

2015 Regular Session

HOUSE BILL NO. 768

BY REPRESENTATIVE JAY MORRIS

TAX/SALES-USE, STATE: Dedicates the avails of the existing one percent state sales and use tax for the support of public elementary through post-secondary education

1 AN ACT

2 To amend and reenact R.S. 4:168 and 227, R.S. 33:4169(D), R.S. 47:301(3) through (18)
3 and (28)(a), 302(R)(2), (S), and (T), 305, 305.1(A), 305.16, 305.20(C),
4 305.25(A)(introductory paragraph), 305.36(A), (B), and (C)(1), 305.50(A)(1), (2)(a),
5 (B), (E), and (F), 305.51(A), 305.54(B)(1), 305.58(A)(1), 305.59, 305.60(A)(1),
6 305.62(B)(1), 305.63, 305.64(A)(1), 305.65(A), 305.68, 305.70, 305.71, 318(A),
7 321(H)(2) through (5), (I), and (K), and 6001(A), and R.S. 51:1307(C); to provide
8 with respect to the applicability of certain tax exemptions; to provide with respect
9 to the applicability of certain exclusions from tax; to provide for effectiveness; and
10 to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 4:168 and 227 are hereby amended and reenacted to read as follows:

13 §168. License fees, commissions, and taxes of this Part in lieu of ~~all other such~~
14 taxes

15 The license fees, commissions, and taxes imposed in this Part are in lieu of
16 all other ~~such~~ licenses, ~~sales excise and taxes~~, occupational taxes ~~to~~, and certain
17 sales and use taxes imposed by the state or to any parish, city, town, or other political
18 subdivision thereof. However, the taxable transactions of a licensee shall be subject
19 to the state sales and use taxes imposed pursuant to Chapter 2-A of Subtitle II of
20 Title 47 of the Louisiana Revised Statutes of 1950, as amended.

21 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §227. License fees, commissions, and taxes of this Part in lieu of ~~all other such~~ taxes

2 The license fees, commissions, and taxes imposed upon an offtrack wagering
3 facility in this Part are in lieu of all other ~~such~~ licenses, ~~sales, excise, and taxes,~~
4 occupational taxes ~~to~~ , and certain sales and use taxes imposed by the state or ~~to~~ any
5 parish, city, town, municipality, or other political subdivision thereof. However, the
6 taxable transactions of a licensee shall be subject to the state sales and use taxes
7 imposed pursuant to Chapter 2-A of Subtitle II of Title 47 of the Louisiana Revised
8 Statutes of 1950, as amended.

9 Section 2. R.S. 33:4169(D) is hereby amended and reenacted to read as follows:

10 §4169. Collection contracts for sewerage service charges; access charges;
11 enforcement procedures for delinquent charges

12 * * *

13 D. Any municipal corporation, parish, or sewerage or water district shall
14 have the power to execute and enter into a contract with any private company for the
15 construction of sewerage or wastewater treatment facilities and for the operation of
16 such facilities. Any such private company shall have in its construction and
17 operation of such facilities the same ad valorem and sales tax liability exemption as
18 the municipal corporation, parish, or sewerage or water district with which it
19 contracts for such purpose; however, this exemption shall not be applicable to
20 taxable transactions subject to the state sales and use taxes imposed pursuant to
21 Chapter 2-A of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as
22 amended.

23 * * *

24 Section 3. R.S. 47:301(3) through (18) and (28)(a), 302(R)(2), (S), and (T), 305,
25 305.1(A), 305.16, 305.20(C), 305.25(A)(introductory paragraph), 305.36(A), (B), and
26 (C)(1), 305.50(A)(1), (2)(a), (B), (E), and (F), 305.51(A), 305.54(B)(1), 305.58(A)(1),
27 305.59, 305.60(A)(1), 305.62(B)(1), 305.63, 305.64(A)(1), 305.65(A), 305.68, 305.70,
28 305.71, 318(A), 321(H)(2) through (5), (I), and (K), and 6001(A), are hereby amended and
29 reenacted to read as follows:

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1 §301. Definitions

2 As used in this Chapter the following words, terms, and phrases have the
3 meaning ascribed to them in this Section, unless the context clearly indicates a
4 different meaning:

5 (1) "Business" includes any activity engaged in by any person or caused to
6 be engaged in by him with the object of gain, benefit, or advantage, either direct or
7 indirect. The term "business" shall not be construed to include the occasional and
8 isolated sales by a person who does not hold himself out as engaged in business.

9 (2) "Collector" shall mean and include (a) the secretary of the Department
10 of Revenue for the state of Louisiana and includes his duly authorized assistants,
11 when used in reference to a sales and use tax levied by the state, or (b) the individual
12 or entity designated as collector of the appropriate single sales and use tax collection
13 office, and his duly authorized assistants, of any political subdivision authorized
14 under the constitution and laws of the state of Louisiana to levy and collect a sales
15 and use tax, except a statewide political subdivision, when used in reference to a
16 sales and use tax levied by such political subdivision.

17 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
18 property without any deductions therefrom on account of the cost of materials used,
19 labor, or service cost, ~~except those service costs for installing the articles of tangible~~
20 ~~personal property if such cost is separately billed to the customer at the time of~~
21 ~~installation~~, transportation charges, or any other expenses whatsoever, or the
22 reasonable market value of the tangible personal property at the time it becomes
23 susceptible to the use tax, whichever is less. Service costs for installing the articles
24 of tangible personal property, if such costs are separately billed to the customer at
25 the time of sale shall be excluded from "cost price" for purposes of the state sales and
26 use taxes imposed under R.S. 47:302 and 331, and sales and use taxes imposed by
27 a political subdivision.

28 (b) In the case of tangible personal property which has acquired a tax situs
29 in a taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for

1 repairs performed outside the taxing jurisdiction and is thereafter returned to the
2 taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts
3 and/or materials used in performing such repairs, if applicable labor charges are
4 separately stated on the invoice. If the applicable labor charges are not separately
5 stated on the invoice, it shall be presumed that the cost price is the total charge
6 reflected on the invoice.

7 (c) "Cost price" price" solely for purposes of the state sales and use taxes
8 imposed under R.S. 47:302 and 331, and sales and use tax imposed by a political
9 subdivision, shall not include the supplying and installation of board roads to oil
10 field operators if the installation charges are separately billed to the customer at the
11 time of installation.

12 (d)(i) In the case of interchangeable components located in Louisiana, a
13 taxpayer may elect to determine the cost price of such components as follows:

14 (aa) The taxpayer shall send to the secretary written notice of the calendar
15 month selected by the taxpayer as the first month for the determination of cost price
16 under this Paragraph (the "First Month"). The taxpayer may select any month. The
17 taxpayer shall send to the secretary notice of an election to designate a First Month
18 on the first day of the designated First Month, or ninety days from July 1, 1990,
19 whichever is later.

20 (bb) For the First Month and each month thereafter, cost price shall be based
21 and use tax shall be paid only on one-sixtieth of the aggregate cost price of the
22 interchangeable components deployed and earning revenue within Louisiana during
23 the month, without regard to any credit or other consideration for Louisiana state,
24 political subdivision, or school board use tax previously paid on such
25 interchangeable components.

26 (cc) Any election made under this Paragraph shall be irrevocable for a period
27 of sixty consecutive months inclusive of the First Month. If at any time after the
28 sixty-month period the taxpayer revokes its election, no credit or other consideration

1 for use taxes paid pursuant thereto shall be applied to any use tax liability arising
2 after such revocation.

3 (ii)(aa) For purposes of this Paragraph, "interchangeable component" means
4 a component that is used or stored for use in measurement-while-drilling instruments
5 or systems manufactured or assembled by the taxpayer, which measurement-while-
6 drilling instruments or systems collectively generate eighty percent or more of their
7 annual revenue from their use outside of the state.

8 (bb) "Measurement-while-drilling instruments or systems" means
9 instruments or systems which measure information from a downhole location in a
10 borehole, transmit the information to the surface during the process of drilling the
11 borehole using a wireless technique, and receive and decode the information on the
12 surface.

13 (iii) The method for determining cost price of interchangeable components
14 provided for in this Paragraph shall apply to any use taxes imposed by a local
15 political subdivision or school board. For purposes of that application, the words
16 "political subdivision" or "school board" as the case may be, shall be substituted for
17 the words "Louisiana" or "State" in each instance where those words appear in this
18 Paragraph and an appropriate official of the local political subdivision or school
19 board shall be designated to receive the notices required by this Paragraph.

20 (e) "Cost price", solely for purposes of the state sales and use taxes imposed
21 under R.S. 47:302 and 331, and sales and use taxes imposed by a political
22 subdivision, shall not include any amount designated as a cash discount or a rebate
23 by a vendor or manufacturer of any new vehicle subject to the motor vehicle license
24 tax. For purposes of this Paragraph "rebate" means any amount offered by the
25 vendor or manufacturer as a deduction from the listed retail price of the vehicle.

26 (f) The "cost price" of refinery gas shall be fifty-two cents per thousand
27 cubic feet multiplied by a fraction the numerator of which shall be the posted price
28 for a barrel of West Texas Intermediate Crude Oil on December first of the preceding
29 calendar year and the denominator of which shall be twenty-nine dollars, and

1 provided further that such cost price shall be the maximum value placed upon
2 refinery gas by the state and by any political subdivision under any authority or grant
3 of power to levy and collect use taxes.

4 (g) "Cost price", for purposes of the use tax imposed by the state and its
5 political subdivisions, shall exclude any amount that a manufacturer pays directly to
6 a dealer of the manufacturer's product for the purpose of reducing and that actually
7 results in an equivalent reduction in the retail "cost price" of that product. This
8 exclusion shall not apply to the value of the coupons that dealers accept from
9 purchasers as part payment of the "sales price" and that are redeemable by the
10 dealers through manufacturers or their agents. The value of such coupons is deemed
11 to be part of the "cost price" of the product purchased through the use of the coupons.

12 (h)(i) For purposes of a publishing business which distributes its news
13 publications at no cost to readers and pays unrelated third parties to print such news
14 publications, the term "cost price" shall mean only the lesser of the following costs:

15 (aa) The printing cost paid to unrelated third parties to print such news
16 publications, less any itemized freight charges for shipping the news publications
17 from the printer to the publishing business and any itemized charges for paper and
18 ink.

19 (bb) Payments to a dealer or distributor as consideration for distribution of
20 the news publications.

21 (ii) The definition of "cost price" provided for in this Subparagraph shall be
22 applicable to taxes levied by all tax authorities in the state.

23 (i) Solely for purposes of the state sales and use taxes imposed under R.S.
24 47:302 and 331, ~~(i) For purposes of the imposition of the use tax levied by the state~~
25 ~~and any political~~ and for those of a political subdivision whose boundaries are
26 coterminous with those of the state, the cost price of machinery and equipment used
27 by a manufacturer in a plant facility predominately and directly in the actual
28 manufacturing for agricultural purposes or the actual manufacturing process of an
29 item of tangible personal property, which is for ultimate sale to another and not for

1 internal use, at one or more fixed locations within Louisiana, shall be reduced as
2 follows:

3 (aa) For the period ending on June 30, 2005, the cost price shall be reduced
4 by five percent.

5 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
6 cost price shall be reduced by nineteen percent.

7 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
8 cost price shall be reduced by thirty-five percent.

9 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
10 cost price shall be reduced by fifty-four percent.

11 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
12 cost price shall be reduced by sixty-eight percent.

13 (ff) For all periods beginning on or after July 1, 2009, the cost price shall be
14 reduced by one hundred percent.

15 (ii) For purposes of this Subparagraph, the following definitions shall apply:

16 (aa) "Machinery and equipment" means tangible personal property or other
17 property that is eligible for depreciation for federal income tax purposes and that is
18 used as an integral part in the manufacturing of tangible personal property for sale.
19 "Machinery and equipment" shall also mean tangible personal property or other
20 property that is eligible for depreciation for federal income tax purposes and that is
21 used as an integral part of the production, processing, and storing of food and fiber
22 or of timber.

23 (I) Machinery and equipment, for purposes of this Subparagraph, also
24 includes but is not limited to the following:

25 (aaa) Computers and software that are an integral part of the machinery and
26 equipment used directly in the manufacturing process.

27 (bbb) Machinery and equipment necessary to control pollution at a plant
28 facility where pollution is produced by the manufacturing operation.

1 (ccc) Machinery and equipment used to test or measure raw materials, the
2 property undergoing manufacturing or the finished product, when such test or
3 measurement is a necessary part of the manufacturing process.

4 (ddd) Machinery and equipment used by an industrial manufacturing plant
5 to generate electric power for self consumption or cogeneration.

6 (eee) Machinery and equipment used primarily to produce a news
7 publication whether it is ultimately sold at retail or for resale or at no cost. Such
8 machinery and equipment shall include but not be limited to all machinery and
9 equipment used primarily in composing, creating, and other prepress operations,
10 electronic transmission of pages from prepress to press, pressroom operations, and
11 mailroom operations and assembly activities. The term "news publication" shall
12 mean any publication issued daily or regularly at average intervals not exceeding
13 three months, which contains reports of varied character, such as political, social,
14 cultural, sports, moral, religious, or subjects of general public interest, and
15 advertising supplements and any other printed matter ultimately distributed with or
16 a part of such publications.

17 (II) Machinery and equipment, for purposes of this Subparagraph, does not
18 include any of the following:

19 (aaa) A building and its structural components, unless the building or
20 structural component is so closely related to the machinery and equipment that it
21 houses or supports that the building or structural component can be expected to be
22 replaced when the machinery and equipment are replaced.

23 (bbb) Heating, ventilation, and air-conditioning systems, unless their
24 installation is necessary to meet the requirements of the manufacturing process, even
25 though the system may provide incidental comfort to employees or serve, to an
26 insubstantial degree, nonproduction activities.

27 (ccc) Tangible personal property used to transport raw materials or
28 manufactured goods prior to the beginning of the manufacturing process or after the
29 manufacturing process is complete.

1 (ddd) Tangible personal property used to store raw materials or
2 manufactured goods prior to the beginning of the manufacturing process or after the
3 manufacturing process is complete.

4 (bb) "Manufacturer" means:

5 (I) A person whose principal activity is manufacturing, as defined in this
6 Subparagraph, and who is assigned by the Louisiana Workforce Commission a North
7 American Industrial Classification System code within the agricultural, forestry,
8 fishing, and hunting Sector 11, the manufacturing Sectors 31-33, the information
9 Sector 511110 as they existed in 2002, or industry code 423930 as a recyclable
10 material merchant wholesaler engaged in manufacturing activities, which must
11 include shredding facilities, as determined by the secretary of the Department of
12 Revenue.

13 (II) A person whose principal activity is manufacturing and who is not
14 required to register with the Louisiana Workforce Commission for purposes of
15 unemployment insurance, but who would be assigned a North American Industrial
16 Classification System code within the agricultural, forestry, fishing, and hunting
17 Sector 11, the manufacturing Sectors 31-33, the information Sector 511110 as they
18 existed in 2002, as determined by the Louisiana Department of Revenue from federal
19 income tax data, if he were required to register with the Louisiana Workforce
20 Commission for purposes of unemployment insurance.

21 (cc) "Manufacturing" means putting raw materials through a series of steps
22 that brings about a change in their composition or physical nature in order to make
23 a new and different item of tangible personal property that will be sold to another.
24 Manufacturing begins at the point at which raw materials reach the first machine or
25 piece of equipment involved in changing the form of the material and ends at the
26 point at which manufacturing has altered the material to its completed form. Placing
27 materials into containers, packages, or wrapping in which they are sold to the
28 ultimate consumer is part of this manufacturing process. Manufacturing, for
29 purposes of this Subparagraph, does not include any of the following:

- 1 (I) Repackaging or redistributing.
- 2 (II) The cooking or preparing of food products by a retailer in the regular
3 course of retail trade.
- 4 (III) The storage of tangible personal property.
- 5 (IV) The delivery of tangible personal property to or from the plant.
- 6 (V) The delivery of tangible personal property to or from storage within the
7 plant.
- 8 (VI) Actions such as sorting, packaging, or shrink wrapping the final
9 material for ease of transporting and shipping.
- 10 (dd) "Manufacturing for agricultural purposes" means the production,
11 processing, and storing of food and fiber and the production, processing, and storing
12 of timber.
- 13 (ee) "Plant facility" means a facility, at one or more locations, in which
14 manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial
15 Classification system as of 2002, of a product of tangible personal property takes
16 place.
- 17 (ff) "Used directly" means used in the actual process of manufacturing or
18 manufacturing for agricultural purposes.
- 19 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
20 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
21 321, and 331 before receiving a certificate of exclusion from the secretary of the
22 Department of Revenue certifying that he is a manufacturer as defined herein.
- 23 (iv) The secretary of the Department of Revenue is hereby authorized to
24 adopt rules and regulations in order to administer the exclusion provided for in this
25 Subparagraph.
- 26 (j) For the purpose of the sales and use taxes imposed by the state under R.S.
27 47:302 and 331 or any political subdivision whose boundaries are coterminous with
28 those of the state, the "cost price" of electric power or energy, or natural gas for the

1 period beginning July 1, 2007 and thereafter, purchased or used by paper or wood
2 products manufacturing facilities shall not include any of such cost.

3 (k)(i) For purposes of the imposition of the sales and use tax levied by the
4 state or any political subdivision whose boundaries are coterminous with those of the
5 state under R.S. 47:302 and 331, the tax on the cost price of tangible property
6 consumed in the manufacturing process, such as fuses, belts, felts, wires, conveyor
7 belts, lubricants, and motor oils and the tax on the cost price of repairs and
8 maintenance of manufacturing machinery and equipment shall be reduced as follows:

9 (aa) For the period beginning July 1, 2010, and ending on June 30, 2011, the
10 state sales and use tax on the cost price shall be reduced by twenty-five percent.

11 (bb) For the period beginning July 1, 2011, and ending June 30, 2012, the
12 state sales and use tax on the cost price shall be reduced by fifty percent.

13 (cc) For the period beginning July 1, 2012, and ending June 30, 2013, the
14 state sales and use tax on the cost price shall be reduced by seventy-five percent.

15 (dd) For all periods beginning on and after July 1, 2013, the state sales and
16 use tax on the cost price shall be reduced by one hundred percent.

17 (ii) For purposes of this Subparagraph, "manufacturer" means a person
18 whose principal activity is manufacturing and who is assigned an industry group
19 designation by the United States Census of 3211 through 3222 or 113310 pursuant
20 to the North American Industry Classification System of 2007.

21 (4) "Dealer" includes every person who manufactures or produces tangible
22 personal property for sale at retail, for use, or consumption, or distribution, or for
23 storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined
24 to mean:

25 (a) Every person who imports, or causes to be imported, tangible personal
26 property from any other state, foreign country, or other taxing jurisdiction for sale
27 at retail, for use, or consumption, or distribution, or for storage to be used or
28 consumed in a taxing jurisdiction.

1 (b) Every person who sells at retail, or who offers for sale at retail, or who
2 has in his possession for sale at retail, or for use, or consumption, or distribution, or
3 storage to be used or consumed in the taxing jurisdiction, tangible personal property
4 as defined herein.

5 (c) Any person who has sold at retail, or used, or consumed, or distributed,
6 or stored for use or consumption in the taxing jurisdiction, tangible personal property
7 and who cannot prove that the tax levied by this Chapter has been paid on the sale
8 at retail, the use, the consumption, the distribution, or the storage of said tangible
9 personal property.

10 (d)(i) Any person who leases or rents tangible personal property for a
11 consideration, permitting the use or possession of the said property without
12 transferring title thereto.

13 (ii) However, a person who leases or rents tangible personal property to
14 customers who provide information to such person that they will use the property
15 only offshore beyond the territorial limits of the state shall not be included in the
16 term "dealer" for purposes of the collection of the rental or lease tax of the state,
17 statewide political subdivisions, and other political subdivisions on such lease or
18 rental contracts. For purposes of this Item, "use" means the operational or functional
19 use of the property and not other uses related to its possession such as transportation,
20 maintenance, and repair. It is the intention of this Item that the customers of such
21 persons shall remit any tax due on the lease or rental of such property directly to the
22 state and local taxing bodies to whom they are due.

23 (e) Any person who is the lessee or rentee of tangible personal property and
24 who pays to the owner of such property a consideration for the use or possession of
25 such property without acquiring title thereto.

26 (f) Any person, who sells or furnishes any of the services subject to tax under
27 this Chapter.

28 (g) Any person, as used in this act, who purchases or receives any of the
29 services subject to tax under this Chapter.

1 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
2 business in the taxing jurisdiction" means and includes any of the following methods
3 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
4 office, distribution house, sales house, warehouse, or other place of business or by
5 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
6 the authority of the seller or its subsidiary irrespective of whether such place of
7 business, agent, salesman, or solicitor is located in such taxing jurisdiction
8 permanently or temporarily or whether such seller or subsidiary is qualified to do
9 business in such taxing jurisdiction, or any person who makes deliveries of tangible
10 personal property into the taxing jurisdiction other than by a common or contract
11 carrier.

12 (i) Any person who sells at retail any tangible personal property to a vending
13 machine operator for resale through coin-operated vending machines.

14 (j) Any person who makes deliveries of tangible personal property into the
15 taxing jurisdiction in a vehicle owned or operated by said person.

16 (k) The term "dealer" shall not include lessors of railroad rolling stock used
17 either for freight or passenger purposes. However, the term "dealer" shall include
18 lessees, other than a railway company or railroad corporation, of such property and
19 such lessees shall be responsible for the collection and payment of all state and local
20 sales and use taxes.

21 (l) Every person who engages in regular or systematic solicitation of a
22 consumer market in the taxing jurisdiction by the distribution of catalogs,
23 periodicals, advertising fliers, or other advertising, or by means of print, radio or
24 television media, by mail, telegraphy, telephone, computer data base, cable, optic,
25 microwave, or other communication system.

26 (5) "Gross sales" means the sum total of all retail sales of tangible personal
27 property, without any deduction whatsoever of any kind or character except as
28 provided in this Chapter.

1 (6)(a) "Hotel" means and includes any establishment engaged in the business
2 of furnishing sleeping rooms, cottages, or cabins to transient guests, where such
3 establishment consists of six or more sleeping rooms, cottages, or cabins at a single
4 business location.

5 (b) For purposes of the sales and use taxes ~~of all tax authorities in this state,~~
6 imposed by the state under R.S. 47:302 and 331, and sales and use taxes imposed by
7 a political subdivision, the term "hotel" as defined herein shall not include camp and
8 retreat facilities owned and operated by nonprofit organizations exempt from federal
9 income tax under Section 501(a) of the Internal Revenue Code as an organization
10 described in Section 501(c)(3) of the Internal Revenue Code provided that the net
11 revenue derived from the organizations's property is devoted wholly to the nonprofit
12 organization's purposes. However, for purposes of this Paragraph, the term "hotel"
13 shall include camp and retreat facilities which shall sell rooms or other
14 accommodations to transient guests who are not attending a function of such
15 nonprofit organization that owns and operates the camp and retreat facilities or a
16 function of another nonprofit organization exempt from federal income tax under
17 Section 501(a) of the Internal Revenue Code as an organization described in Section
18 501(c)(3) of the Internal Revenue Code. It is the intention of the legislature to tax
19 the furnishing of rooms to those who merely purchase lodging at such facilities.

20 (c) For purposes of the sales and use taxes of all tax authorities in this state,
21 the term "hotel", as defined herein, shall not include a temporary lodging facility
22 which is operated by a nonprofit organization described in Section 501(c)(3) of the
23 Internal Revenue Code, provided that the facility is devoted exclusively to the
24 temporary housing, for periods no longer than thirty days' duration, of homeless
25 transient persons whom the organization determines to be financially incapable of
26 engaging lodging at a facility defined by Subparagraph (a) of this Paragraph, and
27 further provided that the lodging charge to such persons is no greater than twenty
28 dollars per day.

1 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
2 property and the possession or use thereof by the lessee or renter, for a consideration,
3 without transfer of the title of such property. For the purpose of the leasing or
4 renting of automobiles, "lease" means the leasing of automobiles and the possession
5 or use thereof by the lessee, for a consideration, without the transfer of the title of
6 such property for a one hundred eighty-day period or more. "Rental" means the
7 renting of automobiles and the possession or use thereof by the renter, for a
8 consideration, without the transfer of the title of such property for a period less than
9 one hundred eighty days.

10 (b) The term "lease or rental", however, as herein defined, shall not mean or
11 include the lease or rental made for the purposes of re-lease or re-rental of casing
12 tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other
13 drilling or related equipment used in connection with the operating, drilling,
14 completion, or reworking of oil, gas, sulphur, or other mineral wells.

15 (c) The term "lease or rental", as herein defined, the state sales and use taxes
16 imposed under R.S. 47:302 and 331, and sales and use taxes imposed by a political
17 subdivision, shall not mean or include a lease or rental of property to be used in
18 performance of a contract with the United States Department of the Navy for
19 construction or overhaul of U.S. Naval vessels.

20 (d) The term "lease or rental", as herein defined solely for purposes of the
21 state sales and use taxes imposed under R.S. 47:302 and 331, and sales and use tax
22 imposed by a political subdivision, shall not mean the lease or rental of airplanes or
23 airplane equipment by a commuter airline domiciled in Louisiana.

24 (e) For purposes of ~~state and political subdivision sales and use tax~~, the state
25 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
26 imposed by a political subdivision, the term "lease or rental", as herein defined, shall
27 not mean the lease or rental of items, including but not limited to supplies and
28 equipment, which are reasonably necessary for the operation of free hospitals.

1 (f) For purposes of ~~state and political subdivision sales and use tax~~, the state
2 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
3 imposed by a political subdivision, "lease or rental" shall not mean the lease or rental
4 of educational materials or equipment used for classroom instruction by approved
5 parochial and private elementary and secondary schools which comply with the court
6 order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal
7 Revenue Code, limited to books, workbooks, computers, computer software, films,
8 videos, and audio tapes.

9 (g) For purposes of ~~state and political subdivision sales and use tax~~, the state
10 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
11 imposed by a political subdivision, "lease or rental" shall not mean the lease or rental
12 of tangible personal property to Boys State of Louisiana, Inc. and Girls State of
13 Louisiana, Inc. which is used by such organizations for their educational and public
14 service programs for youth.

15 (h) For purposes of state and political subdivision sales and use tax, the term
16 "lease or rental" shall not mean or include the lease or rental of motor vehicles by
17 licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle
18 manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased
19 or rented motor vehicles to their customers in performance of their obligations under
20 warranty agreements associated with the purchase of a motor vehicle or when the
21 applicable warranty has lapsed and the leased or rented motor vehicle is provided to
22 the customer at no charge.

23 (i) For purposes of sales and use taxes levied and imposed by local
24 governmental subdivisions, school boards, and other political subdivisions whose
25 boundaries are not coterminous with those of the state, "lease or rental" by a person
26 shall not mean or include the lease or rental of tangible personal property if such
27 lease or rental is made under the provisions of Medicare.

28 (j) Solely for purposes of the sales and use tax levied by the state under R.S.
29 47:302 and 331 or any political subdivision whose boundaries are coterminous with

1 those of the state, the term "lease or rental" shall not include the lease or rental in this
2 state of manufacturing machinery and equipment used or consumed in this state to
3 manufacture, produce, or extract unblended biodiesel.

4 (k)(i) For purposes of any sales, use, or lease tax levied by the state or any
5 political subdivision of the state, the term "lease or rental" shall not include the lease
6 or rental of a crane and related equipment with an operator.

7 (ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes
8 leased or rented with an operator are subject to the provisions of the sales and use tax
9 law upon first use in Louisiana.

10 (l)(i) ~~For purposes of the sales and use tax levied by all tax authorities in this~~
11 ~~state;~~ Solely for purposes of the state sales and use taxes imposed under R.S. 47:302
12 and 331, and sales and use tax imposed by a political subdivision the term "lease or
13 rental" shall not apply to leases or rentals of pallets which are used in packaging
14 products produced by a manufacturer.

15 (ii) For purposes of this Subparagraph, the term "manufacturer" shall mean
16 a person whose primary activity is manufacturing and who is assigned by the
17 Louisiana Workforce Commission a North American Industrial Classification
18 System code within the manufacturing sectors 31-33 as they existed in 2002.

19 (8)(a) "Person", except as provided in Subparagraph (c), includes any
20 individual, firm, copartnership, joint adventure, association, corporation, estate, trust,
21 business trust, receiver, syndicate, this state, any parish, city and parish,
22 municipality, district or other political subdivision thereof or any board, agency,
23 instrumentality, or other group or combination acting as a unit, and the plural as well
24 as the singular number.

25 (b) Solely for purposes of the payment of state sales or use tax imposed
26 under R.S. 47:302 and 331 on the lease or rental or the purchase of tangible personal
27 property or services, "person" shall not include a regionally accredited independent
28 institution of higher education which is a member of the Louisiana Association of
29 Independent Colleges and Universities, if such lease or rental or purchase is directly

1 related to the educational mission of such institution. However, the term "person"
2 shall include such institution for purposes of the payment of tax on sales by such
3 institution if the sales are not otherwise exempt.

4 (c)(i) For purposes of the payment of the state sales and use tax and the sales
5 and use tax levied by any political subdivision, "person" shall not include this state,
6 any parish, city and parish, municipality, district, or other political subdivision
7 thereof, or any agency, board, commission, or instrumentality of this state or its
8 political subdivisions.

9 (ii) Upon request by any political subdivision for an exemption identification
10 number, the Department of Revenue shall issue such number. The secretary may
11 promulgate rules and regulations in accordance with the Administrative Procedure
12 Act to carry out the provisions of this Item.

13 (d)(i) For purposes of the payment of the state sales and use tax and the sales
14 and use tax levied by any political subdivision, the term "person" shall not include
15 a church or synagogue that is recognized by the United States Internal Revenue
16 Service as entitled to exemption under Section 501(c)(3) of the United States Internal
17 Revenue Code.

18 (ii) The secretary of the Department of Revenue shall promulgate rules and
19 regulations defining the terms "church" and "synagogue" for purposes of this
20 exclusion. The definitions shall be consistent with the criteria established by the
21 U.S. Internal Revenue Service in identifying organizations that qualify for church
22 status for federal income tax purposes.

23 (iii) No church or synagogue shall claim exemption or exclusion from the
24 state sales and use tax or the sales and use tax levied by any political subdivision
25 before having obtained a certificate of authorization from the secretary of the
26 Department of Revenue. The secretary shall develop applications for such
27 certificates. The certificates shall be issued without charge to the institutions that
28 qualify.

1 (iv) The exclusion from the sales and use tax authorized by this
2 Subparagraph shall apply only to purchases of bibles, song books, or literature used
3 for religious instruction classes.

4 (e)(i) For purposes of the payment of the state sales and use tax and the sales
5 and use tax levied by any political subdivision, the term "person" shall not include
6 the Society of the Little Sisters of the Poor.

7 (ii) The secretary of the Department of Revenue shall promulgate rules and
8 regulations for purposes of this exclusion. The definitions shall be consistent with
9 the criteria established by the U.S. Internal Revenue Service in identifying tax-
10 exempt status for federal income tax purposes.

11 (iii) No member of the Society of the Little Sisters of the Poor shall claim
12 exemption or exclusion from the state sales and use tax or the sales and use tax
13 levied by any political subdivision before having obtained a certificate of
14 authorization from the secretary of the Department of Revenue. The secretary shall
15 develop applications for such certificates. The certificates shall be issued without
16 charge to the entities which qualify.

17 (f)(i) For purposes of the payment of sales and use tax levied by this state
18 and any political subdivision whose boundaries are coterminous with those of the
19 state, the term "person" shall not include a nonprofit entity which sells donated goods
20 and spends seventy-five percent or more of its revenues on directly employing or
21 training for employment persons with disabilities or workplace disadvantages.

22 (ii) The secretary shall promulgate rules and regulations for the use of
23 exclusion certificates for purposes of implementation of this Subparagraph. Each
24 nonprofit entity electing to utilize the exclusion provided for in this Subparagraph
25 shall apply for an exclusion certificate annually. Any exclusion certificate granted
26 by the Department of Revenue shall be effective for a one-year period.

27 (iii) The secretary shall provide forms for nonprofit entities to request an
28 exclusion certificate.

1 (9) "Purchaser" means and includes any person who acquires or receives any
2 tangible personal property, or the privilege of using any tangible personal property,
3 or receives any services pursuant to a transaction subject to tax under this Chapter.

4 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
5 tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person
6 for any purpose other than for resale as tangible personal property, or for the lease
7 of automobiles in an arm's length transaction, and shall mean and include all such
8 transactions as the secretary, upon investigation, finds to be in lieu of sales; provided
9 that sales for resale or for lease of automobiles in an arm's length transaction must
10 be made in strict compliance with the rules and regulations. Any dealer making a
11 sale for resale or for the lease of automobiles, which is not in strict compliance with
12 the rules and regulations, shall himself be liable for and pay the tax.

13 (ii) Solely for purposes of the imposition of the sales and use tax levied by
14 a political subdivision or school board, "retail sale" or "sale at retail" shall mean a
15 sale to a consumer or to any other person for any purpose other than for resale in the
16 form of tangible personal property, or resale of those services defined in Paragraph
17 (14) of this Section provided the retail sale of the service is subject to sales tax in this
18 state, and shall mean and include all such transactions as the collector, upon
19 investigation, finds to be in lieu of sales; provided that sales for resale be made in
20 strict compliance with the rules and regulations. Any dealer making a sale for resale,
21 which is not in strict compliance with the rules and regulations shall himself be liable
22 for and pay the tax. A local collector shall accept a resale certificate issued by the
23 Department of Revenue, provided the taxpayer includes the parish of its principal
24 place of business and local sales tax account number on the state certificate.
25 However, in the case of an intra-parish transaction from dealer to dealer, the
26 collector may require that the local exemption certificate be used in lieu of the state
27 certificate. The department shall accommodate the inclusion of such information on
28 its resale certificate for such purposes.

1 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
2 imposed by the state under R.S. 47:302 and 331 on transactions involving the sale
3 for rental of automobiles which take place on or after January 1, 1991, and by
4 political subdivisions on such transactions on or after July 1, 1996, and state sales
5 and use taxes imposed under R.S. 47:302 and 331 on transactions involving the lease
6 or rental of tangible personal property other than automobiles which take place on
7 or after July 1, 1991, means a sale to a consumer or to any other person for any
8 purpose other than for resale as tangible personal property, or for lease or rental in
9 an arm's length transaction in the form of tangible personal property, and shall mean
10 and include all such transactions as the secretary, upon investigation, finds to be in
11 lieu of sales; provided that sales for resale or for lease or rental in an arm's length
12 transaction must be made in strict compliance with the rules and regulations. Any
13 dealer making a sale for resale or for lease or rental, which is not in strict compliance
14 with the rules and regulations, shall himself be liable for and pay the tax. For
15 purposes of the imposition of the tax imposed by any political subdivision of the
16 state, for the period beginning on July 1, 1999, and ending on June 30, 2000, the
17 term "retail sale" or "sale at retail" shall not include one-fourth of the sales price of
18 any tangible personal property which is sold in order to be leased or rented in an
19 arm's length transaction in the form of tangible personal property. For purposes of
20 the imposition of the tax imposed by any political subdivision of the state, for the
21 period beginning on July 1, 2000, and ending on June 30, 2001, the term "retail sale"
22 or "sale at retail" shall not include one-half of the sales price of any tangible personal
23 property which is sold in order to be leased or rented in an arm's length transaction
24 in the form of tangible personal property. For purposes of the imposition of the tax
25 imposed by any political subdivision of the state, for the period beginning on July
26 1, 2001, and ending on June 30, 2002, the term "retail sale" or "sale at retail" shall
27 not include three-fourths of the sales price of any tangible personal property which
28 is sold in order to be leased or rented in an arm's length transaction in the form of
29 tangible personal property. Beginning July 1, 2002, for the purposes of imposition

1 of the tax levied by any political subdivision of the state, the term "retail sale" or
2 "sale at retail" shall not include the sale of any tangible personal property which is
3 sold in order to be leased or rented in an arm's length transaction in the form of
4 tangible personal property.

5 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
6 imposed by the state on transactions involving the sale for rental of automobiles
7 which take place prior to January 1, 1991, and by political subdivisions on such
8 transactions prior to July 1, 1996, and imposed on transactions involving the lease
9 or rental of tangible personal property other than autos which take place prior to July
10 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions
11 except for transactions involving the sale for rental of automobiles on or after July
12 1, 1996, means a sale to a consumer or to any other person for any purpose other
13 than for resale in the form of tangible personal property, and shall mean and include
14 all such transactions as the secretary, upon investigation, finds to be in lieu of sales;
15 provided that sales for resale must be made in strict compliance with the rules and
16 regulations. Any dealer making a sale for resale, which is not in strict compliance
17 with the rules and regulations, shall himself be liable for and pay the tax. However,
18 contrary provisions of law notwithstanding, any political subdivision may, by
19 ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii)
20 of this Subparagraph for purposes of the imposition of its sales and use tax.

21 (v) Became null and void on June 30, 2006. See Acts 2002, 1st Ex. Sess.,
22 No. 3.

23 (vi) Solely for purposes of the payment of state sales and use tax, until
24 January 1, 2007, the term "sale at retail" shall not include purchases made in
25 connection with the filming or production of a motion picture by a motion picture
26 production company which has been relieved from the payment of state sales and use
27 tax under the provisions of Chapter 12 of Subtitle II of this Title, also known as the
28 "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively
29 revoked if it is determined that a motion picture production company that has been

1 relieved from payment of state sales and use tax under Chapter 12 failed to meet the
2 conditions of such relief.

3 (b)(i) Solely for purposes of the sales and use tax levied by the state, the sale
4 of tangible personal property to a dealer who purchases said property for resale
5 through coin-operated vending machines shall be considered a "sale at retail", subject
6 to such tax. The subsequent resale of the property by the dealer through
7 coin-operated vending machines shall not be considered a "sale at retail".

8 (ii) Solely for purposes of the sales and use tax levied by political
9 subdivisions, the term "sale at retail" shall include the sale of tangible personal
10 property by a dealer through coin-operated vending machines.

11 (c)(i)(aa) The term "sale at retail" does not include sale of materials for
12 further processing into articles of tangible personal property for sale at retail.

13 (bb) Solely for purposes of the sales and use tax levied by the state under
14 R.S. 47:302 and 331, natural gas when used in the production of iron in the process
15 known as the "direct reduced iron process" is not a catalyst and is recognized by the
16 legislature to be a material for further processing into an article of tangible personal
17 property for sale at retail.

18 (ii)(aa) Solely for purposes of the sales and use tax levied by the state under
19 R.S. 47:302 and 331, the term "sale at retail" does not include sales of electricity for
20 chlor-alkali manufacturing processes.

21 (bb) The term "sale at retail" does not include an isolated or occasional sale
22 of tangible personal property by a person not engaged in such business.

23 (d) ~~The~~ Solely for purposes of the state sales and use taxes imposed under
24 R.S. 47:302 and 331, and sales and use taxes imposed by a political subdivision, the
25 term "sale at retail" does not include the sale of any human tissue transplants, which
26 shall be defined to include all human organs, bone, skin, cornea, blood, or blood
27 products transplanted from one individual into another recipient individual.

28 (e) The term "sale at retail" does not include the sale of raw agricultural
29 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in

1 preparing, finishing, manufacturing, or producing crops or animals for market. The
2 Department of Agriculture and Forestry may develop and promulgate guidelines to
3 determine who meets this definition. Any person meeting such guidelines shall
4 receive a certificate from the Department of Agriculture and Forestry indicating that
5 such person is eligible to purchase such items without paying tax thereon.

6 (f) Notwithstanding any other law to the contrary, for purposes of the
7 imposition of the sales and use tax of any political subdivision, the sale of a vehicle
8 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
9 deemed to be a "retail sale" or a "sale at retail":

10 (i) In the political subdivision of the principal residence of the purchaser if
11 the vehicle is purchased for private use, or

12 (ii) In the political subdivision of the principal location of the business if the
13 vehicle is purchased for commercial use, unless the vehicle purchased for
14 commercial use is assigned, garaged, and used outside of such political subdivision,
15 in which case the sale shall be deemed a "retail sale" or a "sale at retail" in the
16 political subdivision where the vehicle is assigned, garaged, and used.

17 (g) The term "retail sale" does not include a sale of corporeal movable
18 property which is intended for future sale to the United States government or its
19 agencies, when title to such property is transferred to the United States government
20 or its agencies prior to the incorporation of that property into a final product.

21 (h) The term "sale at retail" does not include the sale of food items by youth
22 serving organizations chartered by congress.

23 (i) The Solely for purposes of the state sales and use taxes imposed under
24 R.S. 47:302 and 331, and sales and use taxes imposed by a political subdivision, the
25 term "sale at retail" does not include the purchase of a new school bus or a used
26 school bus which is less than five years old by an independent operator, when such
27 bus is to be used exclusively in a public school system. This exclusion shall apply
28 to all sales and use taxes levied by any local political subdivision.

1 (j) The term "sale at retail" does not include the sale of tangible personal
2 property to food banks, as defined in R.S. 9:2799.

3 (k) The term "sale at retail" solely for purposes of the state sales and use
4 taxes imposed under R.S. 47:302 and 331, and sales and use tax imposed by a
5 political subdivision shall not include the sale of airplanes or airplane equipment or
6 parts to a commuter airline domiciled in Louisiana.

7 (l) Solely for purposes of the state sales and use tax imposed under R.S.
8 47:302 and 331, the term "sale at retail" shall not include the sale of a pollution
9 control device or system. Pollution control device or system shall mean any tangible
10 personal property approved by the Department of Revenue and the Department of
11 Environmental Quality and sold or leased and used or intended for the purpose of
12 eliminating, preventing, treating, or reducing the volume or toxicity or potential
13 hazards of industrial pollution of air, water, groundwater, noise, solid waste, or
14 hazardous waste in the state of Louisiana. For the purposes of any sales and use tax
15 levied by a political subdivision, the term "sale at retail" shall include the sale of a
16 pollution control device or system. In order to qualify, the pollution control device
17 or system must demonstrate either: a net decrease in the volume or toxicity or
18 potential hazards of pollution as a result of the installation of the device or system;
19 or that installation is necessary to comply with federal or state environmental laws
20 or regulations.

21 (m) The term "sale at retail" solely for purposes of the state sales and use
22 taxes imposed under R.S. 47:302 and 331, and sales and use tax imposed by a
23 political subdivision shall not include the sales of Louisiana manufactured or
24 assembled passenger aircraft with a capacity in excess of fifty persons, if, after all
25 transportation, including transportation by the purchaser, has been completed, the
26 aircraft is ultimately received by the purchaser outside of Louisiana.

27 (n) For purposes of sales and use taxes imposed or levied by the state under
28 R.S. 47:302 and 331 or any political subdivision thereof, the term "sale at retail"
29 shall not include the sales of pelletized paper waste when purchased for use as

1 combustible fuel by an electric utility or in an industrial manufacturing, processing,
2 compounding, reuse, or production process, including the generation of electricity
3 or process steam, at a fixed location in this state. However, such sale shall not be
4 excluded unless the purchaser has signed a certificate stating that the fuel purchased
5 is for the exclusive use designated herein. For purposes of this Subparagraph,
6 "pelletized paper waste" means pellets produced from discarded waste paper that has
7 been diverted or removed from solid waste which is not marketable for recycling and
8 which is wetted, extruded, shredded, or formulated into compact pellets of various
9 sizes for use as a supplemental fuel in a permitted boiler.

10 (o) For the purposes of sales and use taxes imposed or levied by the state or
11 any local governmental subdivision or school board, the term "sale at retail" shall not
12 include the sale or purchase of equipment used in fire fighting by bona fide volunteer
13 and public fire departments.

14 (p) For purposes of state sales and use taxes imposed under R.S. 47:302 and
15 331 and political subdivision sales and use tax, the term "sale at retail" shall not
16 include the sale of items, including but not limited to supplies and equipment, or the
17 sale of services as provided in this Section, which are reasonably necessary for the
18 operation of free hospitals.

19 (q) For purposes of state sales and use taxes imposed under R.S. 47:302 and
20 331 and political subdivision sales and use tax, the term "sale at retail" shall not
21 include:

22 (i) The sale of tangible personal property by approved parochial and private
23 elementary and secondary schools which comply with the court order from the Dodd
24 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
25 administrators, or teachers, or other employees of the school, if the money from such
26 sales, less reasonable and necessary expenses associated with the sale, is used solely
27 and exclusively to support the school or its program or curricula. This exclusion
28 shall not be construed to allow tax-free sales to students or their families by

1 promoters or regular commercial dealers through the use of schools, school faculty,
2 or school facilities.

3 (ii) The sale to approved parochial and private elementary and secondary
4 schools which comply with the court order from the Dodd Brumfield decision and
5 Section 501(c)(3) of the Internal Revenue Code of educational materials or
6 equipment used for classroom instruction limited to books, workbooks, computers,
7 computer software, films, videos, and audio tapes.

8 (r) For purposes of state sales and use taxes imposed under R.S. 47:302 and
9 331 and political subdivision sales and use tax, the term "sale at retail" shall not
10 include the sale of tangible personal property to Boys State of Louisiana, Inc. and
11 Girls State of Louisiana, Inc. which is used by such organizations for their
12 educational and public service programs for youth.

13 (s) The term "sale at retail" or "retail sale", for purposes of sales and use
14 taxes imposed by the state or any political subdivision or other taxing entity, shall
15 not include any charge, fee, money, or other consideration received, given, or paid
16 for the performance of funeral directing services. For purposes of this Subparagraph,
17 "funeral directing services" means the operation of a funeral home, or by way of
18 illustration and not limitation, any service whatsoever connected with the
19 management of funerals, or the supervision of hearses or funeral cars, the cleaning
20 or dressing of dead human bodies for burial, and the performance or supervision of
21 any service or act connected with the management of funerals from time of death
22 until the body or bodies are delivered to the cemetery, crematorium, or other agent
23 for the purpose of disposition. However, such services shall not mean or include the
24 sale, lease, rental, or use of any tangible personal property as those terms are defined
25 in this Section.

26 (t) For purposes of sales and use taxes levied by the state under R.S. 47:302
27 and 331 or any political subdivision of the state, the term "sale at retail" shall not
28 include the transfer of title to or possession of telephone directories by an advertising
29 company that is not affiliated with a provider of telephone services if the telephone

1 directories will be distributed free of charge to the recipients of the telephone
2 directories.

3 (u) For purposes of sales and use taxes levied and imposed by local
4 governmental subdivisions, school boards, and other political subdivisions whose
5 boundaries are not coterminous with those of the state, "sale at retail" by a person
6 shall not mean or include the sale of tangible personal property if such sale is made
7 under the provisions of Medicare.

8 (v) For purposes of the imposition of sales and use taxes imposed or levied
9 by all taxing authorities in the state, in the case of the sale or other disposition by a
10 dealer of any cellular, PCS, or wireless telephone, or any electronic accessories that
11 are physically connected with such telephones and personal communication devices
12 used in connection with the sale or use of mobile telecommunications services, the
13 term "retail sale" or "sale at retail" shall mean and include the sale or any other
14 disposition of such cellular, PCS, or wireless telephone, any electronic accessories
15 that are physically connected with such telephones and personal communication
16 devices by the dealer to the purchaser, but shall not mean or include the withdrawal,
17 use, distribution, consumption, storage, donation, or any other disposition of any
18 such cellular, PCS, or wireless telephone, any electronic accessories that are
19 physically connected with such telephones, and personal communication devices by
20 the dealer.

21 (w) For purposes of the imposition of sales and use taxes imposed or levied
22 by any political subdivision of the state, in the case of the sale or other disposition
23 by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other
24 wireless personal communication device that is used in connection with the sale or
25 use of mobile telecommunications services, or any electronic accessory that is
26 physically connected with any such telephone or personal communication device, the
27 term "retail sale" or "sale at retail" shall mean and include the sale or any other
28 disposition of any such telephone, other personal communication device, or
29 electronic accessory.

1 (x) For purposes of the sales and use tax imposed by the state or any political
2 subdivision whose boundaries are coterminous with those of the state, the terms
3 "retail sale" or "sale at retail" shall not include the following:

4 (i) The sale or purchase by a person of any fuel or gas, including but not
5 limited to butane and propane.

6 (ii) Beginning July 1, 2008, the sale or purchase by any person of butane and
7 propane.

8 (y)(i) Solely for the purposes of sales and use taxes levied by the state under
9 R.S. 47:302 and 331 or any political subdivision whose boundaries are coterminous
10 with those of the state, the term "sale at retail" shall not include the sale of
11 manufacturing machinery and equipment used or consumed in this state to
12 manufacture, produce, or extract unblended biodiesel.

13 (ii) As used in this Subparagraph, the following words and phrases have the
14 meaning ascribed to them:

15 (aa) "Manufacturing machinery and equipment" means tangible property
16 used or consumed, or held for use or consumption, as an integral part of a biodiesel
17 manufacturing, production, or extraction facility, process, or item of equipment.
18 Property shall be considered to be an integral part of such biodiesel manufacturing,
19 production, or extraction facility, process, or item of equipment only if such property
20 is used or consumed directly in the manufacturing, production, or extraction process
21 or is part of, physically attached to, or otherwise directly associated with such
22 property. Property, the installation of which is reasonably necessary for the proper
23 installation, operation, maintenance of property which directly results in such
24 manufacturing, production, or extraction shall be considered as directly associated
25 with such property.

26 (bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of
27 long chain fatty acids derived from vegetable oils or animal fats, designated B100,
28 and meeting the requirements of the definition provided for in D 6751 of the

1 American Society of Testing and Materials (ATDM D 6751), before such fuel is
2 blended with a petroleum-based diesel fuel.

3 (z) Solely for the purposes of sales and use taxes levied by the state under
4 R.S. 47:302 and 331 or any political subdivision whose boundaries are coterminous
5 with those of the state, the term "sale at retail" shall not include the sale of any
6 alternative substance when such alternative substance is used as a fuel by a
7 manufacturer. "Alternative substance" means any substance other than oil and
8 natural gas and any product of oil and natural gas. "Alternative substance" shall
9 include petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, or
10 tire-derived fuel, but not coal, lignite, refinery gas, nuclear fuel, or electricity.
11 "Manufacturer" means a person whose principal activity is manufacturing and who
12 is assigned by the Louisiana Workforce Commission a North American Industrial
13 Classification System code with the agricultural, forestry, fishing, and hunting Sector
14 11 or the manufacturing Sectors 31-33 as they existed in 2002.

15 (aa)(i) For purposes of sales and use taxes imposed or levied by the state or
16 any political subdivision of the state, the term "sale at retail" shall not include the
17 sale of toys to a non-profit organization exempt from federal taxation pursuant to
18 Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing
19 organization is to donate toys to minors and the toys are, in fact, donated.

20 (ii) The exclusion provided in this Subparagraph shall not apply if the
21 donation is intended to ultimately yield a profit to a promoter of the organization or
22 to any individual contracted to provide services or equipment, or both, to the
23 organization.

24 (iii) A certificate of exclusion shall be obtained from the secretary or the tax
25 collector of the political subdivision, under such regulations as he shall prescribe, in
26 order for nonprofit organizations to qualify for the exclusion provided for in this
27 Subparagraph.

28 (bb) For purposes of sales and use taxes imposed or levied by the state under
29 R.S. 47:302 and 331, the terms "retail sale" and "sale at retail" shall not include sales

1 of natural gas to be held, used, or consumed in providing natural gas storage services
2 or operating natural gas storage facilities.

3 (cc) For purposes of ~~the sales and use tax imposed by the state or any~~
4 ~~political subdivision of the state~~ the state sales and use taxes imposed under R.S.
5 47:302 and 331, and sales and use taxes imposed by a political subdivision, the terms
6 "retail sale" or "sale at retail" shall not mean or include the purchase of textbooks
7 and course-related software by a private postsecondary academic degree-granting
8 institution, accredited by a national or regional commission that is recognized by the
9 United States Department of Education and is licensed by the Board of Regents,
10 which institution has its main location within this state and offers only online
11 instruction, when all of the following apply:

12 (i) The textbooks and course-related software are physically outside of this
13 state when purchased from a vendor outside of this state and then imported into this
14 state.

15 (ii) The first student use of the textbooks and course-related software occurs
16 outside of this state.

17 (iii) The textbooks and course-related software are provided to the student
18 free of charge.

19 (dd) For purposes of sales and use taxes imposed or levied by the state under
20 R.S. 47:302 and 331, the terms "retail sale" or "sale at retail" shall not include the
21 purchase of food items for school lunch or breakfast programs by nonpublic
22 elementary or secondary schools which participate in the National School Lunch and
23 School Breakfast programs or the purchase of food items by nonprofit corporations
24 which serve students in nonpublic elementary or secondary schools and which
25 participate in the National School Lunch and School Breakfast programs.

26 (ee)(i) Solely for the purposes of the imposition of the state sales and use tax
27 under R.S. 47:302 and 331, the term "retail sale" and "sale at retail" shall not include
28 the sale of any storm shutter device.

1 (ii) As used in this Subparagraph, "storm shutter device" means materials
2 and products manufactured, rated, and marketed specifically for the purpose of
3 preventing window damage from storms.

4 (iii) The secretary of the Department of Revenue, in consultation with the
5 Department of Insurance, shall promulgate such rules and regulations in accordance
6 with the Administrative Procedure Act as may be necessary to carry out the
7 provisions of this Subparagraph.

8 (ff) For purposes of sales taxes imposed by the state under R.S. 47:302 and
9 331 or any political subdivision of the state, the term "retail sale" or "sale at retail"
10 shall not include sales of tangible personal property by the Military Department, state
11 of Louisiana, which occur on an installation or other property owned or operated by
12 the Military Department.

13 (gg) For purposes of sales and use tax imposed by the state tax under R.S.
14 47:302 and 331 or any political subdivision of the state, the term "sale at retail" shall
15 not include the sale of anthropogenic carbon dioxide for use in a qualified tertiary
16 recovery project approved by the assistant secretary of the office of conservation of
17 the Department of Natural Resources pursuant to R.S. 47:633.4.

18 (hh) For purposes of sales and use tax imposed by the state tax under R.S.
19 47:302 and 331, any political subdivision whose boundaries are coterminous with
20 those of the state, or any other political subdivision, the term "sale at retail" shall not
21 include the sale of tangible personal property at an event providing Louisiana
22 heritage, culture, crafts, art, food, and music which is sponsored by a domestic
23 nonprofit organization that is exempt from tax under Section 501(c)(3) of the
24 Internal Revenue Code. The provisions of this Subparagraph shall apply only to an
25 event which transpires over a minimum of seven but not more than twelve days and
26 has a five-year annual average attendance of at least three hundred thousand over the
27 duration of the event. For purposes of determining the five-year annual average
28 attendance, the calculation shall include the total annual attendance for each of the

1 five most recent years. The provisions of this Subparagraph shall apply only to sales
2 by the sponsor of the event.

3 (11) "Retailer" means and includes every person engaged in the business of
4 making sales at retail or for distribution, or use or consumption, or storage to be used
5 or consumed in this state.

6 (12) "Sale" means any transfer of title or possession, or both, exchange,
7 barter, conditional or otherwise, in any manner or by any means whatsoever, of
8 tangible personal property, for a consideration, and includes the fabrication of
9 tangible personal property for consumers who furnish, either directly or indirectly,
10 the materials used in fabrication work, and the furnishing, preparing or serving, for
11 a consideration, of any tangible personal property, consumed on the premises of the
12 person furnishing, preparing or serving such tangible personal property. A
13 transaction whereby the possession of property is transferred but the seller retains
14 title as security for the payment of the price shall be deemed a sale.

15 (13)(a) "Sales price" means the total amount for which tangible personal
16 property is sold, less the market value of any article traded in including any services,
17 except services for financing, that are a part of the sale valued in money, whether
18 paid in money or otherwise, and includes the cost of materials used, labor or service
19 costs, except costs for financing which shall not exceed the legal interest rate and a
20 service charge not to exceed six percent of the amount financed, and losses; provided
21 that cash discounts allowed and taken on sales shall not be included, nor shall the
22 sales price include the amount charged for labor or services rendered in installing,
23 applying, remodeling, or repairing property sold.

24 (b) The Solely for purposes of the state sales and use taxes imposed under
25 R.S. 47:302 and 331, and sales and use taxes imposed by a political subdivision, the
26 term "sales price" shall not include any amount designated as a cash discount or a
27 rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle
28 license tax. For purposes of this Paragraph "rebate" means any amount offered by
29 a vendor or manufacturer as a deduction from the listed retail price of the vehicle.

1 (c) ~~"Sales price"~~ Solely for purposes of the state sales and use taxes imposed
2 under R.S. 47:302 and 331, and sales and use taxes imposed by a political
3 subdivision, "sales price" shall not include the first fifty thousand dollars of the sale
4 price of new farm equipment used in poultry production.

5 (d) Notwithstanding any other provision of law to the contrary, for purposes
6 of state and political subdivision sales and use tax, the "sales price" of refinery gas,
7 except for feedstock, not ultimately consumed as an energy source by the person who
8 owns the facility in which the refinery gas is created as provided for in Subparagraph
9 (18)(d) of this Section, but sold to another person, whether at retail or wholesale,
10 shall be fifty-two cents per thousand cubic feet multiplied by a fraction the
11 numerator of which shall be the posted price for a barrel of West Texas Intermediate
12 Crude Oil on December first of the preceding calendar year and the denominator of
13 which shall be twenty-nine dollars, and provided further that such sales price shall
14 be the maximum value placed upon refinery gas by the state and by any political
15 subdivision under any authority or grant of power to levy and collect sales or use
16 taxes, and such sale shall be taxable.

17 (e) The term "sales price", for purposes of the sales tax imposed by the state
18 and its political subdivisions, shall exclude any amount that a manufacturer pays
19 directly to a dealer of the manufacturer's product for the purpose of reducing and that
20 actually results in an equivalent reduction in the retail "sales price" of that product.
21 This exclusion shall not apply to the value of the manufacturer's coupons that dealers
22 accept from purchasers as part payment of the "sales price" and that are redeemable
23 by the dealers through manufacturers or their agents. The value of such coupons is
24 deemed to be part of the "sales price" of the product purchased through the use of the
25 coupons.

26 (f) The term "sales price" shall exclude any charge, fee, money, or other
27 consideration received, given, or paid for the performance of funeral directing
28 services as defined in Subparagraph (10)(s) of this Section.

1 (g) For purposes of the imposition of sales and use taxes imposed ~~tax~~ or
2 levied by all taxing authorities in the state, in the case of the retail sale by a dealer
3 of any cellular, PCS, or wireless telephone, any electronic accessories that are
4 physically connected with such telephones and personal communications devices
5 used in connection with the sale or use of mobile telecommunications services, as
6 defined in R.S. 47:301(10)(v), the term "sales price" shall mean and include only the
7 amount of money, if any, actually received by the dealer from the purchaser for each
8 such cellular, PCS, or wireless telephone and any electronic accessories that are
9 physically connected with such telephones and personal communication devices, but
10 shall not include (i) any amount received by the dealer from the purchaser for
11 providing mobile telecommunications services, or (ii) any commissions, fees,
12 rebates, or other amounts received by the dealer from any source other than the
13 purchaser as a result of or in connection with the sale of the cellular, PCS, or wireless
14 telephone, any electronic accessories that are physically connected with such
15 telephones and personal communication devices.

16 (h) For the purpose of the imposition of sales and use tax imposed tax or
17 levied by all taxing authorities in the state of any cellular, PCS, or wireless telephone
18 used in connection with the sale or use of mobile telecommunications services, as
19 defined in R.S. 47:301(10)(v), after January 1, 2002, the term "sales price" shall
20 mean and include the greater of (i) the amount of money actually received by the
21 dealer from the purchaser for each such telephone, or (ii) twenty-five percent of the
22 cost of such telephone to the dealer, but shall not include any amount received by the
23 dealer from the purchaser for providing mobile telecommunications services or any
24 commissions, fees, rebates, or other amounts received by the dealer from any source
25 other than the purchaser as a result of or in connection with the sale of the telephone.

26 (i)(i) For purposes of a publishing business which distributes its news
27 publications at no cost to readers and pays unrelated third parties to print such news
28 publications, the term "sales price" tax shall mean only the lesser of the following
29 costs:

1 (aa) The printing cost paid to unrelated third parties to print such news
2 publications, less any itemized freight charges for shipping the news publications
3 from the printer to the publishing business and any itemized charges for paper and
4 ink.

5 (bb) Payments to a dealer or distributor as consideration for distribution of
6 the news publications.

7 (ii) The definition of "sales price" provided for in this Subparagraph shall be
8 applicable to taxes levied by all tax authorities in the state.

9 (j) For the purpose of the imposition of sales and use tax imposed tax or
10 levied by any political subdivision of the state, in the case of any retail sale or sale
11 at retail, of any cellular telephone, PCS telephone, or wireless telephone used in
12 connection with the sale or use of mobile telecommunications services, as defined
13 in R.S. 47:301(10)(w), or any electronic accessory that is physically connected with
14 any such telephone or personal communication device, the term "sales price" shall
15 mean and include the greater of (i) the amount of money, if any, actually received
16 by the dealer from the purchaser at the time of the retail sale or sale at retail by the
17 dealer to the purchaser for each such telephone, personal communication device, or
18 electronic accessory, or (ii) twenty-five percent of the cost of such telephone to the
19 dealer, but shall not include any amount received by the dealer from the purchaser
20 for providing mobile telecommunications services or any commissions, fees, rebates,
21 activation charges, or other amounts received by the dealer from any source other
22 than the purchaser as a result of or in connection with the sale of the telephone.

23 (k)(i) For purposes of the imposition of the sales tax levied by the state tax
24 under R.S. 47:302 and 331 and any political subdivision whose boundaries are
25 coterminous with those of the state, the sales price of machinery and equipment
26 purchased by a manufacturer for use in a plant facility predominately and directly in
27 the actual manufacturing for agricultural purposes or the actual manufacturing
28 process of an item of tangible personal property, which is for ultimate sale to another

1 and not for internal use, at one or more fixed locations within Louisiana shall be
2 reduced as follows:

3 (aa) For the period ending on June 30, 2005, the sales price shall be reduced
4 by five percent.

5 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
6 sales price shall be reduced by nineteen percent.

7 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
8 sales price shall be reduced by thirty-five percent.

9 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
10 sales price shall be reduced by fifty-four percent.

11 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
12 sales price shall be reduced by sixty-eight percent.

13 (ff) For all periods beginning on or after July 1, 2009, the sales price shall
14 be reduced by one hundred percent.

15 (ii) For purposes of this Subparagraph, "machinery and equipment",
16 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
17 facility", and "used directly" shall have the same meaning as defined in R.S.
18 47:301(3)(I)(ii).

19 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
20 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
21 321, and 331 before receiving a certificate of exclusion from the secretary of the
22 Department of Revenue certifying that he is a manufacturer as defined herein.

23 (iv) The secretary of the Department of Revenue is hereby authorized to
24 adopt rules and regulations in order to administer the exclusion provided for in this
25 Subparagraph.

26 (l)(i) For purposes of the payment of the state sales and use tax imposed
27 under R.S. 47:302 and 331 and the sales and use tax levied by any political
28 subdivision, the term "sales price" shall not include the price of specialty items sold

1 to members for fund-raising purposes by nonprofit carnival organizations domiciled
2 within Louisiana and participating in a parade sponsored by a carnival organization.

3 (ii) The secretary of the Department of Revenue shall promulgate rules and
4 regulations for purposes of this exclusion.

5 (iii) No nonprofit carnival organization domiciled within Louisiana and
6 participating in a parade sponsored by a carnival organization shall claim exemption
7 or exclusion from the state sales and use tax or the sales and use tax levied by any
8 political subdivision before having obtained a certificate of authorization from the
9 secretary of the Department of Revenue. The secretary shall develop applications
10 for such certificates. The certificates shall be issued without charge to the entities
11 which qualify.

12 (m) For purposes of the sales and use tax imposed by the state under R.S.
13 47:302 and 331 or any political subdivision whose boundaries are coterminous with
14 those of the state, the "sales price" of electric power or energy, or natural gas for the
15 period beginning July 1, 2007, and thereafter, sold for use by paper or wood products
16 manufacturing facilities shall not include any of such price.

17 (14) "Sales of services" means and includes the following:

18 (a) The furnishing of sleeping rooms, cottages or cabins by hotels.

19 (b)(i) The sale of admissions to places of amusement, to athletic
20 entertainment other than that of schools, colleges, and universities, and recreational
21 events, and the furnishing, for dues, fees, or other consideration of the privilege of
22 access to clubs or the privilege of having access to or the use of amusement,
23 entertainment, athletic, or recreational facilities; but the term "sales of services" shall
24 not include membership fees or dues of nonprofit, civic organizations, including by
25 way of illustration and not of limitation the Young Men's Christian Association, the
26 Catholic Youth Organization, and the Young Women's Christian Association.

27 (ii) Places of amusement shall not include "museums", which are hereby
28 defined as public or private nonprofit institutions which are organized on a

1 permanent basis for essentially educational or aesthetic purposes and which use
2 professional staff to do all of the following:

3 (aa) Own or use tangible objects, whether animate or inanimate.

4 (bb) Care for those objects.

5 (cc) Exhibit them to the public on a regular basis.

6 (iii) Museums include but are not limited to the following institutions:

7 (aa) Museums relating to art, history, including historic buildings, natural
8 history, science, and technology.

9 (bb) Aquariums and zoological parks.

10 (cc) Botanical gardens and arboretums.

11 (dd) Nature centers.

12 (ee) Planetariums.

13 (iv) ~~For purposes of the sales and use taxes of all tax authorities in the state,~~

14 Solely for purposes of the state sales and use taxes imposed under R.S. 47:302 and

15 331, and sales and use taxes imposed by a political subdivision, the term "places of

16 amusement" as used herein shall not include camp and retreat facilities owned and

17 operated by nonprofit organizations exempt from federal income tax under Section

18 501(a) of the Internal Revenue Code as an organization described in Section

19 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from

20 the organization's property is devoted wholly to the nonprofit organization's

21 purposes.

22 (c) The furnishing of storage or parking privileges by auto hotels and parking
23 lots.

24 (d) The furnishing of printing or overprinting, lithographic, multilith, blue
25 printing, photostating or other similar services of reproducing written or graphic
26 matter.

27 (e) The furnishing of laundry, cleaning, pressing and dyeing services,
28 including by way of extension and not of limitation, the cleaning and renovation of

1 clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for
2 clothing, furs and rugs.

3 (f) The furnishing of cold storage space, except that space which is furnished
4 pursuant to a bailment arrangement, and the furnishing of the service of preparing
5 tangible personal property for cold storage where such service is incidental to the
6 operation of storage facilities.

7 (g)(i)(aa) The furnishing of repairs to tangible personal property, including
8 but not restricted to the repair and servicing of automobiles and other vehicles,
9 electrical and mechanical appliances and equipment, watches, jewelry, refrigerators,
10 radios, shoes, and office appliances and equipment.

11 (bb) For purposes of the sales and use tax levied by the state under R.S.
12 47:302 and 331 and by tax authorities in East Feliciana Parish, charges for the
13 furnishing of repairs to tangible personal property shall be excluded from sales of
14 services, as defined in this Subparagraph, when the repaired property is (1) delivered
15 to a common carrier or to the United States Post Office for transportation outside the
16 state, or (2) delivered outside the state by use of the repair dealer's own vehicle or by
17 use of an independent trucker. However, as to aircraft, delivery may be by the best
18 available means. This exclusion shall not apply to sales and use taxes levied by any
19 other parish, municipality or school board. However, any other parish, municipality
20 or school board may apply the exclusion as defined in this Subparagraph to sales or
21 use taxes levied by any such parish, municipality, or school board. Offshore areas
22 shall not be considered another state for the purpose of this Subparagraph.

23 (ii) For the purposes of this Subparagraph, tangible personal property shall
24 include machinery, appliances, and equipment which have been declared immovable
25 by declaration under the provisions of Article 467 of the Louisiana Civil Code, and
26 things which have been separated from land, buildings, or other constructions
27 permanently attached to the ground or their component parts as defined in Article
28 466 of the Civil Code.

1 (iii)(aa) For purposes of the sales and use taxes imposed by the state solely
2 for purposes of the state sales and use taxes imposed under R.S. 47:302 and 331, and
3 sales and use tax imposed by a political subdivision or any of its political
4 subdivisions, sale of services shall not include the labor, or sale of materials,
5 services, and supplies, used for the repairing, renovating, or converting of any
6 drilling rig, or machinery and equipment which are component parts thereof, which
7 is used exclusively for the exploration or development of minerals outside the
8 territorial limits of the state in Outer Continental Shelf waters.

9 (bb) For the purposes of this Subitem, "drilling rig" means any unit or
10 structure, along with its component parts, which is used primarily for drilling,
11 workover, intervention or remediation of wells used for exploration or development
12 of minerals and "component parts" means any machinery or equipment necessary for
13 a drilling rig to perform its exclusive function of exploration or development of
14 minerals.

15 (h) ~~The~~ Solely for purposes of the state sales and use taxes imposed under
16 R.S. 47:302 and 331, and sales and use taxes imposed by a political subdivision, the
17 term "sale of service" shall not include an action performed pursuant to a contract
18 with the United States Department of the Navy for construction or overhaul of U.S.
19 Naval vessels.

20 (i) Solely for purposes of the sales and use tax levied by the state the
21 furnishing of telecommunications services for compensation, in accordance with the
22 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying
23 a sales and use tax on telecommunications services not in effect on July 1, 1990,
24 provided, however, that the provisions of this Subparagraph shall not be construed
25 to prohibit the levy or collection of any franchise, excise, gross receipts, or similar
26 tax or assessment by any political subdivision of the state as defined in Article VI,
27 Section 44(2) of the Constitution of Louisiana.

28 (j) Notwithstanding any provision of law to the contrary, for purposes of
29 sales or use taxation by the state or any local political subdivision, the term "sales of

1 services" shall not mean or include any funeral directing services as defined in
2 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee
3 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the
4 state Department of Revenue shall devise a formula for the calculation of the tax.

5 (k) For purposes of sales and use tax imposed by the state solely for purposes
6 of the state sales and use taxes imposed under R.S. 47:302 and 331, any political
7 subdivision whose boundaries are coterminous with those of the state, or any other
8 political subdivision, the term "sales of services" shall not mean or include admission
9 charges for, outside gate admissions to, or parking fees associated with an event
10 providing Louisiana heritage, culture, crafts, art, food, and music which is sponsored
11 by a domestic nonprofit organization that is exempt from tax under Section 501(c)(3)
12 of the Internal Revenue Code. The provisions of this Subparagraph shall apply only
13 to an event which transpires over a minimum of seven but not more than twelve days
14 and has a five-year annual average attendance of at least three hundred thousand over
15 the duration of the event. For purposes of determining the five-year annual average
16 attendance, the calculation shall include the total annual attendance for each of the
17 five most recent years. The provisions of this Subparagraph shall apply only to
18 admission charges for, outside gate admissions to, or parking fees associated with
19 an event when the charges and fees are payable to or for the benefit of the sponsor
20 of the event.

21 (15) "Storage" means and includes any keeping or retention in the taxing
22 jurisdiction of tangible personal property for use or consumption within the taxing
23 jurisdiction or for any purpose other than for sale at retail in the regular course of
24 business.

25 (16)(a) "Tangible personal property" means and includes personal property
26 which may be seen, weighed, measured, felt or touched, or is in any other manner
27 perceptible to the senses.

28 (b) The term "tangible personal property" shall not include:

29 (i) Stocks, bonds, notes, or other obligations or securities.

1 (ii) ~~Gold~~ Solely for purposes of the state sales and use taxes imposed under
2 R.S. 47:302 and 331, and sales and use tax imposed by a political subdivision, gold,
3 silver, or numismatic coins, or platinum, gold, or silver bullion.

4 (iii) Proprietary geophysical survey information or geophysical data analysis
5 furnished under a restricted use agreement even though transferred in the form of
6 tangible personal property.

7 (c) The term "tangible personal property" shall not include the repair of a
8 vehicle by a licensed motor vehicle dealer which is performed subsequent to the
9 lapse of the applicable warranty on that vehicle and at no charge to the owner of the
10 vehicle. For the purpose of assessing a sales and use tax on this transaction, no
11 valuation shall be assigned to the services performed or the parts used in the repair.

12 (d)(i) Notwithstanding any provision of law to the contrary and solely for
13 purposes of state sales and use tax, any sale of a prepaid calling service or prepaid
14 wireless calling service, or both, shall be deemed to be the sale of tangible personal
15 property.

16 (ii) Prepaid calling services and prepaid wireless calling services shall be
17 subject to the tax imposed by this Chapter if the sale takes place in this state. If the
18 customer physically purchases a prepaid calling service or prepaid wireless calling
19 service at the vendor's place of business, the sale is deemed to take place at the
20 vendor's place of business. If the customer does not physically purchase the service
21 at the vendor's place of business, the sale of a prepaid calling service or prepaid
22 wireless calling service is deemed to take place at the first of the following locations
23 that applies to the sale:

24 (aa) The customer's shipping address, if the sale involves a shipment.

25 (bb) The customer's billing address.

26 (cc) Any other address of the customer that is known by the vendor.

27 (dd) The address of the vendor or, alternatively in the case of a prepaid
28 wireless calling service, the location associated with the mobile telephone number.

1 (e) The term "tangible personal property" shall not include work products
2 which are written on paper, stored on magnetic or optical media, or transmitted by
3 electronic device, when such work products are created in the normal course of
4 business by any person licensed or regulated by the provisions of Title 37 of the
5 Louisiana Revised Statutes of 1950, unless such work products are duplicated
6 without modification for sale to multiple purchasers. This exclusion shall not apply
7 to work products which consist of the creation, modification, updating, or licensing
8 of computer software.

9 (f) The term "tangible personal property" shall not include pharmaceuticals
10 administered to livestock used for agricultural purposes for purposes of the taxes
11 imposed under R.S. 47:302 and 331 and those of any political subdivision, except
12 as otherwise provided in this Subparagraph. Only pharmaceuticals not included in
13 the term "tangible personal property" shall be registered with the Louisiana
14 Department of Agriculture and Forestry. Legend drugs administered to livestock
15 used for agricultural purposes are not required to be registered, but such legend drugs
16 that are not registered shall be "tangible personal property".

17 (g)(i) Notwithstanding the provisions of R.S. 9:1149.1 et seq., except as
18 otherwise provided in this Subparagraph, the term "tangible personal property" shall
19 not include factory built homes.

20 (ii) For purposes of this Subparagraph, "factory built home" means a
21 residential structure which is built in a factory in one or more sections and has a
22 chassis or integrated wheel delivery system, which is either:

23 (aa) A structure built to federal construction standards as defined in Section
24 5402 of Title 42 of the United States Code.

25 (bb) A residential structure built to the Louisiana State Uniform Construction
26 Code.

27 (cc) A manufactured home, modular home, mobile home, or residential
28 mobile home with or without a permanent foundation, which includes plumbing,
29 heating, and electrical systems.

1 (iii) "Factory built home" shall not include any self-propelled recreational
2 vehicle or travel trailer.

3 (iv) The term "tangible personal property" as applied to sales and use taxes
4 levied by the state or any other taxing authority in the state shall include a new
5 factory built home, for the initial sale from a dealer to a consumer, but only to the
6 extent that forty-six percent of the retail sales price shall be so considered as
7 "tangible personal property". Thereafter, each subsequent resale of a factory built
8 home shall not be considered as "tangible personal property".

9 (v) The sales and use taxes due on these transactions shall be paid to the
10 Louisiana Department of Public Safety and Corrections, office of motor vehicles, by
11 the twentieth day of the month following the month of delivery of the factory built
12 home to the consumer, along with any other information requested by the office of
13 motor vehicles.

14 (h)(i) Solely for purposes of the imposition of the sales and use tax levied by
15 the state or any political subdivision whose boundaries are coterminous with those
16 of the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the
17 term "tangible personal property" shall not include one-quarter of the cost price of
18 custom computer software.

19 (ii) Solely for purposes of the imposition of the sales and use tax levied by
20 the state or any political subdivision whose boundaries are coterminous with those
21 of the state, for the period beginning July 1, 2003, and ending on June 30, 2004, the
22 term "tangible personal property" shall not include one-half of the cost price of
23 custom computer software.

24 (iii) Solely for purposes of the imposition of the sales and use tax levied by
25 the state or any political subdivision whose boundaries are coterminous with those
26 of the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the
27 term "tangible personal property" shall not include three-quarters of the cost price
28 of custom computer software.

1 (iv) Solely for purposes of the imposition of the sales and use tax levied by
2 the state or any political subdivision whose boundaries are coterminous with those
3 of the state, for all taxable periods beginning on or after July 1, 2005, the term
4 "tangible personal property" shall not include custom computer software.

5 (i) Solely for purposes of the imposition of the state sales and use tax under
6 R.S. 47:302 and 331, the term "tangible personal property" shall not include digital
7 television conversion equipment and digital radio conversion equipment as defined
8 in this Section.

9 (i) "Digital television conversion equipment" shall include the following:

- 10 (aa) DTV transmitter and RF system.
- 11 (bb) Transmission line.
- 12 (cc) DTV antenna.
- 13 (dd) Tower.
- 14 (ee) Existing tower structural upgrade.
- 15 (ff) Advanced TV receiver (STL receiver).
- 16 (gg) Decoder (digital to analog converter for NTSC).
- 17 (hh) DTV transmission system test and monitoring.
- 18 (ii) Digital video/audio master control switcher.
- 19 (jj) Analog to digital conversion.
- 20 (kk) High definition up-converters.
- 21 (ll) High definition bypass switcher.
- 22 (mm) Down converters for standard definition.
- 23 (nn) Advanced TV transmitter (STL transmitter).
- 24 (oo) Advanced TV signal encoder.
- 25 (pp) DTV transmission monitoring.
- 26 (qq) High definition digital video switcher and DVE.
- 27 (rr) High definition studio cameras.
- 28 (ss) High definition graphics/graphic generator.
- 29 (tt) High definition video monitoring.

- 1 (uu) Conversion gear.
- 2 (vv) High definition recorder/players, including tape, disk, etc.
- 3 (ww) High definition video/audio signal router.
- 4 (xx) High definition video/audio media server.
- 5 (yy) MPEG or HDTV digital receivers for program content.
- 6 (zz) High definition recorder/players, including tape, disk, etc.
- 7 (aaa) High definition video/audio media server and workstations.
- 8 (bbb) Digital EAS encoder/decoder.
- 9 (ccc) High definition camcorder, including tape, disk, etc.
- 10 (ddd) Advanced TV transmitters, including microwave.
- 11 (ii) "Digital radio conversion equipment" shall include the following:
- 12 (aa) IBOC transmitter.
- 13 (bb) IBOC main channel and IBOC combiner.
- 14 (cc) IBOC compatible antenna.
- 15 (dd) Tower.
- 16 (ee) IBOC coaxial bypass switcher.
- 17 (ff) Digital STL.
- 18 (gg) STL heliax transmission line.
- 19 (hh) STL antenna.
- 20 (ii) Digital console.
- 21 (jj) EAS insertion.
- 22 (kk) AES EBU conversion equipment.
- 23 (ll) IBOL transmission testing and monitoring equipment.
- 24 (mm) Digital processor.
- 25 (iii) The exclusion from state sales and use tax authorized by this
- 26 Subparagraph shall only apply to the first purchase of each enumerated item by an
- 27 individual taxpayer who holds a Federal Communications Commission license
- 28 issued pursuant to 47 CFR Part 73. Individual taxpayers operating under several
- 29 broadcaster licenses shall be allowed one purchase of each enumerated item per

1 license. Each subsequent purchase of any of the enumerated items by the same
2 taxpayer or license holder shall be subject to sales and use tax.

3 (iv) Repealed by Acts 2005, No. 243, §1, eff. June 29, 2005.

4 (v) Any eligible taxpayer who has purchased any item enumerated in Item
5 (i) or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the
6 effective date of this Act, shall be entitled to a credit against the state sales and use
7 tax due in any year for an amount equal to state sales and use tax paid on the
8 purchase of the item.

9 (vi) Local taxing authorities are hereby authorized to provide an exemption
10 from any local sales and use tax liability to any taxpayers holding a Federal
11 Communications Commission license issued pursuant to 47 CFR Part 73 which has
12 purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local
13 taxing authorities are further authorized to provide a credit against any tax liability
14 for the amount of local sales tax paid by taxpayers holding Federal Communications
15 Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in
16 Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but
17 prior to June 25, 2002.

18 (vii) No exclusion from state sales and use tax as authorized in this
19 Subsection shall be allowed after the Federal Communications Commission has
20 issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to
21 discontinue broadcasting their analog signal.

22 (viii) The Department of Revenue shall adopt rules and regulations necessary
23 for the implementation of this Act no later than August 1, 2002.

24 (j) The term "tangible personal property", for purposes of the payment of
25 sales and use taxes levied by ~~all tax authorities in the state,~~ the state under R.S.
26 47:302 and 331, and sales and use taxes levied by a political subdivision, shall not
27 include materials used directly in the collection, separation, treatment, testing, and
28 storage of blood by nonprofit blood banks and nonprofit blood collection centers.

1 (k) The term "tangible personal property" for purposes of the sales and use
2 taxes imposed by ~~all tax authorities in this state~~ the state under R.S. 47:302 and 331,
3 and sales and use taxes imposed by a political subdivision, shall not include
4 apheresis kits and leuko reduction filters used by nonprofit blood banks and
5 nonprofit blood collection centers.

6 (l) For purposes of the sales and use tax imposed by the state of Louisiana,
7 by a political subdivision whose boundaries are coterminous with those of the state,
8 or by all political subdivisions of the state and without regard to the nature of the
9 ownership of the ground, tangible personal property shall not include other
10 constructions permanently attached to the ground which shall be treated as
11 immovable property.

12 (m)(i) Notwithstanding any other provision of law to the contrary, for
13 purposes of the sales and use tax levied under R.S. 47:302 and 331 by the state or
14 any political subdivision whose boundaries are coterminous with those of the state,
15 the term "tangible personal property" shall not include machinery and equipment
16 used by a motor vehicle manufacturer with a North American Industry Classification
17 System (NAICS) Code beginning with 3361, or by a glass container manufacturer
18 with a NAICS Code of 327213. This exclusion shall be subject to the definitions and
19 requirements of Item (3)(i)(ii) of this Section.

20 (ii) A political subdivision may provide for a sales and use tax exemption for
21 the sales, cost, or lease or rental price of manufacturing machinery and equipment
22 as provided for in this Section, either effective upon adoption or enactment or phased
23 in over a period of time, or effective for a certain period of time or duration, all as
24 set forth in the instrument, resolution, vote, or other affirmative action providing the
25 exemption.

26 (iii) Notwithstanding any other provision of this Section, tooling in a
27 compression mold process shall be considered manufacturing machinery and
28 equipment for purposes of this Section.

1 (n)(i) For purposes of the imposition of the sales and use tax levied by the
2 state under R.S. 47:302 and 331, the term "tangible personal property" shall not
3 include machinery and equipment purchased by the owner of a radio station located
4 within the state that is licensed by the Federal Communications Commission for
5 radio broadcasting, if the owner is either of the following:

6 (aa) An individual domiciled in the state who owns a business with
7 substantially all of its assets located in the state and substantially all of its payroll
8 paid in the state.

9 (bb) A business entity with substantially all of its assets located in the state
10 and substantially all of its payroll paid in the state; provided that the business entity
11 is not owned or controlled or is otherwise an affiliate of a multi-state business entity
12 and is not owned or controlled by an individual who is not domiciled in the state.

13 (ii) "Radio broadcasting" means the sound transmission made via
14 electromagnetic waves for direct sound reception by the general public.

15 (o)(i) For purposes of the imposition of the sales and use tax levied by the
16 state under R.S. 47:302 and 331 and any political subdivision whose boundaries are
17 coterminous with those of the state, the term "tangible personal property" shall not
18 include machinery and equipment as defined in and subject to the requirements of
19 R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the Public Service
20 Commission or the council of the City of New Orleans. For the purposes of this
21 Paragraph, the term "utility" shall mean a person regulated by the Public Service
22 Commission or the council of the City of New Orleans who is assigned a North
23 American Industrial Classification System Code 22111, Electric Power Generation,
24 as it existed in 2002. Such utility shall also be considered a "manufacturer" for
25 purposes of R.S. 47:301(3)(i)(ii).

26 (ii) For purposes of this Subparagraph, a political subdivision whose
27 boundaries are not coterminous with those of the state may provide for a sales and
28 use tax exclusion for machinery and equipment as defined in and subject to the

1 requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the
2 Public Service Commission or the council of the city of New Orleans.

3 (p) For purposes of sales and use taxes imposed by the state under R.S.
4 47:301 and 331 or any of its political subdivisions, the term "tangible personal
5 property" shall not include newspapers.

6 (q) For purposes of sales and use taxes imposed by the state, any statewide
7 taxing authority, or any political subdivision, the term "tangible personal property"
8 shall not include any property that would have been considered immovable property
9 prior to the enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session
10 of the Legislature.

11 (17) "Off-road vehicle" is any vehicle manufactured for off-road use which
12 is issued a manufacturer's statement of origin that cannot be issued a registration
13 certificate and license to operate on the public roads of this state because at the time
14 of manufacture the vehicle does not meet the safety requirements prescribed by R.S.
15 32:1301 through 1310. This includes vehicles that are issued a title only by the
16 Department of Public Safety and Corrections, public safety services, such as all
17 terrain vehicles and recreational and sport vehicles, but it shall not include off-road
18 vehicles used for farm purposes, farm equipment, or heavy construction equipment.

19 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
20 "use" means and includes the exercise of any right or power over tangible personal
21 property incident to the ownership thereof, except that it shall not include the sale at
22 retail of that property in the regular course of business or the donation to a school in
23 the state which meets the definition provided in R.S. 17:236 or to a public or
24 recognized independent institution of higher education in the state of property
25 previously purchased for resale in the regular course of a business. The term "use"
26 shall not include the purchase, the importation, the consumption, the distribution, or
27 the storage of automobiles to be leased in an arm's length transaction, nor shall the
28 term "use" include the donation of food items to a food bank as defined in R.S.
29 9:2799(B).

1 (ii) For purposes of the imposition of the sales and use tax levied by a
2 political subdivision or school board, "use" shall mean and include the exercise of
3 any right or power over tangible personal property incident to the ownership thereof,
4 except that it shall not include the sale at retail of that property in the regular course
5 of business or the donation to a school in the state which meets the definition
6 provided in R.S. 17:236 or to a public or recognized independent institution of higher
7 education in the state of property previously purchased for resale in the regular
8 course of a business. The term "use" shall not include the donation of food items to
9 a food bank as defined in R.S. 9:2799(B).

10 (iii) The term "use", for purposes of sales and use taxes imposed by the state
11 under R.S. 47:302 and 331 on the use for rental of automobiles which take place on
12 or after January 1, 1991, and by political subdivisions on such use on or after July
13 1, 1996, and state sales and use taxes imposed under R.S. 47:302 and 331 on the use
14 for lease or rental of tangible personal property other than automobiles which take
15 place on or after July 1, 1991, shall not include the purchase, the importation, the
16 consumption, the distribution, or the storage of tangible personal property to be
17 leased or rented in an arm's length transaction as tangible personal property. For
18 purposes of the imposition of the tax levied by any political subdivision of the state,
19 for the period beginning July 1, 1999, and ending on June 30, 2000, the term "use"
20 shall not include one-fourth of the cost price of any tangible personal property which
21 is purchased, imported, consumed, distributed, or stored and which is to be leased
22 or rented in an arm's length transaction in the form of tangible personal property.
23 For purposes of the imposition of the tax levied by any political subdivision of the
24 state, for the period beginning July 1, 2000, and ending on June 30, 2001, the term
25 "use" shall not include one-half of the cost price of any tangible personal property
26 which is purchased, imported, consumed, distributed, or stored and which is to be
27 leased or rented in an arm's length transaction in the form of tangible personal
28 property. For purposes of the imposition of the tax levied by any political
29 subdivision of the state, for the period beginning July 1, 2001, and ending on June

1 30, 2002, the term "use" shall not include three-fourths of the cost price of any
2 tangible personal property which is purchased, imported, consumed, distributed, or
3 stored and which is to be leased or rented in an arm's length transaction in the form
4 of tangible personal property. Beginning July 1, 2002, for purposes of the imposition
5 of the tax levied by any political subdivision of the state, the term "use" shall not
6 include the purchase, the importation, the consumption, the distribution, or the
7 storage of any tangible personal property which is to be leased or rented in an arm's
8 length transaction in the form of tangible personal property.

9 (iv) The term "use", for purposes of sales and use taxes imposed by the state
10 on the use for rental automobiles which take place prior to January 1, 1991, and by
11 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
12 lease or rental of tangible personal property other than automobiles which take place
13 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
14 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
15 include the purchase, the importation, the consumption, the distribution, or the
16 storage of tangible personal property to be leased or rented in an arm's length
17 transaction as tangible personal property.

18 (b) Notwithstanding any other law to the contrary, for purposes of the
19 imposition of the sales and use tax of any political subdivision, the use of a vehicle
20 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
21 deemed to be a "use":

22 (i) In the political subdivision of the principal residence of the purchaser if
23 the vehicle is purchased for private use, or

24 (ii) In the political subdivision of the principal location of the business if the
25 vehicle is purchased for commercial use, unless the vehicle purchased for
26 commercial use is assigned, garaged, and used outside of such political subdivision,
27 in which case the use shall be deemed a use in the political subdivision where the
28 vehicle is assigned, garaged, and used.

1 (c) For purposes of ~~state and political subdivision sales and use tax~~ the state
2 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
3 imposed by a political subdivision, "use" shall not include the exercise of any right
4 or power by a free hospital over items, including but not limited to supplies and
5 equipment, which are reasonably necessary for the operation of the free hospital.

6 (d)(i) Notwithstanding any other provision of law to the contrary, and except
7 as provided in Item (iii) of this Subparagraph, for purposes of state and political
8 subdivision sales and use tax, "use" means and includes the exercise of any right or
9 power over tangible personal property incident to the ownership thereof, except that
10 it shall not include the further processing of tangible personal property into articles
11 of tangible personal property for sale.

12 (ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for
13 purposes of state and political subdivision use tax, "use" shall not include the
14 storage, consumption, or the exercise of any other right of ownership over tangible
15 personal property which is created or derived as a residue or byproduct of such
16 processing. Such residue or byproduct shall include but shall not be limited to
17 catalyst cracker coke derived from crude oil, wood chips, bark, and liquor derived
18 from the processing of sawlogs or pulpwood timber, or bagasse derived from
19 sugarcane.

20 (iii) Notwithstanding any other provision of law to the contrary, and
21 notwithstanding the provisions of this Subparagraph, "use" shall include the exercise
22 of any right of ownership over the consumption, the distribution, and the storage for
23 use or consumption in this state of refinery gas, except the sale to another person,
24 whether at retail or wholesale, only if the refinery gas is ultimately consumed as an
25 energy source by the person who owns the facility in which it is created and is not
26 sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be
27 taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If
28 refinery gas, except for feedstock, is sold to another person, whether at retail, or
29 wholesale, such sale shall be taxable and the sales price value shall be as provided

1 for in Subparagraph (13)(d) of this Section. The provisions of this Item shall not
2 apply to feedstocks.

3 (e) For purposes of ~~state and political subdivision sales and use tax~~ the state
4 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
5 imposed by a political subdivision, "use" shall not include the purchase of or the
6 exercise of any right or power over:

7 (i) Tangible personal property sold by approved parochial and private
8 elementary and secondary schools which comply with the court order from the Dodd
9 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
10 administrators, or teachers, or other employees of the school, if the money from such
11 sales, less reasonable and necessary expenses associated with the sale, is used solely
12 and exclusively to support the school or its program or curricula.

13 (ii) Educational materials or equipment used for classroom instruction by
14 approved parochial and private elementary and secondary schools which comply
15 with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the
16 Internal Revenue Code, limited to books, workbooks, computers, computer software,
17 films, videos, and audio tapes.

18 (f) For purposes of ~~state and political subdivision sales and use tax~~ the state
19 sales and use taxes imposed under R.S. 47:302 and 331, and sales and use taxes
20 imposed by a political subdivision, "use" shall not include the purchase of or the
21 exercise of any right or power over tangible personal property used by Boys State of
22 Louisiana, Inc. and Girls State of Louisiana, Inc. for their educational and public
23 service programs for youth.

24 (g) Notwithstanding any provision of law to the contrary, for purposes of
25 sales or use taxation by the state or any local political subdivision, the term "use"
26 shall not mean or include any funeral directing services as defined in Subparagraph
27 (10)(s) of this Section.

28 (h) For purposes of sales and use taxes levied by the state or any political
29 subdivision of the state, the term "use" shall not include the exercise of any right of

1 ownership in or the distribution of telephone directories acquired by an advertising
2 company that is not affiliated with a provider of telephone services if the telephone
3 directories will be distributed free of charge to the recipients of the telephone
4 directories.

5 (i) For purposes of the imposition of sales and use taxes imposed or levied
6 by all taxing authorities in the state, in the case of the sale or any other disposition
7 by a dealer of any cellular, PCS, or wireless telephone, any electronic accessories
8 that are physically connected with such telephones and personal communications
9 devices used in connection with the sale or use of mobile telecommunications
10 services, as defined in R.S. 47:301(10)(v), the term "use" shall not include the
11 withdrawal, use, distribution, consumption, storage, donation, or any other
12 disposition of any such cellular, PCS, or wireless telephone, any electronic
13 accessories that are physically connected with such telephones and personal
14 communications devices by the dealer.

15 (j) For purposes of the imposition of sales and use taxes imposed or levied
16 by any political subdivision of the state, in the case of the sale or any other
17 disposition by a dealer of any cellular telephone, PCS telephone, wireless telephone,
18 or other wireless personal communication device that is used in connection with the
19 sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(w),
20 or any electronic accessory that is physically connected with any such telephone or
21 personal communications device, the term "use" shall not include the withdrawal,
22 use, distribution, consumption, storage, donation, or any other disposition of any
23 such telephone or electronic accessory by the dealer.

24 (k) Solely for purposes of the sales and use tax levied by the state or any
25 political subdivision whose boundaries are coterminous with those of the state under
26 R.S. 47:302 and 331, the term "use" shall not include the purchase, the use, the
27 consumption, the distribution, the storage for use or consumption, or the exercise of
28 any right or power over manufacturing machinery and equipment used or consumed
29 in this state to manufacture, produce or extract unblended biodiesel.

1 (l) Solely for the purposes of sales and use taxes levied by the state or any
2 political subdivision whose boundaries are coterminous with those of the state, the
3 term "use" shall not include the use, the consumption, the distribution, the storage
4 for use or consumption in this state, or the exercise of any right or power over an
5 alternative substance as that term is defined in Subparagraph (10)(z) of this Section
6 when such alternative substance is used as a fuel by a manufacturer. "Manufacturer"
7 means a person whose principal activity is manufacturing and who is assigned by the
8 Louisiana Workforce Commission a North American Industrial Classification
9 System code with the agricultural, forestry, fishing, and hunting Sector 11 or the
10 manufacturing Sectors 31-33 as they existed in 2002.

11 (m)(i) For the purposes of sales and use taxes imposed or levied by the state
12 or any political subdivision of the state, the term "use" shall not include the purchase
13 of or the exercise of any right or power over toys by a non-profit organization
14 exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue
15 Code if the sole purpose of the purchasing organization is to donate toys to minors
16 and the toys are, in fact, donated.

17 (ii) The exclusion provided for in this Subparagraph shall be subject to the
18 same conditions as are provided for in Items (10)(aa)(ii) and (iii) of this Section.

19 (n) For purposes of sales and use tax imposed by the state under R.S. 47:302
20 and 331 or any political subdivision of the state, the term "use" shall not mean or
21 include the purchase, importation, storage, distribution, or exportation of, or exercise
22 of any right or power over, textbooks and course-related software by a private
23 postsecondary academic degree-granting institution, accredited by a national or
24 regional commission that is recognized by the United States Department of
25 Education and is licensed by the Board of Regents, which institution has its main
26 location within this state and offers only online instruction, when all of the following
27 apply:

1 (i) The textbooks and course-related software are physically outside of this
2 state when purchased from a vendor outside of this state and then imported into this
3 state.

4 (ii) The first student use of the textbooks and course-related software occurs
5 outside of this state.

6 (iii) The textbooks and course-related software are provided to the student
7 free of charge.

8 (o) Solely for purposes of the imposition of the state sales and use tax
9 imposed by R.S. 47:302 and 331, the term "use" shall not include the purchase or
10 use of any storm shutter device as defined and provided for in Subparagraph (10)(ee)
11 of this Section.

12 (p) For purposes of sales and use tax imposed by the state imposed by R.S.
13 47:302 and 331 or any political subdivision of the state, the term "use" shall not
14 mean or include the purchase, importation, storage, distribution or exercise of any
15 right or power over anthropogenic carbon dioxide used in a qualified tertiary
16 recovery project approved by the assistant secretary of the office of conservation of
17 the Department of Natural Resources pursuant to R.S. 47:633.4.

18 (19) "Use tax" includes the use, the consumption, the distribution, and the
19 storage as herein defined. No use tax shall be due to or collected by:

20 (a) The state on tangible personal property used, consumed, distributed, or
21 stored for use or consumption in the state if the sale of such property would have
22 been exempted or excluded from sales tax at the time such property became subject
23 to the taxing jurisdiction of the state.

24 (b) Any political subdivision on tangible personal property used, consumed,
25 distributed, or stored for use or consumption in such political subdivision if the sale
26 of such property would have been exempted or excluded from sales tax at the time
27 such property became subject to the taxing jurisdiction of the political subdivision.

28 (20) "Drugs" includes all pharmaceuticals and medical devices which are
29 prescribed for use in the treatment of any medical disease.

1 (21) "Free hospital" means a hospital that does not charge any patients for
2 health care provided by the hospital.

3 (22) The term "computer software" means a set of statements, data, or
4 instructions to be used directly or indirectly in a computer in order to bring about a
5 certain result in any form in which those statements, data, or instructions may be
6 embodied, transmitted, or fixed, by any method now known or hereafter developed,
7 regardless of whether the statements, data, or instructions are capable of being
8 perceived by or communicated to humans. Computer software includes all types of
9 software including operational, applicational, utilities, compilers, and all other forms.

10 (23)(a) The term "custom computer software" means computer software
11 prepared, created, adapted, or modified to the special order of a particular purchaser,
12 licensee, or user; or to meet the specific needs or requirements of a particular
13 purchaser, licensee, or user, regardless of the means by or through which such
14 computer software is furnished, delivered, or transmitted, and regardless of whether
15 such software incorporates or consists of preexisting routines, utilities, or other
16 computer software components.

17 (b) In order to be considered "custom computer software", the computer
18 software must require preparation, creation, adaption, or modification by the vendor
19 in order to be used in a specific work environment or to perform a specific function
20 for the user.

21 (c) Updates, upgrades, and new versions of custom computer software shall
22 be considered custom computer software, provided such upgrades, updates, and new
23 versions meet the definition of custom computer software contained in this Chapter.

24 (24) The term "news publication" shall mean any printed periodical that:

25 (a) Appears at regular intervals.

26 (b) Contains reports of a varied character, such as political, social, cultural,
27 sports, moral, religious, or other subjects of general public interest.

28 (c) Contains not more than seventy-five percent advertising.

1 (d) Is not owned or published as an auxiliary to another nonpublishing
2 business, organization, or entity.

3 (25) "Taxing authority" shall mean and include both the state and a statewide
4 political subdivision and any political subdivision of the state authorized under the
5 Constitution or laws of the state of Louisiana to levy and collect a sales and use tax,
6 unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax
7 Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any
8 political subdivision of the state authorized under the Constitution or laws of the
9 state of Louisiana to levy and collect a sales and use tax, except a statewide political
10 subdivision.

11 (26) "Taxing jurisdiction" shall mean the area within the physical boundaries
12 of the taxing authority.

13 (27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use
14 tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A
15 and 2-B of this Subtitle and the tax imposed by political subdivisions under the
16 constitution or laws of this state authorizing the imposition of a sales and use tax.

17 (28)(a) For purposes of the imposition of the lease or rental tax levied by the
18 state under R.S. 47:302 and 331 and any political subdivision whose boundaries are
19 coterminous with those of the state, the "gross proceeds", "monthly lease or rental
20 price paid", and "monthly lease or rental price contracted or agreed to be paid" for
21 machinery and equipment used by a manufacturer in a plant facility predominately
22 and directly in the actual manufacturing for agricultural purposes or the actual
23 manufacturing process of an item of tangible personal property, including, but not
24 limited to rubber tired farm tractors, cane harvesters, cane loaders, cotton pickers,
25 combines, haybalers, attachments and sprayers, clippers, cultivators, discs, plows,
26 and spreaders, which is for ultimate sale to another and not for internal use, at one
27 or more fixed locations within Louisiana shall be reduced as follows:

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §302. Imposition of tax

2 * * *

3 R.

4 * * *

5 (2) ~~Notwithstanding~~ Except as otherwise provided in this Paragraph,
6 notwithstanding any other provision of law to the contrary, including but not limited
7 to any contrary provisions of this Chapter, the exemption provided for in R.S.
8 47:305(A)(2) and 305.25(A)(3) shall be applicable, operable, and effective from July
9 1, 2007. However, beginning July 1, 2015, the provisions of this Paragraph shall be
10 inapplicable with regard to the state sales and use tax imposed under R.S. 47:321.

11 * * *

12 S. ~~Notwithstanding~~ Except as otherwise provided in this Paragraph,
13 notwithstanding any other provision of law to the contrary and specifically
14 notwithstanding any provision enacted during the 2004 First Extraordinary Session
15 which makes any sales and use tax exemption inapplicable, inoperable, and of no
16 effect, the exemption provided in R.S. 47:305.51 shall be applicable, operable, and
17 effective for all taxable periods beginning on or after July 1, 2007. However,
18 beginning July 1, 2015, the provisions of this Paragraph shall be inapplicable with
19 regard to the state sales and use tax imposed under R.S. 47:321.

20 T. ~~Notwithstanding~~ Except as otherwise provided in this Paragraph,
21 notwithstanding any other provision of law to the contrary and specifically
22 notwithstanding any provision enacted to make any sales and use tax exemption
23 inapplicable, inoperable, and of no effect, the exemption provided in R.S.
24 47:305(A)(5)(b) shall be applicable, operable, and effective from July 1, 2009.
25 However, beginning July 1, 2015, the provisions of this Paragraph shall be
26 inapplicable with regard to the state sales and use tax imposed under R.S. 47:321.

27 * * *

1 §305. Exclusions and exemptions from the tax

2 A.(1) The gross proceeds derived from the sale in this state of livestock,
3 poultry, and other farm products direct from the farm are exempted from the tax
4 levied by taxing authorities, provided that such sales are made directly by the
5 producers. When sales of livestock, poultry, and other farm products are made to
6 consumers by any person other than the producer, they are not exempted from the
7 tax imposed by taxing authorities.

8 (2) The gross proceeds derived from the sale in this state of livestock at
9 public sales sponsored by breeders' or registry associations or livestock auction
10 markets are exempted from the sales and use tax levied by the state under R.S.
11 47:302 and 331 only. When public sales of livestock are made to consumers by any
12 person other than through a public sale sponsored by a breeders' or registry
13 association or a livestock auction market, they are not exempted from the sales and
14 use tax imposed by the state. This Section shall be construed as exempting race
15 horses entered in races and claimed at any racing meet held in Louisiana, whether
16 the horse claimed was owned by the original breeder or not.

17 (3) Every agricultural commodity sold by any person, other than a producer,
18 to any other person who purchases not for direct consumption but for the purpose of
19 acquiring raw product for use or for sale in the process of preparing, finishing, or
20 manufacturing such agricultural commodity for the ultimate retail consumer trade,
21 shall be exempted from any and all provisions of the sales and use tax imposed by
22 a taxing authority, including payment of the tax applicable to the sale, storage, use,
23 transfer, or any other utilization of or handling thereof, except when such agricultural
24 commodity is actually sold as a marketable or finished product to the ultimate
25 consumer, and in no case shall more than one tax be exacted. For the purposes of
26 this Section, "agricultural commodity" means horticultural, viticultural, poultry, farm
27 and range products, and livestock and livestock products.

1 (4)(a) The purchase of feed and feed additives for the purpose of sustaining
2 animals which are held primarily for commercial, business, or agricultural use shall
3 be exempted from the taxes levied by taxing authorities.

4 (b) For purposes of this Subsection:

5 (i) "Commercial use" means the purchasing, producing, or maintaining of
6 animals, including breeding stock, for resale;

7 (ii) "Business use" means the keeping and maintaining of animals which are
8 used in performing services in conjunction with a business enterprise, such as sentry
9 dogs and rental horses;

10 (iii) "Agricultural use" means the maintaining of work animals and beasts
11 of burden which are utilized in the activity of producing crops or animals for market,
12 in the production of food for human consumption, in the production of animal hides
13 or other animal products for market, or in the maintaining of breeding stock for the
14 propagation of such agricultural use animals.

15 (c) This exemption shall not apply to the purchase of feed or feed additives
16 for animals kept primarily for personal, sporting, or other purposes, including but not
17 limited to purchases for pets of any kind or hunting dogs.

18 (5)(a) Solely for purposes of the sales and use tax levied by the state, such
19 tax shall not apply to the sale or use of materials, supplies, equipment, fuel, and
20 related items other than vessels used in the production or harvesting of crawfish.
21 The person who purchases the exempt items shall claim the exemption by executing
22 a certificate at the time of purchase. The Department of Revenue shall provide the
23 certificates to retail merchants. Any merchant who in good faith, and after
24 examination of the applicability of the certificate to that purchase with due care,
25 neglects or fails to collect the tax herein provided, due to the presentation by the
26 purchaser of a tax exemption certificate issued by the Department of Revenue,
27 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
28 of the tax.

1 (b) Solely for purposes of the sales and use tax levied by the state, such tax
2 shall not apply to the sale or use of bait and feed used in the production or harvesting
3 of crawfish. The person who purchases the exempt items shall claim the exemption
4 by executing a certificate at the time of purchase. The Department of Revenue shall
5 provide the certificates to retail merchants. Any merchant who in good faith, and
6 after examination of the applicability of the certificate to that purchase with due care,
7 neglects or fails to collect the tax herein provided, due to the presentation by the
8 purchaser of a tax exemption certificate issued by the Department of Revenue,
9 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
10 of the tax.

11 (6) Solely for purposes of the sales and use tax levied by the state, such tax
12 shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and
13 related items other than vessels used in the production or harvesting of catfish. The
14 person who purchases the exempt items shall claim the exemption by executing a
15 certificate at the time of purchase. The Department of Revenue shall provide the
16 certificates to retail merchants. Any merchant who in good faith, and after
17 examination of the applicability of the certificate to that purchase with due care,
18 neglects or fails to collect the tax herein provided, due to the presentation by the
19 purchaser of a tax exemption certificate issued by the Department of Revenue, shall
20 not be liable for the payment of the tax.

21 B. For purposes of the sales and use tax of all taxing authorities, the "use
22 tax," as defined herein, shall not apply to livestock and livestock products, to poultry
23 and poultry products, to farm, range and agricultural products when produced by the
24 farmer and used by him and members of his family.

25 C. For purposes of the sales and use tax of all taxing authorities, where a part
26 of the cost price of a motor vehicle is represented by a motor vehicle returned to the
27 dealer's inventory, the use tax is payable on the total cost price less the wholesale
28 value of the article returned.

1 D.(1) The sale at retail, the use, the consumption, the distribution, and the
2 storage to be used or consumed in the taxing jurisdiction of the following tangible
3 personal property is hereby specifically exempted from the tax imposed by taxing
4 authorities, except as otherwise provided in this Paragraph:

5 (a) Gasoline.

6 (b) Steam, solely for purposes of the state sales and use taxes imposed under
7 R.S. 47:302 and 331.

8 (c) Water (not including mineral water or carbonated water or any water put
9 in bottles, jugs, or containers, all of which are not exempted), solely for purposes of
10 the state sales and use taxes imposed under R.S. 47:302 and 331.

11 (d) Electric power or energy and any materials or energy sources used to fuel
12 the generation of electric power for resale or used by an industrial manufacturing
13 plant for self-consumption or cogeneration solely for purposes of the state sales and
14 use taxes imposed under R.S. 47:302 and 331.

15 (e) Repealed by Acts 2007, No. 480, §2.

16 (f) Fertilizer and containers used for farm products when sold directly to the
17 farmer.

18 (g) Natural gas, solely for purposes of the state sales and use taxes imposed
19 under R.S. 47:302 and 331.

20 (h) All energy sources when used for boiler fuel except refinery gas, solely
21 for purposes of the state sales and use taxes imposed under R.S. 47:302 and 331.

22 (i) New trucks, new automobiles, new aircraft, and new boats, vessels, or
23 other water craft withdrawn from stock by factory authorized new truck, new
24 automobile, new aircraft dealers, and factory-authorized dealers of new boats,
25 vessels, or other water craft, and used trucks and used automobiles withdrawn from
26 stock by new or used motor vehicle dealers, which are withdrawn for use as
27 demonstrators.

28 (j) Solely for purposes of the state sales and use tax, drugs prescribed by a
29 physician or dentist.

1 (k) Solely for purposes of the state sales and use tax, orthotic, including
2 prescription eyeglasses and contact lenses, and prosthetic devices and wheelchairs
3 and wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors
4 for personal consumption or use.

5 (l) Solely for purposes of the state sales and use tax, the sale or purchase of
6 any ostomy, ileostomy or colostomy device or any other appliance including
7 catheters or any related item which is required as the result of any surgical procedure
8 by which an artificial opening is created in the human body for the elimination of
9 natural waste.

10 (m) Solely for purposes of the state sales and use tax, patient aids prescribed
11 by a physician or a licensed chiropractor for home use.

12 (n) Solely for purposes of the state sales and use tax, food sold for
13 preparation and consumption in the home including by way of extension and not of
14 limitation bakery products.

15 (o) Solely for purposes of the state sales and use tax, dairy products.

16 (p) Solely for purposes of the state sales and use tax, soft drinks.

17 (q) Solely for purposes of the state sales and use tax, fresh fruits and
18 vegetables.

19 (r) Solely for purposes of the state sales and use tax, package foods requiring
20 further preparation by the purchaser.

21 (s) Solely for purposes of the state sales and use tax, any and all medical
22 devices used exclusively by the patient in the medical treatment of various diseases
23 or administered exclusively to the patient by a physician, nurse, or other health care
24 professional or health care facility in the medical treatment of various diseases under
25 the supervision of and prescribed by a licensed physician.

26 (t) Orthotic devices, prosthetic devices, prostheses and restorative materials
27 utilized by or prescribed by dentists in connection with health care treatment or for
28 personal consumption or use and any and all dental devices used exclusively by the
29 patient or administered exclusively to the patient by a dentist or dental hygienist in

1 connection with dental or health care treatment. Notwithstanding any other
2 provision of law to the contrary, the exemptions from the state sales and use tax
3 provided in this Subparagraph shall be applicable to any sales and use tax levied by
4 any local governmental subdivision or school board.

5 (u) Solely for purposes of the state sales and use tax, adaptive driving
6 equipment and motor vehicle modifications prescribed for personal use by a
7 physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the
8 state.

9 (2)(a) Sales of meals furnished as follows shall be exempt:

10 (i) To the staff and students of educational institutions, including but not
11 limited to kindergartens, if the meals are consumed on the premises where
12 purchased, or if they are purchased in advance by students, faculty, or staff pursuant
13 to a meal plan sponsored by the institution or organization or purchased in advance
14 pursuant to any other payment arrangement sanctioned by the institution or
15 organization and generally available to students, faculty, and staff of the institution
16 or organization, regardless of where such meals are consumed.

17 (ii) To the staff and patients of hospitals and to the staff and residents of
18 nursing homes, adult residential care providers, and continuing care retirement
19 communities.

20 (iii) To the staff, inmates, and patients of mental institutions.

21 (iv) To the boarders of rooming houses.

22 (v) Occasional meals furnished to the public in educational, religious, or
23 medical organization facilities.

24 (b) Except as provided for in Item (a)(i) of this Paragraph, the furnishing of
25 such meals shall be exempt from the taxes imposed by this Chapter if the meals are
26 consumed on the premises where purchased.

27 (3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters,
28 private clubs, and sales made by an establishment not specifically exempted

1 elsewhere who furnish facilities for the consumption of the food on the premises are
2 not exempt from the taxes imposed by taxing authorities.

3 (4)(a) The exemption for food, drugs, orthotic and prosthetic devices, and
4 wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors
5 for personal consumption or use; for patient aids prescribed by a physician or
6 licensed chiropractor for home use; and ostomy, ileostomy or colostomy devices, or
7 other appliances including catheters or related items required as the result of any
8 surgical procedure by which an artificial opening is created in the human body for
9 the elimination of natural waste applies only to sales taxes imposed by the state of
10 Louisiana and does not apply to such taxes authorized and imposed by any school
11 board, municipality, or other local taxing authority notwithstanding any other
12 provisions of law to the contrary, and specifically, but not exclusively, R.S. 47:337.8.

13 (b) However, sales taxes authorized and imposed by any taxing authority
14 shall not apply to the procurement and administration of cancer and related
15 chemotherapy prescription drugs used exclusively by the patient in his medical
16 treatment when administered exclusively to the patient by a physician, nurse, or other
17 health care professional in a physician's office where patients are not regularly kept
18 as bed patients for twenty-four hours or more.

19 (5)(a) However sales taxes authorized and imposed by any school board,
20 municipality, or other local taxing authority shall not apply to the sale of prescription
21 drugs under the pharmaceutical vendor program for Title XIX of the Social Security
22 Act as administered by the Department of Health and Hospitals of the state of
23 Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such
24 drugs under Title XXI of the Social Security Act as administered by such
25 department.

26 (b) The administration of prescription drugs used exclusively by the patient
27 in the medical treatment of various diseases or injuries when administered
28 exclusively to the patient by a physician, nurse, or other health care professional in

1 a physician's office where patients are not regularly kept as bed patients for twenty-
2 four hours or more shall be a professional service.

3 (c) For the time after July 1, 1999, school boards, municipalities, and other
4 local taxing authorities may by ordinance or resolution provide for the following:

5 (i) An exemption for the sale of prescription drugs administered as provided
6 for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and
7 administration of chemotherapy drugs used exclusively by the patient in his medical
8 treatment if administered exclusively to the patient by a physician, nurse, or other
9 health care professional in a physician's office where patients are not regularly kept
10 as bed patients for twenty-four hours or more.

11 (ii) An amnesty for any person who may have been responsible to impose,
12 collect, and/or remit the tax previously imposed on the transactions provided for in
13 Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or
14 amnesty is granted according to such reasonable terms and conditions as the
15 respective school boards, municipalities and other local taxing authorities may adopt.

16 (6) The exemptions from the state sales and use tax provided in this
17 Subsection in existence as of the effective date of Act 205 of 1978* shall be
18 applicable to any sales and use tax levied by any local governmental subdivision or
19 school board except as otherwise specifically provided in this Subsection. Without
20 determining the validity of any exemptions placed in this Subsection subsequent to
21 the effective date of Act 205 of 1978, all Acts after the 1991 Regular Session placing
22 an exemption in this Subsection which is applicable to a political subdivision must,
23 to be effective, specifically provide in the title and body of the bill that it is
24 applicable to a political subdivision. The exemptions provided in R.S.
25 47:305(D)(1)(t) are hereby deemed to specifically comply with Act 205 of 1978.

26 E. It is not the intention of any taxing authority to levy a tax upon articles of
27 tangible personal property imported into this state, or produced or manufactured in
28 this state, for export; nor is it the intention of any taxing authority to levy a tax on
29 bona fide interstate commerce; however, nothing herein shall prevent the collection

1 of the taxes due on sales of tangible personal property into this state which are
2 promoted through the use of catalogs and other means of sales promotion and for
3 which federal legislation or federal jurisprudence enables the enforcement of the
4 sales tax of a taxing authority upon the conduct of such business. It is, however, the
5 intention of the taxing authorities to levy a tax on the sale at retail, the use, the
6 consumption, the distribution, and the storage to be used or consumed in this state,
7 of tangible personal property after it has come to rest in this state and has become a
8 part of the mass of property in this state. At such time as federal legislation or
9 federal jurisprudence as to sales in interstate commerce promoted through the use of
10 catalogs and other means of sales promotions enables the enforcement of this
11 Chapter or any other law or local ordinance imposing a sales tax against vendors that
12 have no other nexus with the taxing jurisdiction, the following provisions shall apply
13 to such sales on which sales and use tax would not otherwise be collected.

14 F. The sales, use and lease taxes imposed by taxing authorities shall not
15 apply to the amounts paid by radio and television broadcasters for the right to exhibit
16 or broadcast copyrighted material and the use of film, video or audio tapes, records
17 or any other means supplied by licensors thereof in connection with such exhibition
18 or broadcast and the sales and use tax shall not apply to licensors or distributors
19 thereof.

20 G. The sales, use, and lease taxes imposed by taxing authorities shall not
21 apply to the purchase or rental by private individuals of machines, parts therefor, and
22 materials and supplies which a physician has prescribed for home renal dialysis.

23 H. "Demonstrators" as used in Subsection D of this Section for purposes of
24 the sales and use tax levied by all taxing authorities shall mean all of the following:

25 (1) New and used trucks and automobiles for which dealer inventory plates
26 may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name
27 for use as demonstrators which are kept primarily on the dealer's premises during
28 normal business hours and which are available for demonstration purposes.

1 However, the occasional use of a demonstrator by authorized personnel of the dealer
2 shall not disqualify such demonstrator from the exemption herein designated.

3 (2) New boats, vessels, or other water craft, hereafter, "boats," which comply
4 with all the following:

5 (a) They are registered in a boat, vessel, or water craft dealer's name with the
6 appropriate agency.

7 (b) They are reported by the dealer to the department as demonstrators and
8 are clearly identified as demonstrators in the manner required by the department.

9 (c) They are used by those designated by such dealer for any activity which
10 results in the advertisement, promotion of sales, or demonstration of the qualities of
11 the boat for the purpose of increasing sales of such boats; provided that such use
12 does not occur on more than six consecutive days and does not occur on more than
13 twelve days in any calendar month. The dealer shall keep such logs or other records
14 of such use as shall be required by the department.

15 (d) They are ultimately sold at retail.

16 I. The sales and use taxes imposed by the state of Louisiana under R.S.
17 47:302 and 331 or any of its political subdivisions shall not apply to the labor, or sale
18 of materials, services, and supplies, used for repairing, renovating or converting of
19 any drilling rig, or machinery and equipment which are component parts thereof,
20 which is used exclusively for the exploration or development of minerals outside the
21 territorial limits of the state in Outer Continental Shelf waters. For the purposes of
22 this Subsection, "drilling rig" means any unit or structure, along with its component
23 parts, which is used primarily for drilling, workover, intervention or remediation of
24 wells used for exploration or development of minerals. For purposes of this
25 Subsection, "component parts" means any machinery or equipment necessary for a
26 drilling rig to perform its exclusive function of exploration or development of
27 minerals.

1 §305.1. Exclusions and exemptions; ships and ships' supplies

2 A. ~~The~~ Except as otherwise provided herein, the tax imposed by taxing
3 authorities shall not apply to sales of materials, equipment, and machinery which
4 enter into and become component parts of ships, vessels, or barges, including
5 commercial fishing vessels, drilling ships, or drilling barges, of fifty tons load
6 displacement and over, built in Louisiana nor to the gross proceeds from the sale of
7 such ships, vessels, or barges when sold by the builder thereof. However, the state
8 sales and use tax imposed under R.S. 47:321 shall be applicable to the sale of such
9 a ship, vessel, or barge.

10 * * *

11 §305.16. Exclusions and exemptions; cable television installation and repair

12 The sales and use taxes imposed by the state under R.S. 47:302 and 331 or
13 by any political subdivision thereof shall not apply to necessary fees incurred in
14 connection with the installation and service of cable television. Such exemption
15 shall not apply to purchases made by any cable television system, but shall only
16 apply to funds collected from the subscriber for regular service, installation and
17 repairs.

18 * * *

19 §305.20. Exclusions and exemptions; Louisiana commercial fishermen

20 * * *

21 C. An owner who has obtained a certificate of exemption shall, with respect
22 to the vessel identified in the certificate for the harvesting or production of fish and
23 other aquatic life, including shrimp, oysters, and clams, and certain seafood
24 processing facilities described in Subsection A, be exempt from the taxes described
25 in Subsection A, as follows:

26 (1) Taxes imposed by the state under R.S. 47:302 and 331 as applied to the
27 materials and supplies necessary for repairs to the vessel or facility if they are
28 purchased by the owner and later become a component part of the vessel or facility.

1 from the lease or rental of the property not previously taxed shall be at reasonable
 2 market rates. If the secretary of the Department of Revenue finds that any person
 3 who has purchased, used, or imported motor vehicles, trailers, or semitrailers tax free
 4 under this Subsection has subsequently leased or rented motor vehicles, trailers, or
 5 semitrailers in transactions not at arms length at below market rates, the secretary
 6 shall presume that the person was not entitled to claim the exemption provided
 7 herein, and the burden shall be on that person to prove otherwise.

8 B. A person who has acquired or used property under this Section without
 9 payment of the tax imposed by R.S. 47:302(A), ~~R.S. 47:321(A)~~, and R.S. 47:331(A)
 10 shall be construed to be in the business of leasing, renting, or selling such property,
 11 whether or not the lessees have the right or obligation to purchase the tangible
 12 personal property or will otherwise acquire title to the property at termination of the
 13 lease. Therefore, a transaction entered into that is entitled lease, rental,
 14 lease-purchase, or similar name which for purposes other than state sales taxation
 15 might be considered a conditional sales contract or transaction in lieu of sale, shall
 16 be deemed for state sales tax purposes to be a taxable lease. The monthly or other
 17 periodic payments made under the agreement shall be subject to the tax imposed by
 18 R.S. 47:302(B), ~~R.S. 47:321(B)~~, and R.S. 47:331(B). These persons shall not be
 19 allowed to make an isolated or occasional non-retail sale of the property under R.S.
 20 47:301(1) or R.S. 47:301(10).

21 C.(1) No person shall be entitled to purchase, use, or import motor vehicles,
 22 trailers, or semitrailers, under this Section without payment of the tax imposed by
 23 R.S. 47:302(A), ~~R.S. 47:321(A)~~, and R.S. 47:331(A) before having received an
 24 exemption number or certificate from the secretary of the Department of Revenue
 25 authorizing him to engage in the business of purchasing, using, or importing motor
 26 vehicles.

27 * * *

1 political subdivision shall not apply to parts or service used in the fabrication,
2 modification, or repair of rail rolling stock.

3 F. The sales and use tax imposed by the state under R.S. 47:302 and 331, its
4 statewide taxing authorities, or any of its political subdivisions shall not apply to the
5 "sales price" or "cost price" of railroad ties that a railroad purchases prior to long-
6 term preservative treatment and installs into the railroad's track system outside the
7 taxing jurisdiction of the respective taxing authority, whether it be the state, a
8 statewide taxing authority, or a political subdivision.

9 §305.51. Exemption; utilities used by steelworks and blast furnaces

10 A. The sales and use tax imposed by the state of Louisiana under R.S. 47:302
11 and 331 or any of its political subdivisions shall not apply to sales or purchases of
12 utilities used by steelworks, blast furnaces, coke ovens, or rolling mills with more
13 than one hundred twenty-five full-time employees, which are classified by the
14 Louisiana Workforce Commission within Sector 331111 of the North American
15 Industry Classification System as it existed in 2002. However, this exemption shall
16 not apply to utilities used in and around the production of coke in oil refineries and
17 the use of coke in oil refineries and other chemical processes.

18 * * *

19 §305.54. Exemption; Annual Louisiana Sales Tax Holidays Act

20 * * *

21 B.(1) Notwithstanding any other provisions of law to the contrary, the sales
22 tax levied by the state of Louisiana under R.S. 47:302 and 331 and its political
23 subdivisions whose boundaries are coterminous with those of the state shall not
24 apply to the first two thousand five hundred dollars of the sales price or cost price
25 of any consumer purchases of tangible personal property that occur on the first
26 consecutive Friday and Saturday of August each year.

27 * * *

1 §305.58. Exemption; annual sales tax holiday; hurricane-preparedness items or
2 supplies; dates; restrictions

3 A.(1) Notwithstanding any other provision of law to the contrary, the sales
4 and use tax levied by the state of Louisiana under R.S. 47:302 and 331 shall not
5 apply to the first one thousand five hundred dollars of the sales price of purchases
6 of hurricane-preparedness items or supplies as defined in this Subsection that occur
7 during an eligible tax exemption period.

8 * * *

9 §305.59. Exemption; charitable residential construction

10 The sales and use tax imposed by the state of Louisiana under R.S. 47:302
11 and 331 and all of its tax authorities shall not apply to the sale of construction
12 materials to Habitat for Humanity affiliates, Fuller Center for Housing covenant
13 partners located in this state, or the Make it Right Foundation when such materials
14 are intended for use in constructing new residential dwellings in this state.

15 §305.60. Exemption; certain water conservation equipment; Sparta Groundwater
16 Conservation District

17 A.(1) Within the limits provided for in Paragraph (2) of this Subsection, the
18 sales and use tax imposed by ~~all tax authorities in the state~~ under R.S. 47:302 and
19 331 and the sales and use taxes imposed by a political subdivision shall not apply to
20 sales of water conservation equipment for use within the Sparta Groundwater
21 Conservation District from July 1, 2007, through June 30, 2010. Only persons
22 defined as "users" under R.S. 38:3087.133(7) shall be eligible for this exemption.

23 * * *

24 §305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday

25 * * *

26 B.(1) Notwithstanding any other provisions of law to the contrary, the sales
27 and use tax levied by the state of Louisiana under R.S. 47:302 and 331 and its
28 political subdivisions shall not apply to the sales price or cost price of any consumer

1 purchases of firearms, ammunition, and hunting supplies that occur each calendar
2 year on the first consecutive Friday through Sunday of September.

3 * * *

4 §305.63. Exemption; commercial farm irrigation equipment

5 The sales and use tax imposed by the state of Louisiana under R.S. 47:302
6 and 331 and its political subdivisions whose boundaries are coterminous with those
7 of the state shall not apply to the sale of polyroll tubing sold or used for commercial
8 farm irrigation.

9 §305.64. Exemption; qualifying radiation therapy treatment centers

10 A.(1) The sales and use tax imposed by the state of Louisiana under R.S.
11 47:302 and 331 shall not apply to the amount paid by qualifying radiation therapy
12 treatment centers for the purchase, lease, or repair of capital equipment and the
13 purchase, lease, or repair of software used to operate capital equipment. Any
14 political subdivision of this state, including parishes and municipalities, may elect
15 to grant a sales and use tax exemption for the amount paid by qualifying radiation
16 therapy treatment centers for the purchase, lease, or repair of capital equipment and
17 the purchase, lease, or repair of software used to operate capital equipment.

18 * * *

19 §305.65. Exemption; charitable residential construction, rehabilitation, and
20 renovation; limitation

21 A. The sales and use tax imposed by the state of Louisiana under R.S. 47:302
22 and 331 and all of its tax authorities shall not apply to the sale of construction
23 materials to Hands on New Orleans and Rebuilding Together New Orleans covenant
24 partners located in this state when such materials are intended for use in either
25 constructing, rehabilitating, or renovating residential dwellings in this state which
26 were destroyed or damaged by Hurricane Katrina or Hurricane Rita.

27 * * *

1 §305.68. Exemption; Fore!Kids Foundation

2 The sales and use tax imposed by the state of Louisiana under R.S. 47:302
3 and 331 or any political subdivisions shall not apply to the purchase, use, or rental
4 of materials, services, property, and supplies, by the Fore!Kids Foundation, whose
5 primary purpose is to fund children's service organizations from monies raised from
6 golfing events.

7 * * *

8 §305.70. Exemption; "Make It Right Foundation"

9 The sales and use tax imposed by the state of Louisiana under R.S. 47:302
10 and 331 or any political subdivision shall not apply to the sale of construction
11 materials to the "Make It Right Foundation" when such materials are intended for
12 use in constructing new residential dwellings in this state.

13 §305.71. Exemption; St. Bernard Project, Inc.

14 The sales and use tax imposed by the state of Louisiana under R.S. 47:302
15 and 331 or any political subdivision as defined in R.S. 47:337.6 shall not apply to the
16 sale of construction materials to the St. Bernard Project, Inc. when such materials are
17 intended for use in rehabilitating existing residential dwellings or constructing new
18 residential dwellings in this state.

19 * * *

20 §318. Disposition of collections

21 A. All monies collected under this Chapter shall be immediately paid into
22 the state treasury, upon receipt, and first credited to the Bond Security and
23 Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of
24 Louisiana; then an amount equal to four-tenths of one percent of all monies collected
25 under this Chapter, and Chapters 2-A and 2-B of this Subtitle, and R.S. 51:1286 shall
26 be used as provided in this Section.

27 * * *

28 §321. Imposition of tax

29 * * *

1 H.

2 * * *

3 (2) Notwithstanding any other provision of law to the contrary, including but
4 not limited to any contrary provisions of this Chapter, the exemption provided for
5 in R.S. 47:305(A)(2) and 305.25(A)(3) shall be applicable, operable, and effective
6 for purposes of the tax imposed in this Section from July 1, 2007 through June 30,
7 2015.

8 (3) Notwithstanding any other provision of the law or any other provision
9 of this Chapter to the contrary, the exemption provided in R.S. 47:305(D)(1)(i) for
10 new boats, vessels, or other water craft used as demonstrators shall be applicable,
11 operable, and effective for purposes of the tax imposed in this Section for all taxable
12 periods ~~beginning on or after~~ from July 1, 2009 through June 30, 2015.

13 (4) Notwithstanding any other provision of law to the contrary, including but
14 not limited to any contrary provisions of this Chapter, the exemption provided for
15 in R.S. 47:305.63 shall be applicable, operable, and effective for purposes of the tax
16 imposed in this Section from July 1, 2009 through June 30, 2015.

17 (5) Notwithstanding any other provision of law to the contrary, including but
18 not limited to any contrary provisions of this Chapter, the exemption provided for
19 in R.S. 47:305.64 shall be applicable, operable, and effective for purposes of the tax
20 imposed in this Section from July 1, 2009 through June 30, 2015.

21 * * *

22 I. Notwithstanding any other provision of law to the contrary and specifically
23 notwithstanding any provision enacted during the 2004 First Extraordinary Session
24 which makes any sales and use tax exemption inapplicable, inoperable, and of no
25 effect for purposes of the tax imposed in this Section, the exemption provided in R.S.
26 47:305.51 shall be applicable, operable, and effective for all taxable periods
27 ~~beginning on or after~~ from July 1, 2007, through June 30, 2015.

28 * * *

1 kept by the refund agent. The invoices or receipts which were attached to the refund
2 form shall be returned to the international traveler, stamped "Sales Tax Refunded".

3 * * *

4 Section 5. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 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 768 Engrossed

2015 Regular Session

Jay Morris

Abstract: Provides with respect to the extent of applicability of certain exclusions and exemptions from the 1% state sales and use tax.

Present law imposes three separate state sales and use tax levies (2%, 1%, and .97%) upon the sale at retail, the use, the consumption, the distribution, the storage, lease, or rental of tangible personal property ("property") in this state, as well as certain services.

Present law provides definitions for terms used for purposes of state and local sales and use tax. Present law establishes the following exclusions from tax in the form of definitions:

- (1) From the definition of "cost price":
 - Installation of tangible property if billed separately.
 - Supply and installation of board roads to oil field operations.
 - Cash discount or rebate offered by a vendor of a motor vehicle.
 - Manufacturing machinery and equipment, for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, and specific farm equipment.
 - Consumable property bought by paper and wood products manufacturers.
- (2) From the definition of "hotel", for purposes of the sales tax on services, nonprofit camp and retreat facilities.
- (3) From the definition of "lease or rental":
 - Property used in the performance of a contract for the U.S. Navy.
 - Airplanes or airplane equipment used by a commuter airline domiciled in La.

- Property used by a free hospital.
- Materials and equipment used for instruction by a private elementary or secondary school.
- Property used by Boys State, Inc. or Girls State, Inc.
- Property used to manufacture or extract unblended biodiesel.
- Pallets used by a manufacturer for packaging.
- (4) From the definition of "person", private colleges and universities.
- (5) From the definition of "retail sale":
- Sale for rental of automobiles.
- Natural gas used in certain iron production methods.
- Electricity for chlor-alkali manufacturing.
- Sale of human tissue.
- Purchase by an independent operator of a new school bus or one that is less than five years old, to be used to service a public school.
- Airplanes and airplane equipment for a commuter airline domiciled in La.
- La. manufactured or assembled passenger aircraft.
- Pelletized paper waste used as fuel for power generation.
- Property used for operation of a free hospital.
- Property sold by a private elementary or secondary school, the proceeds of which support the school.
- Property used by Boys State, Inc. or Girls State, Inc.
- Telephone directories used by advertisers.
- Property used to manufacture or extract unblended biodiesel.
- Natural gas to be held, used or consumed in providing natural gas storage ("cushion" or "pad" gas).
- Books and course-related software by private colleges and universities.
- Food bought by a private elementary or secondary school for a breakfast or lunch program.
- Property sold at a military installation.
- Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).
- Property sold at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).

- (6) From the definition of "sales price":
- Cash discount or rebate offered by a vendor of a motor vehicle.
 - The first \$50,000 of new farm equipment for poultry production.
 - Manufacturing machinery and equipment used in manufacturing and agriculture.
 - Specialty items sold by carnival organizations.
 - Electricity or natural gas used by a paper or wood products manufacturing facility.
- (7) From the definition of "sales of services":
- Nonprofit camp or retreat facilities.
 - Repairs performed in La. when property is exported.
 - Labor, materials, services, and supplies for repairing, or converting a drilling rig, if the drilling rig is used in Outer Continental Shelf waters.
 - Services performed under contract with the U.S. Navy for the construction or overhaul of U.S. naval vessels.
 - Services performed at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).
- (8) From the definition of "tangible personal property":
- Numismatic coins, and platinum, gold, and silver bullion.
 - Pharmaceuticals administered to livestock.
 - Equipment used for digital television conversion.
 - Materials used by a nonprofit blood bank.
 - Machinery and equipment used by a glass manufacturer, radio station, or public utility in New Orleans.
 - Newspapers.
- (9) From the definition of "use":
- Use for rental of automobiles.
 - Use of property in the operation of a free hospital.
 - Use of property sold by a private elementary or secondary school, the proceeds of which support the school.
 - Use of property by Boys State, Inc. or Girls State, Inc.
 - Use of property used in the manufacture or extraction of unblended biodiesel.
 - Books and course-related software by private colleges and universities.
 - Use of a storm shutter device.

Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).

Proposed law retains present law with respect to 3% of the state sales and use tax, but removes applicability of the exclusions established in present law to 1% of the state sales and use tax.

Present law establishes the following exemptions from state sales and use taxes:

- (1) New boats and other watercraft removed from inventory for use as a demonstrator.
- (2) Racehorses purchased at a claiming race or other sale.
- (3) All transactions of an offtrack wagering facility.
- (4) All transactions of a private contractor for the construction and operation of a sewerage or wastewater treatment facility for a political subdivision.
- (5) Steam, water, electric power, and natural gas, boiler fuel ("business utilities")
- (6) Labor, materials, services, and supplies for repairing, or converting a drilling rig, if the drilling rig is used in Outer Continental Shelf waters.
- (7) Sales of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce.
- (8) Installation charges and repairs to hardware for cable television.
- (9) Purchases of materials, supplies, and repair services by certain seafood-processing facilities.
- (10) The first \$50,000 of the sales price on qualifying farm equipment.
- (11) Purchase of motor vehicles, trailers, and semi-trailers used exclusively for leases or rentals.
- (12) Purchase of trucks with a gross weight of 26,000 pounds or more and certain trailers if used at least 80% of the time in interstate commerce and whose activities are subject to the jurisdiction of the U.S. D.O.T.
- (13) Purchase of certain contract carrier buses used 80% of the time in interstate commerce.
- (14) Rail rolling stock sold or leased in Louisiana.
- (15) Railroad ties purchased by a railroad prior to long-term preservation treatment and installed into the railroad's track system.
- (16) Utilities, including electricity, used by steelworks and blast furnaces.
- (17) Purchases of certain items of tangible personal property, made on the first consecutive Friday and Saturday of August each year.
- (18) The first \$1,500 of the purchase price of certain hurricane preparedness items or supplies purchased on Saturday and Sunday during the last weekend in May of each year.

- (19) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (20) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (21) Purchases of firearms, ammunition, and hunting supplies for the first consecutive Friday through Sunday of September.
- (22) Purchases of polyroll tubing used for commercial farm irrigation.
- (23) Purchase, lease, or repair of capital equipment or software used to operate capital equipment at qualifying radiation therapy centers.
- (24) Purchase of certain construction materials by Hands on New Orleans and Rebuilding Together New Orleans covenant partners used on residential dwellings destroyed or damaged by Hurricanes Katrina or Rita.
- (25) Purchase, use, or rental of materials, services, property, and supplies by the Fore!Kids Foundation.
- (26) Purchase of certain construction supplies by the Make it Right Foundation.
- (27) Purchase of certain construction supplies by the St. Bernard Project, Inc.

Proposed law retains present law with respect to 3% of the state sales and use tax, but removes applicability of the exemptions established in present law to 1% of the state sales and use tax.

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

(Amends (R.S. 4:168 and 227, R.S. 33:4169(D), R.S. 47:301(3) through (18) and (28)(a), 302(R)(2), (S), and (T), 305, 305.1(A), 305.16, 305.20(C), 305.25(A)(intro. para.), 305.36(A), (B), and (C)(1), 305.50(A)(1), (2)(a), (B), (E), and (F), 305.51(A), 305.54(B)(1), 305.58(A)(1), 305.59, 305.60(A)(1), 305.62(B)(1), 305.63, 305.64(A)(1), 305.65(A), 305.68, 305.70, 305.71, 318(A), 321(H)(2)-(5), (I), and (K), and 6001(A), and R.S. 51:1307(C))

Summary of Amendments Adopted by House

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

1. Remove applicability for 1% of the state sales and use tax for numerous exclusions established as definitions in present law for purposes of state and local sales and use taxes.
2. Remove applicability for 1% of the state sales and use tax for numerous exemptions established in present law.
3. Delete the dedicated fund.