

By Senator McKay

26-59-99

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A bill to be entitled
An act relating to the tax on sales, use, and
other transactions; amending s. 212.08, F.S.;
providing that an exemption from the tax
applies to machinery and equipment purchased
for use in phosphate severance, mining, or
processing operations under specified
conditions; providing an effective date.

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

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

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

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

1 operations, and delivery of the purchased item must be made
2 within 12 months of that date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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SENATE SUMMARY

Provides that exemption from the tax on sales, use, and other transactions applies to machinery and equipment purchased for use in phosphate severance, mining, or processing operations in the form of a credit against taxes due under ch. 211, F.S., for taxes paid under ch. 212, F.S.