12B-6.0015 Imposition of the Gross Receipts Tax.

(1) NATURAL OR MANUFACTURED GAS.

(a) A tax is imposed at the rate of 2.5 percent on distribution companies’ gross receipts from the privilege of selling or transporting natural or manufactured gas to a retail consumer in this state. The gross receipts tax on the sale or transportation of natural or manufactured gas is calculated as follows: (number of cubic feet of gas sold or transported) ÷ 1,000 × (the applicable gas index price) × (2.5 percent).

(b) The tax imposed in paragraph (1)(a) does not apply to:

1. Subject to the documentation requirements outlined in subsection (5), the sale or transportation of natural or manufactured gas to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association for resale.

2. The sale or transportation of natural or manufactured gas to a public or private utility, including a municipal corporation, or agency thereof, or rural electric cooperative association for use as a fuel in the generation of electricity. Distribution companies may document this exclusion from tax by obtaining a certification from public or private utilities that purchase transportation of natural or manufactured gas for use as a fuel in the generation of electricity. The following is a suggested format of a certification to be issued by a public or private utility to a natural or manufactured gas distribution company:

CERTIFICATION

NATURAL OR MANUFACTURED GAS PURCHASED
FOR USE AS FUEL TO GENERATE ELECTRICITY

This is to certify that I have purchased natural or manufactured gas for use as a fuel in the generation of electricity.

I understand that if such purchases of natural or manufactured gas do not qualify for the exclusion as indicated on this certification, I must pay the applicable tax directly to the Department of Revenue.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

_________________________________  _____________________
Purchaser’s Name (Print or Type)  Date

_________________________________  _____________________
Signature of Authorized Person  Title

Federal Employer Identification Number (FEI No.)

3.a. The sale or transportation to, or use of, natural or manufactured gas by any person eligible for an exemption under Section 212.08(7)(ff)2., F.S., 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 subparagraph, relieves the seller or person providing transportation or delivery from the responsibility of remitting tax on the nontaxable amounts. 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 Section 203.01(1)(f), F.S., if the requirements for exclusion are not met. The following is a suggested format of a certification to be issued by a manufacturer to a natural or manufactured gas distribution company:

CERTIFICATION

NATURAL OR MANUFACTURED GAS PURCHASED BY A PERSON ELIGIBLE FOR EXEMPTION UNDER INDUSTRIAL CLASSIFICATIONS IN SECTION 212.08(7)(ff)2., F.S.

This is to certify that I have purchased natural or manufactured gas for use as an energy source or raw material that is excluded from tax pursuant to Section 203.01(1)(f), F.S.

I certify that the applicable purchases were made by a company whose four-digit SIC Industry Number, as listed below, is classified under SIC Industry Major Group Number 10, 12 through 14, 20 or 22 through 39 or Group Number 212 in the Standard Industrial Classification (SIC) Manual, 1987, published by the Office of Management and Budget.

I acknowledge that I will be liable for tax pursuant to Section 203.01(1)(f), F.S., if the requirements for exclusion pursuant to Section 203.01(3)(d), F.S., are not satisfied.

I understand that if such purchases of natural or manufactured gas do not qualify for the exclusion as indicated on this certification, I must pay the applicable tax directly to the Department of Revenue.
Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

Purchaser’s Name (Print or Type) ______________________ Date ______________________

Signature of Authorized Person ______________________ Title ______________________

Federal Employer Identification Number (FEI No.)


(2) ELECTRICITY.

(a) A tax is imposed at the rate of 2.5 percent on a distribution company’s gross receipts from the privilege of selling electricity that is delivered to a retail consumer in this state when the charge to the consumer includes charges for both the electricity and the transportation of the electricity. Tax imposed pursuant to this paragraph is calculated by multiplying the distribution company’s gross receipts by 2.5 percent.

1. The tax imposed in paragraph (2)(a) does not apply to:
   a. Receipts from customers for separately itemized charges for the connection, disconnection, suspension, or restoration of electricity;
   b. Receipts from customers for separately itemized charges for returned checks or other forms of payment, late payments, or interest due on late payments; or
   c. Receipts from customers for separately itemized charges for the sale, lease, rental, repair, or maintenance of customer premises equipment.

2. a. When charges for utility services are separately itemized as an amount for services based on a standard rate amount with a separate rate adjustment on the same billing, invoice, statement, or other evidence of sale for services, gross receipts tax is due on the receipts for utility services after the application of the rate adjustment.
   b. Example: A customer purchases electricity from an electric utility under an energy management program. The customer is billed the standard residential rate. In addition, the customer receives load management monthly credits for allowing specified electrical equipment to be interrupted at the option of the electric utility. The charge for electric service after the load management credits are applied against the charge at the standard residential rate is the amount subject to the gross receipts tax.
   c. Example: A customer purchases electricity from an electric utility at the standard residential service rate. The electric utility charges each residential customer in this rate class an additional energy cost recovery factor, called “energy charges,” on a per kilowatt hour basis. The customer is billed for electricity at the standard residential rate, plus the applicable energy charges. The amount charged to the customer at the standard residential rate, plus the amount of the energy charges, is the amount subject to the gross receipts tax.

3. Each and every fee imposed by a political subdivision of the State of Florida on the distribution company, such as a franchise fee, is included in the charge upon which the gross receipts tax is computed, when the fees are passed on to the customer and separately itemized on a customer’s bill, invoice, statement, or other evidence of sale.

4. Any municipal public service tax imposed under Section 166.231 or 166.232, F.S., or any sales tax imposed under Chapter 212, F.S., on the sale or purchase of electric power or energy is not included in the charge upon which the gross receipts tax is computed when the municipal tax or sales tax is separately itemized on a customer’s bill, invoice, statement, or other evidence of sale.

(b) Each distribution company that receives payment for the delivery of electricity to a retail consumer in this state is subject to tax on the exercise of this privilege as provided by this paragraph, unless the payment is subject to tax under paragraph (a). Under this paragraph, the gross receipts tax on the delivery of electricity is calculated as follows: (number of kilowatt hours delivered) \( \times \) (the applicable electricity index price) \( \times \) (2.5 percent).

(c) The tax imposed in paragraphs (2)(a) and (b) does not apply to:
   1. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, for resale subject to the documentation requirements outlined in subsection (5);
   2. The sale or delivery of electricity to a public or private utility, including a municipal corporation or agency thereof, or rural electric cooperative association, as part of an electric interchange agreement or contract between such utilities for the purpose of
transferring more economically generated power.

a. The electric utility is required to maintain a copy of the agreement or contract in its books and records and is not required to meet the provisions of this rule regarding sales for resale.

b. The internal use, including interdepartmental transfers, of the purchased power is not subject to tax.

3. Wholesale sales of electric transmission service.

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility’s customers.

(3) SEPARATELY ITEMIZED CHARGES.

(a) A distribution company may wholly or partially separately itemize the gross receipts tax on the customer’s bill, invoice, statement, or other evidence of sale. However, the gross receipts tax is imposed on the privilege of doing business, and it is an item of cost to the distribution company. The distribution company remains fully and completely liable for the payment of the tax, even when the tax is wholly or partially separately itemized on the customer’s bill, invoice, statement, or other evidence of sale. When the tax is wholly or partially separately itemized, every person, including governmental units and charitable and religious organizations, is liable for the payment of the tax to the distribution company.

(b) Example: A distribution company bills its customer for both the electricity and the transportation of the electricity. Tax is imposed at the rate of 2.5 percent of the distribution company’s gross receipts for utility services. When the distribution company separately itemizes “Florida gross receipts tax” on a customer’s billing, the amount of gross receipts tax is calculated at the rate of 2.5 percent of the total amount billed for the electric services, including the amount separately itemized as “Florida gross receipts tax.”

Customer Billing:

<table>
<thead>
<tr>
<th>Electric service amount</th>
<th>$100.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida gross receipts tax</td>
<td>2.56*</td>
</tr>
<tr>
<td>Total amount of billing</td>
<td>$102.56</td>
</tr>
</tbody>
</table>

* Calculation of separately itemized “Florida gross receipts tax”:

Total amount of billing $102.56

x Gross Receipts Tax Rate 2.5%

Total tax to be separately itemized $2.56

(4) USE TAX.

(a) Gross receipts tax is levied upon a person’s cost price of electricity, or natural or manufactured gas, imported into this state or severed within this state for the person’s own use or consumption as a substitute for purchasing utility, transportation, or delivery services taxable under Chapter 203, F.S., and who cannot demonstrate payment of the tax imposed by subparagraph 203.01(1)(a)1., F.S. The tax implemented pursuant to this paragraph is calculated by multiplying the cost price of the utility service by 2.5 percent.

(b) The tax implemented pursuant to paragraph (4)(a) does not apply to:

1. 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;

2. The use of natural gas or manufactured gas by a person eligible for an exemption under Section 212.08(7)(ff)2., F.S., for use as an energy source or a raw material;

3. The use of natural gas or manufactured gas by a public or private utility as fuel in the generation of electricity; or

4. The loss of electricity resulting from the generation, transmission, or distribution of electricity, including line losses, generation losses, and any other losses for which charges are not made to the electric utility’s customers.

(5) SALES FOR RESALE.

(a) The sale, transportation, or delivery of utility services for resale is only exempt from the tax imposed under subparagraph 203.01(1)(a)1., F.S., if the sale, transportation, or delivery is documented in strict compliance with this rule. Distribution companies must document sales for resale by obtaining resale certificates from customers who purchase transportation, delivery, or utility services for the purposes of resale. Resale certificates submitted during the protest period will be accepted by the Department as valid proof and documentation of the resale, but will not be accepted when submitted in any proceeding under Chapter 120, F.S., or any circuit court action instituted under Chapter 72, F.S.

(b) The distribution company is only required to obtain one certificate for sales made for the purposes of resale from each customer making purchases for the purposes of resale. The certificate must contain the purchaser’s name and address, the
purchaser’s gross receipts tax registration number and its effective date, a statement that the purchases are for the purpose of resale, the signature of the purchaser or an authorized representative of the purchaser, and the date of issuance. The following is a suggested format of a resale certificate:

RESALE CERTIFICATE FOR GROSS RECEIPTS TAX ON UTILITY SERVICES

This is to certify that the electricity for light, heat, or power or the natural or manufactured gas for light, heat, or power purchased after _____ (date) from _____________________ (seller’s name) is purchased for the purpose of resale.

I understand that if I fraudulently issue this certificate to evade the payment of gross receipts tax I will be liable for payment of the tax directly to the Department and subject to the penalties imposed under Section 203.03(2), F.S.

I understand that I must disclose to the seller, or remit tax on, any purchase not for resale when tax was not paid to the seller and/or distribution company.

Under penalties of perjury, I declare that I have read the foregoing certificate and the facts stated herein are true.

Purchaser’s Name __________________________________________________________
Purchaser’s Address ______________________________________________________
Name and Title of Purchaser’s Authorized Signature _____________________________

Certificate of Registration Number __________________________________________
Effective Date of Registration _____________________________________________
By ____________________________________________________ (authorized signature)
Date __________

(6) RECORDKEEPING REQUIREMENTS. Distribution companies that sell, transport, or deliver utility services to retail consumers in Florida and taxpayers that import utility services into Florida for their own use must maintain electrical interchange agreements or contracts, resale certificates, exemption certificates, and other documentation required under the provisions of this rule chapter in their books and records until tax imposed under subparagraph 203.01(1)(a)1., F.S., may no longer be determined and assessed under Section 95.091, F.S. Electronic storage of required documentation through the use of imaging, microfiche, or other electric storage media will satisfy compliance with recordkeeping requirements.

Rulemaking Authority 203.01(1)(f), (3)(a)2., 213.06(1) F.S. Law Implemented 203.01, 203.012, 203.02, 213.37 FS. History—New 9-18-08, Amended 2-17-15.