

A bill to be entitled

An act relating to the gross receipts tax; amending s. 203.01, F.S.; specifying nonapplication of the tax to certain sales, transportation, or use of electricity; providing criteria; providing limitations; providing definitions; specifying availability of the exemption only by refund from the Department of Revenue; providing duties and powers of the department relating to applications and disbursements of refunds; providing for department rules; providing for expiration of the exemption; providing for retroactive application; providing an effective date.

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

Section 1. Subsection (3) of section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility and communications services.--

(3) The tax imposed by subsection (1) does not apply to any of the following:

(a)1. The sale or transportation of natural gas or manufactured gas to a public or private utility, including a municipal corporation or rural electric cooperative association, either for resale or for use as fuel in the generation of electricity; or

2. The sale or delivery of electricity to a public or private utility, including a municipal corporation or rural electric cooperative association, for resale, or as part of an

HB 985

2006

29 | electrical interchange agreement or contract between such  
30 | utilities for the purpose of transferring more economically  
31 | generated power;

32 |  
33 | provided the person deriving gross receipts from such sale  
34 | demonstrates that a sale, transportation, or delivery for resale  
35 | in fact occurred and complies with the following requirements: A  
36 | sale, transportation, or delivery for resale must be in strict  
37 | compliance with the rules and regulations of the Department of  
38 | Revenue; and any sale subject to the tax imposed by this section  
39 | which is not in strict compliance with the rules and regulations  
40 | of the Department of Revenue shall be subject to the tax at the  
41 | appropriate rate imposed on utilities by paragraph (b) on the  
42 | person making the sale. Any person making a sale for resale may,  
43 | through an informal protest provided for in s. 213.21 and the  
44 | rules of the Department of Revenue, provide the department with  
45 | evidence of the exempt status of a sale. The department shall  
46 | adopt rules that provide that valid proof and documentation of  
47 | the resale by a person making the sale for resale will be  
48 | accepted by the department when submitted during the protest  
49 | period but will not be accepted when submitted in any proceeding  
50 | under chapter 120 or any circuit court action instituted under  
51 | chapter 72.†

52 | (b) Wholesale sales of electric transmission service.†

53 | (c) The use of natural gas in the production of oil or  
54 | gas, or the use of natural or manufactured gas by a person  
55 | transporting natural or manufactured gas, when used and consumed  
56 | in providing such services.†~~or~~

57 (d) The sale or transportation to, or use of, natural gas  
58 or manufactured gas by a person eligible for an exemption under  
59 s. 212.08(7)(ff)2. for use as an energy source or a raw  
60 material. Possession by a seller of natural or manufactured gas  
61 or by any person providing transportation or delivery of natural  
62 or manufactured gas of a written certification by the purchaser,  
63 certifying the purchaser's entitlement to the exclusion  
64 permitted by this paragraph, relieves the seller or person  
65 providing transportation or delivery from the responsibility of  
66 remitting tax on the nontaxable amounts, and the department  
67 shall look solely to the purchaser for recovery of such tax if  
68 the department determines that the purchaser was not entitled to  
69 the exclusion. The certification must include an acknowledgment  
70 by the purchaser that it will be liable for tax pursuant to  
71 paragraph (1)(f) if the requirements for exclusion are not met.

72 (e)1. The sale or transportation of electricity to, or the  
73 use of electricity by, a person described in s. 212.08(7)(ff)3.  
74 if such electricity is for use at a fixed location for which  
75 \$50,000 in gross receipts tax has been paid pursuant to  
76 subsection (1) on electricity consumed at such location during  
77 the calendar year and if such person can demonstrate that the  
78 person has spent for energy conservation measures at that fixed  
79 location the amount of tax savings allowed to such person as an  
80 exemption by this paragraph.

81 2. If the amount of taxes above \$50,000 that otherwise  
82 would be due by a person exceeds the amount of qualifying  
83 expenditures for energy conservation measures by such person in  
84 a calendar year, the exemption shall be capped in such calendar

85 year at the amount of qualifying expenditures for energy  
86 conservation measures. However, if the amount of qualifying  
87 expenditures for energy conservation measures by a person  
88 exceeds the amount of taxes above \$50,000 that otherwise would  
89 be due in a calendar year by such person, the exemption shall be  
90 capped for the year at the amount of taxes otherwise due, but  
91 excess qualifying expenditures for energy conservation measures  
92 may be carried forward and applied as qualifying expenditures  
93 for up to 2 subsequent calendar years.

94 3. For purposes of this exemption, the term:

95 a. "Fixed location" means one or more contiguous  
96 manufacturing sites and functionally related contiguous parcels  
97 owned or operated by the person eligible for the exemption.

98 b. "Energy conservation measure" includes any expenditure  
99 for a measure that is certified by a professional engineer  
100 licensed in this state to reduce electrical demand measured in  
101 kilowatts, reduce fossil fuel demand, reduce the required energy  
102 measured in kilowatt hours that would otherwise be needed absent  
103 the conservation measures, or reduce expenses necessary to  
104 provide renewable energy generation as defined by law, including  
105 operation and maintenance expenses.

106 4. This exemption shall be available by refund paid by the  
107 Department of Revenue. An application for refund shall be made  
108 to the department on or before May 1 for refunds earned during  
109 the prior calendar year. The department may develop by rule the  
110 refund application and refund application procedures. All  
111 provisions related to challenging any denial of a refund shall

HB 985

2006

112 apply with respect to refunds authorized pursuant to this  
113 paragraph.

114 5. The exemption allowed pursuant to this paragraph shall  
115 expire on December 31, 2015, except to the extent of any  
116 remaining carryforward of qualifying expenditures for energy  
117 conservation measures.

118 Section 2. This act shall take effect upon becoming a law  
119 and shall apply retroactively to January 1, 2006, with regard to  
120 taxes paid and expenditures for energy conservation measures  
121 made in calendar year 2006 and for calendar years thereafter.