

2018 Second Extraordinary Session

HOUSE BILL NO. 20

BY REPRESENTATIVE JAY MORRIS

TAX/SALES-USE, STATE: Provides for the applicability of exemptions and exclusions for purposes of state sales and use taxes (Items #22 and #23)

1 AN ACT

2 To amend and reenact R.S. 47:302(X)(introductory paragraph) and (AA)(introductory
3 paragraph), 321(O), and 331(P)(1) and to enact R.S. 47:302(AA)(34), relative to
4 state sales and use tax; to provide for the applicability of certain exclusions and
5 exemptions; to provide for effectiveness; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:302(X) (introductory paragraph) and (AA)(introductory
8 paragraph), 321(O), and 331(P)(1) are hereby amended and reenacted and R.S.
9 47:302(AA)(34) is hereby enacted to read as follows:

10 §302. Imposition of tax

11 * * *

12 X. Notwithstanding any other provision of law to the contrary, including but
13 not limited to any contrary provisions of this Chapter, ~~for the period beginning April~~
14 ~~1, 2016, through July 1, 2018,~~ there shall be no ~~exclusions and exemptions,~~ and no
15 exclusions as defined in R.S. 47:301, to the tax levied pursuant to the provisions of
16 this Section except for exemptions and exclusions for sales or purchases of the
17 following items and for those items enumerated in Subsection AA of this Section:

18 * * *

19 AA. Notwithstanding any other provision of this Section to the contrary,
20 except as provided in Paragraphs (29) through ~~(32)~~ (34) of this Subsection,

1 beginning July 1, 2016, the following specific exclusions and exemptions shall be
2 applicable to the tax levied pursuant to the provisions of this Section:

3 * * *

4 (34) Beginning July 1, 2018, sale and purchase of electricity as provided in
5 R.S. 47:305(D)(1)(d) for use in production activity subject to the payment of state
6 severance tax on production from a stripper well pursuant to R.S. 47:633(7)(c)(i) and
7 (ii)(aa) and (bb).

8 * * *

9 §321. Imposition of tax

10 * * *

11 O. Notwithstanding Subsections L and M of this Section, purchases, use, and
12 lease of manufacturing machinery and equipment as provided in R.S. 47:301(3)(i)(i),
13 (13)(k), and (28)(a) shall be subject to the tax levied in this Section beginning April
14 1, 2016, ~~through June 30, 2018.~~

15 * * *

16 §331. Imposition of tax

17 * * *

18 P.(1)(a) For the period July 1, 2004, through April 1, 2019, the exemptions
19 to the tax levied by this Section for sales of steam, water, electric power, or energy,
20 and natural gas shall be inapplicable, inoperable, and of no effect as to the tax levied
21 by this Section.

22 (b) For the period beginning July 1, 2018, the sale and purchase of electricity as
23 provided in R.S. 47:305(D)(1)(d) for use in production activity subject to the
24 payment of state severance tax on production from a stripper well pursuant to R.S.
25 47:633(7)(c)(i) and (ii)(aa) and (bb) shall be applicable, operable, and effective as
26 to the tax levied by this Section.

27 * * *

1 Section 2. This Act shall become effective on July 1, 2018; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2018, or on the day following such approval by the legislature, whichever is later.

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 20 Original

2018 Second Extraordinary Session

Jay Morris

Abstract: Removes the July 1, 2018, sunset provision with respect to the "suspension" of applicability of various exclusions and exemptions from state sales and use tax, and adds applicability for all state sales and use tax for the exclusion for electricity used in stripper well production.

Present law imposes a 2% state sales and use tax upon the sale, use, lease, or rental of tangible personal property and certain services occurring in this state.

Present law, for the period from April 1, 2016, through July 1, 2018, restricts the applicability of various exclusions and exemptions against that tax to the following:

- (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r) on Jan. 1, 2003. (La. Const. Art. 7 §2.2)
- (2) Natural gas. (La. Const. Art. 7 §2.2)
- (3) Electricity. (La. Const. Art. 7 §2.2)
- (4) Water. (La. Const. Art. 7 §2.2)
- (5) Prescription drugs. (La. Const. Art. 7 §2.2)
- (6) Gasoline and other motor fuels subject to the state excise tax on fuel. (La. Const. Art. 7 §29)
- (7) Sales to the U.S. government and its agencies. (R.S. 47:301(10)(g))
- (8) Sales of raw agricultural products. (R.S. 47:301(10)(e) and 305(A)(3))
- (9) Lease or rentals of railroad rolling stock (R.S. 47:301(4)(k)), piggyback trailers (R.S. 47:305.45), and certain trucks and trailers in interstate commerce. (R.S. 47:305.50(A) and (B))
- (10) Tangible personal property for resale. (R.S. 47:301(10)(a)(i))
- (11) Feed and feed additives for animals held for business purposes. (R.S. 47:305(A)(4))
- (12) Farm products produced and used by farmers. (R.S. 47:305(B))
- (13) Sales of fertilizers and containers to farmers. (R.S. 47:305(D)(1)(f))

- (14) Sales of seeds for planting crops. (R.S. 47:305.3)
- (15) Sales of pesticides for agricultural purposes. (R.S. 47:305.8)
- (16) Purchases, use, and lease of manufacturing machinery and equipment. (R.S. 47:301(3)(i)(i), (13)(k), and (28)(a))
- (17) Sales of materials for further processing. (R.S. 47:301(10)(c)(i)(aa))
- (18) Sale of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce. (R.S. 47:305.1(A) and (B))
- (19) La. Tax Free Shopping Program for international visitors. (R.S. 51:1301)
- (20) Sales of farm equipment used in poultry production. (R.S. 47:301(13)(c))
- (21) Sales of pharmaceuticals administered to livestock for agricultural purposes. (R.S. 47:301(16)(f))
- (22) Sales of livestock, poultry, and other farm products and sales at public livestock auctions. (R.S. 47:305(A)(1) and (2))
- (23) Materials used in the production of crawfish and catfish. (R.S. 47:305(A)(5) and (6))
- (24) First \$50,000 of farm equipment purchases. (R.S. 47:305.25)
- (25) Fuel used on the farm. (R.S. 47:305.37)
- (26) Taxation of electrical cooperatives. (R.S. 12:425)
- (27) Overhaul of naval vessels. (R.S. 47:301(7)(c) and (14)(h))
- (28) Purchases by state and local governments. (R.S. 47:301(8)(c))
- (29) Transactions in interstate commerce and tangible personal property imported into this state, or produced or manufactured in this state, for export. (R.S. 47:305(E))
- (30) Parish councils on aging. (R.S. 47:305.66)
- (31) Articles traded in on purchases of tangible personal property. (R.S. 47:301(13)(a))
- (32) A factory-built home. (R. S. 47:301(16)(g))

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning July 1, 2016, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization. (R.S. 47:301(6)(b))
- (2) Sales of room rentals by a homeless shelter. (R.S. 47:301(6)(c))
- (3) Sales, leases, and rentals of tangible personal property and sales of services necessary to operate free hospitals. (R.S. 47:301(7)(e), (10)(p), and (18)(c))

- (4) Sales, leases, or rentals of tangible personal property to Boys State of La., Inc. and Girls State of La., Inc. (R.S. 47:301(7)(g) and (10)(r))
- (5) Sales by nonprofit entities that sell donated goods. (R.S. 47:301(8)(f))
- (6) Isolated or occasional sales of tangible personal property. (R.S. 47:301(10)(c)(ii)(bb))
- (7) Sales of human tissue transplants. (R.S. 47:301(10)(d))
- (8) Sales of food items by a youth-serving organization chartered by the U. S. Congress. (R.S. 47:301(10)(h))
- (9) Sales and donations of tangible personal property by food banks. (R.S. 47:301(10)(j) and (18)(a)(i))
- (10) Sales or purchases of fire-fighting equipment by volunteer fire departments. (R.S. 47:301(10)(o))
- (11) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools. (R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii))
- (12) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(10)(q)(i) and (18)(e)(i))
- (13) Sales, (R.S. 47:301(14)(b)(i)), but only of admissions to athletic and entertainment events held for or by an elementary or secondary school and membership fees or dues of nonprofit, civic associations.
- (14) Sales or use of materials used directly in the collection of blood. (R.S. 47:301(16)(j)).
- (15) Sales or use of apheresis kits and leukoreduction filters. (R.S. 47:301(16)(k))
- (16) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors used exclusively by the patient for personal use. (R.S. 47:305(D)(1)(k))
- (17) Sales or use of ostomy, colostomy, and ileostomy devices and equipment. (R.S. 47:305(D)(1)(l))
- (18) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use. (R.S. 47:305(D)(1)(u))
- (19) Sales of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations. (R. S. 47:305(D)(2))
- (20) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription. (R.S. 47:305(G))
- (21) Sales of admissions to entertainment events by Little Theater organizations. (R.S. 47:305.6)
- (22) Sales of admissions to musical performances sponsored by nonprofit organizations. (R.S. 47:305.7)

- (23) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations. (R.S. 47:305.13)
- (24) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations. (R.S. 47:305.14(A)(1))
- (25) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations. (R.S. 47:305.18)
- (26) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen. (R.S. 47:305.20)
- (27) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption. (R.S. 47:305.39)
- (28) Sales and purchases by certain organizations that provide training for blind persons. (R.S. 47:305.15)

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning July 1, 2017, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Surface preparation, painting, and coating fixed or rotary wing aircraft and certified transport category aircraft registered outside of this state. (R.S. 47:301(14)(g)(iv))
- (2) Purchases and leases by qualifying radiation therapy treatment centers. (R.S. 47:305.64)
- (3) Sales and purchases of medical devices used by patients under the supervision of a physician. (R.S. 47:305(D)(1)(s))

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning Oct. 1, 2017, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Sales and purchases of platinum, gold, and silver bullion and numismatic coins. (R.S. 47:301(16)(b)(ii))
- (2) Sales and purchases of orthotic devices, prosthetic devices, restorative materials, and other dental devices. (R.S. 47:305(D)(1)(t))

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Proposed law changes present law effective July 1, 2018, by providing that the sale and purchase of electricity used in production from a stripper well shall be exempt from all state sales and use taxes.

Present law, for the period from April 1, 2016, through June 30, 2018, provides that the exclusion for the purchases, use, and lease of manufacturing machinery and equipment as provided in R.S. 47:301(3)(i)(i), (13)(k), and (28)(a) shall not apply to the 1% tax imposed under R.S. 47:321.

Proposed law changes present law by removing the June 30, 2018, sunset and providing instead that the inapplicability and ineffectiveness of the exclusion for the purchases, use, and lease of manufacturing machinery and equipment shall be permanent for purposes of the 1% state sales and use tax imposed under R.S. 47:321.

Effective July 1, 2018.

(Amends R.S. 47:302(X)(intro. para.) and (AA)(intro. para.), 321(O), and 331(P)(1); Adds R.S. 47:302(AA)(34))