

Sales Tax Reduction on Commercial Electricity Consumption/PECO Match:

****Sections 1-3 of the Bill Language Provided Below****

- **Current Situation:** The state of Florida has a sales and use tax of 7 percent that commercial entities pay for the use/consumption of electricity. Southern states such as Alabama and Louisiana do not assess a tax on commercial use. States such as Georgia assess at a lower rate of 4 percent.
- **Reason for Recommended Legislative Change:** This proposed reduction in the sales and use tax for commercial electric energy use will make Florida more competitive in the southeast for attracting commercial enterprise while providing savings to existing businesses. Furthermore, the lower costs associated with a reduced tax rate will encourage businesses to pass those cost savings along to the consumer.
 - The proposed legislation seeks to reduce this tax by 3.5 percent with a 1.5 percent reduction beginning January 1, 2015. The tax would then be reduced by 1 percent for the next two fiscal years. Also in 2015, 1.5 percent of the remaining tax would be shifted, or “matched”, into the Public Education Capital Outlay (PECO) fund. The remaining tax would also go to PECO in 1 percent increments for the next two fiscal years until the total remaining tax (3.5 percent) is directed to PECO by 2016. PECO is the sole lifeline for the development of Florida’s K-20 education infrastructure (schools, administrative buildings, education infrastructure improvements, etc) and does not have a stable source of funding due to the ever-decreasing gross receipts sales tax base.

Sales Tax Holiday on “Energy Star” and “Water Sense” Appliances:

****Section 4 of the Bill Language Provided Below****

- **Current Situation:** The state of Florida has no programs that encourage the purchase of Energy Star appliances that use less energy and water. In April of 2010, Florida held an Energy Star appliance rebate program that was extremely popular among Floridians. Using more Energy Star appliances also help conserve energy and reserve the State’s precious water resources.
- **Reason for Recommended Legislative Change:** This program helps consumers save energy, water, and money each month on utility bills. By offering a tax exemption for one weekend instead of offering a time consuming appliance rebate program, the administration of the program will be limited and the savings to consumers will be immediate. There are already several states that hold Energy Star appliance tax holidays including Georgia, Virginia, North Carolina, and Texas. The sales tax holiday would run for 3 days, and be limited to the first \$1,500 spent on new specified Energy Star and WaterSense labeled products.

Section 1. Section 203.01, Florida Statutes, is amended to read:

(1)(a)1. A tax is imposed on gross receipts from utility services that are delivered to a retail consumer in this state. The tax shall be levied as provided in paragraphs (b)-(j).

2. A tax is levied on communications services as defined in s. 202.11(1). The tax shall be applied to the same services and transactions as are subject to taxation under chapter 202, and to communications services that are subject to the exemption provided in s. 202.125(1). The tax shall be applied to the sales price of communications services when sold at retail, as the terms are defined in s. 202.11, shall be due and payable at the same time as the taxes imposed pursuant to chapter 202, and shall be administered and collected pursuant to the provisions of chapter 202.

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

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

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

4. There shall be an additional rate applied to the gross receipts from electrical power or energy delivered to a retail consumer in this state.

a. Effective January 1, 2015, the additional rate shall be 1.5 percent.

b. Effective January 1, 2016, the additional rate shall be 2.5 percent.

c. Effective January 1, 2017, the additional rate shall be 3.5 percent.

(1)(c) – (2) No change.

(3) The tax imposed by ~~subparagraph subsection~~ (1)(b)1. does not apply to:

(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 electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power;

provided the person deriving gross receipts from such sale demonstrates that a sale, transportation, or delivery for resale in fact occurred and complies with the following requirements: A sale, transportation, or delivery for resale must be in strict compliance with the rules and regulations of the Department of Revenue; and any sale subject to the tax imposed by

this section which is not in strict compliance with the rules and regulations of the Department of Revenue shall be subject to the tax at the appropriate rate imposed on utilities by paragraph (b) on the person making the sale. Any person making a sale for resale may, through an informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The department shall adopt rules that provide that valid proof and documentation of the resale by a person making the sale for resale will be accepted by the department when submitted during the protest period but will not be accepted when submitted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72;

(b) Wholesale sales of electric transmission service;

(c) The use of natural gas in the production of oil or gas, or the use of natural or manufactured gas by a person transporting natural or manufactured gas, when used and consumed in providing such services; or

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

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

(a) The sale of electric power or energy used to operated machinery and equipment at a fixed location in this state under s. 212.08(7)(ff); The sale or transportation to, or use of, electric power or energy by a person eligible for an exemption under s. 212.08(7)(ff)2. for use as an energy source or a raw material. Possession by a seller of electric power or energy or by any person providing transportation or delivery of electric power or energy of a written certification by the purchaser, certifying the purchaser's entitlement to the exclusion permitted by this paragraph, relieves the seller or person providing transportation or delivery from the responsibility of remitting tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if the department determines that the purchaser was not entitled to the exclusion. The certification must include an acknowledgment by the purchaser that it will be liable for tax pursuant to paragraph (1)(f) if the requirements for exclusion are not met.

(b) The sale or transportation to, or use of, electric power or energy by a person eligible for an exemption under s. 212.08(5)(e) for certain agricultural purposes.

(c) The or transportation to, or use of, electric power or energy by a person eligible for an exemption under s. 212.08(7)(j) for use as a household fuel.

(d) The sale or transportation to, or use of, electric power or energy by a person who holds a valid Florida Consumer's Certificate of Exemption [issued by the Department of Revenue](#).

(e) The sale or transportation to, or use of, electric power or energy by the United States government or any of its federal agencies.

~~(5)~~ (4) The taxes imposed pursuant to this chapter relating to the provision of any utility services at the option of the person supplying the taxable services may be separately stated as Florida gross receipts tax on the total amount of any bill, invoice, or other tangible evidence of the provision of such taxable services and may be added as a component part of the total charge. Whenever a provider of taxable services elects to separately state such taxes as a component of the charge for the provision of such taxable services, every person, including all governmental units, shall remit the taxes to the person who provides such taxable services as a part of the total bill, and the taxes are ~~is~~ a component part of the debt of the purchaser to the person who provides such taxable services until paid and, if unpaid, is recoverable at law in the same manner as any other part of the charge for such taxable services. If a utility provider elects to separately state the additional tax imposed by subparagraph (1)(b)4. on any bill, invoice, or other tangible evidence of the provision of such taxable service, the additional tax is not part of the taxable base on which the gross receipts tax is calculated. For a utility, the decision to separately state any increase in the rate of tax imposed by this chapter which is effective after December 31, 1989, and the ability to recover the increased charge from the customer shall not be subject to regulatory approval.

(5) – (9) Renumber as (6) through (10).

Section 2. Section 212.05, Florida Statutes, is amended to read:

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

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

(I) “Prepaid calling arrangement” means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.

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

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

b. The installation of telecommunication and telegraphic equipment.

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

1. Effective January 1, 2015, the tax rate for charges for electrical power or energy is 4 percent.

2. Effective January 1, 2016, the tax rate for charges for electrical power or energy is 2 percent.

3. Effective January 1, 2017, the tax rate for charges for electrical power or energy is 0 percent.

4. Discretionary sales surtax levied pursuant to s. 212.055 and administered under s. 212.054 shall apply to the sale of electric recharges for electrical power or energy, irrespective of the tax rate imposed under this subsubparagraph.

Section 3. Paragraph (2)(a) of section 212.054, Florida Statutes, is amended to read:

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter and communications services as defined for purposes of chapter 202. Unless specifically exempt under this chapter, the tax is also imposed levied on all sales of charges for electrical power or energy. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

Section 4.

(1) No sales tax shall be collected on the first \$1,500 of the selling price of a new ENERGY STAR or Water Sense certified product for the period beginning 12:01 a.m. on Friday, September 19, 2014 and ending at 11:59 p.m. on Sunday, September 21, 2014.

(a) ENERGY STAR “certified products” for purposes of this tax exemption are products approved by the United States Environmental Protection Agency, as of September 1,

2014 and shall include room air conditioners, air purifiers, ceiling fans, clothes washers, dehumidifiers, dishwashers, freezers, light bulbs, refrigerators, and water heaters.

- (b) Water Sense “certified products” for purposes of this tax exemption are products approved by the United States Environmental Protection Agency, as of September 1, 2014 and shall include bathroom sink faucets, faucet accessories, high-efficiency toilets, high-efficiency urinals, showerheads and weather or sensor-based irrigation controllers.