

2017 Regular Session

SENATE BILL NO. 206

BY SENATOR MORRELL

TAX/TAXATION. Terminates certain tax exemptions and deductions in 2021. (8/1/17)

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AN ACT

To amend and reenact R.S. 3:84 and 147, R.S. 12:425, R.S. 22:2065, R.S. 26:345, R.S. 47:121, 713 and 716.1, and to enact R.S. 3:4684(C), R.S. 26:354(L), 366(C) and 421(F), R.S. 47:158(I), 246(H), 287.71(C), 287.73(D), 287.86(F), 287.501(C), 287.521(C), 287.732(D), 287.738(H), 287.745(C), 602(I), 605(D), 606(G), 632(C), 633.1, 818.13(I) and 823(F) and to repeal certain other exemptions against sales tax, relative to taxation; to provide for the elimination of certain tax exemptions and deductions; to provide for applicability unless required under certain circumstances; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 3:84 and 147 are hereby amended and reenacted and R.S. 3:4684 (C) are hereby enacted to read as follows:

\* \* \*

§84. License fee and tax liability

A. Each association organized under this Part shall pay an annual license fee of ten dollars to the secretary of state, and shall be exempt from all franchise or other license taxes, but not from ad valorem property taxes. The provisions of this Section

1 shall likewise apply to associations and corporations organized under the laws of the  
2 United States for the sole purpose of extension of credit to farmers and farmers'  
3 co-operative associations.

4 **B. The exemption provided for pursuant to the provisions of this Section**  
5 **shall terminate and shall have no effect beginning January 1, 2021.**

6 \* \* \*

7 §147. Annual license fees

8 **A.** Each association organized hereunder shall pay an annual license fee of  
9 ten dollars, but shall be exempt from all franchise or other license taxes, except upon  
10 its real estate, furniture, and fixtures.

11 **B. The exemption provided for pursuant to the provisions of this Section**  
12 **shall terminate and shall have no effect beginning January 1, 2021.**

13 \* \* \*

14 §4684. Fee to be collected for testing, etc.

15 \* \* \*

16 **C. The exemption provided for pursuant to the provisions of this Section**  
17 **shall terminate and shall have no effect beginning January 1, 2021.**

18 Section 2. R.S. 12:425 is hereby amended and reenacted and to read as follows:

19 §425. Taxation

20 **A.** Each cooperative shall pay annually, on or before the first day of July, to  
21 the department of revenue, a fee of ten dollars for each one hundred persons or  
22 fraction thereof to whom electricity is supplied within the state by it, but shall be  
23 exempt from all other excise and income taxes whatsoever.

24 **B. The exemption provided for pursuant to the provisions of this Section**  
25 **shall terminate and shall have no effect beginning January 1, 2021.**

26 Section 3. R.S. 22:2065 is hereby amended and reenacted to read as follows:

27 §2065. Tax exemption

28 **A.** The association shall be exempt from payment of all fees and all taxes  
29 levied by this state or any of its subdivisions except taxes levied on real or personal

1 property.

2 **B. The exemption provided for pursuant to the provisions of this Section**  
3 **shall terminate and shall have no effect beginning January 1, 2021.**

4 \* \* \*

5 Section 4. R.S. 26:345 is hereby amended and reenacted and R.S. 26:354(L), 366(C),  
6 421(F) are hereby enacted to read as follows:

7 §345. Discount on taxes on beverages of low alcoholic content

8 **A.** For accurately reporting and timely remitting the taxes due under the  
9 provisions of R.S. 26:342, all taxpayers shall be allowed a discount of one and one-  
10 half percent of the amount of the tax otherwise due.

11 **B. The deduction provided for pursuant to the provisions of this Section**  
12 **shall terminate and shall have no effect beginning January 1, 2021.**

13 \* \* \*

14 §354. Payment and reporting of taxes; discounts; rules and regulations; enforcement;  
15 forfeitures and penalties; redemption of tax stamps

16 \* \* \*

17 **L. The discount provided for pursuant to the provisions of this Section**  
18 **shall terminate and shall have no effect beginning January 1, 2021.**

19 \* \* \*

20 §366. Exported beverages not subject to tax

21 \* \* \*

22 **C. The exemption provided for pursuant to the provisions of this Section**  
23 **shall terminate and shall have no effect beginning January 1, 2021.**

24 \* \* \*

25 §421. Exempt products

26 \* \* \*

27 **F. The exemption provided for pursuant to the provisions of this Section**  
28 **shall terminate and shall have no effect beginning January 1, 2021.**

29 Section 5. R.S. 47:121, 713 and 716.1 are hereby amended and reenacted and R.S.

1 47:158(I), 246(H), 287.71(C), 287.73(D), 287.86(F), 287.501(C), 287.521(C), 287.732(D),  
2 287.738(H), 287.745(C), 602(I), 605(D), 606(G), 632(C), 633.1, 818.13(I) and 823(F) are  
3 hereby enacted to read as follows:

4 §121. Exemptions from tax on corporations

5 A. The following organizations shall be exempt from taxation under this  
6 Chapter:

7 (1) Labor, agricultural, or horticultural organizations;

8 (2) Mutual savings banks, national banking corporations and banking  
9 corporations organized under the laws of the State of Louisiana who pay a tax for  
10 their shareholders or whose shareholders pay a tax on their shares of stock under  
11 other laws of this state, and building and loan associations;

12 (3) Fraternal beneficiary societies, orders, or associations operating under  
13 the lodge system or for the exclusive benefit of the members of a fraternity itself  
14 operating under the lodge system, and providing for the payment of life, sick,  
15 accident, or other benefits to members of such society, order or association or their  
16 dependents;

17 (4) Cemetery companies owned and operated exclusively for the benefit of  
18 their members or which are not operated for profit; and any corporation chartered  
19 solely for burial purposes as a cemetery corporation and not permitted by its charter  
20 to engage in any business not necessarily incident to that purpose, no part of the net  
21 earnings of which inures to the benefit of any private shareholder or individual;

22 (5) Corporations and any community chest, fund, or foundation, organized  
23 and operated exclusively for religious, charitable, scientific, literary, or educational  
24 purposes or for the prevention of cruelty to children or animals, no part of the net  
25 earnings of which inures to the benefit of any private shareholder or individual, and  
26 no substantial part of the activities of which is carrying on propaganda, or otherwise  
27 attempting to influence legislation. Any corporation, community chest, fund or  
28 foundation which annually or more frequently contributes all of its current net  
29 earnings, less a reasonable reserve not to exceed \$1,000 for anticipated expenses and

1 future contributions, to organizations which are organized and operated exclusively  
2 for religious, charitable, scientific, literary or educational purposes, or for the  
3 prevention of cruelty to children or animals, shall itself be deemed organized and  
4 operated exclusively for religious, charitable, scientific, literary or educational  
5 purposes, or for the prevention of cruelty to children or animals, provided that said  
6 corporation, community chest, fund or foundation is not engaged in the active  
7 conduct of a trade or business, no part of its net earnings inures to the benefit of any  
8 private shareholder or individual and no substantial part of its activities is carrying  
9 on propaganda or otherwise attempting to influence legislation;

10 (6) Business leagues, chambers of commerce, real estate boards, or boards  
11 of trade, not organized for profit and no part of the net earnings of which inures to  
12 the benefit of any private shareholder or individual;

13 (7) Civic leagues or organizations not organized for profit but operated  
14 exclusively for the promotion of social welfare, or local associations of employees,  
15 the membership of which is limited to the employees of a designated person or  
16 persons in a particular municipality, and the net earnings of which are devoted  
17 exclusively to charitable, educational, or recreational purposes, and no substantial  
18 part of the activities of which is carrying on propaganda, or otherwise attempting to  
19 influence legislation;

20 (8) Clubs organized and operated exclusively for pleasure, recreation, and  
21 other nonprofitable purposes, no part of the net earnings of which inures to the  
22 benefit of any private shareholder;

23 (9) Benevolent life insurance associations of a purely local character, mutual  
24 ditch or irrigation companies, mutual or cooperative telephone companies, or like  
25 organizations, but only if eighty-five per centum (85%) or more of the income  
26 consists of amounts collected from members for the sole purpose of meeting losses  
27 and expenses;

28 (10) Farmers' or other mutual hail, cyclone, casualty, or fire insurance  
29 companies or associations (including interinsurers and reciprocal underwriters) the

1 income of which is used or held for the purpose of paying losses or expenses;

2 (11) Farmers', fruitgrowers', or like associations organized and operated on  
3 a cooperative basis for the purpose of marketing the products of members or other  
4 producers, and turning back to them the proceeds of sales, less the necessary  
5 marketing expenses, on the basis of either the quantity or the value of the product  
6 furnished by them, or for the purpose of purchasing supplies and equipment for the  
7 use of members or other persons, and turning over such supplies and equipment to  
8 them at actual cost, plus necessary expenses. Exemption shall not be denied any  
9 such association because it has capital stock, if the dividend rate of such stock is  
10 fixed at not to exceed the legal interest rate per annum on the value of the  
11 consideration for which the stock was issued, and if substantially all of such stock  
12 (other than nonvoting preferred stock, the owners of which are not entitled or  
13 permitted to participate, directly or indirectly, in the profits of the association, upon  
14 dissolution or otherwise, beyond the fixed dividends) is owned by producers who  
15 market their products or purchase their supplies and equipment through the  
16 association; nor shall exemption be denied any such association because there is  
17 accumulated and maintained by it a reserve required by state law or a reasonable  
18 reserve for any necessary purpose. Such an association may market the products of  
19 nonmembers in an amount the value of which does not exceed the value of the  
20 products marketed for members, and may purchase supplies and equipment for  
21 nonmembers in an amount the value of which does not exceed the value of the  
22 supplies and equipment purchased for members, provided the value of the purchases  
23 made for persons who are neither members nor producers does not exceed fifteen per  
24 cent of the value of all its purchases;

25 (12) Corporations organized by an association exempt under the provisions  
26 of Paragraph (11) of this Section or members thereof, for the purpose of financing  
27 the ordinary crop operations of such members or other producers, and operated in  
28 conjunction with such association. Exemption shall not be denied any such  
29 corporation because it has capital stock, if the dividend rate of such stock is fixed at

1 not to exceed the legal interest rate per annum on the value of the consideration for  
 2 which the stock was issued, and if substantially all such stock (other than nonvoting  
 3 preferred stock, the owners of which are not entitled or permitted to participate,  
 4 directly or indirectly, in the profits of the corporation, upon dissolution, or otherwise,  
 5 beyond the fixed dividends) is owned by such association, or members thereof; nor  
 6 shall exemption be denied any such corporation because there is accumulated and  
 7 maintained by it a reserve required by state law or a reasonable reserve for any  
 8 necessary purpose;

9 (13) Corporations organized for the exclusive purpose of holding title to  
 10 property, collecting income therefrom, and turning over the entire amount thereof,  
 11 less expenses, to organizations which are organized and operated exclusively for  
 12 religious, charitable, scientific, literary, and educational purposes, no part of the net  
 13 earnings of which inures to the benefit of any private stockholder;

14 (14) Voluntary employees' beneficiary association providing for the payment  
 15 of life, sick, accident, or other benefits to the members of such association or their  
 16 dependents, if no part of their net earnings inures (other than through such payments)  
 17 to the benefit of any private shareholder or individual, and if eighty-five per centum  
 18 (85%) or more of the income consists of amounts collected from members for the  
 19 sole purpose of making such payments and meeting expenses;

20 (15) Teachers' retirement fund associations of a purely local character, if no  
 21 part of their net earnings inures (other than through payment of retirement benefits)  
 22 to the benefit of any private shareholder or individual, and if the income consists  
 23 solely of amounts received from public taxation, amounts received from assessments  
 24 upon the teaching salaries of members, and income in respect of investments.

25 **B. The deduction provided for pursuant to the provisions of this Section**  
 26 **shall terminate and shall have no effect beginning January 1, 2021.**

27 \* \* \*

28 §158. Basis for depletion

29 \* \* \*

1                   **I. The deduction provided for pursuant to the provisions of this Section**

2                   **shall terminate and shall have no effect beginning January 1, 2021.**

3   \*       \*       \*

4                   §246. Corporations; deduction from net income from Louisiana sources

5   \*       \*       \*

6                   **H. The deduction provided for pursuant to the provisions of this Section**

7                   **shall terminate and shall have no effect beginning January 1, 2021.**

8   \*       \*       \*

9                   §287.71. Modifications to federal gross income

10    \*       \*       \*

11                   **C. The deduction provided for pursuant to the provisions of this Section**

12                   **shall terminate and shall have no effect beginning January 1, 2021.**

13    \*       \*       \*

14                   §287.73. Modifications to deductions from gross income allowed by federal law

15    \*       \*       \*

16                   **D. The deduction provided for pursuant to the provisions of this Section**

17                   **shall terminate and shall have no effect beginning January 1, 2021.**

18    \*       \*       \*

19                   §287.86. Net operating loss deduction

20    \*       \*       \*

21                   **F. The deduction provided for pursuant to the provisions of this Section**

22                   **shall terminate and shall have no effect beginning January 1, 2021.**

23    \*       \*       \*

24                   §287.501. Exemption from tax on corporations

25    \*       \*       \*

26                   **C. The exemption provided for pursuant to the provisions of this Section**

27                   **shall terminate and shall have no effect beginning January 1, 2021.**

28                   §287.521. Farmers' cooperatives; all cooperatives

29    \*       \*       \*

1                   **C. The deduction provided for pursuant to the provisions of this Section**

2                   **shall terminate and shall have no effect beginning January 1, 2021.**

3   \*           \*           \*

4                   §287.732. S Corporations

5   \*           \*           \*

6                   **D. The deduction provided for pursuant to the provisions of this Section**

7                   **shall terminate and shall have no effect beginning January 1, 2021.**

8   \*           \*           \*

9                   §287.738. Other inclusions and exclusions from gross income

10    \*           \*           \*

11                   **H. The deduction provided for pursuant to the provisions of this Section**

12                   **shall terminate and shall have no effect beginning January 1, 2021.**

13    \*           \*           \*

14                   §287.745. Deductions from gross income; depletion

15    \*           \*           \*

16                   **C. The deduction provided for pursuant to the provisions of this Section**

17                   **shall terminate and shall have no effect beginning January 1, 2021.**

18    \*           \*           \*

19                   §602. Determination of taxable capital

20    \*           \*           \*

21                   **I. The deduction provided for pursuant to the provisions of this Section**

22                   **shall terminate and shall have no effect beginning January 1, 2021.**

23    \*           \*           \*

24                   §605. Surplus and undivided profits

25    \*           \*           \*

26                   **D. The deduction provided for pursuant to the provisions of this Section**

27                   **shall terminate and shall have no effect beginning January 1, 2021.**

28    \*           \*           \*

29                   §606. Allocation of taxable capital

\* \* \*

**G. The deduction provided for pursuant to the provisions of this Section shall terminate and shall have no effect beginning January 1, 2021.**

\* \* \*

§632. Taxes payable by owners; lien and privilege created

\* \* \*

**C. The exemption provided for pursuant to the provisions of this Section shall terminate and shall have no effect beginning January 1, 2021.**

\* \* \*

**§633.1. Tax deduction on natural resources severed on oil severed from the soil or water**

**The deductions provided for in R.S. 47:633 shall terminate and shall have no effect beginning January 1, 2021.**

\* \* \*

§713. Exclusions and exemptions; casinghead gasoline sold for commercial blending

**A.** For the purposes of this Part, the product commonly known as casinghead and absorption gasoline shall be excepted from the operation of the tax levied, when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline or motor fuel. When, however, such casinghead and absorption gasoline is used without blending as a motor fuel or is sold for use in motors direct, or sold to those who blend for their own use, the taxes levied in R.S. 47:711 shall be paid. Reports of all such sales shall be furnished to the secretary with the report required in R.S. 47:712, and shall show whether the sales were made for blending purposes or for use in motors.

**B. The exemption provided for pursuant to the provisions of this Section shall terminate and shall have no effect beginning January 1, 2021.**

\* \* \*

§716.1. Exclusions and exemptions; aviation gasoline

**A.** Aviation gasoline commonly used for propelling aircraft shall be exempt

1 from the tax levied by this Part. For the purpose of this Section, aviation gasoline  
2 shall be defined as set forth in specification Number D 910 of the American Society  
3 for Testing and Materials.

4 **B. The exemption provided for pursuant to the provisions of this Section**  
5 **shall terminate and shall have no effect beginning January 1, 2021.**

6 \* \* \*

7 §818.13. Point of imposition of the tax

8 \* \* \*

9 **I. The exemption provided for pursuant to the provisions of this Section**  
10 **shall terminate and shall have no effect beginning January 1, 2021.**

11 \* \* \*

12 §823. Rate of tax

13 \* \* \*

14 **F. The deduction provided for pursuant to the provisions of this Section**  
15 **shall terminate and shall have no effect beginning January 1, 2021.**

16 Section 6. Notwithstanding any other law to the contrary, any exemption provided  
17 in state law shall not apply to any sales and use tax levied under the provisions of R.S.  
18 47:302, 321, 321.1, 331, or R.S. 51:1286 except as follows:

19 (A) Any exemption which causes the tax to be levied upon a sale which is not  
20 a retail sale of, not a use, consumption, distribution, or storage for use or  
21 consumption of, or not the lease or rental of, an item or article of tangible personal  
22 property.

23 (B) The exemption is required by federal law or the Constitution of the  
24 United States.

25 (C) The exemption is required pursuant to an agreement by the state of  
26 Louisiana for the operation of a public facility.

27 Section 7. The provisions of this Act concerning exemptions applicable to R.S.  
28 47:302, 321, 321.1 and 331 and R.S. 51:1286 shall be applicable to all taxable periods  
29 beginning on and after January 1, 2018.

1 Section 8. This Act shall become effective on August 1, 2017; if vetoed by the  
 2 governor and subsequently approved by the legislature, this Act shall become effective on  
 3 August 1, 2017, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by James Benton.

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	DIGEST	
SB 206 Original	2017 Regular Session	Morrell

Present law provides for the following exemptions, exclusions and deductions:

- (1) R.S. 3:84 - License fee and tax liability
- (2) R.S. 12:425 - Taxation
- (3) R.S. 22:2065 - Tax exemption
- (4) R.S. 26:345 - Discount on taxes on beverages of low alcoholic content
- (5) R.S. 47:121 - Exemptions from tax on corporations
- (6) R.S. 47:633 - Rates of tax
- (7) R.S. 47:713 - Exclusions and exemptions; casinghead gasoline sold for commercial blending
- (8) R.S. 47:716.1 - Exclusions and exemptions; aviation gasoline
- (9) R.S. 3:147 - Annual license fees
- (10) R.S. 3:4684 - Fee to be collected for testing, etc.
- (11) R.S. 26:354 - Payment and reporting of taxes; discounts; rules and regulations; enforcement; forfeitures and penalties; redemption of tax stamps
- (12) R.S. 26:366 - Exported beverages not subject to tax
- (13) R.S. 26:421 - Exempt products
- (14) R.S. 47:158 - Basis for depletion
- (15) R.S. 47:246 - Corporations; deduction from net income from Louisiana sources
- (16) R.S. 47:287.71 - Modifications to federal gross income
- (17) R.S. 47:287.73 - Modifications to deductions from gross income allowed by federal law
- (18) R.S. 47:287.86 - Net operating loss deduction
- (19) R.S. 47:287.501 - Exemption from tax on corporations
- (20) R.S. 47:287.521 - Farmers' cooperatives; all cooperatives

- (21) R.S. 47:287.732 - S Corporations
- (22) R.S. 47:287.738 - Other inclusions and exclusions from gross income
- (23) R.S. 47:287.745 - Deductions from gross income; depletion
- (24) R.S. 47:602 - Determination of taxable capital
- (25) R.S. 47:605 - Surplus and undivided profits
- (26) R.S. 47:606 - Allocation of taxable capital
- (27) R.S. 47:632 - Taxes payable by owners; lien and privilege created
- (28) R.S. 47:713 - Exclusions and exemptions; casinghead gasoline sold for commercial blending
- (29) R.S. 47:716.1 - Exclusions and exemptions; aviation gasoline
- (30) R.S. 818.13 - Point of imposition of the tax
- (31) R.S. 47:823 - Rate of tax

Proposed law eliminates present law on January 1, 2021.

Proposed law provides that exemptions in state law do not apply to any sales and use tax levied under R.S. 47:302, 321, 321.1, 331, or R.S. 51:1286 except as follows:

- (1) Any exemption which causes the tax to be levied upon a sale which is not a retail sale of, not a use, consumption, distribution, or storage for use or consumption of, or not the lease or rental of, an item or article of tangible personal property.
- (2) The exemption is required by federal law or the Constitution of the United States.
- (3) The exemption is required pursuant to an agreement by the state of Louisiana for the operation of a public facility.

Proposed law provides that the limitation on such exemptions apply to all taxable periods beginning on or after January 1, 2018.

Effective August 1, 2017.

(Amends R.S. 3:84 and 147, R.S. 12:425, R.S. 22:2065, R.S. 26:345, R.S. 47:121, 713 and 716.1; adds R.S. 3:4684(C), R.S. 26:354(L), 366(C) and 421(F), R.S. 47:158(I), 246(H), 287.71(C), 287.73(D), 287.86(F), 287.501(C), 287.521(C), 287.732(D), 287.738(H), 287.745(C), 602(I), 605(D), 606(G), 632(C), 633.1, 818.13(I) and 823(F))