

Committee Substitute for Senate Bill No. 1564

An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; amending the exemption for machinery and equipment used in silicon technology production and research and development; deleting the requirement that the exemption be accomplished through the refund of taxes that were previously paid; requiring certification by a purchaser of entitlement to the exemption and relieving the seller of responsibility to collect tax; deleting the provision that the refund is subject to a specific annual legislative appropriation; providing an effective date.

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

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

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(j) Machinery and equipment used in silicon technology production and research and development.—

1. Industrial machinery and equipment purchased for use in silicon technology facilities certified under subparagraph 5. to manufacture, process, compound, or produce silicon technology products for sale or for use by these facilities are exempt from the tax imposed by this chapter.

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

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

4. For items purchased tax exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to exemption pursuant to this paragraph, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the

department shall look solely to the purchaser for recovery of tax if it determines that the purchaser was not entitled to the exemption.

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

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

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

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

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

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

~~d. An application for refund must be submitted to the Office of Tourism, Trade, and Economic Development by February 15 of each year. In the event that the Legislature does not appropriate an amount sufficient to satisfy all~~

~~refund applications received by the Office of Tourism, Trade, and Economic Development, the office shall, not later than April 15 of each year, determine the proportion of each refund claim which shall be paid by dividing the amount appropriated for tax refunds for the fiscal year by the total of refund claims received. The amount of each claim for a tax refund shall be multiplied by the resulting quotient. If, after the payment of all such refund claims, there are appropriated funds remaining, the office shall recalculate the proportion for each refund claim and adjust the amount of each claim accordingly.~~

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

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

8.7. As used in this paragraph, the term:

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

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

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

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

Became a law without the Governor's approval May 24, 1998.

Filed in Office Secretary of State May 22, 1998.