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## DIGEST

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HB 104 Engrossed

2016 First Extraordinary Session

Stokes

**Abstract:** Repeals various exclusions and exemptions from state and local sales and use tax, and increases the rate for the state sales and use tax from 4% to 4.5% until June 30, 2021 and decreases the rate from 4.5% to 3.5% thereafter.

Present law imposes a 4% state sales and use tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property as well as certain services.

Proposed law increases the tax from 4% to 4.5% beginning April 1, 2016, and then decreases the rate from 4.5% to 3.5% beginning June 30, 2021.

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 cost for installing tangible personal property if billed separately.

Supply and installation of oil field board roads.

Specific method for determining pricing relative to the publication of a free news publication.

Payments made by a manufacturer directly to a dealer of the manufacturer's product for the purpose of reducing the "cost price" of the product.

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.

Consumables used in the manufacturing process.

Electric power or energy purchased by a paper or wood products manufacturer.

(2) From the definition of "dealer":

Lessor of railroad rolling stock.

- (3) From the definition of "hotel":

Camp facilities, retreat facilities, transient housing for the homeless.

- (4) From the definition of "lease or rental":

Classroom equipment and materials used by nonpublic schools.

Equipment used by a contractor for a contract with the U.S. Navy for a vessel overhaul.

Boys State of La., Inc. and Girls State of La., Inc.

Manufacturing machinery and equipment used for purposes related to production of biodiesel.

Crane with an operator.

Pallets used by a manufacturer for packaging.

- (5) From the definition of "person":

Transactions by a regionally accredited institution of higher education.

A nonprofit entity that sells donated goods and donates 75% of its revenues to employing and training persons with disabilities or disadvantages.

- (6) From the definition of "sale at retail":

Property purchased for resale through a vending machine.

Natural gas used in the production of iron.

Electricity for chlor alkali manufacturing.

Purchase of a school bus by an independent operator, if the bus is new or no more than 5 years old.

Purchases by an organization that buys toys for the purpose of donating them to children.

Alternative substance used as fuel.

Property sold under the provisions of Medicare.

Purchases by food banks.

Purchase and use of property by Boys State of La., Inc. and Girls State of La., Inc.

Telephone directories used for advertising.

Fuel, gas, butane and propane.

Natural gas to be held, used or consumed in providing natural gas storage ("cushion" or "pad" gas).

Funeral directing services.

Pelletized paper waste used as fuel for power generation.

Machinery and equipment used in the production, manufacture, and extraction of unblended biodiesel.

Food for nonpublic school breakfast and lunch programs.

Storm shutter devices.

Pollution control equipment.

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).

(7) From the definition of "sales price":

Funeral directing services.

Specific method for determining pricing relative to the publication of a free news publication.

Payments made by a manufacturer directly to a dealer of the manufacturer's product for the purpose of reducing the retail "sales price" of the product.

Manufacturing machinery and equipment, for the manufacturing and agriculture, sectors.

Speciality items sold to members of a nonprofit carnival organizations for fund-raising purposes if the members are participating in a parade sponsored by the organization.

Electric power and natural gas purchased or used by paper or wood products manufacturing facilities.

Equipment and devices associated with the wireless communication devices and wireless telephone service.

- (8) From the definition of "sales of services":

Admissions to camp and retreat facilities.

Funeral directing.

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).

Services utilized by a contractor for a contract with the U.S. Navy for a vessel overhaul.

Admissions to entertainment provided by nonprofit organizations.

Repairs and renovations to drilling rigs and their component parts.

- (9) From the definition of "tangible personal property":

Numismatic coins, and platinum, gold, and silver bullion.

Custom computer software.

Pharmaceuticals administered to livestock.

Equipment used for digital television conversion.

Machinery and equipment used by a motor vehicle manufacturer, glass manufacturer, radio station, or utility company in New Orleans.

Newspapers.

- (10) From the definition of "use":

Free telephone directories used for advertising.

Property sold by a nonpublic school.

Boys State of La., Inc. and Girls State of La., Inc.

Alternative substance use as fuel.

Purchases by an organization that buys toys for the purpose of donating them to children.

Manufacturing machinery and equipment used for purposes related to production of biodiesel.

Exclusion for sales to a private higher education institutions of used textbooks and computer software provided free to students and limit applicability to nonprofit entities.

Property created or derived as a residue or byproduct of certain manufacturing processes.

Equipment and devices associated with the wireless communication devices and wireless telephone service.

Storm shutter device.

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

(11) Other definitions:

Exclusion for "gross proceeds" or "monthly lease or rental price paid" for machinery and equipment used in agricultural manufacturing.

Proposed law changes present law by amending the following exclusions:

- (1) Sunsets on March 30, 2016, the exclusion for the purchase of manufacturing machinery and equipment for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, manufacturers of biodiesel, and specific farm equipment. A new state sales and use tax rebate program is established as a successor to this policy.
- (2) The exclusions for classroom equipment and materials used by nonpublic schools is changed by limiting eligibility to nonprofit schools.
- (3) The exclusion for the purchase of fuel, gas, butane and propane is changed by limiting eligibility to purchases for residential use.
- (4) The exclusion for the purchase of pelletized paper waste used as fuel for power generation is changed by limiting applicability to the taxes imposed by a political subdivision.
- (5) The exclusion for admissions to entertainment provided by nonprofit organizations is retained and merged with an exemption providing for the same tax treatment.

Proposed law repeals the following exclusions:

- (1) Installation cost for installing tangible personal property if billed separately.
- (2) Supply and installation of oil field board roads.
- (3) Specific method for determining pricing relative to the publication of a free news publication.
- (4) Payments made by a manufacturer directly to a dealer of the manufacturer's product for the purpose of reducing the "cost price" of the product.
- (5) Consumables used in the manufacturing process.
- (6) Electric power or energy purchased by a paper or wood products manufacturer.
- (7) Lessor of railroad rolling stock.
- (8) Camp facilities, retreat facilities, transient housing for the homeless.
- (9) Equipment and services used by a contractor for a contract with the U.S. Navy for a vessel overhaul.
- (10) All purchases by Boys State of La., Inc. and Girls State of La., Inc.
- (11) Crane with an operator.
- (12) Pallets used by a manufacturer for packaging.
- (13) Transactions by a regionally accredited institution of higher education.
- (14) A nonprofit entity that sells donated goods and donates 75% of its revenues to employing and training persons with disabilities or disadvantages.
- (15) Property purchased for resale through a vending machine.
- (16) Natural gas used in the production of iron.
- (17) Electricity for chlor alkali manufacturing.
- (18) Purchase of a school bus by an independent operator, if the bus is new or no more than 5 years old.
- (19) Purchases by an organization that buys toys for the purpose of donating them to children.
- (20) Alternative substance used as fuel.

- (21) Property sold under the provisions of Medicare.
- (22) Purchases by food banks
- (23) Purchase and use of property by Boys State of La., Inc. and Girls State of La., Inc.
- (24) Telephone directories used for advertising.
- (25) Fuel, gas, butane and propane.
- (26) Natural gas to be held, used or consumed in providing natural gas storage ("cushion" or "pad" gas).
- (27) Funeral directing services.
- (28) Pelletized paper waste used as fuel for power generation.
- (29) Food for nonpublic school breakfast and lunch programs.
- (30) Storm shutter devices.
- (31) Pollution control equipment.
- (32) Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).
- (33) Property and services 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).
- (34) Speciality items sold to members of a non profit carnival organizations for fund-raising purposes if the members are participating in a parade sponsored by the organization.
- (35) Electric power and natural gas purchased or used by paper or wood products manufacturing facilities.
- (36) Equipment and devices associated with the wireless communication devices and wireless telephone service.
- (37) Admissions to camp and retreat facilities.
- (38) Repairs and renovations to drilling rigs and their component parts.
- (39) Numismatic coins, and platinum, gold, and silver bullion.
- (40) Custom computer software.

- (41) Pharmaceuticals administered to livestock.
- (42) Equipment used for digital television conversion.
- (43) Machinery and equipment used by a motor vehicle manufacturer, glass manufacturer, radio station, or utility company in New Orleans.
- (44) Newspapers.
- (45) Free telephone directories used for advertising.
- (46) Property sold by a nonpublic school.
- (47) Sales to a private higher education institutions of used textbooks and computer software provided free to students and limit applicability to nonprofit entities.
- (48) Property created or derived as a residue or byproduct of certain manufacturing processes.
- (49) Equipment and devices associated with the wireless communication devices and wireless telephone service.
- (50) Exclusion for "gross proceeds" or "monthly lease or rental price paid" for machinery and equipment used in agricultural manufacturing.

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

- (1) Sale of livestock at public sales sponsored by breeders or registry associations or livestock auction.
- (2) Feed and feed additives for sustaining animals for business purposes.
- (3) Materials, supplies, and equipment for production and harvesting of crawfish.
- (3) Materials, supplies, and equipment for production and harvesting of catfish.
- (4) Meals furnished at schools, hospitals, and other institutions.
- (5) Materials, supplies, and services for the repair or conversion of drilling rigs used for exploration and production outside of the territorial limits of the Outer Continental Shelf.
- (6) Purchases by parimutuel racetracks.
- (7) Purchases by off-track wagering facilities.
- (8) Purchases of construction materials for home construction in certain designated areas.



- (9) A \$25,000 per year limit on the sales and use tax imposed on telecommunications services for a telephone call center.
- (10) Admissions to little theater performances.
- (11) Admissions to performances by nonprofit music organizations.
- (12) Pesticides used for agricultural purposes
- (13) Contracts prior to and within 90 days of tax levy.
- (14) Admissions to entertainments furnished by certain domestic non profit corporations.
- (15) Sales or purchases by persons who are blind.
- (16) Cable television installation and repair.
- (17) Income from coin operated laundries.
- (18) Fairs, festivals and expositions sponsored by non profits.
- (19) Leased vessels used in the production of minerals
- (20) Materials, equipment, and supplies for commercial fishermen and seafood facilities.
- (21) Farm equipment.
- (22) New vehicles furnished by dealers for drivers education.
- (23) Gasahol.
- (24) Nonprofit retirement centers.
- (25) Diesel, propane, and other fuels used on a farm.
- (26) Mardi gras speciality items.
- (27) Ducks Unlimited and Bass Life.
- (28) Admissions to performances by nonprofit ballet organizations.
- (29) Organizations dedicated to the preservation of waterfowl and fish.
- (30) Raw materials used in the printing process.

- (31) Per diem or car hire for freight cars and piggyback cars, and rail rolling stock.
- (32) Catalogs.
- (33) Rail rolling stock sold or leased in La.
- (34) Utilities used by steelworks and blast furnaces.
- (35) Custom computer software.
- (36) Sickle cell disease organizations.
- (37) Annual sales tax holiday.
- (38) Hurricane preparedness sales tax holiday.
- (39) Second Amendment sales tax holiday.
- (40) Sales of original artwork.
- (41) Various charitable residential construction organizations..
- (42) Sparta Groundwater Conservation District.
- (43) Commercial farm irrigation equipment.
- (44) Qualifying radiation therapy centers.
- (45) Parish councils on aging.
- (46) Breastfeeding items.
- (47) Fore!Kids Foundation.
- (48) Collections from certain interstate and foreign transportation dealers.

Proposed law repeals these exemptions:

Present law establishes sales and use tax refunds for certain new construction materials, rentals covered by Medicare, and nonprofit charitable organizations which sell donated goods.

Proposed law repeals present law establishing these refunds.

Applicable for taxable periods beginning on and after April 1, 2016.

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

(Amends R.S. 47:301(3), (4)(k), (6), (7), (8), (10), (13), (14), (16), (18), and (28), 302(A), (B), and (C), and 305; Adds R.S. 47:305.72 and 315.6; Repeals R.S. 4:168 and 227, R.S. 40:582.1 through 582.7, R.S. 47:301.1(D), 305.6, 305.7, 305.8, 305.11, 305.13, 305.16, 305.17, 305.18, 305.19, 305.20, 305.25, 305.26, 305.28, 305.33, 305.37, 305.40, 305.41, 305.42, 305.43, 305.44, 305.45, 305.49, 305.50(E)(1), 305.51, 305.52, 305.53, 305.54, 305.57, 305.58, 305.59, 305.60, 305.61, 305.62, 305.63, 305.64, 305.65, 305.66, 305.67, 305.68, 305.69, 305.70, 305.71, 306(A)(2), 306.1, 306.2, 315.1, 315.2, 315.3, 315.5, and 6001.)

### Summary of Amendments Adopted by House

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

1. Remove provisions contingent upon passage of constitutional amendment.
2. Sunsets (March 30, 2016) the sales and use tax exclusions for certain manufacturing machinery and equipment for the following types of industry: agriculture, automotive, glass, compression mold processors, producers of unblended biodiesel, radio stations located in La., utilities regulated by the Public Service Commission or the city of New Orleans.
3. Establish a program for sales and use tax rebates for manufacturing machinery and equipment for various industries, including the following: agriculture, automotive, glass, compression mold processors, producers of unblended biodiesel, radio stations located in La., utilities regulated by the Public Service Commission or the city of New Orleans.
4. Limit the exemption for non-residential utilities to manufacturers with a North American Industrial Classification System Code of 31 through 33.
5. Restore present law for the following exclusions and exemptions:
  - a. Exclusions for transactions of a La. owned and based commuter airlines.
  - b. Exclusions for transactions of a free hospital.
  - c. Definition of cost of refinery gas.
  - d. Exclusion for consumables used in the manufacturing process.
  - e. Exclusions for transactions of a private K-12 schools, and limits the exclusion to nonprofit schools.
  - f. Exclusion for the purchase of pelletized paper waste for use as an energy source,

and limit it to taxes imposed by a political subdivision.

- g. Exclusion for transactions of a volunteer fire department.
- h. Definition for point of sale with regard to purchase of a motor vehicle.
- i. Exclusion for the lease or loan of a motor vehicle by a dealership to a customer while their car is repaired.
- j. Exclusion for leases and rentals made under the provisions of Medicare.
- k. Exclusion for leases machinery and equipment used to manufacture, produce, or extract unblended biodiesel.
- l. Exclusion and definitions related to the sale or other disposition of cellular phones and accessories.
- m. Exclusion for sales of fuel or gas, including butane or propane, and limits it to purchases for residential use.
- n. Exclusion for sales to a private higher education institutions of used textbooks and computer software provided free to students and limit applicability to nonprofit entities.
- o. Exclusion for sales or tangible personal property by the La. Military Dept. which occur on property owned by the Military Dept.
- p. Exclusion for membership fees or dues to nonprofit civic organizations, and combines this with the exemption in R.S. 47:305.13 relative to admissions to entertainment offered by nonprofit organizations.
- q. Definition concerning the sales tax on telecommunication services.
- r. Exclusion for the sales of repair services on property to be exported from the state, as well as certain property in Calcasieu Parish.
- s. Definition concerning the taxable nature of prepaid calling services.
- t. Purchase of fuel or gas by a person, including butane and propane, and limit applicability to residential use.
- u. Exclusion for materials used by nonprofit blood banks and blood collection centers.
- v. Exclusion for property permanently attached to the ground, which is treated as

immovable property.

- w. Exclusions relative to the definition of "use", regarding donations to schools, higher education institutions, and food banks, and the storage of automobiles.
  - x. Exemption for the sale of livestock, and other farm products direct from the farm.
  - y. Exemption for the sale of livestock, and other farm products used by the farmer.
  - z. Definition concerning the "cost price" of a motor vehicle returned to the dealer's inventory.
  - aa. Exemption for amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material.
  - bb. Exclusion for machinery and equipment of motor vehicle and glass manufacturers, radio stations, and utilities in New Orleans.
  - cc. Exclusion for property created or derived as a byproduct or residue.
5. Add new exemptions:
- a. Exemption for manufacturer's utilities.
  - b. Program for rebate of state sales and use tax paid by certain manufacturers on qualifying machinery and equipment.
6. Repeal the following exclusions and exemption:
- a. Exclusion for cost of installing tangible personal property.
  - b. Exclusion for the purchase of electricity and natural gas by wood and paper manufacturers.
  - c. Exclusion for purchase and use of property by Boys State of La., Inc. and Girls State of La., Inc.
  - d. Exclusion for "gross proceeds" or "monthly lease or rental price paid" for machinery and equipment used in agricultural manufacturing.