

GREEN SHEET REDIGEST

HB 12

2018 Second Extraordinary Session

Leger

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

TAX/SALES & USE: Provides criteria for the definition of "dealer" for purposes of the sales tax imposed on transactions involving a remote seller (Item #26)

DIGEST

Present law imposes a 1% state sales and use tax on the sale, use, consumption, storage, or lease of tangible personal property and certain services in La. The imposition of the tax expires on June 30, 2018.

Proposed law changes present law by reducing the rate of the tax from 1% to 0.33% and eliminates the sunset.

Present law provides that "cost price" means the actual cost of the articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service cost, transportation charges, or any other expenses whatsoever, or the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax, whichever is less.

Proposed law retains present law but removes exemption for service costs for installing the articles of tangible personal property if such cost is separately billed to the customer at the time of installation.

Present law provides that "sales of services" means and includes the furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment.

Proposed law retains present law but includes the installation of tangible personal property for purposes of taxation under proposed law.

Present law establishes a variety of exclusions and exemptions (exemptions) applicable to state sales and use tax.

Present law suspends numerous exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) for two different periods of time, both occurring between April 1, 2016, and June 30, 2018.

Present law provides that the suspension of certain exemptions for purposes of the tax levies in R.S. 47:321 and 331, expired June 30, 2016. The suspension with respect to the tax levies in R.S. 47:302 and 321.1, remains effective through June 30, 2018.

Present law establishes various provisions concerning specific exemptions to provide that the exemptions shall be applicable under all circumstances.

Proposed law changes present law regarding the effectiveness of all exemptions by establishing that on and after July 1, 2018, only the following exemptions shall be applicable to all state sales and use tax levies:

- (1) Food for home consumption as defined in R.S. 47:305(D)(1)(n) through (r) on Jan. 1, 2003. (Const. Art. VII, §2.2)
- (2) Natural gas. (Const. Art. VII, §2.2)

- (3) Electricity. (Const. Art. VII, §2.2)
- (4) Water. (Const. Art. VII, §2.2)
- (5) Prescription drugs. (Const. Art. VII, §2.2)
- (6) Gasoline and other motor fuels subject to the state excise tax on fuel. (Const. Art. VII, §27)
- (7) Sales to the U.S. government and its agencies. (R.S. 47:301(10)(g)), excluding any sale pursuant to a contract that provides that the contractor is responsible for the payment of any sales and use tax.
- (8) Other constructions permanently attached to the ground. (R.S. 47:301(16)(l))
- ~~(9) Installation charges on tangible personal property. (R.S. 47:301(3)(a))~~
- (10) Installation of oil field board roads. (R.S. 47:301(3)(c))
- (11) Transactions involving the construction or overhaul of U.S. Navy vessels. (R.S. 47:301(7)(c) and (14)(h))
- (12) Property purchased for exclusive use outside the state. (R.S. 47:305.10)
- (13) Sales, leases, or rentals of tangible personal property paid by or under the provisions of Medicare. (R.S. 47:315.3)
- (14) Sales of human tissue transplants. (R.S. 47:301(10)(d))
- (15) Sales of raw agricultural commodities. (R.S. 47:301(10)(e))
- (16) Sales of food by a youth-serving organization chartered by the U.S. Congress. (R.S. 47:301(10)(h))
- (17) Tangible personal property sold or donated to a food bank. (R.S. 47:301(10)(j) and (18)(a)(i))
- (18) Materials used in the collection of blood. (R.S. 47:301(16)(j))
- (19) Aphaeresis kits and leuko reduction filters. (R.S. 47:301(16)(k))
- (20) Donations to schools and food banks from resale inventory. (R.S. 47:301(18)(a))
- (21) Manufacturer's rebates on a new motor vehicle. (R.S. 47:301(3)(e) and (13)(b))
- (22) Leases or rentals of railroad rolling stock. (R.S. 47:301(4)(k))
- (23) Sales, purchases and leases of tangible personal property by free hospitals. (R.S. 47:301(7)(e), (10)(p), and (18)(c))
- (24) Purchases by a nonprofit entity that sells donated goods. (R.S. 47:301(8)(f))
- (25) Tangible personal property for resale. (R.S. 47:301(10)(a)(i))
- (26) Purchases of property for lease or rental. (R.S. 47:301(10)(a)(iii) and (18)(a)(iii))
- (27) Isolated or occasional sales of tangible personal property by a person not engaged in such business. (R.S. 47:301(1) and (10)(c)(ii)(bb))
- (28) Use of a motor vehicle in La. by a member of the active duty military. (R.S. 47:303(A) and 305.48)

- (29) Purchases made under the Supplemental Nutrition Assistance Program through WIC Program Vouchers . (R.S. 47:305.46)
- (30) An article traded in on the purchase of tangible personal property. (R.S. 47:301(13)(a))
- (31) Donation of toys. (R.S. 47:301(10)(aa)(i) and (18)(m))
- (32) Stocks, bonds, notes, and other obligations or securities. (R.S. 47:301(16)(b)(i))
- (33) Credit for sales and use taxes paid to another state on tangible personal property imported in La. (R.S. 47:303(A)(3)(a))
- (34) Work product of certain professionals. (R.S. 47:301(16)(e))
- (35) Purchases by a regionally accredited independent educational institution. (R.S. 47:301(8)(b))
- (36) Sales through a coin-operated vending machine. (R.S. 47:301(10)(b)(i))
- (37) Purchases by a private postsecondary academic degree-granting institution. (R.S. 47:301(10)(cc) and(18)(n))
- (38) Purchases of food items for school lunch and breakfast programs by a nonpublic elementary or secondary school. (R.S. 47:301(10)(dd))
- (39) Funeral directing services. (R.S. 47:301(14)(j))
- (40) Feed and feed additives for animals held for business purposes. (R.S. 47:305(A)(4))
- (41) Farm products produced and used by farmers. (R.S. 47:305(B))
- (42) Sale of fertilizer and containers to farmers. (R.S. 47:305(D)(1)(f))
- (43) Sales of seeds for planting crops. (R.S. 47:305.3)
- (44) Sales of pesticides for agricultural purposes. (R.S. 47:305.8)
- (45) The cost price for the printing of a news publication. (R.S. 47:301(3)(h))
- (46) Vehicle rentals to a warranty customer. (R.S. 47:301(7)(h))
- (47) Leases or rentals of a crane and related equipment with an operator. (R.S. 47:301(7)(k))
- (48) Sales by and to the state and its political subdivisions. (R.S. 47:301(8)(c))
- (49) Sales of materials for further processing. (R.S. 47:301(10)(c)(i)(aa))
- (50) The sales price for new farm equipment used in poultry production. (R.S. 47:301(13)(c))
- (51) A factory built home. (R.S. 47:301(16)(g))
- (52) Any advertising service rendered by an advertising business. (R.S. 47:302(D))
- (53) Sales of livestock, poultry, and other farm products direct from a farm. (R.S. 47:305(A)(1))
- (54) Sales of livestock at a public sale sponsored by a breeders' or registry association or at a livestock auction market. (R.S. 47:305(A)(2))

- (55) Sales of agricultural commodities by a person other than the producer, for use in further processing. (R.S. 47:305(A)(3))
- (56) Transactions in interstate commerce and tangible personal property imported into this state, or produced or manufactured in this state for export. (R.S. 47:305(E))
- (57) Ships, vessels, barges, and related supplies. (R.S. 47:305.1)
- ~~(58) The sales price of new farm equipment, including polyroll tubing. (R.S. 47:305.25)~~
- (59) A truck and trailer if used at least 80% of the time in interstate commerce. (R.S. 47:305.50(A))
- (60) Freight cars, piggyback trailers, and rail rolling stock, and railroad ties. (R.S. 47:305.45 and 305.50(F))
- (61) Sales or purchases by a council on aging. (R.S. 47:305.66)
- (62) Sales of pharmaceuticals administered to livestock for agricultural purposes. (R.S. 47:301(16)(f))
- (63) Materials used in the production of crawfish and catfish. (R.S. 47:305(A)(5) and (6))
- (64) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization. (R.S. 47:301(6)(b))
- (65) Sales of room rentals by a homeless shelter. (R.S. 47:301(6)(c))
- (66) Sales, leases, and rentals of tangible personal property to Boys State of La., Inc. and Girls State of La., Inc. (R.S. 47:301(7)(g) and (10)(r))
- (67) Sales or purchases of fire-fighting equipment by a volunteer fire department. (R.S. 47:301(10)(o))
- (68) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by a parochial and private elementary and secondary school that complies with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii))
- (69) Sales by a parochial and private elementary and secondary school that complies with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(10)(q)(i) and (18)(e)(i))
- (70) Sales, (R.S. 47:301(14)(b)(i)), but only of admissions to an athletic and entertainment event held for or by an elementary or secondary school and membership fees or dues of a nonprofit, civic association.
- (71) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by a physician, optometrist, or licensed chiropractor used exclusively by the patient for personal use. (R.S. 47:305(D)(1)(k))
- (72) Sales or use of ostomy, colostomy, and ileostomy devices and equipment. (R.S. 47:305(D)(1)(l))
- (73) Sales of medical devices. (R.S. 47:305(D)(1)(s))
- (74) Sales of dental devices and materials. (R.S. 47:305(D)(1)(t))
- (75) Sales or use of adaptive driving equipment and motor vehicle modification prescribed for personal use. (R.S. 47:305(D)(1)(u))

- (76) Sales or use of a meal by an educational institution, medical facility, mental institution, and an occasional meal furnished by an educational, religious, or medical organization. (R.S. 47:305(D)(2))
- (77) Purchases or rentals of renal dialysis machines, parts, materials, and supplies for home use under a physician's prescription. (R.S. 47:305(G))
- (78) Sales of admission to entertainment events by a Little Theater organization. (R.S. 47:305.6)
- (79) Sales of admission to musical performances sponsored by a nonprofit organization. (R.S. 47:305.7)
- (80) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations. (R.S. 47:305.13)
- (81) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations. (R.S. 47:305.14(A)(1))
- (82) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations. (R.S. 47:305.18)
- (83) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen. (R.S. 47:305.20)
- (84) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption. (R.S. 47:305.39)
- (85) Sales and purchases by certain organizations that provide training for blind persons. (R.S. 47:305.15)
- (86) Purchases and lease by qualified radiation therapy treatment centers. (R.S. 47:305.64)
- ~~(87) Sales of electricity for chlor-alkali manufacturing. (R.S. 47:301(10)(c)(ii)(aa))~~
- (88) Rentals or leases of certain oilfield property for re-lease or re-rental. (R.S. 47:301(7)(b))
- (89) Sales of aircraft manufactured in La. with a capacity in excess of eight persons. (R.S. 47:301(10)(m))
- (90) Labor, materials, services, and supplies used for the repair, renovation, or conversion of drilling rig machinery and equipment which become component parts of a drilling rig used exclusively for exploration or development of minerals. (R.S. 47:301(14)(g)(iii))
- (91) Repairs and materials used on drilling rigs and equipment used exclusively for exploration or development of minerals. (R.S. 47:305(I))
- (92) Sales by thrift shops located on military installations. (R.S. 47:305.14(A)(4))
- (93) Leases or rentals of vessels for use in offshore mineral production, or the provision of services to those engaged in mineral production. (R.S. 47:305.19)
- (94) Sales of gasohol. (R.S. 47:305.28)
- (95) Sales or purchases by sheltered workshops. (R.S. 47:305.38)
- (96) Pharmaceutical samples manufactured or imported into the state free of charge.

(R.S. 47:305.47)

- (97) The exclusion for surface preparation, painting, and coating fixed or rotary wing aircraft and certified transport category aircraft registered outside of this state. (R.S. 47:301(14)(g)(iv))
- (98) Sales of platinum, gold, and silver bullion, that is valued solely upon its precious metal content, whether in coin or ingot form. (R.S. 47:301(16)(b)(ii)(aa))
- (99) Sales of certain numismatic coins. (R.S. 47:301(16)(b)(ii)(bb) and (cc))
- ~~(100) Purchases, use, and lease of manufacturing machinery and equipment. (R.S. 47:301(3)(i), (13)(k) and (28)(a))~~
- (101) Purchase of consumables by paper and wood manufacturers and loggers. (R.S. 47:301(3)(k))
- ~~(102) Sale and purchase of electricity as provided in R.S. 47:305(D)(1)(d) for use in production activity subject to the payment of state severance tax on production from a stripper well. (R.S. 47:633(7)(c)(i) and (ii)(aa) and (bb))~~
- ~~(103) Purchase of machinery and equipment by a utility regulated by the Public Service Commission and the city of New Orleans. (R.S. 47:301(16)(o))~~
- (104) Repair services performed in La. when the repaired property is delivered outside of La. (R.S. 47:301(14)(g)(i)(bb))
- (105) Sales and leases of rail rolling stock in La., and sales of parts and services used in the fabrication, modification, or repair of rail rolling stock. (R.S. 47:305.50(E))
- (106) Purchases by a nonprofit electric cooperative. (R.S. 12:425)
- ~~(107) Diesel fuel, butane, propane, or other gases used or consumed for farm purposes. (R.S. 47:305.37(A))~~
- (108) The use of steam produced through the processing of a raw agricultural product used in a facility predominately and directly engaged in the processing of an agricultural product by a manufacturer as defined in R.S. 47:301(3)(i)(ii)(bb) based on being assigned a N.A.I.C.S.C. within the agricultural, forestry, fishing, and hunting Sector 11.
- (109) Sales of intangible personal property and services at certain public facilities as established under R.S. 39:467 and 468.
- (110) The sales tax holidays as established under R.S. 47:305.54, 305.58, and 305.62.

Proposed law provides that the exemptions for the sales and use of steam, water, electric power or energy, natural gas, or other energy sources as provided in R.S. 47:305(D)(1)(b), (c), (d), (g), and (h) **with respect to all taxpayers shall** be applicable to the taxes levied under R.S. 47:321, 321.1, and 331.

Effective July 1, 2018.

(Amends R.S. 47:301(16)(3)(a), (14)(g)(i)(aa), (16)(o)(i), 302(R)(2) and (3), (S), (T), (X)(intro. para.), (AA)(intro. para.), (AA)(29) through (31), and (AA)(32)(intro. para.), 321(H)(2) through (6), and (I) through (K), 321.1(A)-(C), (E), (F)(intro. para.), (F)(66)(intro. para.), (F)(67) through (69), and (F)(70)(intro. para.), and 331(P), (Q), and (R); Adds 47:302(BB) and (CC), 321(P) and (Q), 321.1(I) and (J), and 331(V) and (W); Repeals R.S. 47:302(Y), 321(M), 331(T), and Act No. 395 of the 2017 R.S.)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add applicability for purposes of all state sales and use taxes for the following exclusions and exemptions:
 - a. Sales and leases of rail rolling stock in La., and sales of parts and services used in the fabrication, modification, or repair of rail rolling stock. (R.S. 47:305.50(E)).
 - b. Repair services performed in La. when the repaired property is delivered outside of La. (R.S. 47:301(14)(g)(i)(bb))
 - c. Purchases by a nonprofit electric cooperative. (R.S. 12:425)
 - d. Diesel fuel, butane, propane, or other gases used or consumed for farm purposes. (R.S. 47:305.37(A))
 - e. The use of steam produced through the processing of a raw agricultural product used in a facility predominately and directly engaged in the processing of an agricultural product by a manufacturer as defined in R.S. 47:301(3)(i)(ii)(bb) based on being assigned a N.A.I.C.S.C. within the agricultural, forestry, fishing, and hunting Sector 11.

Summary of Amendments Adopted by Senate

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

1. Replaces current provisions of the bill with House Bill 27 as amended by the Senate Committee on Revenue and Fiscal Affairs.