

By the Committee on Fiscal Policy & Resources and  
Representatives Wallace, Brown, Stansel, Baxley, Brummer,  
Bennett, Atwater, Baker, Kendrick, Pickens and Attkisson

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 to provide for a full,  
7           rather than partial, exemption; providing an  
8           effective date.

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

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12           Section 1. Paragraph (b) of subsection (5) of section  
13 212.08, Florida Statutes, is amended to read:

14           212.08 Sales, rental, use, consumption, distribution,  
15 and storage tax; specified exemptions.--The sale at retail,  
16 the rental, the use, the consumption, the distribution, and  
17 the storage to be used or consumed in this state of the  
18 following are hereby specifically exempt from the tax imposed  
19 by this chapter.

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

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

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

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

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

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

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

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

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

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

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

1 increased productive output, commencement of production, and  
2 qualification for exemption.

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

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

23           a. "Industrial machinery and equipment" means "section  
24 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the  
25 Internal Revenue Code, provided "industrial machinery and  
26 equipment" shall be construed by regulations adopted by the  
27 Department of Revenue to mean tangible property used as an  
28 integral part of spaceport activities or of the manufacturing,  
29 processing, compounding, or producing for sale of items of  
30 tangible personal property. Such term includes parts and  
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1 accessories only to the extent that the exemption thereof is  
2 consistent 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           Section 2. This act shall take effect July 1, 2001.

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