

By Representative Feeney

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; requiring certification by a
10 purchaser of entitlement to the exemption and
11 relieving the seller of responsibility to
12 collect tax; deleting the provision that the
13 refund is subject to a specific annual
14 legislative appropriation; providing an
15 effective date.

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

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19 Section 1. Paragraph (j) of subsection (5) of section
20 212.08, Florida Statutes, is amended to read:

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

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

28 (j) Machinery and equipment used in silicon technology
29 production and research and development.--

30 1. Industrial machinery and equipment purchased for
31 use in silicon technology facilities certified under

1 subparagraph 5. to manufacture, process, compound, or produce
2 silicon technology products for sale or for use by these
3 facilities are exempt from the tax imposed by this chapter.

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

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

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

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

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1 b. Enterprise Florida, Inc., shall review each
2 submitted application and information and determine whether or
3 not the application is complete within 5 working days. Once an
4 application is complete, Enterprise Florida, Inc., shall,
5 within 10 working days, evaluate the application and recommend
6 approval or disapproval of the application to the Office of
7 Tourism, Trade, and Economic Development.

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

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

27 b. The first claim submitted by a business may include
28 all eligible expenditures made after the date the business was
29 certified.

30 c. To apply for the annual exemption refund, the
31 business shall submit a ~~refund~~ claim to the Office of Tourism,

1 Trade, and Economic Development, which claim indicates and
2 documents the sales and use taxes otherwise payable ~~paid~~ on
3 eligible machinery and equipment. The claim must ~~shall~~ also
4 indicate, for program evaluation purposes only, the average
5 number of full-time equivalent employees at the facility over
6 the preceding calendar year, the average wage and benefits
7 paid to those employees over the preceding calendar year, and
8 the total investment made in real and tangible personal
9 property over the preceding calendar year or, for the first
10 claim submitted, since the date of certification. The
11 department shall assist the Office of Tourism, Trade, and
12 Economic Development in evaluating and verifying information
13 provided in the application for exemption ~~an annual refund~~.

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

29 d.e. The Office of Tourism, Trade, and Economic
30 Development may use the information reported on the claims for
31 evaluation purposes only and shall prepare an annual report on

1 the exemption program and its cost and impact. The annual
2 report for the preceding fiscal year shall be submitted to the
3 Governor, the President of the Senate, and the Speaker of the
4 House of Representatives by September 30 of each fiscal year.
5 This report may be submitted in conjunction with the annual
6 report required in s. 288.095(3)(c).

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

20 ~~8.7.~~ As used in this paragraph, the term:

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

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

30 c. "Silicon technology products" means raw silicon
31 wafers that are transformed into semiconductor memory or logic

1 wafers, including wafers containing mixed memory and logic
2 circuits; related assembly and test operations; active-matrix
3 flat panel displays; semiconductor chips; and related silicon
4 technology products as determined by the Office of Tourism,
5 Trade, and Economic Development.

6 Section 2. This act shall take effect July 1 of the
7 year in which enacted.

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HOUSE SUMMARY

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12 Amends the exemption from the tax on sales, use, and
13 other transactions which applies to machinery and
14 equipment used in silicon technology production and
15 research and development. Deletes the requirement that
16 such an exemption be accomplished through the refund of
17 taxes paid during the previous calendar year. Requires
18 certification by a purchaser of entitlement to the
19 exemption and relieves the seller of responsibility to
20 collect tax. Deletes the provision that the refund is
21 subject to a specific annual legislative appropriation.

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