \$50,000, the amount of the sales tax exemption allowed
10 for industrial machinery and equipment purchased by an
11 expanding business which is used to increase productivity
12 by at least 10 percent, and provides that such exemption
13 also applies if the machinery and equipment improve the
14 environment. Removes a provision that prohibits the
15 application of the tax exemptions on the purchase of
16 machinery and equipment for use in a new or expanding
17 business to a publishing firm that does not export at
18 least 50 percent of its finished product out of the
19 state.

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21 Provides an exemption for film, photographic paper,
22 engravings, lithographic plates, and art work and other
23 related art supplies used to produce printed matter for
24 resale.

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