

By Representative Wallace

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.08, F.S.;
4 revising the exemption for industrial machinery
5 and equipment used in expanding spaceport or
6 manufacturing facilities; removing the
7 restriction that the exemption apply only to
8 expanding facilities; providing for full,
9 rather than partial, exemption; amending s.
10 212.0805, F.S.; removing provisions relating to
11 qualification for the exemption for machinery
12 and equipment used in expanding phosphate or
13 other solid minerals severance, mining, or
14 processing operations, to conform; providing an
15 effective date.

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

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19 Section 1. Paragraph (b) of subsection (5) of section
20 212.08, Florida Statutes, is amended to read:

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

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

28 (b) Machinery and equipment used in manufacturing or
29 spaceport activities ~~to increase productive output.~~--

30 1. Industrial machinery and equipment purchased for
31 exclusive use by a new business in spaceport activities as

1 defined by s. 212.02 or for use in new businesses which
2 manufacture, process, compound, or produce for sale items of
3 tangible personal property at fixed locations are exempt from
4 the tax imposed by this chapter upon an affirmative showing by
5 the taxpayer to the satisfaction of the department that such
6 items are used in a new business in this state. Such purchases
7 must be made prior to the date the business first begins its
8 productive operations, and delivery of the purchased item must
9 be made within 12 months of that date.

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

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

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

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

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

26 d. In the event a qualifying business entity fails to
27 apply for a temporary exemption permit or if the tentative
28 determination by the department required to obtain a temporary
29 exemption permit is negative, a qualifying business entity
30 shall receive the exemption provided in subparagraph 1. or
31 sub-subparagraph 2.b.~~subparagraph 2.~~ through a refund of

1 previously paid taxes. No refund may be made for such taxes
2 unless the criteria mandated by subparagraph 1. or
3 sub-subparagraph 2.b.~~subparagraph 2.~~ have been met and
4 commencement of production has occurred.

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

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

29 6. For the purposes of the exemptions provided in
30 subparagraphs 1. and 2., these terms have the following
31 meanings:

1 a. "Industrial machinery and equipment" means "section
2 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
3 Internal Revenue Code, provided "industrial machinery and
4 equipment" shall be construed by regulations adopted by the
5 Department of Revenue to mean tangible property used as an
6 integral part of spaceport activities or of the manufacturing,
7 processing, compounding, or producing for sale of items of
8 tangible personal property. Such term includes parts and
9 accessories only to the extent that the exemption thereof is
10 consistent with the provisions of this paragraph.

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

30 Section 2. Section 212.0805, Florida Statutes, is
31 amended to read:

1 212.0805 Qualification for exemption and credit
2 provided in s. 212.08(5)(b)5.--

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

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

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

14 (1)(2) In order to qualify for the exemption and
15 credit provided in s. 212.08(5)(b)5., for machinery and
16 equipment purchased for use in phosphate or other solid
17 minerals severance, mining, or processing operations, a new
18 business must demonstrate the creation of at least 100 new
19 Florida jobs.

20 (2)(3) For purposes of this section, "new Florida job"
21 means a new position created and filled within 24 months after
22 completion of construction of the new ~~or expanded~~ facility and
23 includes a transfer of a position from an existing Florida
24 operation so long as the transfer is the result of the closure
25 or reduction of the other Florida operation. ~~For an expanding~~
26 ~~business, the number of existing Florida employees shall be~~
27 ~~determined as of the date on which the business commences~~
28 ~~construction of the expansion.~~The Office of Tourism, Trade,
29 and Economic Development shall:

30 ~~(a) For an expanding business, document the number of~~
31 ~~persons employed in Florida by such business as of the date of~~

1 ~~commencement of construction of the expansion and the number~~
2 ~~of new Florida jobs created by such business within 24 months~~
3 ~~following the completion of construction of the expansion;~~
4 ~~(b) For a new business,~~document the number of new
5 Florida jobs created by a new ~~such~~ business within 24 months
6 of completion of construction of the new business~~and~~
7 ~~(c)~~ certify such to the Department of Revenue.
8 Section 3. This act shall take effect July 1, 2001.

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11 HOUSE SUMMARY

12 Revises the sales tax exemption for industrial machinery
13 and equipment used in expanding spaceport or
14 manufacturing facilities, to remove the restriction that
15 the exemption apply only to expanding facilities and
16 provide for full, rather than partial, exemption.
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