

By Senator Baker

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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; deleting an expiration provision;  
6           reenacting s. 220.192(1)(a), F.S., relating to the  
7           renewable energy technologies investment tax credit,  
8           to incorporate the amendment to s. 212.08, F.S., in a  
9           reference thereto; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. Paragraph (ccc) of subsection (7) of section  
14           212.08, Florida Statutes, is amended to read:

15           212.08 Sales, rental, use, consumption, distribution, and  
16           storage tax; specified exemptions.—The sale at retail, the  
17           rental, the use, the consumption, the distribution, and the  
18           storage to be used or consumed in this state of the following  
19           are hereby specifically exempt from the tax imposed by this  
20           chapter.

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

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30 obtained a sales tax exemption certificate from the department  
31 or the entity obtains or provides other documentation as  
32 required by the department. Eligible purchases or leases made  
33 with such a certificate must be in strict compliance with this  
34 subsection and departmental rules, and any person who makes an  
35 exempt purchase with a certificate that is not in strict  
36 compliance with this subsection and the rules is liable for and  
37 shall pay the tax. The department may adopt rules to administer  
38 this subsection.

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

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

42 a. "Biodiesel" means:

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

50 (II) A substitute for diesel fuel that is derived from  
51 nonpetroleum renewable resources; is produced from biological  
52 sources; when intended for use in motor vehicles, is registered  
53 under 40 C.F.R. part 79 as a motor vehicle fuel or fuel  
54 additive; and, when intended for use in non-motor-vehicle  
55 applications, is properly registered as required by existing  
56 federal or state law.

57 b. "Ethanol" means an anhydrous denatured alcohol produced  
58 by the conversion of carbohydrates meeting the specifications

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59 for fuel ethanol and fuel ethanol blends with petroleum products  
60 as adopted by the Department of Agriculture and Consumer  
61 Services. Ethanol may refer to fuel ethanol blends designated  
62 EXX, where XX represents the volume percentage of fuel ethanol  
63 in the blend.

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

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

69 a. Hydrogen-powered vehicles, materials incorporated into  
70 hydrogen-powered vehicles, and hydrogen-fueling stations, up to  
71 a limit of \$2 million in tax each state fiscal year for all  
72 taxpayers.

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

75 c. Materials used in the distribution of biodiesel (B10-  
76 B100) and ethanol (E10-E100), including fueling infrastructure,  
77 transportation, and storage, up to a limit of \$1 million in tax  
78 each state fiscal year for all taxpayers. Gasoline fueling  
79 station pump retrofits for ethanol (E10-E100) distribution  
80 qualify for the exemption provided in this sub-subparagraph.

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

84 4.a. The exemption provided in this paragraph shall be  
85 available to a purchaser only through a refund of previously  
86 paid taxes. An eligible item is subject to refund one time. A  
87 person who has received a refund on an eligible item shall

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88 notify the next purchaser of the item that such item is no  
89 longer eligible for a refund of paid taxes. This notification  
90 shall be provided to each subsequent purchaser on the sales  
91 invoice or other proof of purchase.

92 b. To be eligible to receive the exemption provided in this  
93 paragraph, a purchaser shall file an application with the  
94 Florida Energy and Climate Commission. The application shall be  
95 developed by the Florida Energy and Climate Commission, in  
96 consultation with the department, and shall require:

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

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

101 (III) The sales invoice or other proof of purchase showing  
102 the amount of sales tax paid, the date of purchase, and the name  
103 and address of the sales tax dealer from whom the property was  
104 purchased.

105 (IV) A sworn statement that the information provided is  
106 accurate and that the requirements of this paragraph have been  
107 met.

108 c. Within 30 days after receipt of an application, the  
109 Florida Energy and Climate Commission shall review the  
110 application and shall notify the applicant of any deficiencies.  
111 Upon receipt of a completed application, the Florida Energy and  
112 Climate Commission shall evaluate the application for exemption  
113 and issue a written certification that the applicant is eligible  
114 for a refund or issue a written denial of such certification  
115 within 60 days after receipt of the application. The Florida  
116 Energy and Climate Commission shall provide the department with

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117 a copy of each certification issued upon approval of an  
118 application.

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

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

125 f. The Florida Energy and Climate Commission may adopt the  
126 form for the application for a certificate, requirements for the  
127 content and format of information submitted to the Florida  
128 Energy and Climate Commission in support of the application,  
129 other procedural requirements, and criteria by which the  
130 application will be determined by rule. The department may adopt  
131 all other rules pursuant to ss. 120.536(1) and 120.54 to  
132 administer this paragraph, including rules establishing  
133 additional forms and procedures for claiming this exemption.

134 g. The Florida Energy and Climate Commission shall be  
135 responsible for ensuring that the total amounts of the  
136 exemptions authorized do not exceed the limits as specified in  
137 subparagraph 2.

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

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

142 Section 2. For the purpose of incorporating the amendment  
143 made by this act to section 212.08, Florida Statutes, in a  
144 reference thereto, paragraph (a) of subsection (1) of section  
145 220.192, Florida Statutes, is reenacted to read:

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146           220.192 Renewable energy technologies investment tax  
147 credit.-

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

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

150 212.08(7)(ccc).

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