

By the Committees on Finance and Tax; and Agriculture; and
Senators Baker, Dean, and Bullard

593-02946-10

2010788c2

1 A bill to be entitled
2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.08, F.S.; providing
4 additional definitions for purposes of the exemption
5 for sales or use of equipment, machinery, and other
6 materials for renewable energy technologies; including
7 under the exemption materials used in distributing
8 renewable diesel fuel and renewable fuel oil; delaying
9 expiration of the exemption; amending s. 220.192,
10 F.S.; providing additional definitions for purposes of
11 the renewable energy technologies investment tax
12 credit; extending application of the credit; providing
13 an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (ccc) of subsection (7) of section
18 212.08, Florida Statutes, is amended to read:

19 212.08 Sales, rental, use, consumption, distribution, and
20 storage tax; specified exemptions.—The sale at retail, the
21 rental, the use, the consumption, the distribution, and the
22 storage to be used or consumed in this state of the following
23 are hereby specifically exempt from the tax imposed by this
24 chapter.

25 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
26 entity by this chapter do not inure to any transaction that is
27 otherwise taxable under this chapter when payment is made by a
28 representative or employee of the entity by any means,
29 including, but not limited to, cash, check, or credit card, even

593-02946-10

2010788c2

30 when that representative or employee is subsequently reimbursed
31 by the entity. In addition, exemptions provided to any entity by
32 this subsection do not inure to any transaction that is
33 otherwise taxable under this chapter unless the entity has
34 obtained a sales tax exemption certificate from the department
35 or the entity obtains or provides other documentation as
36 required by the department. Eligible purchases or leases made
37 with such a certificate must be in strict compliance with this
38 subsection and departmental rules, and any person who makes an
39 exempt purchase with a certificate that is not in strict
40 compliance with this subsection and the rules is liable for and
41 shall pay the tax. The department may adopt rules to administer
42 this subsection.

43 (ccc) *Equipment, machinery, and other materials for*
44 *renewable energy technologies.*-

45 1. As used in this paragraph, the term:

46 a. "Biodiesel" means the mono-alkyl esters of long-chain
47 fatty acids derived from plant or animal matter for use as a
48 source of energy and meeting the specifications for biodiesel
49 and biodiesel blends with petroleum products as adopted by the
50 Department of Agriculture and Consumer Services. Biodiesel may
51 refer to biodiesel blends designated BXX, where XX represents
52 the volume percentage of biodiesel fuel in the blend.

53 b. "Ethanol" means an anhydrous denatured alcohol produced
54 by the conversion of carbohydrates meeting the specifications
55 for fuel ethanol and fuel ethanol blends with petroleum products
56 as adopted by the Department of Agriculture and Consumer
57 Services. Ethanol may refer to fuel ethanol blends designated
58 EXX, where XX represents the volume percentage of fuel ethanol

593-02946-10

2010788c2

59 in the blend.

60 c. "Hydrogen fuel cells" means equipment using hydrogen or
61 a hydrogen-rich fuel in an electrochemical process to generate
62 energy, electricity, or the transfer of heat.

63 d. "Renewable diesel fuel" means liquid fuel for use in
64 diesel-powered engines which is derived from biomass and meets
65 the registration requirements for fuel and fuel additives
66 established by the United States Environmental Protection Agency
67 and the specifications and requirements as adopted by the
68 Department of Agriculture and Consumer Services.

69 e. "Renewable fuel oil" means liquid fuel for use in fuel
70 oil applications which is derived from biomass and meets the
71 registration requirements for fuel and fuel additives
72 established by the United States Environmental Protection Agency
73 and the specifications and requirements as adopted by the
74 Department of Agriculture and Consumer Services.

75 2. The sale or use of the following in the state is exempt
76 from the tax imposed by this chapter:

77 a. Hydrogen-powered vehicles, materials incorporated into
78 hydrogen-powered vehicles, and hydrogen-fueling stations, up to
79 a limit of \$2 million in tax each state fiscal year for all
80 taxpayers.

81 b. Commercial stationary hydrogen fuel cells, up to a limit
82 of \$1 million in tax each state fiscal year for all taxpayers.

83 c. Materials used in the distribution of biodiesel (B10-
84 B100), ~~and~~ ethanol (E10-E100), renewable diesel fuel, and
85 renewable fuel oil, including fueling infrastructure,
86 transportation, and storage, up to a limit of \$1 million in tax
87 each state fiscal year for all taxpayers. Gasoline fueling

593-02946-10

2010788c2

88 station pump retrofits for ethanol (E10-E100) distribution
89 qualify for the exemption provided in this sub-subparagraph.

90 3. The Florida Energy and Climate Commission shall provide
91 to the department a list of items eligible for the exemption
92 provided in this paragraph.

93 4.a. The exemption provided in this paragraph shall be
94 available to a purchaser only through a refund of previously
95 paid taxes. An eligible item is subject to refund one time. A
96 person who has received a refund on an eligible item shall
97 notify the next purchaser of the item that such item is no
98 longer eligible for a refund of paid taxes. This notification
99 shall be provided to each subsequent purchaser on the sales
100 invoice or other proof of purchase.

101 b. To be eligible to receive the exemption provided in this
102 paragraph, a purchaser shall file an application with the
103 Florida Energy and Climate Commission. The application shall be
104 developed by the Florida Energy and Climate Commission, in
105 consultation with the department, and shall require:

106 (I) The name and address of the person claiming the refund.

107 (II) A specific description of the purchase for which a
108 refund is sought, including, when applicable, a serial number or
109 other permanent identification number.

110 (III) The sales invoice or other proof of purchase showing
111 the amount of sales tax paid, the date of purchase, and the name
112 and address of the sales tax dealer from whom the property was
113 purchased.

114 (IV) A sworn statement that the information provided is
115 accurate and that the requirements of this paragraph have been
116 met.

593-02946-10

2010788c2

117 c. Within 30 days after receipt of an application, the
118 Florida Energy and Climate Commission shall review the
119 application and shall notify the applicant of any deficiencies.
120 Upon receipt of a completed application, the Florida Energy and
121 Climate Commission shall evaluate the application for exemption
122 and issue a written certification that the applicant is eligible
123 for a refund or issue a written denial of such certification
124 within 60 days after receipt of the application. The Florida
125 Energy and Climate Commission shall provide the department with
126 a copy of each certification issued upon approval of an
127 application.

128 d. Each certified applicant shall be responsible for
129 forwarding a certified copy of the application and copies of all
130 required documentation to the department within 6 months after
131 certification by the Florida Energy and Climate Commission.

132 e. A refund approved pursuant to this paragraph shall be
133 made within 30 days after formal approval by the department.

134 f. The Florida Energy and Climate Commission may adopt the
135 form for the application for a certificate, requirements for the
136 content and format of information submitted to the Florida
137 Energy and Climate Commission in support of the application,
138 other procedural requirements, and criteria by which the
139 application will be determined by rule. The department may adopt
140 all other rules pursuant to ss. 120.536(1) and 120.54 to
141 administer this paragraph, including rules establishing
142 additional forms and procedures for claiming this exemption.

143 g. The Florida Energy and Climate Commission shall be
144 responsible for ensuring that the total amounts of the
145 exemptions authorized do not exceed the limits as specified in

593-02946-10

2010788c2

146 subparagraph 2.

147 5. The Florida Energy and Climate Commission shall
148 determine and publish on a regular basis the amount of sales tax
149 funds remaining in each fiscal year.

150 6. This paragraph expires July 1, 2015 ~~2010~~.

151 Section 2. Subsection (1) of section 220.192, Florida
152 Statutes, is amended to read:

153 220.192 Renewable energy technologies investment tax
154 credit.—

155 (1) DEFINITIONS.—For purposes of this section, the term:

156 (a) "Biodiesel" means biodiesel as defined in s.

157 212.08(7)(ccc).

158 (b) "Corporation" includes a general partnership, limited
159 partnership, limited liability company, unincorporated business,
160 or other business entity, including entities taxed as
161 partnerships for federal income tax purposes.

162 (c) "Eligible costs" means:

163 1. Seventy-five percent of all capital costs, operation and
164 maintenance costs, and research and development costs incurred
165 between July 1, 2006, and June 30, 2015 ~~2010~~, up to a limit of
166 \$3 million per state fiscal year for all taxpayers, in
167 connection with an investment in hydrogen-powered vehicles and
168 hydrogen vehicle fueling stations in the state, including, but
169 not limited to, the costs of constructing, installing, and
170 equipping such technologies in the state.

171 2. Seventy-five percent of all capital costs, operation and
172 maintenance costs, and research and development costs incurred
173 between July 1, 2006, and June 30, 2015 ~~2010~~, up to a limit of
174 \$1.5 million per state fiscal year for all taxpayers, and

593-02946-10

2010788c2

175 limited to a maximum of \$12,000 per fuel cell, in connection
176 with an investment in commercial stationary hydrogen fuel cells
177 in the state, including, but not limited to, the costs of
178 constructing, installing, and equipping such technologies in the
179 state.

180 3. Seventy-five percent of all capital costs, operation and
181 maintenance costs, and research and development costs incurred
182 between July 1, 2006, and June 30, 2015 ~~2010~~, up to a limit of
183 \$6.5 million per state fiscal year for all taxpayers, in
184 connection with an investment in the production, storage, and
185 distribution of biodiesel (B10-B100), ~~and ethanol (E10-E100),~~
186 renewable diesel fuel, and renewable fuel oil in the state,
187 including the costs of constructing, installing, and equipping
188 such technologies in the state. Gasoline fueling station pump
189 retrofits for ethanol (E10-E100) distribution qualify as an
190 eligible cost under this subparagraph.

191 (d) "Ethanol" means ethanol as defined in s.
192 212.08(7)(ccc).

193 (e) "Hydrogen fuel cell" means hydrogen fuel cell as
194 defined in s. 212.08(7)(ccc).

195 (f) "Renewable diesel fuel" means renewable diesel fuel as
196 defined in s. 212.08(7)(ccc).

197 (g) "Renewable fuel oil" means renewable fuel oil as
198 defined in s. 212.08(7)(ccc).

199 (h) ~~(f)~~ "Taxpayer" includes a corporation as defined in
200 paragraph (b) or s. 220.03.

201 Section 3. This act shall take effect July 1, 2010.