

By Senator McKay

26-703-98

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions; amending s. 212.08, F.S.;
4 amending the exemption for machinery and
5 equipment used in silicon technology production
6 and research and development; deleting the
7 requirement that the exemption be accomplished
8 through the refund of taxes that were
9 previously paid; deleting the provision that
10 the refund is subject to a specific annual
11 legislative appropriation; providing an
12 effective date.

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

16 Section 1. Paragraph (j) of subsection (5) of section
17 212.08, Florida Statutes, is amended to read:

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

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

25 (j) Machinery and equipment used in silicon technology
26 production and research and development.--

27 1. Industrial machinery and equipment purchased for
28 use in silicon technology facilities certified under
29 subparagraph 5. to manufacture, process, compound, or produce
30 silicon technology products for sale or for use by these
31 facilities are exempt from the tax imposed by this chapter.

1 2. Machinery and equipment are exempt from the tax
2 imposed by this chapter if purchased for use predominately in
3 silicon wafer research and development activities in a silicon
4 technology research and development facility certified under
5 subparagraph 5.

6 3. In addition to meeting ~~The exemptions authorized in~~
7 ~~subparagraphs 1. and 2. accrue to the taxpayer through a~~
8 ~~refund of previously paid taxes. A refund may not be made~~
9 ~~unless~~ the criteria mandated by subparagraph 1. or
10 subparagraph 2., a have been met and the business must be has
11 ~~been~~ certified by the Office of Tourism, Trade, and Economic
12 Development as authorized in this paragraph in order to
13 qualify for exemption under this paragraph.

14 4.a. To be eligible to receive the exemption provided
15 by subparagraph 1. or subparagraph 2., a qualifying business
16 entity shall apply to Enterprise Florida, Inc. The application
17 shall be developed by the Office of Tourism, Trade, and
18 Economic Development in consultation with Enterprise Florida,
19 Inc.

20 b. Enterprise Florida, Inc., shall review each
21 submitted application and information and determine whether or
22 not the application is complete within 5 working days. Once an
23 application is complete, Enterprise Florida, Inc., shall,
24 within 10 working days, evaluate the application and recommend
25 approval or disapproval of the application to the Office of
26 Tourism, Trade, and Economic Development.

27 c. Upon receipt of the application and recommendation
28 from Enterprise Florida, Inc., the Office of Tourism, Trade,
29 and Economic Development shall certify within 5 working days
30 those applicants who are found to meet the requirements of
31 this section and notify the applicant, Enterprise Florida,

1 Inc., and the department of the certification. If the Office
2 of Tourism, Trade, and Economic Development finds that the
3 applicant does not meet the requirements of this section, it
4 shall notify the applicant and Enterprise Florida, Inc.,
5 within 10 working days that the application for certification
6 has been denied and the reasons for denial. The Office of
7 Tourism, Trade, and Economic Development has final approval
8 authority for certification under this section.

9 5.a. A business certified to receive this exemption
10 may apply once each year for the exemption ~~refund of all~~
11 ~~eligible taxes paid during the previous calendar year. The~~
12 ~~refund shall be subject to a specific annual appropriation~~
13 ~~from the Legislature to the Office of Tourism, Trade, and~~
14 ~~Economic Development for the payment of such refunds.~~

15 b. The first claim submitted by a business may include
16 all eligible expenditures made after the date the business was
17 certified.

18 c. To apply for the annual exemption ~~refund~~, the
19 business shall submit a ~~refund~~ claim to the Office of Tourism,
20 Trade, and Economic Development, which claim indicates and
21 documents the sales and use taxes otherwise payable ~~paid~~ on
22 eligible machinery and equipment. The claim must ~~shall~~ also
23 indicate, for program evaluation purposes only, the average
24 number of full-time equivalent employees at the facility over
25 the preceding calendar year, the average wage and benefits
26 paid to those employees over the preceding calendar year, and
27 the total investment made in real and tangible personal
28 property over the preceding calendar year or, for the first
29 claim submitted, since the date of certification. The
30 department shall assist the Office of Tourism, Trade, and
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1 Economic Development in evaluating and verifying information
2 provided in the application for exemption ~~an annual refund~~.

3 ~~d. An application for refund must be submitted to the~~
4 ~~Office of Tourism, Trade, and Economic Development by February~~
5 ~~15 of each year. In the event that the Legislature does not~~
6 ~~appropriate an amount sufficient to satisfy all refund~~
7 ~~applications received by the Office of Tourism, Trade, and~~
8 ~~Economic Development, the office shall, not later than April~~
9 ~~15 of each year, determine the proportion of each refund claim~~
10 ~~which shall be paid by dividing the amount appropriated for~~
11 ~~tax refunds for the fiscal year by the total of refund claims~~
12 ~~received. The amount of each claim for a tax refund shall be~~
13 ~~multiplied by the resulting quotient. If, after the payment of~~
14 ~~all such refund claims, there are appropriated funds~~
15 ~~remaining, the office shall recalculate the proportion for~~
16 ~~each refund claim and adjust the amount of each claim~~
17 ~~accordingly.~~

18 d.e. The Office of Tourism, Trade, and Economic
19 Development may use the information reported on the claims for
20 evaluation purposes only and shall prepare an annual report on
21 the exemption program and its cost and impact. The annual
22 report for the preceding fiscal year shall be submitted to the
23 Governor, the President of the Senate, and the Speaker of the
24 House of Representatives by September 30 of each fiscal year.
25 This report may be submitted in conjunction with the annual
26 report required in s. 288.095(3)(c).

27 6. A business certified to receive this exemption may
28 elect to designate one or more state universities or community
29 colleges as recipients of up to 100 percent of the amount of
30 the exemption ~~refund~~ for which they may qualify. To receive
31 these funds ~~the tax refund or portion of the tax refund~~, the

1 institution must agree to match the ~~these~~ funds so earned with
2 equivalent cash, programs, services, or other in-kind support
3 on a one-to-one basis in the pursuit of research and
4 development projects as requested by the certified business.
5 The rights to any patents, royalties, or real or intellectual
6 property must be vested in the business unless otherwise
7 agreed to by the business and the university or community
8 college.

9 7. As used in this paragraph, the term:

10 a. "Predominately" means at least 50 percent of the
11 time in qualifying research and development.

12 b. "Research and development" means basic and applied
13 research in the science or engineering, as well as the design,
14 development, and testing of prototypes or processes of new or
15 improved products. Research and development does not include
16 market research, routine consumer product testing, sales
17 research, research in the social sciences or psychology,
18 nontechnological activities, or technical services.

19 c. "Silicon technology products" means raw silicon
20 wafers that are transformed into semiconductor memory or logic
21 wafers, including wafers containing mixed memory and logic
22 circuits; related assembly and test operations; active-matrix
23 flat panel displays; semiconductor chips; and related silicon
24 technology products as determined by the Office of Tourism,
25 Trade, and Economic Development.

26 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Amends the exemption from the tax on sales, use, and other transactions which applies to machinery and equipment used in silicon technology production and research and development. Deletes the requirement that such an exemption be accomplished through the refund of taxes paid during the previous calendar year. Deletes the provision that the refund is subject to a specific annual legislative appropriation.