

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; creating s. 212.213, F.S.;
4 providing that it is the policy of this state
5 that only those items, services, and other
6 transactions deemed to be subject to said tax
7 on July 1, 2001, shall be taxed under ch. 212,
8 F.S., unless made subject to said tax by act of
9 the Legislature; amending s. 212.08, F.S.;
10 revising the exemption for industrial machinery
11 and equipment; broadening the application of
12 the exemption; reducing the maximum amount of
13 the tax which is imposed on such machinery and
14 equipment; providing an effective date.

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

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18 Section 1. Section 212.213, Florida Statutes, is
19 created to read:

20 212.213 State tax policy.--It is the policy of this
21 state that only those items, services, and other transactions
22 that are deemed to be subject to the tax imposed by this
23 chapter on July 1, 2001, shall be taxed under this chapter.
24 All other items, services, and transactions are exempt unless
25 made subject to the tax imposed by this chapter by act of the
26 Legislature. This section does not prohibit the imposition of
27 tax on any item, service, or other transaction that did not
28 exist on July 1, 2001, if that item, service, or other
29 transaction, had it existed on that date, would have been
30 deemed subject to the tax imposed by this chapter.

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1 Section 2. Paragraph (b) of subsection (5) of section
2 212.08, Florida Statutes, is amended to read:

3 212.08 Sales, rental, use, consumption, distribution,
4 and storage tax; specified exemptions.--The sale at retail,
5 the rental, the use, the consumption, the distribution, and
6 the storage to be used or consumed in this state of the
7 following are hereby specifically exempt from the tax imposed
8 by this chapter.

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

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

12 1. Industrial machinery and equipment purchased for
13 exclusive use by a new business in spaceport activities as
14 defined by s. 212.02 or for use in new businesses which
15 manufacture, process, compound, or produce for sale items of
16 tangible personal property at fixed locations are exempt from
17 the tax imposed by this chapter upon an affirmative showing by
18 the taxpayer to the satisfaction of the department that such
19 items are used in a new business in this state. Such purchases
20 must be made prior to the date the business first begins its
21 productive operations, and delivery of the purchased item must
22 be made within 12 months of that date.

23 2.a. Industrial machinery and equipment purchased for
24 exclusive use by a ~~an expanding~~ facility that ~~which~~ is engaged
25 in spaceport activities as defined by s. 212.02 or for use in
26 ~~expanding~~ manufacturing facilities or plant units which
27 manufacture, process, compound, or produce for sale items of
28 tangible personal property at fixed locations in this state
29 are exempt from the ~~any amount of~~ tax imposed by this chapter
30 in excess of \$40,000~~\$50,000~~ per calendar year ~~upon an~~
31 ~~affirmative showing by the taxpayer to the satisfaction of the~~

1 ~~department that such items are used to increase the productive~~
2 ~~output of such expanded facility or business by not less than~~
3 ~~10 percent.~~

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

14 3.a. To receive an exemption provided by subparagraph
15 1. or subparagraph 2.b.2-, a qualifying business entity shall
16 apply to the department for a temporary tax exemption permit.
17 The application shall state that a new business exemption or
18 expanded business exemption is being sought. Upon a tentative
19 affirmative determination by the department pursuant to
20 subparagraph 1. or subparagraph 2.b.2-, the department shall
21 issue such permit.

22 b. The applicant shall be required to maintain all
23 necessary books and records to support the exemption. Upon
24 completion of purchases of qualified machinery and equipment
25 pursuant to subparagraph 1. or subparagraph 2.b.2-, the
26 temporary tax permit shall be delivered to the department or
27 returned to the department by certified or registered mail.

28 c. If, in a subsequent audit conducted by the
29 department, it is determined that the machinery and equipment
30 purchased as exempt under subparagraph 1. or subparagraph 2.b.
31 ~~2-~~ did not meet the criteria mandated by this paragraph or if

1 commencement of production did not occur, the amount of taxes
2 exempted at the time of purchase shall immediately be due and
3 payable to the department by the business entity, together
4 with the appropriate interest and penalty, computed from the
5 date of purchase, in the manner prescribed by this chapter.

6 d. In the event a qualifying business entity fails to
7 apply for a temporary exemption permit or if the tentative
8 determination by the department required to obtain a temporary
9 exemption permit is negative, a qualifying business entity
10 shall receive the exemption provided in subparagraph 1. or
11 subparagraph 2.b.2. through a refund of previously paid
12 taxes. No refund may be made for such taxes unless the
13 criteria mandated by subparagraph 1. or subparagraph 2.b.2.
14 have been met and commencement of production has occurred.

15 4. The department shall promulgate rules governing
16 applications for, issuance of, and the form of temporary tax
17 exemption permits; provisions for recapture of taxes; and the
18 manner and form of refund applications and may establish
19 guidelines as to the requisites for an affirmative showing of
20 increased productive output, commencement of production, and
21 qualification for exemption.

22 5. The exemptions provided in subparagraphs 1. and 2.
23 do not apply to machinery or equipment purchased or used by
24 electric utility companies, communications companies, oil or
25 gas exploration or production operations, publishing firms
26 that do not export at least 50 percent of their finished
27 product out of the state, any firm subject to regulation by
28 the Division of Hotels and Restaurants of the Department of
29 Business and Professional Regulation, or any firm which does
30 not manufacture, process, compound, or produce for sale items
31 of tangible personal property or which does not use such

1 machinery and equipment in spaceport activities as required by
2 this paragraph. The exemptions provided in subparagraphs 1.
3 and 2. shall apply to machinery and equipment purchased for
4 use in phosphate or other solid minerals severance, mining, or
5 processing operations only by way of a prospective credit
6 against taxes due under chapter 211 for taxes paid under this
7 chapter on such machinery and equipment.

8 6. For the purposes of the exemptions provided in
9 subparagraphs 1. and 2., these terms have the following
10 meanings:

11 a. "Industrial machinery and equipment" means "section
12 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
13 Internal Revenue Code, provided "industrial machinery and
14 equipment" shall be construed by regulations adopted by the
15 Department of Revenue to mean tangible property used as an
16 integral part of spaceport activities or of the manufacturing,
17 processing, compounding, or producing for sale of items of
18 tangible personal property. Such term includes parts and
19 accessories only to the extent that the exemption thereof is
20 consistent with the provisions of this paragraph.

21 b. "Productive output" means the number of units
22 actually produced by a single plant or operation in a single
23 continuous 12-month period, irrespective of sales. Increases
24 in productive output shall be measured by the output for 12
25 continuous months immediately following the completion of
26 installation of such machinery or equipment over the output
27 for the 12 continuous months immediately preceding such
28 installation. However, if a different 12-month continuous
29 period of time would more accurately reflect the increase in
30 productive output of machinery and equipment purchased to
31 facilitate an expansion, the increase in productive output may

1 be measured during that 12-month continuous period of time if
2 such time period is mutually agreed upon by the Department of
3 Revenue and the expanding business prior to the commencement
4 of production; provided, however, in no case may such time
5 period begin later than 2 years following the completion of
6 installation of the new machinery and equipment. The units
7 used to measure productive output shall be physically
8 comparable between the two periods, irrespective of sales.

9 Section 3. This act shall take effect July 1, 2001.

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