

By the Committee on Business Development & International Trade and Representatives Johnson, Morroni and Argenio

1 A bill to be entitled
2 An act relating to tax on sales, use, and other
3 transactions; amending s. 212.08, F.S.;
4 revising application of the exemption for
5 machinery and equipment used in silicon
6 technology production and research and
7 development; including within said exemption
8 machinery and equipment for use in defense or
9 space technology production and research and
10 development; providing definitions; providing
11 an effective date.

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

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

17 212.08 Sales, rental, use, consumption, distribution,
18 and storage tax; specified exemptions.--The sale at retail,
19 the rental, the use, the consumption, the distribution, and
20 the storage to be used or consumed in this state of the
21 following are hereby specifically exempt from the tax imposed
22 by this chapter.

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

24 (j) Machinery and equipment used in silicon, defense,
25 or space technology production and research and development.--

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

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

9 3. In addition to meeting the criteria mandated by
10 subparagraph 1. or subparagraph 2., a business must be
11 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.a. To be eligible to receive the exemption provided
23 by subparagraph 1. or subparagraph 2., a qualifying business
24 entity shall apply to Enterprise Florida, Inc. The application
25 shall be developed by the Office of Tourism, Trade, and
26 Economic Development in consultation with Enterprise Florida,
27 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.a. A business certified to receive this exemption
18 may apply once each year for the exemption.

19 b. The first claim submitted by a business may include
20 all eligible expenditures made after the date the business was
21 certified.

22 c. To apply for the annual exemption, the business
23 shall submit a claim to the Office of Tourism, Trade, and
24 Economic Development, which claim indicates and documents the
25 sales and use taxes otherwise payable on eligible machinery
26 and equipment. The claim must also indicate, for program
27 evaluation purposes only, the average number of full-time
28 equivalent employees at the facility over the preceding
29 calendar year, the average wage and benefits paid to those
30 employees over the preceding calendar year, and the total
31 investment made in real and tangible personal property over

1 the preceding calendar year or, for the first claim submitted,
2 since the date of certification. The department shall assist
3 the Office of Tourism, Trade, and Economic Development in
4 evaluating and verifying information provided in the
5 application for exemption.

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

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

27 8. As used in this paragraph, the term:

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

30 b. "Research and development" means basic and applied
31 research in the science or engineering, as well as the design,

1 development, and testing of prototypes or processes of new or
2 improved products. Research and development does not include
3 market research, routine consumer product testing, sales
4 research, research in the social sciences or psychology,
5 nontechnological activities, or technical services.

6 c. "Silicon technology products" means raw silicon
7 wafers that are transformed into semiconductor memory or logic
8 wafers, including wafers containing mixed memory and logic
9 circuits; related assembly and test operations; active-matrix
10 flat panel displays; semiconductor chips; and related silicon
11 technology products as determined by the Office of Tourism,
12 Trade, and Economic Development.

13 d. "Defense technology products" means products that
14 have a military application, including, but not limited to,
15 weapons, weapons systems, guidance systems, surveillance
16 systems, communications or information systems, munitions,
17 aircraft, vessels, or boats, or components thereof, which are
18 intended for military use and manufactured in performance of a
19 contract with the United States Department of Defense or the
20 military branch of a recognized foreign government or a
21 subcontract thereunder which relates to matters of national
22 defense.

23 e. "Space technology products" means products that
24 have a space application, including, but not limited to, space
25 launch vehicles, missiles, satellites or research payloads,
26 avionics, and associated control systems and processing
27 systems. The term does not include products produced for
28 general commercial purposes or other uses that may have only
29 an incidental use in space applications.

30 f. As used in subparagraphs 1. and 2., the terms
31 "machinery and equipment" and "industrial machinery and

1 equipment" include, but are not limited to, machine tools,
2 testing equipment, test beds, computers, and software, whether
3 purchased or self-fabricated, and, if self-fabricated, include
4 materials and labor for design, fabrication, and assembly.

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