

1 A bill to be entitled
2 An act relating to the tax on sales, use, and
3 other transactions; creating a tax incentive
4 for certain television broadcasting stations;
5 amending s. 212.08, F.S.; amending the
6 exemption for machinery and equipment used in
7 silicon technology production and research and
8 development; deleting the requirement that the
9 exemption be accomplished through the refund of
10 taxes that were previously paid; deleting the
11 provision that the refund is subject to a
12 specific annual legislative appropriation;
13 amending s. 212.055, F.S.; authorizing counties
14 to use a specified percent of surtax proceeds
15 for economic development projects; providing an
16 effective date.

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

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20 Section 1. Paragraphs (f) and (j) of subsection (5) of
21 section 212.08, Florida Statutes, are amended to read:

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

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

29 (f) Certain property ~~Motion picture or video equipment~~
30 used in motion picture or television production activities or

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1 broadcasting and sound recording equipment used in the
2 production of master tapes and master records.--

3 1. Motion picture or video equipment and sound
4 recording equipment purchased or leased for use in this state
5 in production activities is exempt from the tax imposed by
6 this chapter upon an affirmative showing by the purchaser or
7 lessee to the satisfaction of the department that the
8 equipment will be used for production activities. There is
9 exempt from the tax imposed under this chapter all personal or
10 real property purchased or leased for use in the operation of
11 any television broadcasting station that:

12 a. Has been acquired following the conclusion of
13 bankruptcy proceedings by a previous owner;

14 b. Submits an affidavit from its general manager
15 stating that the broadcasting station employs more than 50
16 employees and that at least 90 percent of the employees of the
17 bankrupt station were offered jobs following its acquisition;

18 c. Has received more than \$5 million in capital
19 improvements following its acquisition;

20 d. Is located within the boundaries of a metropolitan
21 statistical area and shares common ownership or management
22 with another broadcasting station that has been acquired
23 following bankruptcy and that is located in a different
24 metropolitan statistical area;

25 e. Has spent more than \$3 million since 1995 for
26 equipment used in the digital storage of programming; and

27 f. In the year following receipt of a tax refund under
28 this section, broadcasts, at no cost to the state,
29 youth-oriented, anti-tobacco public service announcements of
30 an equal or greater value than the tax refund received by the
31 broadcasting station in the previous year. If the broadcasting

1 station that has received a refund fails to broadcast a
2 sufficient number of public service announcements, the
3 taxpayer must return the refund to the state together with
4 interest and penalties.

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6 The exemption provided by this paragraph shall inure to the
7 taxpayer only through a refund of previously paid taxes. The
8 maximum refund allowed in any year is \$350,000 for any
9 broadcasting station, and a taxpayer may not receive a refund
10 for more than 5 years.Notwithstanding the provisions of s.
11 212.095, such refund shall be made within 30 days of formal
12 application, which application may be made after the
13 completion of each quarter ~~production activities or on a~~
14 ~~quarterly basis~~. Notwithstanding the provisions of chapter
15 213, the department shall provide the Department of Commerce
16 with a copy of each refund application and the amount of such
17 refund, if any.

18 2. For the purpose of the exemption provided in
19 subparagraph 1.:

20 a. "Motion picture or video equipment" and "sound
21 recording equipment" includes only equipment meeting the
22 definition of "section 38 property" as defined in s.
23 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is
24 used by the lessee or purchaser exclusively as an integral
25 part of production activities; however, motion picture or
26 video equipment and sound recording equipment does not include
27 supplies, tape, records, film, or video tape used in
28 productions or other similar items; vehicles or vessels; or
29 general office equipment not specifically suited to production
30 activities. In addition, the term does not include equipment
31 purchased or leased by television or radio broadcasting or

1 cable companies licensed by the Federal Communications
2 Commission.

3 b. "Production activities" means activities directed
4 toward the preparation of a:

5 (I) Master tape or master record embodying sound; or

6 (II) Motion picture or television production which is
7 produced for theatrical, commercial, advertising, or
8 educational purposes and utilizes live or animated actions or
9 a combination of live and animated actions. The motion picture
10 or television production shall be commercially produced for
11 sale or for showing on screens or broadcasting on television
12 and may be on film or video tape.

13 (j) Machinery and equipment used in silicon technology
14 production and research and development.--

15 1. Industrial machinery and equipment purchased for
16 use in silicon technology facilities certified under
17 subparagraph 5. to manufacture, process, compound, or produce
18 silicon technology products for sale or for use by these
19 facilities are exempt from the tax imposed by this chapter.

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

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

3 4. For items purchased tax exempt pursuant to this
4 paragraph, possession of a written certification from the
5 purchaser certifying the purchaser's entitlement to exemption
6 pursuant to this paragraph relieves the seller of the
7 responsibility of collecting the tax on the sale of such
8 items, and the department shall look solely to the purchaser
9 for recovery of tax if it determines that the purchaser was
10 not entitled to the exemption.

11 5.4.a. To be eligible to receive the exemption
12 provided by subparagraph 1. or subparagraph 2., a qualifying
13 business entity shall apply to Enterprise Florida, Inc. The
14 application shall be developed by the Office of Tourism,
15 Trade, and Economic Development in consultation with
16 Enterprise Florida, Inc.

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

24 c. Upon receipt of the application and recommendation
25 from Enterprise Florida, Inc., the Office of Tourism, Trade,
26 and Economic Development shall certify within 5 working days
27 those applicants who are found to meet the requirements of
28 this section and notify the applicant, Enterprise Florida,
29 Inc., and the department of the certification. If the Office
30 of Tourism, Trade, and Economic Development finds that the
31 applicant does not meet the requirements of this section, it

1 shall notify the applicant and Enterprise Florida, Inc.,
2 within 10 working days that the application for certification
3 has been denied and the reasons for denial. The Office of
4 Tourism, Trade, and Economic Development has final approval
5 authority for certification under this section.

6 ~~6.5.a.~~ A business certified to receive this exemption
7 may apply once each year for the exemption ~~refund of all~~
8 ~~eligible taxes paid during the previous calendar year. The~~
9 ~~refund shall be subject to a specific annual appropriation~~
10 ~~from the Legislature to the Office of Tourism, Trade, and~~
11 ~~Economic Development for the payment of such refunds.~~

12 b. The first claim submitted by a business may include
13 all eligible expenditures made after the date the business was
14 certified.

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

30 ~~d. An application for refund must be submitted to the~~
31 ~~Office of Tourism, Trade, and Economic Development by February~~

1 ~~15 of each year. In the event that the Legislature does not~~
2 ~~appropriate an amount sufficient to satisfy all refund~~
3 ~~applications received by the Office of Tourism, Trade, and~~
4 ~~Economic Development, the office shall, not later than April~~
5 ~~15 of each year, determine the proportion of each refund claim~~
6 ~~which shall be paid by dividing the amount appropriated for~~
7 ~~tax refunds for the fiscal year by the total of refund claims~~
8 ~~received. The amount of each claim for a tax refund shall be~~
9 ~~multiplied by the resulting quotient. If, after the payment of~~
10 ~~all such refund claims, there are appropriated funds~~
11 ~~remaining, the office shall recalculate the proportion for~~
12 ~~each refund claim and adjust the amount of each claim~~
13 ~~accordingly.~~

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

23 7.6. A business certified to receive this exemption
24 may elect to designate one or more state universities or
25 community colleges as recipients of up to 100 percent of the
26 amount of the exemption refund for which they may qualify. To
27 receive these funds ~~the tax refund or portion of the tax~~
28 ~~refund~~, the institution must agree to match the these funds so
29 earned with equivalent cash, programs, services, or other
30 in-kind support on a one-to-one basis in the pursuit of
31 research and development projects as requested by the

1 certified business. The rights to any patents, royalties, or
2 real or intellectual property must be vested in the business
3 unless otherwise agreed to by the business and the university
4 or community college.

5 ~~8.7.~~ As used in this paragraph, the term:

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

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

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

22 Section 2. Paragraph (d) of subsection (2) of section
23 212.055, Florida Statutes, as amended by section 17 of chapter
24 97-384, Laws of Florida, is amended to read:

25 212.055 Discretionary sales surtaxes; legislative
26 intent; authorization and use of proceeds.--It is the
27 legislative intent that any authorization for imposition of a
28 discretionary sales surtax shall be published in the Florida
29 Statutes as a subsection of this section, irrespective of the
30 duration of the levy. Each enactment shall specify the types
31 of counties authorized to levy; the rate or rates which may be

1 imposed; the maximum length of time the surtax may be imposed,
2 if any; the procedure which must be followed to secure voter
3 approval, if required; the purpose for which the proceeds may
4 be expended; and such other requirements as the Legislature
5 may provide. Taxable transactions and administrative
6 procedures shall be as provided in s. 212.054.

7 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

8 (d)1. The proceeds of the surtax authorized by this
9 subsection and any interest accrued thereto shall be expended
10 by the school district or within the county and municipalities
11 within the county, or, in the case of a negotiated joint
12 county agreement, within another county, to finance, plan, and
13 construct infrastructure and to acquire land for public
14 recreation or conservation or protection of natural resources
15 and to finance the closure of county-owned or municipally
16 owned solid waste landfills that are already closed or are
17 required to close by order of the Department of Environmental
18 Protection. Any use of such proceeds or interest for purposes
19 of landfill closure prior to July 1, 1993, is ratified.

20 Neither the proceeds nor any interest accrued thereto shall be
21 used for operational expenses of any infrastructure, except
22 that any county with a population of less than 50,000 that is
23 required to close a landfill by order of the Department of
24 Environmental Protection may use the proceeds or any interest
25 accrued thereto for long-term maintenance costs associated
26 with landfill closure. Counties, as defined in s. 125.011(1),
27 may, in addition, use the proceeds to retire or service
28 indebtedness incurred for bonds issued prior to July 1, 1987,
29 for infrastructure purposes.

30 2. For the purposes of this paragraph,
31 "infrastructure" means:

1 a. Any fixed capital expenditure or fixed capital
2 outlay associated with the construction, reconstruction, or
3 improvement of public facilities which have a life expectancy
4 of 5 or more years and any land acquisition, land improvement,
5 design, and engineering costs related thereto.

6 b. A fire department vehicle, an emergency medical
7 service vehicle, a sheriff's office vehicle, a police
8 department vehicle, or any other vehicle, and such equipment
9 necessary to outfit the vehicle for its official use or
10 equipment that has a life expectancy of at least 5 years.

11 3. Notwithstanding any other provision of this
12 subsection, a discretionary sales surtax imposed or extended
13 after the effective date of this act may provide for an amount
14 not to exceed 30 percent of the local option sales surtax
15 proceeds to be allocated for deposit to a trust fund within
16 the county's accounts created for the purpose of funding
17 economic development projects of a general public purpose
18 targeted to improve local economies, including the funding of
19 operational costs and incentives related to such economic
20 development. The ballot statement must indicate the intention
21 to make an allocation under the authority of this
22 subparagraph.

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