

By the Committee on Agriculture; and Senators Baker and Dean

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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.; expanding the
4 definition of the term "biodiesel" for certain tax
5 exemption purposes; defining the terms "renewable
6 diesel" and "renewable fuel oil" for purposes of a
7 sales tax exemption for materials used in the
8 distribution of such items; deleting a provision
9 providing for the expiration of a sales tax exemption
10 relating to renewable energy technologies; amending s.
11 220.192, F.S.; defining the terms "renewable diesel"
12 and "renewable fuel oil" for purposes of the renewable
13 energy technologies investment tax credit; providing
14 an effective date.

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

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18 Section 1. Paragraph (ccc) of subsection (7) of section
19 212.08, Florida Statutes, is amended to read:

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

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

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

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

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

47 a. "Biodiesel" means:

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

55 (II) A substitute for diesel fuel that is derived from
56 nonpetroleum renewable resources; is produced from biological
57 sources; when intended for use in motor vehicles, is registered
58 under 40 C.F.R. part 79 as a motor vehicle fuel or fuel

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59 additive; and, when intended for use in non-motor-vehicle
60 applications, is properly registered as required by existing
61 federal or state law.

62 b. "Ethanol" means an anhydrous denatured alcohol produced
63 by the conversion of carbohydrates meeting the specifications
64 for fuel ethanol and fuel ethanol blends with petroleum products
65 as adopted by the Department of Agriculture and Consumer
66 Services. Ethanol may refer to fuel ethanol blends designated
67 EXX, where XX represents the volume percentage of fuel ethanol
68 in the blend.

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

72 d. "Renewable diesel" means liquid fuel for use in diesel-
73 powered engines which is derived from biomass and meets the
74 registration requirements for fuel and fuel additives
75 established by the United States Environmental Protection Agency
76 and the specifications and requirements adopted by the
77 Department of Agriculture and Consumer Services.

78 e. "Renewable fuel oil" means liquid fuel for use in fuel
79 oil applications which is derived from biomass and meets the
80 registration requirements for fuel and fuel additives
81 established by the United States Environmental Protection Agency
82 and the specifications and requirements adopted by the
83 Department of Agriculture and Consumer Services.

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

86 a. Hydrogen-powered vehicles, materials incorporated into
87 hydrogen-powered vehicles, and hydrogen-fueling stations, up to

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88 a limit of \$2 million in tax each state fiscal year for all
89 taxpayers.

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

92 c. Materials used in the distribution of biodiesel (B10-
93 B100), ~~and ethanol (E10-E100)~~, renewable diesel, and renewable
94 fuel oil, including fueling infrastructure, transportation, and
95 storage, up to a limit of \$1 million in tax each state fiscal
96 year for all taxpayers. Gasoline fueling station pump retrofits
97 for ethanol (E10-E100) distribution qualify for the exemption
98 provided in this sub-subparagraph.

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

102 4.a. The exemption provided in this paragraph shall be
103 available to a purchaser only through a refund of previously
104 paid taxes. An eligible item is subject to refund one time. A
105 person who has received a refund on an eligible item shall
106 notify the next purchaser of the item that such item is no
107 longer eligible for a refund of paid taxes. This notification
108 shall be provided to each subsequent purchaser on the sales
109 invoice or other proof of purchase.

110 b. To be eligible to receive the exemption provided in this
111 paragraph, a purchaser shall file an application with the
112 Florida Energy and Climate Commission. The application shall be
113 developed by the Florida Energy and Climate Commission, in
114 consultation with the department, and shall require:

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

116 (II) A specific description of the purchase for which a

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117 refund is sought, including, when applicable, a serial number or
118 other permanent identification number.

119 (III) The sales invoice or other proof of purchase showing
120 the amount of sales tax paid, the date of purchase, and the name
121 and address of the sales tax dealer from whom the property was
122 purchased.

123 (IV) A sworn statement that the information provided is
124 accurate and that the requirements of this paragraph have been
125 met.

126 c. Within 30 days after receipt of an application, the
127 Florida Energy and Climate Commission shall review the
128 application and shall notify the applicant of any deficiencies.
129 Upon receipt of a completed application, the Florida Energy and
130 Climate Commission shall evaluate the application for exemption
131 and issue a written certification that the applicant is eligible
132 for a refund or issue a written denial of such certification
133 within 60 days after receipt of the application. The Florida
134 Energy and Climate Commission shall provide the department with
135 a copy of each certification issued upon approval of an
136 application.

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

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

143 f. The Florida Energy and Climate Commission may adopt the
144 form for the application for a certificate, requirements for the
145 content and format of information submitted to the Florida

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146 Energy and Climate Commission in support of the application,
147 other procedural requirements, and criteria by which the
148 application will be determined by rule. The department may adopt
149 all other rules pursuant to ss. 120.536(1) and 120.54 to
150 administer this paragraph, including rules establishing
151 additional forms and procedures for claiming this exemption.

152 g. The Florida Energy and Climate Commission shall be
153 responsible for ensuring that the total amounts of the
154 exemptions authorized do not exceed the limits as specified in
155 subparagraph 2.

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

159 ~~6. This paragraph expires July 1, 2010.~~

160 Section 2. Section 220.192, Florida Statutes, is amended to
161 read:

162 220.192 Renewable energy technologies investment tax
163 credit.—

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

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

166 212.08(7)(ccc).

167 (b) "Corporation" includes a general partnership, limited
168 partnership, limited liability company, unincorporated business,
169 or other business entity, including entities taxed as
170 partnerships for federal income tax purposes.

171 (c) "Eligible costs" means:

172 1. Seventy-five percent of all capital costs, operation and
173 maintenance costs, and research and development costs incurred
174 between July 1, 2006, and June 30, 2010, up to a limit of \$3

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175 million per state fiscal year for all taxpayers, in connection
176 with an investment in hydrogen-powered vehicles and hydrogen
177 vehicle fueling stations in the state, including, but not
178 limited to, the costs of constructing, installing, and equipping
179 such technologies in the state.

180 2. 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, 2010, up to a limit of \$1.5
183 million per state fiscal year for all taxpayers, and limited to
184 a maximum of \$12,000 per fuel cell, in connection with an
185 investment in commercial stationary hydrogen fuel cells in the
186 state, including, but not limited to, the costs of constructing,
187 installing, and equipping such technologies in the state.

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

199 (d) "Ethanol" means ethanol as defined in s.
200 212.08(7)(ccc).

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

203 (f) "Renewable diesel" means renewable diesel as defined in

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204 s. 212.08(7)(ccc).

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

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

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