



158978

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2014	.	
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The Committee on Appropriations (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 136 - 301

and insert:

Section 3. Effective January 1, 2015, subsections (5) through (9) of section 203.01, Florida Statutes, are renumbered as subsections (6) through (10), respectively, paragraph (b) of subsection (1), paragraph (d) of subsection (3), and present subsections (4) and (8) are amended, and a new subsection (4) is added to that section, to read:



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11           203.01 Tax on gross receipts for utility and communications  
12 services.—

13           (1)

14           (b)1. The rate applied to utility services shall be 2.5  
15 percent.

16           2. The rate applied to communications services shall be  
17 2.37 percent.

18           3. There shall be an additional rate of 0.15 percent  
19 applied to communication services subject to the tax levied  
20 pursuant to s. 202.12(1)(a), (c), and (d). The exemption  
21 provided in s. 202.125(1) applies to the tax levied pursuant to  
22 this subparagraph.

23           4. There shall be an additional rate of 3 percent applied  
24 to the gross receipts for electrical power or energy delivered  
25 to a retail consumer in this state. Notwithstanding s. 203.0111,  
26 any increase in the gross receipts tax provided in this  
27 subparagraph applies to charges for electrical power or energy  
28 on any bill dated on or after the date upon which the increase  
29 takes effect.

30           (3) The tax imposed by subsection (1) does not apply to:

31           (d) The sale or transportation ~~to, or use of,~~ natural gas  
32 or manufactured gas to, or the use of natural gas or  
33 manufactured gas by, a person eligible for an exemption under s.  
34 212.08(7)(ff)2. for use as an energy source or a raw material.  
35 Possession by a seller of natural or manufactured gas or by any  
36 person providing transportation or delivery of natural or  
37 manufactured gas of a written certification by the purchaser,  
38 certifying the purchaser's entitlement to the exclusion  
39 permitted by this paragraph, relieves the seller or person



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40 providing transportation or delivery from the responsibility of  
41 remitting tax on the nontaxable amounts, and the department  
42 shall look solely to the purchaser for recovery of such tax if  
43 the department determines that the purchaser was not entitled to  
44 the exclusion. The certification must include an acknowledgment  
45 by the purchaser that it will be liable for tax pursuant to  
46 paragraph (1) (f) if the requirements for exclusion are not met.

47 (4) The additional rate imposed by subparagraph (1) (b) 4.  
48 does not apply to:

49 (a) The sale of electrical power or energy to a person  
50 eligible for an exemption under s. 212.08(7) (ff) for use in  
51 operating machinery and equipment at a fixed location in this  
52 state;

53 (b) The sale or transportation of electrical power or  
54 energy to, or the use of electrical power or energy by, a person  
55 eligible for an exemption under s. 212.08(5) (e) for certain  
56 agricultural purposes;

57 (c) The sale or transportation of electrical power or  
58 energy to, or the use of electrical power or energy by, a person  
59 eligible for an exemption under s. 212.08(7) (j) for use as a  
60 household fuel;

61 (d) The sale or transportation of electrical power or  
62 energy to, or the use of electrical power or energy by, a person  
63 eligible for an exemption under s. 212.08(15) (a) for use in an  
64 enterprise zone;

65 (e) The sale or transportation of electrical power or  
66 energy to, or the use of electrical power or energy by, a person  
67 who holds a valid Consumer's Certificate of Exemption issued by  
68 the Department of Revenue;



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69           (f) The sale or transportation of electrical power or  
70 energy to, or the use of electrical power or energy by, foreign  
71 diplomats and consular personnel who hold a tax exemption card  
72 issued by the United States Department of State; or

73           (g) The sale or transportation of electrical power or  
74 energy to, or the use of electrical power or energy by, the  
75 Federal Government or any federal department, commission,  
76 agency, or other instrumentality thereof.

77           (5) ~~(4)~~ The taxes tax imposed pursuant to this chapter  
78 relating to the provision of any utility services at the option  
79 of the person supplying the taxable services may be separately  
80 stated as Florida gross receipts taxes tax on the total amount  
81 of any bill, invoice, or other tangible evidence of the  
82 provision of such taxable services and may be added as a  
83 component part of the total charge. Whenever a provider of  
84 taxable services elects to separately state such taxes tax as a  
85 component of the charge for the provision of such taxable  
86 services, every person, including all governmental units, shall  
87 remit the taxes tax to the person who provides such taxable  
88 services as a part of the total bill, and the taxes are tax is a  
89 component part of the debt of the purchaser to the person who  
90 provides such taxable services until paid and, if unpaid, are is  
91 recoverable at law in the same manner as any other part of the  
92 charge for such taxable services. If a utility provider elects  
93 to separately state the additional rate imposed by subparagraph  
94 (1) (b) 4. on any bill, invoice, or other tangible evidence of the  
95 provision of such taxable service, the additional tax shall not  
96 be included as part of the taxable base on which the gross  
97 receipts tax is calculated. For a utility, the decision to



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98 separately state any increase in the rate of tax imposed by this  
99 chapter which is effective after December 31, 1989, and the  
100 ability to recover the increased charge from the customer shall  
101 not be subject to regulatory approval.

102 ~~(9)(8)~~ Notwithstanding ~~the provisions of~~ subsection (5) ~~(4)~~  
103 and s. 212.07(2), sums that were charged or billed as taxes  
104 under this section and chapter 212 and that were remitted to the  
105 state in full as taxes shall not be subject to refund by the  
106 state or by the utility or other person that remitted the sums,  
107 when the amount remitted was not in excess of the amount of tax  
108 imposed by chapter 212 and this section.

109 Section 4. Effective January 1, 2015, paragraph (e) of  
110 subsection (1) of section 212.05, Florida Statutes, is amended  
111 to read:

112 212.05 Sales, storage, use tax.—It is hereby declared to be  
113 the legislative intent that every person is exercising a taxable  
114 privilege who engages in the business of selling tangible  
115 personal property at retail in this state, including the  
116 business of making mail order sales, or who rents or furnishes  
117 any of the things or services taxable under this chapter, or who  
118 stores for use or consumption in this state any item or article  
119 of tangible personal property as defined herein and who leases  
120 or rents such property within the state.

121 (1) For the exercise of such privilege, a tax is levied on  
122 each taxable transaction or incident, which tax is due and  
123 payable as follows:

124 (e)1. At the rate of 6 percent on charges for:

125 a. Prepaid calling arrangements. The tax on charges for  
126 prepaid calling arrangements shall be collected at the time of



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127 sale and remitted by the selling dealer.

128 (I) "Prepaid calling arrangement" has the same meaning as  
129 provided in s. 202.11 ~~means the separately stated retail sale by~~  
130 ~~advance payment of communications services that consist~~  
131 ~~exclusively of telephone calls originated by using an access~~  
132 ~~number, authorization code, or other means that may be manually,~~  
133 ~~electronically, or otherwise entered and that are sold in~~  
134 ~~predetermined units or dollars whose number declines with use in~~  
135 ~~a known amount.~~

136 (II) If the sale or recharge of the prepaid calling  
137 arrangement does not take place at the dealer's place of  
138 business, it shall be deemed to have taken ~~take~~ place at the  
139 customer's shipping address or, if no item is shipped, at the  
140 customer's address or the location associated with the  
141 customer's mobile telephone number.

142 (III) The sale or recharge of a prepaid calling arrangement  
143 shall be treated as a sale of tangible personal property for  
144 purposes of this chapter, whether or not a tangible item  
145 evidencing such arrangement is furnished to the purchaser, and  
146 such sale within this state subjects the selling dealer to the  
147 jurisdiction of this state for purposes of this subsection.

148 (IV) No additional tax under this chapter or chapter 202 is  
149 due or payable if a purchaser of a prepaid calling arrangement,  
150 who has paid tax under this chapter on the sale or recharge of  
151 such arrangement, applies one or more units of the prepaid  
152 calling arrangement to obtain communications services as  
153 described in s. 202.11(9)(b)3., other services that are not  
154 communications services, or products.

155 b. The installation of telecommunication and telegraphic



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156 equipment.

157 c. Electrical power or energy, except that the tax rate for  
158 charges for electrical power or energy is 4 7 percent.

159 2. The provisions of s. 212.17(3)~~7~~ regarding credit for tax  
160 paid on charges subsequently found to be worthless are, ~~shall be~~  
161 equally applicable to any tax paid under ~~the provisions of~~ this  
162 section on charges for prepaid calling arrangements,  
163 telecommunication or telegraph services, or electric power  
164 subsequently found to be uncollectible. The term ~~word~~ "charges"  
165 under ~~in~~ this paragraph does not include any excise or similar  
166 tax levied by the Federal Government, any political subdivision  
167 of this ~~the~~ state, or any municipality upon the purchase, sale,  
168 or recharge of prepaid calling arrangements or upon the purchase  
169 or sale of telecommunication, television system program, or  
170 telegraph service or electric power, which tax is collected by  
171 the seller from the purchaser.

172 Section 5. The Department of Revenue may delay the  
173 effective date of the tax rate changes in ss. 203.01 and 212.05,  
174 Florida Statutes, made by this act for up to 60 days for a  
175 taxpayer that is unable to comply despite good faith efforts or  
176 due to circumstances beyond the taxpayer's reasonable control.  
177 Grounds for approving such delay include that the taxpayer  
178 requires additional time to program computer systems to  
179 accommodate the tax changes or that complying with this  
180 requirement would cause the taxpayer an extraordinary financial  
181 hardship.

182  
183 ===== T I T L E A M E N D M E N T =====

184 And the title is amended as follows:



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185           Delete line 18  
186 and insert:  
187           for electrical power or energy; authorizing the  
188           Department of Revenue to approve a delay in the  
189           effective date of certain tax rate changes made by  
190           this act for a taxpayer under certain conditions;  
191           providing for