

2016 Second Extraordinary Session

HOUSE BILL NO. 27

BY REPRESENTATIVE BROADWATER

TAX/SALES & USE: Provides for the non-taxability of sales or use of raw materials purchased for further processing (Item #48)

1 AN ACT

2 To amend and reenact R.S. 47:301(introductory paragraph) and (10)(c)(i)(aa), relative to
3 sales and use taxes; to provide with respect to the taxability of sales of certain
4 materials for further processing; to authorize credits under certain circumstances; to
5 provide for definitions; to provide for legislative intent; to provide for effectiveness
6 and applicability; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:301(introductory paragraph) and (10)(c)(i)(aa) are hereby
9 amended and reenacted to read as follows:

10 §301. Definitions

11 As used in this Chapter the following words, terms, and phrases have the
12 ~~meaning~~ meanings ascribed to them in this Section, unless the context clearly
13 indicates a different meaning:

14 * * *
15 (10)
16 * * *

17 (c)(i)(aa) The term "sale at retail" does not include sale of materials for
18 further processing into articles of tangible personal property for sale at retail when
19 all of the criteria in Subsubitem (I) of this Subitem are met.

1 (I)(aaa) The raw materials become a recognizable and identifiable
2 component of the end product.

3 (bbb) The raw materials are beneficial to the end product.

4 (ccc) The raw materials are material for further processing, and as such, are
5 purchased for the purpose of inclusion into the end product.

6 (II) For purposes of this Subitem, the term "sale at retail" shall not include
7 the purchase of raw materials for the production of raw or processed agricultural,
8 silvicultural, or aquacultural products.

9 (III)(aaa) If the materials are further processed into a byproduct for sale,
10 such purchases of materials shall not be deemed to be sales for further processing
11 and shall be taxable. For purposes of this Subitem, the term "byproduct" shall mean
12 any incidental product that is sold for a sales price less than the cost of the materials.

13 (bbb) In the event a byproduct is sold at retail in this state for which a sales
14 and use tax has been paid by the seller on the cost of the materials, which materials
15 are used partially or fully in the manufacturing of the byproduct, a credit against the
16 tax paid by the seller shall be allowed in an amount equal to the sales tax collected
17 and remitted by the seller on the taxable retail sale of the byproduct.

18 * * *

19 Section 2. This Act is intended to clarify and be interpretative of the original intent
20 and application of R.S. 47:301(10)(c)(i)(aa). Therefore, the provisions of this Act shall be
21 retroactive and applicable to all refund claims submitted or assessments of additional taxes
22 due which are filed on or after the effective date of this Act. Notwithstanding the foregoing,
23 the provisions of this Act shall not be applicable to any existing claim for refund filed or
24 assessment of additional taxes due issued prior to the effective date of this Act for any tax
25 period prior to July 1, 2016, which is not barred by prescription.

26 Section 3. This Act shall become effective upon signature by the governor or, if not
27 signed by the governor, upon expiration of the time for bills to become law without signature
28 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 2 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 27 Reengrossed

2016 Second Extraordinary Session

Broadwater

Abstract: Regarding the state and local sales and use tax exclusion for the sale of materials for further processing, adds criteria for qualification for the exclusion and authorizes tax credits in certain cases involving the sale of a byproduct.

Present law provides for the definitions to be used in the administration of state and local sales and use taxes.

Present law defines "sale at retail" to exclude the sale of materials for further processing into articles of tangible personal property.

Proposed law retains present law and adds the following criteria for qualification for the exclusion:

- (1) The raw materials become a recognizable and identifiable component of the end product.
- (2) The raw materials are beneficial to the end product.
- (3) The raw materials are materials for further processing, and as such, are purchased for the purpose of inclusion into the end product.

Proposed law changes the definition of "sale at retail" to exclude the purchase of raw materials for the production of raw or processed agricultural, silvicultural, or aquacultural products.

Proposed law provides that raw materials purchased for processing into a byproduct for sale shall not be deemed to be a sale for further processing, and the sale shall be taxable. Further, if a byproduct is sold at retail and sales and use tax has been paid by the seller on the cost of the base or raw materials, a credit is authorized in an amount equal to the sales tax collected by the seller on the taxable retail sale of the byproduct.

Proposed law is intended to clarify the original intent of the special tax treatment of sales of materials for further processing, and thus provides that proposed law shall be applicable to refund claims submitted or assessments of additional taxes due which were filed or issued on or after the effective date of proposed law. Proposed law is not applicable to claims for a refund or assessments of additional taxes filed or issued prior to the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301(intro. para.) and (10)(c)(i)(aa))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete provisions that repeal the sales and use tax exclusion and establish a sales and use tax exemption.
2. Retain the criteria for qualification for purposes of the sales and use tax exclusion.

The House Floor Amendments to the engrossed bill:

1. Delete requirement that the raw materials be purchased for the primary purpose of inclusion into the primary end product.
2. Add a change to the definition of "sale at retail" to exclude the purchase of raw materials for the production of raw or processed agricultural, silvicultural, or aquacultural products.
3. Add authority for a credit against sales and use taxes paid on raw materials which are used partially or fully in the manufacturing of a byproduct, the amount of the credit being equal to the sales tax collected and remitted by the seller on the sale of the byproduct.
4. Change the effectiveness of proposed law to provide that retroactive application of proposed law shall not apply to claims filed or assessments issued prior to the effective date of proposed law.