

By the Committee on Ways and Means and Senator McKay

301-1981-98

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. For items purchased tax exempt pursuant to this
15 paragraph, possession of a written certification from the
16 purchaser certifying the purchaser's entitlement to exemption
17 pursuant to this paragraph relieves the seller of the
18 responsibility of collecting the tax on the sale of such
19 items, and the department shall look solely to the purchaser
20 for recovery of tax if it determines that the purchaser was
21 not entitled to the exemption.

22 5.4.a. To be eligible to receive the exemption
23 provided by subparagraph 1. or subparagraph 2., a qualifying
24 business entity shall apply to Enterprise Florida, Inc. The
25 application shall be developed by the Office of Tourism,
26 Trade, and Economic Development in consultation with
27 Enterprise Florida, Inc.

28 b. Enterprise Florida, Inc., shall review each
29 submitted application and information and determine whether or
30 not the application is complete within 5 working days. Once an
31 application is complete, Enterprise Florida, Inc., shall,

1 within 10 working days, evaluate the application and recommend
2 approval or disapproval of the application to the Office of
3 Tourism, Trade, and Economic Development.

4 c. Upon receipt of the application and recommendation
5 from Enterprise Florida, Inc., the Office of Tourism, Trade,
6 and Economic Development shall certify within 5 working days
7 those applicants who are found to meet the requirements of
8 this section and notify the applicant, Enterprise Florida,
9 Inc., and the department of the certification. If the Office
10 of Tourism, Trade, and Economic Development finds that the
11 applicant does not meet the requirements of this section, it
12 shall notify the applicant and Enterprise Florida, Inc.,
13 within 10 working days that the application for certification
14 has been denied and the reasons for denial. The Office of
15 Tourism, Trade, and Economic Development has final approval
16 authority for certification under this section.

17 ~~6.5-a.~~ A business certified to receive this exemption
18 may apply once each year for the exemption refund of all
19 ~~eligible taxes paid during the previous calendar year. The~~
20 ~~refund shall be subject to a specific annual appropriation~~
21 ~~from the Legislature to the Office of Tourism, Trade, and~~
22 ~~Economic Development for the payment of such refunds.~~

23 b. The first claim submitted by a business may include
24 all eligible expenditures made after the date the business was
25 certified.

26 c. To apply for the annual exemption refund, the
27 business shall submit a ~~refund~~ claim to the Office of Tourism,
28 Trade, and Economic Development, which claim indicates and
29 documents the sales and use taxes otherwise payable ~~paid~~ on
30 eligible machinery and equipment. The claim must ~~shall~~ also
31 indicate, for program evaluation purposes only, the average

1 number of full-time equivalent employees at the facility over
2 the preceding calendar year, the average wage and benefits
3 paid to those employees over the preceding calendar year, and
4 the total investment made in real and tangible personal
5 property over the preceding calendar year or, for the first
6 claim submitted, since the date of certification. The
7 department shall assist the Office of Tourism, Trade, and
8 Economic Development in evaluating and verifying information
9 provided in the application for exemption ~~an annual refund~~.

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

25 d.e. The Office of Tourism, Trade, and Economic
26 Development may use the information reported on the claims for
27 evaluation purposes only and shall prepare an annual report on
28 the exemption program and its cost and impact. The annual
29 report for the preceding fiscal year shall be submitted to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives by September 30 of each fiscal year.

1 This report may be submitted in conjunction with the annual
2 report required in s. 288.095(3)(c).

3 7.6. A business certified to receive this exemption
4 may elect to designate one or more state universities or
5 community colleges as recipients of up to 100 percent of the
6 amount of the exemption refund for which they may qualify. To
7 receive these funds ~~the tax refund or portion of the tax~~
8 ~~refund~~, the institution must agree to match the ~~these~~ funds so
9 earned with equivalent cash, programs, services, or other
10 in-kind support on a one-to-one basis in the pursuit of
11 research and development projects as requested by the
12 certified business. The rights to any patents, royalties, or
13 real or intellectual property must be vested in the business
14 unless otherwise agreed to by the business and the university
15 or community college.

16 8.7. As used in this paragraph, the term:

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

19 b. "Research and development" means basic and applied
20 research in the science or engineering, as well as the design,
21 development, and testing of prototypes or processes of new or
22 improved products. Research and development does not include
23 market research, routine consumer product testing, sales
24 research, research in the social sciences or psychology,
25 nontechnological activities, or technical services.

26 c. "Silicon technology products" means raw silicon
27 wafers that are transformed into semiconductor memory or logic
28 wafers, including wafers containing mixed memory and logic
29 circuits; related assembly and test operations; active-matrix
30 flat panel displays; semiconductor chips; and related silicon
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1 technology products as determined by the Office of Tourism,
2 Trade, and Economic Development.

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

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 SB 1564

8 The committee substitute adds a provision requiring the
9 purchaser of items exempt under the bill to certify to the
10 seller that the purchaser is entitled to the exemption. Based
11 on this certification, the seller is relieved of
12 responsibility to collect tax and recourse for any tax which
13 may be due is to the purchaser.

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