

hbd-032

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Wallace offered the following:

Amendment to Substitute Amendment (212991) (with title amendment)

On page 1, between lines 17 and 18,

insert:

Section 1. Paragraph (b) of subsection (5) of section 212.08, Florida Statutes, 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 exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which

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

9 2.a. Industrial machinery and equipment purchased for
 10 exclusive use by an expanding facility which is engaged in
 11 spaceport activities as defined by s. 212.02 or for use in
 12 expanding manufacturing facilities or plant units which
 13 manufacture, process, compound, or produce for sale items of
 14 tangible personal property at fixed locations in this state
 15 are exempt from any amount of tax imposed by this chapter in
 16 excess of \$40,000~~\$50,000~~ per calendar year upon an
 17 affirmative showing by the taxpayer to the satisfaction of the
 18 department that such items are used to increase the productive
 19 output of such expanded facility or business by not less than
 20 10 percent.

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

31 3.a. To receive an exemption provided by subparagraph

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1 1. or subparagraph 2., a qualifying business entity shall
2 apply to the department for a temporary tax exemption permit.
3 The application shall state that a new business exemption or
4 expanded business exemption is being sought. Upon a tentative
5 affirmative determination by the department pursuant to
6 subparagraph 1. or subparagraph 2., the department shall issue
7 such permit.

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

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

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

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1 4. The department shall promulgate rules governing
2 applications for, issuance of, and the form of temporary tax
3 exemption permits; provisions for recapture of taxes; and the
4 manner and form of refund applications and may establish
5 guidelines as to the requisites for an affirmative showing of
6 increased productive output, commencement of production, and
7 qualification for exemption.

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

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

28 a. "Industrial machinery and equipment" means "section
29 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
30 Internal Revenue Code, provided "industrial machinery and
31 equipment" shall be construed by regulations adopted by the

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1 Department of Revenue to mean tangible property used as an
 2 integral part of spaceport activities or of the manufacturing,
 3 processing, compounding, or producing for sale of items of
 4 tangible personal property. Such term includes parts and
 5 accessories only to the extent that the exemption thereof is
 6 consistent with the provisions of this paragraph.

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

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 15, line 2, of the amendment, after the
 31 semicolon,

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1 insert:

2 amending s. 212.08, F.S.; reducing the maximum
3 amount of the tax which is imposed upon
4 industrial machinery and equipment;

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