

By the Committee on Fiscal Resource and Senators Sullivan, Webster, Saunders, Bronson and Kurth

314-2204-00

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 revising an exemption from taxation for
5 machinery and equipment used in
6 silicon-technology production and research and
7 development; making the exemption applicable to
8 semiconductor-technology production and
9 research and development; providing an
10 exemption from taxation for building materials
11 purchased for use in manufacturing or expanding
12 clean rooms for semiconductor-manufacturing
13 facilities; revising definitions; revising
14 criteria and procedures; providing a partial
15 exemption for machinery and equipment for use
16 in defense and space technology research and
17 development and production; providing
18 definitions; providing an effective date.

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

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22 Section 1. Paragraph (j) of subsection (5) of section
23 212.08, Florida Statutes, is amended to read:

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

30 (5) EXEMPTIONS; ACCOUNT OF USE.--
31

1 (j) Machinery and equipment used in semiconductor,
2 defense, or space ~~silicon~~ technology production and research
3 and development.--

4 1.a. Industrial machinery and equipment used ~~purchased~~
5 ~~for use~~ in semiconductor ~~silicon~~ technology facilities
6 certified under subparagraph 6.5 to manufacture, process,
7 compound, or produce semiconductor ~~silicon~~ technology products
8 for sale or for use by these facilities are exempt from the
9 tax imposed by this chapter. For purposes of this paragraph,
10 industrial machinery and equipment includes molds, dies,
11 machine tooling, other appurtenances or accessories to
12 machinery and equipment, testing equipment, test beds,
13 computers, and software, whether purchased or self-fabricated,
14 and, if self-fabricated, includes materials and labor for
15 design, fabrication, and assembly.

16 b. Industrial machinery and equipment used in defense
17 or space technology facilities certified under subparagraph 6.
18 to manufacture, process, compound, or produce defense
19 technology products or space technology products for sale or
20 for use by these facilities are exempt from 25 percent of the
21 tax imposed by this chapter.

22 2.a. Machinery and equipment are exempt from the tax
23 imposed by this chapter if used ~~purchased for use~~
24 predominately in semiconductor ~~silicon~~ wafer research and
25 development activities in a semiconductor ~~silicon~~ technology
26 research and development facility certified under subparagraph
27 6.5. For purposes of this paragraph, machinery and equipment
28 includes molds, dies, machine tooling, other appurtenances or
29 accessories to machinery and equipment, testing equipment,
30 test beds, computers, and software, whether purchased or
31

1 self-fabricated, and, if self-fabricated, includes materials
2 and labor for design, fabrication, and assembly.

3 b. Machinery and equipment are exempt from 25 percent
4 of the tax imposed by this chapter if used predominately in
5 defense or space research and development activities in a
6 defense or space technology research and development facility
7 certified under subparagraph 6.

8 3. Building materials purchased for use in
9 manufacturing or expanding clean rooms in
10 semiconductor-manufacturing facilities are exempt from the tax
11 imposed by this chapter.

12 4.3. In addition to meeting the criteria mandated by
13 subparagraph 1. ~~or~~ subparagraph 2., or subparagraph 3., a
14 business must be certified by the Office of Tourism, Trade,
15 and Economic Development as authorized in this paragraph in
16 order to qualify for exemption under this paragraph.

17 5.4. 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 6.5-a. To be eligible to receive the exemption
26 provided by subparagraph 1. ~~or~~ subparagraph 2., or
27 subparagraph 3., a qualifying business entity shall apply to
28 Enterprise Florida, Inc. The application shall be developed by
29 the Office of Tourism, Trade, and Economic Development in
30 consultation with 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 7.6.a. A business ~~certified to receive this exemption~~
22 may apply once each year for the exemption.

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

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

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

22 8.7. A business certified to receive this exemption
23 may elect to designate one or more state universities or
24 community colleges as recipients of up to 100 percent of the
25 amount of the exemption for which they may qualify. To receive
26 these funds, the institution must agree to match the funds so
27 earned with equivalent cash, programs, services, or other
28 in-kind support on a one-to-one basis in the pursuit of
29 research and development projects as requested by the
30 certified business. The rights to any patents, royalties, or
31 real or intellectual property must be vested in the business

1 unless otherwise agreed to by the business and the university
2 or community college.

3 ~~9.8.~~ As used in this paragraph, the term:

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

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

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

22 d. "Clean rooms" means manufacturing facilities
23 enclosed in a manner that meets the clean manufacturing
24 requirements necessary for high-technology
25 semiconductor-manufacturing environments.

26 e. "Defense technology products" means products that
27 have a military application, including, but not limited to,
28 weapons, weapons systems, guidance systems, surveillance
29 systems, communications or information systems, munitions,
30 aircraft, vessels, or boats, or components thereof, which are
31 intended for military use and manufactured in performance of a

1 contract with the United States Department of Defense or the
2 military branch of a recognized foreign government or a
3 subcontract thereunder which relates to matters of national
4 defense.

5 f. "Space technology products" means products that are
6 specifically designed or manufactured for application in space
7 activities, including, but not limited to, space launch
8 vehicles, missiles, satellites or research payloads, avionics,
9 and associated control systems and processing systems. The
10 term does not include products that are designed or
11 manufactured for general commercial aviation or other uses
12 even though those products may also serve an incidental use in
13 space applications.

14 Section 2. This act shall take effect January 1, 2001.

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16 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
17 COMMITTEE SUBSTITUTE FOR
18 SB 1604

19 The Committee Substitute made the following changes to SB
20 1604:

- 21 1) Reduces the sales tax exemption for M&E used in defense
22 or space technology and R&D to 25%
- 23 2) Replaces the term "silicon" with "semiconductor" for the
24 sales tax exemption for M&E used in silicon technology
25 production. Semiconductor is the modern term for silicon
26 technology. Includes building materials for use in
27 manufacturing or expanding "clean rooms" in the
28 exemption. Also cleans up some out dated language in s.
29 212.08(5)(j).
- 30 3) Tightens the definitions of "industrial machinery and
31 equipment" for use in silicon, defense, or space
technology production.
- 4) Tightens the definition of "space technology products".
- 5) Tightens the definitions of "machinery and equipment"
used predominately in silicon wafer, defense, or space
research and development activities.