

By Senator Sullivan

22-494-01

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 defense and
6 space technology research and development and
7 production; providing an effective date.
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9 Be It Enacted by the Legislature of the State of Florida:
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11 Section 1. Paragraph (j) of subsection (5) of section
12 212.08, Florida Statutes, is amended to read:
13 212.08 Sales, rental, use, consumption, distribution,
14 and storage tax; specified exemptions.--The sale at retail,
15 the rental, the use, the consumption, the distribution, and
16 the storage to be used or consumed in this state of the
17 following are hereby specifically exempt from the tax imposed
18 by this chapter.
19 (5) EXEMPTIONS; ACCOUNT OF USE.--
20 (j) Machinery and equipment used in semiconductor,
21 defense, or space technology production and research and
22 development.--
23 1.a. Industrial machinery and equipment used in
24 semiconductor technology facilities certified under
25 subparagraph 6. to manufacture, process, compound, or produce
26 semiconductor technology products for sale or for use by these
27 facilities are exempt from the tax imposed by this chapter.
28 For purposes of this paragraph, industrial machinery and
29 equipment includes molds, dies, machine tooling, other
30 appurtenances or accessories to machinery and equipment,
31 testing equipment, test beds, computers, and software, whether

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

4 b. Industrial machinery and equipment used in defense
5 or space technology facilities certified under subparagraph 6.
6 to manufacture, process, compound, or produce defense
7 technology products or space technology products for sale or
8 for use by these facilities are exempt from ~~25 percent~~ of the
9 tax imposed by this chapter.

10 2.a. Machinery and equipment are exempt from the tax
11 imposed by this chapter if used predominately in semiconductor
12 wafer research and development activities in a semiconductor
13 technology research and development facility certified under
14 subparagraph 6. For purposes of this paragraph, machinery and
15 equipment includes molds, dies, machine tooling, other
16 appurtenances or accessories to machinery and equipment,
17 testing equipment, test beds, computers, and software, whether
18 purchased or self-fabricated, and, if self-fabricated,
19 includes materials and labor for design, fabrication, and
20 assembly.

21 b. Machinery and equipment are exempt from ~~25 percent~~
22 of the tax imposed by this chapter if used predominately in
23 defense or space research and development activities in a
24 defense or space technology research and development facility
25 certified under subparagraph 6.

26 3. Building materials purchased for use in
27 manufacturing or expanding clean rooms in
28 semiconductor-manufacturing facilities are exempt from the tax
29 imposed by this chapter.

30 4. In addition to meeting the criteria mandated by
31 subparagraph 1., subparagraph 2., or subparagraph 3., a

1 business must be certified by the Office of Tourism, Trade,
2 and Economic Development as authorized in this paragraph in
3 order to qualify for exemption under this paragraph.

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

12 6.a. To be eligible to receive the exemption provided
13 by subparagraph 1., subparagraph 2., or subparagraph 3., a
14 qualifying business entity shall apply to Enterprise Florida,
15 Inc. The application shall be developed by the Office of
16 Tourism, Trade, and Economic Development in consultation with
17 Enterprise Florida, Inc.

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

25 c. Upon receipt of the application and recommendation
26 from Enterprise Florida, Inc., the Office of Tourism, Trade,
27 and Economic Development shall certify within 5 working days
28 those applicants who are found to meet the requirements of
29 this section and notify the applicant, Enterprise Florida,
30 Inc., and the department of the certification. If the Office
31 of Tourism, Trade, and Economic Development finds that the

1 applicant does not meet the requirements of this section, it
2 shall notify the applicant and Enterprise Florida, Inc.,
3 within 10 working days that the application for certification
4 has been denied and the reasons for denial. The Office of
5 Tourism, Trade, and Economic Development has final approval
6 authority for certification under this section.

7 7.a. A business may apply once each year for the
8 exemption.

9 b. The application must indicate, for program
10 evaluation purposes only, the average number of full-time
11 equivalent employees at the facility over the preceding
12 calendar year, the average wage and benefits paid to those
13 employees over the preceding calendar year, the total
14 investment made in real and tangible personal property over
15 the preceding calendar year, and the total value of tax-exempt
16 purchases and taxes exempted during the previous year. The
17 department shall assist the Office of Tourism, Trade, and
18 Economic Development in evaluating and verifying information
19 provided in the application for exemption.

20 c. The Office of Tourism, Trade, and Economic
21 Development may use the information reported on the
22 application for evaluation purposes only and shall prepare an
23 annual report on the exemption program and its cost and
24 impact. The annual report for the preceding fiscal year shall
25 be submitted to the Governor, the President of the Senate, and
26 the Speaker of the House of Representatives by September 30 of
27 each fiscal year. This report may be submitted in conjunction
28 with the annual report required in s. 288.095(3)(c).

29 8. A business certified to receive this exemption may
30 elect to designate one or more state universities or community
31 colleges as recipients of up to 100 percent of the amount of

1 the exemption for which they may qualify. To receive these
2 funds, the institution must agree to match the funds so earned
3 with equivalent cash, programs, services, or other in-kind
4 support on a one-to-one basis in the pursuit of research and
5 development projects as requested by the certified business.
6 The rights to any patents, royalties, or real or intellectual
7 property must be vested in the business unless otherwise
8 agreed to by the business and the university or community
9 college.

10 9. As used in this paragraph, the term:

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

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

20 c. "Semiconductor technology products" means raw
21 semiconductor wafers or semiconductor thin films that are
22 transformed into semiconductor memory or logic wafers,
23 including wafers containing mixed memory and logic circuits;
24 related assembly and test operations; active-matrix flat panel
25 displays; semiconductor chips; semiconductor lasers;
26 optoelectronic elements; and related semiconductor technology
27 products as determined by the Office of Tourism, Trade, and
28 Economic Development.

29 d. "Clean rooms" means manufacturing facilities
30 enclosed in a manner that meets the clean manufacturing
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1 requirements necessary for high-technology
2 semiconductor-manufacturing environments.

3 e. "Defense technology products" means products that
4 have a military application, including, but not limited to,
5 weapons, weapons systems, guidance systems, surveillance
6 systems, communications or information systems, munitions,
7 aircraft, vessels, or boats, or components thereof, which are
8 intended for military use and manufactured in performance of a
9 contract with the United States Department of Defense or the
10 military branch of a recognized foreign government or a
11 subcontract thereunder which relates to matters of national
12 defense.

13 f. "Space technology products" means products that are
14 specifically designed or manufactured for application in space
15 activities, including, but not limited to, space launch
16 vehicles, missiles, satellites or research payloads, avionics,
17 and associated control systems and processing systems. The
18 term does not include products that are designed or
19 manufactured for general commercial aviation or other uses
20 even though those products may also serve an incidental use in
21 space applications.

22 Section 2. This act shall take effect January 1, 2002.

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25 SENATE SUMMARY

26 Revises an exemption from the tax on sales, use, and
27 other transactions which applies to certain machinery and
28 equipment used in defense and space technology research
29 and development and production, by providing that the
30 machinery and equipment is exempt from all such taxation,
31 rather than subject to 25 percent of the tax rate.

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