

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, 1998 Supplement, 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.a. 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 b. Notwithstanding any other provision of this
17 section, industrial machinery and equipment purchased for use
18 in expanding printing manufacturing facilities or plant units
19 that manufacture, process, compound, or produce for sale items
20 of tangible personal property at fixed locations in this state
21 are exempt from any amount of tax imposed by this chapter upon
22 an affirmative showing by the taxpayer to the satisfaction of
23 the department that such items are used to increase the
24 productive output of such an expanded business by not less
25 than 10 percent.

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

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. The exemptions provided in
16 subparagraphs 1. and 2. shall apply to machinery and equipment
17 purchased for use in phosphate or other solid minerals
18 severance, mining, or processing operations only by way of a
19 prospective credit against taxes due under chapter 211 for
20 taxes paid under this chapter on such machinery and equipment.

21 6. For the purposes of the exemptions provided in
22 subparagraphs 1. and 2., these terms have the following
23 meanings:

24 a. "Industrial machinery and equipment" means "section
25 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
26 Internal Revenue Code, provided "industrial machinery and
27 equipment" shall be construed by regulations adopted by the
28 Department of Revenue to mean tangible property used as an
29 integral part of the manufacturing, processing, compounding,
30 or producing for sale, or for exclusive use in spaceport
31 activities as defined in s. 212.02, of items of tangible

1 personal property. Such term includes parts and accessories
2 only to the extent that the exemption thereof is consistent
3 with the provisions of this paragraph.

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

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

31 Section 2. This act shall take effect July 1, 1999.

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HOUSE SUMMARY

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