

2017 Regular Session

SENATE BILL NO. 206

BY SENATOR MORRELL

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

1 AN ACT

2 To amend and reenact R.S. 3:84 and 147, R.S. 12:425, R.S. 22:2065, R.S. 26:345, R.S.
3 47:121, 713, 716.1 and 818.14(A)(3), and to enact R.S. 3:4684(C), R.S. 26:354(L),
4 366(C) and 421(F), R.S. 47:158(I), 246(H), 287.71(C), 287.73(D), 287.86(F),
5 287.501(C), 287.521(C), 287.732(D), 287.738(H), 287.745(C), 602(I), 605(D),
6 606(G), 632(C), 633.1, and 823(F) and to repeal certain other exemptions against
7 sales tax, relative to taxation; to provide for the elimination of certain tax exemptions
8 and deductions; to provide for applicability unless required under certain
9 circumstances; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

13 * * *

14 §84. License fee and tax liability

15 A. Each association organized under this Part shall pay an annual license fee
16 of ten dollars to the secretary of state, and shall be exempt from all franchise or other
17 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, 716.1 and 818.14(A)(3) are hereby amended and

1 reenacted and R.S. 47:158(I), 246(H), 287.71(C), 287.73(D), 287.86(F), 287.501(C),
2 287.521(C), 287.732(D), 287.738(H), 287.745(C), 602(I), 605(D), 606(G), 632(C), 633.1,
3 and 823(F) are 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 exemption provided for pursuant to the provisions of this Section**
 26 **shall terminate and shall have no effect for tax periods beginning on or after**
 27 **January 1, 2021.**

28 * * *

29 §158. Basis for depletion

1 * * *

2 **I. The deduction provided for pursuant to the provisions of this Section**
3 **shall terminate and shall have no effect for tax periods beginning on or after**
4 **January 1, 2021.**

5 * * *

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

7 * * *

8 **H. The deduction provided for pursuant to the provisions of this Section**
9 **shall terminate and shall have no effect for tax periods beginning on or after**
10 **January 1, 2021.**

11 * * *

12 §287.71. Modifications to federal gross income

13 * * *

14 **C. The deduction provided for pursuant to the provisions of this Section**
15 **shall terminate and shall have no effect for tax periods beginning on or after**
16 **January 1, 2021.**

17 * * *

18 §287.73. Modifications to deductions from gross income allowed by federal law

19 * * *

20 **D. The deduction provided for pursuant to the provisions of this Section**
21 **shall terminate and shall have no effect for tax periods beginning on or after**
22 **January 1, 2021.**

23 * * *

24 §287.86. Net operating loss deduction

25 * * *

26 **F. The deduction provided for pursuant to the provisions of this Section**
27 **shall terminate and shall have no effect for tax periods beginning on or after**
28 **January 1, 2021.**

29 * * *

1 §287.501. Exemption from tax on corporations

2 * * *

3 **C. The exemption provided for pursuant to the provisions of this Section**
4 **shall terminate and shall have no effect for tax periods beginning on or after**
5 **January 1, 2021.**

6 §287.521. Farmers' cooperatives; all cooperatives

7 * * *

8 **C. The deduction provided for pursuant to the provisions of this Section**
9 **shall terminate and shall have no effect for tax periods beginning on or after**
10 **January 1, 2021.**

11 * * *

12 §287.732. S Corporations

13 * * *

14 **D. The deduction provided for pursuant to the provisions of this Section**
15 **shall terminate and shall have no effect for tax periods beginning on or after**
16 **January 1, 2021.**

17 * * *

18 §287.738. Other inclusions and exclusions from gross income

19 * * *

20 **H. The deduction provided for pursuant to the provisions of this Section**
21 **shall terminate and shall have no effect for tax periods beginning on or after**
22 **January 1, 2021.**

23 * * *

24 §287.745. Deductions from gross income; depletion

25 * * *

26 **C. The deduction provided for pursuant to the provisions of this Section**
27 **shall terminate and shall have no effect for tax periods beginning on or after**
28 **January 1, 2021.**

29 * * *

1 §602. Determination of taxable capital

2 * * *

3 **I. The deduction provided for pursuant to the provisions of this Section**
4 **shall terminate and shall have no effect for tax periods beginning on or after**
5 **January 1, 2022.**

6 * * *

7 §605. Surplus and undivided profits

8 * * *

9 **D. The deduction provided for pursuant to the provisions of this Section**
10 **shall terminate and shall have no effect for tax periods beginning on or after**
11 **January 1, 2022.**

12 * * *

13 §606. Allocation of taxable capital

14 * * *

15 **G. The deduction provided for pursuant to the provisions of this Section**
16 **shall terminate and shall have no effect for tax periods beginning on or after**
17 **January 1, 2022.**

18 * * *

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

20 * * *

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

24 * * *

25 **§633.1. Tax deduction on natural resources severed on oil severed from the soil**
26 **or water**

27 **The deductions provided for in R.S. 47:633 shall terminate and shall**
28 **have no effect for tax periods beginning on or after January 1, 2021.**

29 * * *

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

2 A. For the purposes of this Part, the product commonly known as casinghead
3 and absorption gasoline shall be excepted from the operation of the tax levied, when
4 sold to be blended or compounded with other less volatile liquids in the manufacture
5 of commercial gasoline or motor fuel. When, however, such casinghead and
6 absorption gasoline is used without blending as a motor fuel or is sold for use in
7 motors direct, or sold to those who blend for their own use, the taxes levied in R.S.
8 47:711 shall be paid. Reports of all such sales shall be furnished to the secretary with
9 the report required in R.S. 47:712, and shall show whether the sales were made for
10 blending purposes or for use in motors.

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

14 * * *

15 §716.1. Exclusions and exemptions; aviation gasoline

16 A. Aviation gasoline commonly used for propelling aircraft shall be exempt
17 from the tax levied by this Part. For the purpose of this Section, aviation gasoline
18 shall be defined as set forth in specification Number D 910 of the American Society
19 for Testing and Materials.

20 **B. The exemption provided for pursuant to the provisions of this Section**
21 **shall terminate and shall have no effect for tax periods beginning on or after**
22 **January 1, 2021.**

23 * * *

24 §818.14. Exemptions from tax

25 A. Sales of gasoline to the following, or as otherwise stated in this Section,
26 are exempt from the tax levied by this Subpart and shall not be paid at the rack:

27 * * *

28 (3) Aviation fuel used for propelling aircraft, including aircraft operated in
29 interstate or foreign commerce under a certificate or permit issued by the Civil

- (24) R.S. 47:632 - Taxes payable by owners; lien and privilege created
- (25) R.S. 47:713 - Exclusions and exemptions; casinghead gasoline sold for commercial blending
- (26) R.S. 47:716.1 - Exclusions and exemptions; aviation gasoline
- (27) R.S. 47:818.14 - Exemptions from tax
- (28) R.S. 47:823 - Rate of tax

Proposed law eliminates present law on January 1, 2021.

Present law provides the following exemptions, exclusions, and deductions.

- (1) R.S. 47:602 - Determination of taxable capital
- (2) R.S. 47:605 - Surplus of undivided profits
- (3) R.S. 47:606 - Allocation of taxable capital

Proposed law eliminates present law on January 1, 2022.

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, 818.14 and 823(F))

Summary of Amendments Adopted by Senate

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

- 1. Adds R.S. 47:818.14 (Exemptions from tax) to the list of exemptions, exclusions and deduction that shall terminate beginning January 1, 2021.
- 2. Adds sunset date for exclusions, exemptions, and deductions contained in R.S. 47:602, 605, and 606 to January 1, 2022.