

HB 217

2007

1 A bill to be entitled

2 An act relating to the tax on gross receipts; creating s.
3 203.08, F.S.; providing for a tax limitation applicable to
4 certain gross receipts taxes; providing definitions;
5 providing for a refund of gross receipts taxes relating to
6 the tax limitation; providing criteria, requirements, and
7 procedures; providing powers and duties of the Department
8 of Revenue; limiting obligations of electric distribution
9 companies relating to the refund; authorizing the
10 department to adopt rules; providing application;
11 providing an effective date.

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

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15 Section 1. Section 203.08, Florida Statutes, is created to
16 read:

17 203.08 Refund of gross receipts taxes paid on excess fuel
18 adjustment charges.--

19 (1) (a) A tax limitation shall apply to gross receipts
20 taxes on electricity, which taxes are passed through to eligible
21 persons and attributable to increases in fuel costs for
22 electricity purchased by such eligible persons for delivery to
23 such eligible persons in this state.

24 (b) For purposes of this section, the term:

25 1. "Eligible person" means any person who is eligible for
26 an exemption from sales tax on electricity under s.
27 212.08 (7) (ff) 2.

28 2. "Tax limitation" means the product of:

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- 29 a. The current gross receipts tax rate;
30 b. The eligible person's average fuel adjustment charge
31 per kilowatt hour for a 5-year period including calendar years
32 2002 through 2006; and
33 c. The kilowatt hours consumed by the eligible person in
34 the current calendar year.

35 (c) Gross receipts taxes on fuel adjustment charges to
36 eligible persons in excess of the eligible person's tax
37 limitation shall be subject to refund to such eligible person as
38 provided herein. For an eligible person who does not have 5
39 years of such data, the Department of Revenue may adopt by rule,
40 pursuant to ss. 120.536(1) and 120.54, and apply an average fuel
41 adjustment charge per kilowatt hour for such person measured
42 over calendar years 2002-2006 based upon available data.

43 (2) The benefit of the tax limitation shall be granted
44 annually to eligible persons pursuant to an annual payment of
45 revenues using the refund process set forth in s. 215.26(1)(a).
46 For purposes of this section, the term "revenues" means the
47 gross receipts tax amounts paid by an eligible person to a
48 utility during a calendar year on fuel adjustment charges for
49 electricity, purchased by the eligible person and delivered to
50 the eligible person in this state, in excess of the tax
51 limitation described in this section. Notwithstanding the time
52 periods specified in s. 215.26, payment applications submitted
53 pursuant to this section shall be submitted by eligible persons
54 on or before March 31 of each year for amounts paid in the prior
55 calendar year. The department shall review each completed
56 application and any supporting documentation and approve or deny

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57 the application within 180 days after receiving the application.
58 Payments made pursuant to this section shall be charged against
59 the General Revenue Fund. Any proposed denial of an application
60 shall be subject to review under ss. 72.011 and 213.21.

61 (3) A distribution company that sells electricity to an
62 eligible person is not responsible for determining the amount of
63 any potential refund or otherwise paying or securing such refund
64 on behalf of an eligible person.

65 (4) The Department of Revenue may adopt rules pursuant to
66 ss. 120.536(1) and 120.54 necessary to implement this section
67 and develop an application form and procedures for refunds under
68 this section.

69 Section 2. This act shall take effect upon becoming a law
70 and shall apply with respect to billings for electricity that
71 are dated on or after January 1, 2007.