

1                   A bill to be entitled  
2           An act relating to a tax exemption for data centers;  
3           amending s. 212.08, F.S.; providing definitions;  
4           providing an exemption from the sales and use tax for  
5           data center property under certain conditions;  
6           providing procedures and requirements to claim the  
7           exemption; requiring persons claiming the exemption to  
8           maintain books and records; authorizing the Department  
9           of Revenue to inspect and audit such books and records  
10          and collect taxes, interest, and penalties from such  
11          persons in certain circumstances; providing that  
12          certain sales tax exemption certificates do not expire  
13          under certain conditions; requiring the department to  
14          determine certain compliance; providing for future  
15          repeal of the exemption; providing an exception;  
16          providing an 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. Paragraph (r) is added to subsection (5) of  
21   section 212.08, Florida Statutes, to read:

22           212.08 Sales, rental, use, consumption, distribution, and  
23   storage tax; specified exemptions.—The sale at retail, the  
24   rental, the use, the consumption, the distribution, and the  
25   storage to be used or consumed in this state of the following

26 are hereby specifically exempt from the tax imposed by this  
27 chapter.

28 (5) EXEMPTIONS; ACCOUNT OF USE.—

29 (r) Data centers.—

30 1. As used in this paragraph, the term:

31 a. "Critical IT load" means that portion of electric power  
32 capacity, expressed in terms of megawatts, that is reserved  
33 solely for owners, operators, users, or tenants of a data center  
34 to operate their computer server equipment, but does not include  
35 any ancillary load for cooling, lighting, common areas, or other  
36 equipment.

37 b. "Cumulative capital investment" means the sum total of  
38 all expenses incurred after January 1, 2017, by any owner,  
39 operator, user, or tenant of a data center made in connection  
40 with acquiring, constructing, installing, equipping, or  
41 expanding a data center.

42 c. "Data center" means a facility that:

43 (I) Is comprised of one or more contiguous parcels and  
44 includes the buildings, substations, infrastructure, fixtures,  
45 and personal property located on such parcels; and

46 (II) Is primarily used to house and operate equipment that  
47 receives, stores, aggregates, manages, processes, transforms,  
48 retrieves, researches, or transmits data or is necessary for the  
49 proper operation of equipment that performs such functions.

50 d. "Data center property" means tangible personal property

51 used exclusively at a data center to construct, equip, operate,  
52 support, power, cool, dehumidify, secure, or protect a data  
53 center. The term includes construction materials, component  
54 parts, installations, redundancies, operating and enabling  
55 software, and replacements of, updates to, and upgrades for such  
56 property, regardless of whether the property is a fixture or  
57 otherwise affixed to or incorporated into real property. The  
58 term includes electricity used exclusively at a data center.

59 2. The purchase or lease of data center property is exempt  
60 from the tax imposed by this chapter if:

61 a. The data center has a cumulative capital investment of  
62 \$150 million or more;

63 b. Within 5 years after the commencement of the  
64 construction of the data center, the data center will have a  
65 critical IT load of 15 megawatts or more and a critical IT load  
66 of 1 megawatt or more per individual owner or tenant; and

67 c. The chief technology officer of the Agency for State  
68 Technology certifies that the data center will enhance the  
69 state's technology infrastructure and assist the state in  
70 becoming a technology leader, and the data center's creation is  
71 contingent upon the exemption in this paragraph.

72 3.a. To receive an exemption under this paragraph, a data  
73 center must apply for a temporary tax exemption permit with the  
74 department. The application must include documentation  
75 demonstrating how the data center will satisfy the requirements

76 in this paragraph. Upon determination by the department that the  
77 data center will satisfy the requirements in this paragraph, the  
78 department shall issue a temporary tax exemption permit to the  
79 data center.

80 b. Upon satisfaction of the requirements in this  
81 paragraph, a data center that possesses a temporary tax  
82 exemption permit must apply for a permanent sales tax exemption  
83 certificate with the department. The application must include  
84 documentation supporting the satisfaction of such requirements  
85 and a copy of the temporary tax exemption permit. Upon  
86 determination by the department that the data center qualifies  
87 for the exemption under this paragraph, the department shall  
88 issue a permanent sales tax exemption certificate to the data  
89 center. Notwithstanding s. 212.084(3) and (4), the permanent  
90 sales tax exemption certificate issued under this sub-  
91 subparagraph remains valid and effective if the data center  
92 continues to satisfy the requirements in this paragraph, as  
93 determined by the department every 5 years pursuant to s.  
94 212.084(2) and (5).

95 c. A data center, owner, tenant, contractor, and other  
96 person purchasing or leasing exempt data center property must  
97 maintain books and records in support of the exempt nature of  
98 such purchase or lease. Such books and records are subject to  
99 inspection and audit by the department pursuant to s. 212.13.  
100 Upon determination by the department that such purchase or lease

101 does not qualify for the exemption, the amount of taxes exempted  
102 at the time of the purchase or lease shall immediately be due  
103 and payable to the department by such person, together with the  
104 appropriate interest and penalty computed from the date of the  
105 purchase or lease in the manner prescribed by this chapter.

106 d. To claim the exemption, a copy of the temporary tax  
107 exemption permit or sales tax exemption certificate must be  
108 provided to the seller or lessor of the data center property at  
109 the time of the purchase or lease. The seller or lessor is  
110 relieved from the requirements of collecting taxes pursuant to  
111 this chapter for such property if the seller or lessor maintains  
112 a copy of the temporary tax exemption permit or permanent sales  
113 tax exemption certificate for such sale or lease. Any owner,  
114 tenant, contractor, or other person purchasing or leasing exempt  
115 data center property with self-accrual authority shall maintain  
116 all documentation necessary to prove the exempt status of the  
117 purchase or lease.

118 4. This paragraph is repealed on July 1, 2022. However,  
119 any data center for which a temporary or permanent tax exemption  
120 was applied for or obtained prior to July 1, 2022, shall be  
121 governed by the provisions of this paragraph beyond the repeal  
122 date.

123 Section 2. This act shall take effect July 1, 2017.