

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2402

SPONSOR: Commerce and Economic Opportunities Committee, Fiscal Resource Committee, and Senator Sebesta

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 19, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The committee substitute revises the application of the sales tax exemption provided for machinery and equipment used in silicon technology production and research and development by: replacing the term “silicon” with the term “semiconductor”; including a tax exemption for building materials purchased for use in manufacturing or expanding “clean rooms”; and defining “clean rooms” as manufacturing facilities enclosed in such a manner that the rooms meet the clean manufacturing requirements necessary for high-technology semiconductor manufacturing environments.

This committee substitute amends section 212.08, Florida Statutes.

## II. Present Situation:

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the cost price of any item of tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each, with a maximum of 1.5 percent.

Section 212.08(5), F.S., provides exemptions from the tax imposed by this chapter based on use. Section 212.08(5)(j), F.S., provides an exemption from the sales and use tax for machinery and equipment purchased for use in certified silicon technology facilities to manufacture, produce,

compound, or process silicon technology products. Additionally, machinery and equipment purchased for use predominately in silicon wafer research and development activities in certified silicon technology research and development facilities are also exempt.

To receive the exemption, an eligible business must apply to Enterprise Florida Inc. (EFI), which is responsible for reviewing the applications and making the recommendation of approval or disapproval to the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor. OTTED must either approve the application within 5 working days or notify the applicant of its denial and reasons why within 10 working days. Businesses must apply annually to OTTED for the exemption and provide to OTTED documents on: the sales and use taxes otherwise payable; the average number of full-time equivalent employees at the facility; 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 since the date of certification. OTTED is responsible for using this information to prepare an annual report on the exemption program and its cost and impact.

The exemption program allows certified businesses to designate one or more state universities or community colleges as recipients of up to 100 percent of the amount of the exemption for which they may qualify. To receive these funds the institution agrees to match the funds 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. Rights to 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.

Language in the section providing the exemption for machinery and equipment used “predominately” in silicon wafer research and development defines “predominately” to mean such use of the equipment is at least 50 percent of the time. “Research and development” is defined as basic and applied research in the science, engineering, design, development, and testing of prototypes or processes for new products or for improvement of products. It does not include market or sales research, routine consumer product testing, research in the social sciences or psychology, non-technological activities, or technical services.

### **III. Effect of Proposed Changes:**

The committee substitute amends s. 212.08(5)(j), F.S., to revise the application of the sales tax exemption provided for machinery and equipment used in silicon technology production and research and development by replacing the term “silicon” with the term “semiconductor.” The committee substitute defines the term “semiconductor technology products” as including, among other things, semiconductor thin films, semiconductor lasers, optoelectronic elements, and related semiconductor technology products as determined by the Office of Tourism, Trade, and Economic Development.

The committee substitute includes a tax exemption for building materials purchased for use in manufacturing or expanding “clean rooms” and defines the term as manufacturing facilities enclosed in such a manner that the rooms meet the clean manufacturing requirements necessary for high-technology semiconductor manufacturing environments.

The committee substitute changes references from the term “claim” to “application” and requires the application to include the total value of tax-exempt purchases and taxes exempted during the previous year.

The committee substitute takes effect January 1, 2001.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the impact of changing the term “silicon” to the term “semiconductor” will have a recurring loss to the General Revenue Fund of \$0.1 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
Semiconductors	(0.1)	(0.1)	(*)	(*)	(*)	(*)	(0.1)	(0.1)

\* Insignificant  
 \*\* Indeterminate

No general revenue estimate is available for the impact of adding “clean rooms” in semiconductor manufacturing facilities that would be exempt by this committee substitute. According to the Office of Tourism, Trade, and Economic Development, currently there are only three businesses located in the state with clean rooms that could have applied for this tax exemption.

B. Private Sector Impact:

Any firm that will qualify for this exemption will realize a savings on purchases of qualified machinery and equipment of 7 percent.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---