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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 requirements for new and expanding businesses
12 to qualify for such exemption and credit;
13 providing an effective date.
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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Paragraph (b) of subsection (5) of section
18 212.08, Florida Statutes, 1998 Supplement, is amended to read:

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

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

26 (b) Machinery and equipment used to increase
27 productive output.--

28 1. Industrial machinery and equipment purchased for
29 use in new businesses which manufacture, process, compound, or
30 produce for sale, or for exclusive use in spaceport activities
31 as defined in s. 212.02, items of tangible personal property

1 at fixed locations are exempt from the tax imposed by this
2 chapter upon an affirmative showing by the taxpayer to the
3 satisfaction of the department that such items are used in a
4 new business in this state. Such purchases must be made prior
5 to the date the business first begins its productive
6 operations, and delivery of the purchased item must be made
7 within 12 months of that date.

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

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

28 3.a. To receive an exemption provided by subparagraph
29 1. or subparagraph 2., a qualifying business entity shall
30 apply to the department for a temporary tax exemption permit.
31 The application shall state that a new business exemption or

1 expanded business exemption is being sought. Upon a tentative
2 affirmative determination by the department pursuant to
3 subparagraph 1. or subparagraph 2., the department shall issue
4 such permit.

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

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

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

29 4. The department shall promulgate rules governing
30 applications for, issuance of, and the form of temporary tax
31 exemption permits; provisions for recapture of taxes; and the

1 manner and form of refund applications and may establish
2 guidelines as to the requisites for an affirmative showing of
3 increased productive output, commencement of production, and
4 qualification for exemption.

5 5. The exemptions provided in subparagraphs 1. and 2.
6 do not apply to machinery or equipment purchased or used by
7 electric utility companies, communications companies,
8 ~~phosphate or other solid minerals severance, mining, or~~
9 ~~processing operations,~~ oil or gas exploration or production
10 operations, publishing firms that do not export at least 50
11 percent of their finished product out of the state, any firm
12 subject to regulation by the Division of Hotels and
13 Restaurants of the Department of Business and Professional
14 Regulation, or any firm which does not manufacture, process,
15 compound, or produce for sale, or for exclusive use in
16 spaceport activities as defined in s. 212.02, items of
17 tangible personal property. The exemptions provided in
18 subparagraphs 1. and 2. shall apply to machinery and equipment
19 purchased for use in phosphate or other solid minerals
20 severance, mining, or processing operations only by way of a
21 prospective credit against taxes due under chapter 211 for
22 taxes paid under this chapter on such machinery and equipment.

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

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

1 or producing for sale, or for exclusive use in spaceport
2 activities as defined in s. 212.02, of items of tangible
3 personal property. Such term includes parts and accessories
4 only to the extent that the exemption thereof is consistent
5 with the provisions of this paragraph.

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

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

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1 taxpayer to hire WAGES program participants to the maximum
2 extent possible consistent with the nature of their business.

3 Section 2. (1) In order to qualify for the exemption
4 and credit provided in s. 212.08(5)(b)5., Florida Statutes,
5 for machinery and equipment purchased for use in phosphate or
6 other solid minerals severance, mining, or processing
7 operations, an expanding business must demonstrate the
8 following:

9 (a) For a business that has 2,500 or fewer Florida
10 employees, the creation of new Florida jobs in an amount equal
11 to at least 5 percent of its Florida employees; or

12 (b) For a business that has more than 2,500 Florida
13 employees, the creation of new Florida jobs in an amount equal
14 to at least 3 percent of its Florida employees.

15 (2) In order to qualify for the exemption and credit
16 provided in s. 212.08(5)(b)5., Florida Statutes, for machinery
17 and equipment purchased for use in phosphate or other solid
18 minerals severance, mining, or processing operations, a new
19 business must demonstrate the creation of at least 100 new
20 Florida jobs.

21 (3) For purposes of this section, "new Florida job"
22 means a new position created and filled within 24 months after
23 completion of construction of the new or expanded facility and
24 includes a transfer of a position from an existing Florida
25 operation so long as the transfer is the result of the closure
26 or reduction of the other Florida operation. For an expanding
27 business, the number of existing Florida employees shall be
28 determined as of the date on which the business commences
29 construction of the expansion. The Office of Tourism, Trade,
30 and Economic Development shall:

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- 1 (a) For an expanding business, document the number of
- 2 persons employed in Florida by such business as of the date of
- 3 commencement of construction of the expansion and the number
- 4 of new Florida jobs created by such business within 24 months
- 5 following the completion of construction of the expansion;
- 6 (b) For a new business, document the number of new
- 7 Florida jobs created by such business within 24 months of
- 8 completion of construction of the new business; and
- 9 (c) Certify such to the Department of Revenue.

10 Section 3. This act shall take effect July 1, 1999.

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