

By Representative Putnam

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.08, F.S.;
4 providing that the exemptions for machinery and
5 equipment used to increase productive output
6 shall apply to machinery and equipment used in
7 phosphate or other solid mineral severance,
8 mining, or processing as a credit against taxes
9 due under ch. 211, F.S., relating to tax on the
10 severance and production of minerals; providing
11 an effective date.

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

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15 Section 1. Paragraph (b) of subsection (5) of section
16 212.08, Florida Statutes, is amended to read:

17 212.08 Sales, rental, use, consumption, distribution,
18 and storage tax; specified exemptions.--The sale at retail,
19 the rental, the use, the consumption, the distribution, and
20 the storage to be used or consumed in this state of the
21 following are hereby specifically exempt from the tax imposed
22 by this chapter.

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

24 (b) Machinery and equipment used to increase
25 productive output.--

26 1. Industrial machinery and equipment purchased for
27 use in new businesses which manufacture, process, compound, or
28 produce for sale, or for exclusive use in spaceport activities
29 as defined in s. 212.02, items of tangible personal property
30 at fixed locations are exempt from the tax imposed by this
31 chapter upon an affirmative showing by the taxpayer to the

1 satisfaction of the department that such items are used in a
2 new business in this state. Such purchases must be made prior
3 to the date the business first begins its productive
4 operations, and delivery of the purchased item must be made
5 within 12 months of that date.

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

16 3.a. To receive an exemption provided by subparagraph
17 1. or subparagraph 2., a qualifying business entity shall
18 apply to the department for a temporary tax exemption permit.
19 The application shall state that a new business exemption or
20 expanded business exemption is being sought. Upon a tentative
21 affirmative determination by the department pursuant to
22 subparagraph 1. or subparagraph 2., the department shall issue
23 such permit.

24 b. The applicant shall be required to maintain all
25 necessary books and records to support the exemption. Upon
26 completion of purchases of qualified machinery and equipment
27 pursuant to subparagraph 1. or subparagraph 2., the temporary
28 tax permit shall be delivered to the department or returned to
29 the department by certified or registered mail.

30 c. If, in a subsequent audit conducted by the
31 department, it is determined that the machinery and equipment

1 purchased as exempt under subparagraph 1. or subparagraph 2.
2 did not meet the criteria mandated by this paragraph or if
3 commencement of production did not occur, the amount of taxes
4 exempted at the time of purchase shall immediately be due and
5 payable to the department by the business entity, together
6 with the appropriate interest and penalty, computed from the
7 date of purchase, in the manner prescribed by this chapter.

8 d. In the event a qualifying business entity fails to
9 apply for a temporary exemption permit or if the tentative
10 determination by the department required to obtain a temporary
11 exemption permit is negative, a qualifying business entity
12 shall receive the exemption provided in subparagraph 1. or
13 subparagraph 2. through a refund of previously paid taxes. No
14 refund may be made for such taxes unless the criteria mandated
15 by subparagraph 1. or subparagraph 2. have been met and
16 commencement of production has occurred.

17 4. The department shall promulgate rules governing
18 applications for, issuance of, and the form of temporary tax
19 exemption permits; provisions for recapture of taxes; and the
20 manner and form of refund applications and may establish
21 guidelines as to the requisites for an affirmative showing of
22 increased productive output, commencement of production, and
23 qualification for exemption.

24 5. The exemptions provided in subparagraphs 1. and 2.
25 do not apply to machinery or equipment purchased or used by
26 electric utility companies, communications companies,
27 ~~phosphate or other solid minerals severance, mining, or~~
28 ~~processing operations,~~ oil or gas exploration or production
29 operations, publishing firms that do not export at least 50
30 percent of their finished product out of the state, any firm
31 subject to regulation by the Division of Hotels and

1 Restaurants of the Department of Business and Professional
2 Regulation, or any firm which does not manufacture, process,
3 compound, or produce for sale, or for exclusive use in
4 spaceport activities as defined in s. 212.02, items of
5 tangible personal property. The exemptions provided in
6 subparagraphs 1. and 2. shall apply to machinery and equipment
7 purchased for use in phosphate or other solid minerals
8 severance, mining, or processing operations only by way of a
9 prospective credit against taxes due under chapter 211 for
10 taxes paid under this chapter on such machinery and equipment.

11 6. For the purposes of the exemptions provided in
12 subparagraphs 1. and 2., these terms have the following
13 meanings:

14 a. "Industrial machinery and equipment" means "section
15 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
16 Internal Revenue Code, provided "industrial machinery and
17 equipment" shall be construed by regulations adopted by the
18 Department of Revenue to mean tangible property used as an
19 integral part of the manufacturing, processing, compounding,
20 or producing for sale, or for exclusive use in spaceport
21 activities as defined in s. 212.02, of items of tangible
22 personal property. Such term includes parts and accessories
23 only to the extent that the exemption thereof is consistent
24 with the provisions of this paragraph.

25 b. "Productive output" means the number of units
26 actually produced by a single plant or operation in a single
27 continuous 12-month period, irrespective of sales. Increases
28 in productive output shall be measured by the output for 12
29 continuous months immediately following the completion of
30 installation of such machinery or equipment over the output
31 for the 12 continuous months immediately preceding such

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

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

21 Section 2. This act shall take effect July 1 of the
22 year in which enacted.

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25 HOUSE SUMMARY

26 Provides that the sales tax exemptions for machinery and
27 equipment used to increase productive output shall apply
28 to machinery and equipment used in phosphate or other
29 solid mineral severance, mining, or processing as a
30 credit against taxes due under ch. 211, F.S., relating to
31 tax on the severance and production of minerals.