

Florida Department of Revenue
Tax Information Publication

TIP 05B06-04

Date: December 20, 2005

EFFECTIVE JANUARY 1, 2006, SIGNIFICANT CHANGES IN STATE TAX LAW IMPACT UTILITIES THAT REMIT FLORIDA GROSS RECEIPTS TAX

Chapter 2005-148, Laws of Florida ("the Act") becomes effective on January 1, 2006. The Act significantly modifies Florida's Gross Receipts Tax on utility services. Currently, tax is imposed on the gross receipts derived from utility service business done within this state. The Act amends the definition of utility service in Chapter 203, F.S., to include the transportation, delivery, transmission, and distribution of electricity or natural or manufactured gas. Effective January 1, 2006, the tax will be imposed on a distribution company's gross receipts from utility services that are delivered to a retail consumer in Florida.

A "distribution company" is defined as any person owning or operating a local electric distribution facility, a natural gas distribution facility, or a manufactured gas utility distribution facility within this state for the transmission, delivery, and sale of electricity or natural or manufactured gas. The term does not include natural gas transmission companies that are subject to the jurisdiction of the Federal Energy Regulatory Commission.

Calculation of Tax

Natural or Manufactured Gas. The Act provides that the tax on the sale or transportation of natural or manufactured gas is calculated as follows: (number of cubic feet of natural or manufactured gas delivered to a retail consumer in this state) ÷ 1,000 × (applicable natural or manufactured gas index price) × (2.5%). [Note: see discussion below regarding index prices.] Distribution companies should apply this methodology to bills dated on and after January 1, 2006.

Electricity. The Act does not change the calculation of gross receipts tax due on the delivery of electricity to a retail consumer where the charge is for both the electricity and the transportation of the electricity to the retail consumer. Under Florida's current regulation of the retail electricity market, all retail electricity service charges include both the electricity and the transportation of the electricity. Thus, calculation of tax due on the sale of electricity is not changed by the Act.

Note: It is possible that a fundamental change in the regulation of the retail electric market under Florida law could allow a distribution company to deliver electricity for a charge that is for only the transportation of the electricity or for a charge that is for only the electricity itself. Under those circumstances, tax on the delivery of electricity would be calculated as follows: (number of kilowatt hours delivered to a retail consumer in Florida) × (applicable electricity index price) × (2.5%). [Note: see discussion below regarding index prices.]

Index Prices. The index prices are the Florida price per 1,000 cubic feet (natural or manufactured gas) and the

Florida price per kilowatt hour (electricity) for retail consumers during the previous calendar year, as those prices are published in the U.S. Energy Information Administration's Electric Power and Natural Gas monthlies. The index prices will be effective from July 1 through June 30 of each year. The Department of Revenue will announce new rates at least 30 days prior to the new effective date through Taxpayer Information Publications and through the Department's Internet website at <http://www.myflorida.com/dor>.

The index prices for the period January 1, 2006, through June 30, 2006, are listed below. These index prices apply to any bill dated on or between January 1, 2006, and June 30, 2006.

Index Prices effective January 1, 2006 through June 30, 2006

<u>Utility Service</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
Natural/ Manufactured Gas	\$18.47	\$11.46	\$8.72
Electricity (cents per KWH)*	\$0.0895	\$0.0757	\$0.0586

*Taxpayer Information Publication 05B06-04 dated December 8, 2005, contained incorrect electricity index prices. The correct electricity index prices are shown above.

Use Tax

The Act imposes a use tax on utility services that a person imports into Florida for the person's own use or consumption as a substitute for purchasing utility services, and upon which the person cannot prove that tax has been paid. Those persons with a use tax obligation must register with the Department of Revenue and pay an amount to be calculated as follows: (cost price of the utility service used) × (2.5%).

Disclosure of Customers

The Act requires persons who engage in the transportation of natural or manufactured gas to furnish annually to the Department of Revenue a list of customers to whom transportation services were provided in the prior year. However, this reporting requirement is not imposed on distribution companies. The disclosure requirement may be satisfied by posting a publicly-accessible list of customers on an Internet web site. The list must be updated annually.

Exemptions from Tax

The Act exempts from tax: 1) the wholesale sale of electric transmission service, 2) 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, and 3) the sale or transportation to or use of natural or manufactured gas by a person who is eligible for an exemption under the industrial classifications listed in s. 212.08(7)(ff)2., F.S., for use as an energy source or a raw material.

Amnesty

The Act provides an amnesty program for unpaid gross receipts tax, penalties, and interest in certain instances. For details, see Taxpayer Information Publication 05B06-01, on the Department's Internet website at <http://taxlaw.state.fl.us/grt1.asp>.

References: Chapter 2005-148, Laws of Florida.

FOR MORE INFORMATION

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

For forms and other information, visit our Internet site at www.myflorida.com/dor. Or call Taxpayer Services, 8:00 a.m., to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 or 850-488-6800.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.