

2017 Regular Session

SENATE BILL NO. 97

BY SENATOR FANNIN

TAX EXEMPTIONS. Provides relative to the sales and use tax exemption for feed, seed, and fertilizer used by commercial farmers. (1/1/18)

1 AN ACT

2 To amend and reenact R.S. 47:301(10)(e), 305.3, 305.8, 305.37(A), and 305.63 and to enact
3 R.S. 47:301(30), relative to sales tax; to provide relative to certain agricultural sales
4 and use tax exemptions; to define commercial farmer; to provide for an effective
5 date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:301(10)(e), 305.3, 305.8, 305.37(A), and 305.63 are hereby
8 amended and reenacted and R.S. 47:301(30) is hereby enacted to read as follows:

9 §301. Definitions

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

13 * * *

14 (10) * * *

15 (e) The term "sale at retail" does not include the sale of raw agricultural
16 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in
17 preparing, finishing, manufacturing, or producing crops or animals for market by a

1 ~~commercial farmer as defined in R.S. 47:301(30). The Department of Agriculture~~
 2 ~~and Forestry may develop and promulgate guidelines to determine who meets this~~
 3 ~~definition. Any person meeting such guidelines shall receive a certificate from the~~
 4 ~~Department of Agriculture and Forestry indicating that such person is eligible to~~
 5 ~~purchase such items without paying tax thereon.~~

6 * * *

7 (30) The term "commercial farmer" shall mean only those persons
 8 occupationally engaged in producing food or agricultural commodities for sale.
 9 These terms are limited to those persons, partnerships, or corporations
 10 regularly engaged in the commercial production for sale of vegetables, fruits,
 11 crops, livestock, poultry, and other food or agricultural products that report
 12 farm income and expenses on a federal Schedule F or similar federal tax form,
 13 including but not limited to 1065, 1120, and 1120S filed by a person assigned a
 14 North American Industry Classification System (NAICS) Code beginning with
 15 11. The Department of Revenue, in consultation with the Department of
 16 Agriculture, shall develop and promulgate rules to determine who meets this
 17 definition no later than January 1, 2019. Notwithstanding any contrary
 18 provision of this Paragraph, the Department of Revenue shall honor existing
 19 farmer exemption certificates issued by the Department until July 1, 2019.

20 * * *

21 §305.3. Exclusions and exemptions; seeds used in planting of crops

22 The tax imposed by taxing authorities shall not apply to the sale at retail of
 23 seeds **to a commercial farmer as defined in R.S. 47:301(30)** for use in the planting
 24 of any kind of crops. The secretary shall **may** promulgate rules and regulations
 25 designed to carry out the provisions of this Section, and any transaction not strictly
 26 in compliance with such rules and regulations shall lose the exemption herein
 27 provided.

28 * * *

29 §305.8. Exclusions and exemptions; pesticides used for agricultural purposes

1 The tax imposed by taxing authorities shall not apply to sale at retail to a
 2 commercial farmer as defined in R.S. 47:301(30) of pesticides used for
 3 agricultural purposes, including particularly but not by way of limitation,
 4 insecticides, herbicides and fungicides.

* * *

6 §305.37. Exclusions and exemptions; diesel fuel, butane, propane, or other liquefied
 7 petroleum gases used for farm purposes

8 A. The state taxes imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S.
 9 47:331(A) shall not apply to diesel fuel, butane, propane, or other liquefied
 10 petroleum gases used or consumed for farm purposes by a commercial farmer as
 11 defined in R.S. 47:301(30). The secretary of the Department of Revenue shall adopt
 12 and promulgate rules and regulations necessary to effectuate the exemptions granted
 13 by this Section.

* * *

15 §305.63. Exemption; commercial farm irrigation equipment

16 The sales and use tax imposed by the state of Louisiana and its political
 17 subdivisions whose boundaries are coterminous with those of the state shall not
 18 apply to the sale of polyroll tubing sold to a commercial farmer as defined in R.S.
 19 47:301(30) or used for commercial farm irrigation.

20 Section 2. This Act shall become effective on January 1, 2018.

The original instrument was prepared by Leonore F. Heavey. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Jeanne Johnston.

DIGEST

SB 97 Reengrossed

2017 Regular Session

Fannin

Present law provides for sales and use exemptions and exclusions for certain agricultural
 inputs including feed, seed, fertilizer, pesticides, fuel, and irrigation equipment that are used
 by anyone in preparing, finishing, manufacturing, or producing crops or animals for market.

Proposed law retains the present law exclusions and exemptions, but limits their application
 to commercial farmers who are defined by proposed law as persons who produce such food
 or commodities at a profit and file their farm income and expense on a federal Schedule F
 or similar federal tax form, including 1065, 1120, and 1120S, filed by a person assigned a
 North American Industry Classification System (NAICS) Code beginning with 11.

Proposed law requires the Department of Revenue to promulgate rules in consultation with the Department of Agriculture by January 1, 2019, to provide for the application of the definition of commercial farmer.

Proposed law requires the Department of Revenue to honor farmer exemption certificates issued under present law until July 1, 2019.

Effective January 1, 2018.

(Amends R.S. 47:301(10)(e), 305.3, 305.8, 305.37(A), and 305.63; adds R.S. 47:301(30))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Adds commercial farmer requirement to farm fuel and irrigation equipment exemptions.
2. Changes commercial farmer definition to require reporting of farm income and expenses on a federal tax form.
3. Requires Department of Revenue to issue rules by January 1, 2019.
4. Requires Department of Revenue to honor existing farmer exemption certificates.
5. Changes effective date to January 1, 2018.

Senate Floor Amendments to engrossed bill

1. Provides illustrative list of federal tax forms used for reporting farm income expenses and income.
2. Extends time period for honoring existing farmer exemption certificates from 12/31/18 to 7/1/19.