

By the Committee on Fiscal Resource and Senator McKay

314-2144-99

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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 or other solid-mineral  
severance, mining, or processing operations  
under specified conditions; providing for  
accountability; 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

1 to the date the business first begins its productive  
2 operations, and delivery of the purchased item must be made  
3 within 12 months of that date.

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

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

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

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

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1           Section 2. (1) In order to qualify for the exemption  
2 and credit created in this act, an expanding business must  
3 demonstrate the following:

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

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

10          (2) In order to qualify for the exemption and credit  
11 created in this act, a new business must demonstrate the  
12 creation of at least 100 new Florida jobs.

13          (3) For purposes of this section, the term "new  
14 Florida job" means a new position created and filled within 24  
15 months after completion of construction of the new or expanded  
16 facility and includes a transfer of a position from an  
17 existing Florida operation as long as the transfer is the  
18 result of the closure or reduction of the other Florida  
19 operation. For an expanding business, the number of existing  
20 Florida employees shall be determined as of the date on which  
21 the business commences construction of the expansion.

22          (4) The Office of Tourism, Trade, and Economic  
23 Development shall:

24          (a) For an expanding business, document the number of  
25 persons employed in Florida by such business as of the date of  
26 commencement of construction of the expansion and the number  
27 of new Florida jobs created by such business within 24 months  
28 following the completion of construction of the expansion;

29          (b) For a new business, document the number of new  
30 Florida jobs created by such business within 24 months after  
31 completion of construction of the new business; and

1           (c) Certify such to the Department of Revenue.  
2           Section 3. This act shall take effect July 1, 1999.

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4                           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
5   COMMITTEE SUBSTITUTE FOR  
6   SB 110

7 The committee substitute makes the following changes to SB  
8 110:

- 9 1) Adds to the exemption, other solid minerals severance  
10 2) Provides that in order for a phosphate or other solid  
11 minerals severance, mining, or processing operations to  
12 qualify for this exemption and tax credit, such business  
13 must produce a certain number of new Florida jobs.  
14 Specifically, businesses must demonstrate the following:  
15 a) For an expanding business that has 2,500 or fewer  
16 Florida employees, they must create new Florida  
17 jobs in an amount equal to at least 5 percent of  
18 its Florida employees.  
19 b) For an expanding business that has more than 2,500  
20 Florida employees, they must create new Florida  
21 jobs in amount equal to at least 3 percent of its  
22 Florida employees.  
23 c) For a new business, they must demonstrate the  
24 creation of at least 100 new Florida jobs.

25 Provides a definition of "new Florida jobs"; provides that the  
26 Office of Tourism, Trade, and Economic Development will be  
27 responsible for documenting the number of persons employed in  
28 Florida by qualified businesses and be responsible to certify  
29 such to the Department of Revenue.  
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