

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Siplin

310-2398-04

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled

An act relating to the sales tax exemption for machinery and equipment used to increase productive output; amending s. 212.08, F.S.; deleting a limitation on an exemption from the sales tax for such machinery and equipment each year; 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, 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 manufacture, process, compound, or produce for sale 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 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 any amount of tax imposed by this chapter ~~in~~
10 ~~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
31

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 adopt 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 tangible
24 personal property or other property that has a depreciable
25 life of 3 years or more and that is used as an integral part
26 in the manufacturing, processing, compounding, or production
27 of tangible personal property for sale or is exclusively used
28 in spaceport activities. A building and its structural
29 components are not industrial machinery and equipment unless
30 the building or structural component is so closely related to
31 the industrial machinery and equipment that it houses or

1 supports that the building or structural component can be
2 expected to be replaced when the machinery and equipment are
3 replaced. Heating and air-conditioning systems are not
4 industrial machinery and equipment unless the sole
5 justification for their installation is to meet the
6 requirements of the production process, even though the system
7 may provide incidental comfort to employees or serve, to an
8 insubstantial degree, nonproduction activities. The term
9 includes parts and accessories only to the extent that the
10 exemption thereof is consistent with the provisions of this
11 paragraph.

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

31 Section 2. This act shall take effect July 1, 2004.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2540

The committee substitute strikes from section 212.08(5)(b)2.b., Florida Statutes, language providing a specific, full sales tax exemption for industrial machinery purchased for exclusive use in an expanding printing manufacturing facility. This separately stated exemption is made redundant by changes in the underlying legislation which broaden an existing sales tax exemption on industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility. Expanding printing facilities would now be captured within the parameters of the general manufacturing tax exemption, thereby eliminating the need for a separately stated exemption.