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DIGEST

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HB 423 Original

2023 Regular Session

Nelson

**Abstract:** Provides relative to state and local sales and use taxes, exemptions and exclusions from such taxes, levies of state sales and use taxes, items and services to which state sales and use taxes apply, and assessment of certain lands for ad valorem tax purposes.

Present law imposes a state sales and use tax on the sale, use, lease, or rental of tangible personal property, which tax is composed of the following levies in the following amounts:

R.S. 47:302	.....	2.00%
R.S. 47:321	.....	1.00%
R.S. 47:321.1	.....	0.45%
R.S. 47:331	.....	0.97%
R.S. 51:1286	.....	0.03%

Proposed law repeals the 0.45% levy provided in present law (R.S. 47:321.1) and imposes a new state sales and use tax levy of 2.25%. Proposed law imposes the new levy incrementally over four years, bringing the total state sales and use tax rate to 6.25% beginning Jan. 1, 2027.

Present law authorizes numerous exemptions to and exclusions from the state sales and use tax, but suspends many of these exemptions and exclusions through June 30, 2025. Present law provides an exclusive list of exemptions and exclusions that are currently effective.

Proposed law repeals exemptions and exclusions that are currently suspended including those for the following:

- (1) Purchases, services and rentals for private companies working for local authorities on construction of sewerage and waste water treatment facilities.
- (2) Certain labor charges.
- (3) Purchases of certain utilities.
- (4) Rentals or purchases of certain airplanes.
- (5) Certain manufacturing and machinery equipment.
- (6) Certain pallets used in packaging products.

- (7) Certain bibles, song books, and literature.
- (8) Certain school buses.
- (9) Certain pollution control devices.
- (10) Pelletized paper waste.
- (11) Telephone directories.
- (12) Certain telecommunication services.
- (13) Natural gas.
- (14) Storm shutter devices.
- (15) Certain heritage and cultural events.
- (16) Festivals.
- (17) Specialty items sold by nonprofit carnival organizations to organization members.
- (18) Admissions to certain athletic and entertainment events.
- (19) Admissions to certain places of amusement.
- (20) Computer software.
- (21) Purchases by motor vehicle manufacturers.
- (22) Newspapers.
- (23) Medical devices and equipment.
- (24) Sales to nonprofit literacy organizations.
- (25) Certain installation services.
- (26) Motor vehicles, trailers, and semitrailers used exclusively for lease or rental.
- (27) Purchases of certain construction materials by certain charitable or nonprofit organizations.
- (28) Specialty Mardi Gras items.
- (29) Sales by Ducks Unlimited and Bass Life.

- (30) Tickets to dances, dramas, or performing arts presentations or events.
- (31) Materials used in the printing process.
- (32) Certain carrier buses.
- (33) Purchases of breastfeeding items.
- (34) Certain materials for La. commercial fishermen.
- (35) Certain antique motor vehicles and airplanes.
- (36) Certain rentals of motion-picture film.
- (37) Purchases by and sales by certain nonprofit organizations dedicated to the conservation of fish and migratory waterfowl.
- (38) Certain one-of-a-kind works of art.

Proposed law defines "specified digital product" as an electronically transferred digital audio-visual work, digital audio work, digital book, or electronic game. Stipulates that specified digital products shall be considered tangible personal property for purposes of sales and use taxes imposed by the state and any political subdivision of the state, therefore subjecting specified digital products to those taxes.

Proposed law provides the following definitions for the component items comprising specified digital products:

- (1) "Digital audio-visual work" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. Digital audio-visual works include, without limitation, electronically transferred motion pictures, musical videos, news and entertainment programs, and live events.
- (2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically. Digital audio works include, without limitation, prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, and other sound recordings.
- (3) "Digital book" means any work that is generally recognized as a book, in the ordinary and usual sense of the word "book", and that is transferred electronically. Digital books include, without limitation, works of fiction, nonfiction, poetry, and short stories.
- (4) "Electronic game" means an interactive game which is operated by computer circuitry.

Present law defines "dealer", for purposes of state and local sales and use taxes, to include every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction. Proposed law amends present law to include within the definition of "dealer" every person who delivers any specified digital product into this state for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction.

Present law subjects sales of services to state and local sales and use taxes. Defines "sales of services" to include an enumerated list of services. Proposed law adds the following into the "sales of services" definition, thereby making these services taxable:

- (1) The sale of any subscription which allows electronic access to any computer software or specified digital product.
- (2) The sale of cable television services. For purposes of proposed law "cable television service" means the distribution of video programming with or without use of wires to subscribing or paying customers.
- (3) The sale of internet access services other than services defined in present law as telecommunications services.
- (4) The sale of information services such as furnishing of general or specialized news or other current information, with certain exceptions, and electronic data retrieval or research.
- (5) The sale of data processing services such as word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation.
- (6) The sale of telephone answering services.
- (7) The sale of credit reporting services.
- (8) The sale of debt collection services.
- (9) The sale of insurance services such as insurance loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service.
- (10) The sale of real property services such as landscaping; care and maintenance of lawns, yards, or ornamental trees or other plants; removal or collection of garbage, rubbish, or other solid waste other than hazardous or industrial waste; building or grounds cleaning, janitorial, or custodial services; structural pest control service; and surveying of real property.
- (11) Security services provided by a person or firm licensed in accordance with present law known as the Private Security Regulatory and Licensing Law (R.S. 37:3270 et seq.).

Proposed law repeals the following provisions of present law establishing the following state sales tax holidays (dates on which purchases of certain items are exempt from state sales tax):

- (1) The Annual Louisiana Sales Tax Holidays Act (R.S. 47:305.54).
- (2) The annual sales tax holiday for purchases of hurricane-preparedness items or supplies (R.S. 47:305.58).

Proposed law amends present law providing for the Annual Louisiana Second Amendment Weekend Holiday Act (R.S. 47:305.62) to stipulate that the sales tax exemption provided therein shall apply only to local sales taxes and not to the state sales tax.

Present law stipulates that in order to be classified as bona fide agricultural, horticultural, marsh, or timber land and assessed for ad valorem tax purposes at its use value instead of fair market value, a parcel of land must be at least three acres in size or have produced an average gross annual income of at least \$2,000 in one or more of the designated classifications for the previous four years.

Proposed law removes marsh lands from the set of lands qualifying for assessment based on use value and changes the minimum acreage necessary for land to qualify for assessment based on use value from three acres to ten acres. Otherwise, retains present law.

Effective if and when the proposed amendment of Articles VI, VII, and VIII of the Constitution of La. contained in the Act which originated as House Bill No. \_\_\_ of this 2023 R.S. is adopted at a statewide election and becomes effective.

(Amends R.S. 33:4169(D), R.S. 39:467(H) and 468(G), and R.S. 47:301(4)(intro. para.) and (14)(b)(i)(aa), 305.14(A)(1)(a), 305.20(A) and (C), 305.62(B)(1), 306(A)(3)(a), 318(A), 321(A)(intro. para.) and (B)(intro. para.), 331(A)(intro. para.) and (B)(intro. para.), 337.9(C)(7)-(9), (12), and (13), 2301, 2303, 2304(A), 2305(B)(1), and 2322; Adds R.S. 47:301(14)(l)-(v) and (32), 305.79, and 331.1; Repeals R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j), and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v)-(y), (bb), and (ee)-(hh), (13)(e)-(j), (l), and (m), (14)(b)(ii)-(iv) and (k), (16)(b)(iii), (c), (h), (i), (m), (n), and (p), and (18)(a)(iv), (d), (f)-(k), (o), and (p), 302(F)-(J) and (L)-(CC), 305(D)(1)(b)-(d), (g), (h), (j), and (m) and (3)-(5) and (F), 305.2, 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36, 305.40-305.44, 305.50(B), 305.51-305.54, 305.57-305.61, 305.63, 305.65, 305.67-305.71, 305.74, 321(E)-(Q), 321.1, 331(F)-(W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (17)-(19), (25)-(32), and (35), 337.10(E), (G), and (M), 337.11(4) and (8), 2302(C), 6001, 6003, and 6040)