

GREEN SHEET REDIGEST

HB 10

2024 Third Extraordinary Session

Wright

TAX/SALES & USE: Provides for the rate of the state sales and use tax and provides for the exemptions, exclusions, credits, and rebates claimed against sales and use taxes (Item #8)

DIGEST

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

- R.S. 47:302 - 2%
- R.S. 47:321 - 1%
- R.S. 47:321.1 - .45%
- R.S. 47:331 - .97%
- R.S. 51:1286 - .03%

Present law terminates the imposition of the .45% state sales tax levied pursuant to R.S. 47:321.1 on July 1, 2025.

Proposed law retains present law as it relates to the 3% state sales tax levied pursuant to R.S. 47:302 and 321. Proposed law repeals expiration of the .45% state sales tax levy that was set to terminate on July 1, 2025, thereby making the .45% levy permanent but reduces the amount of the levy from .45% to .40%.

Proposed law repeals the .03% state sales tax levied pursuant to R.S. 51:1286 in favor of increasing the amount of the state sales tax levied in R.S. 47:331 from .97% to 1% and provides that .03% of the avails of that levy shall be allocated to the La. Tourism Promotion District to be used for assisting the state in the promotion of tourism.

Present law provides for a variety of exemptions and exclusions applicable to state sales and use taxes, including an exemption for nonresidential uses of steam, certain water, electric power or energy, natural gas, and certain energy sources (R.S. 47:305(D)(1)(b), (c), (d), (g), and (h), hereinafter "business utilities"). Notwithstanding the general exclusions and exemptions in present law, each levy of sales and use taxes in present law includes or references an exclusive list of exclusions and exemptions that apply during the period beginning July 1, 2018, through June 30, 2025. Present law exempts business utilities from 2.45% of the state's 4.45% sales and use tax during this period.

Proposed law changes present law by making suspension of the 2% sales tax exemption for business utilities permanent thereby exempting business utilities from 2.45% of the state's 4.45% sales and use taxes. Proposed law includes purchases of electric power and natural gas by paper or wood products manufacturing facilities in the category of utilities subject to 2% of the state tax levied on business utilities.

Present law authorizes dealers who collect sales and use taxes on behalf of the state and locals to deduct and retain 1.05% of the total amount of taxes due for the purpose of compensating the dealer for accounting for and remitting the tax. Further authorizes municipalities to pay compensation to sales tax dealer in an amount designated by the governing body.

Proposed law repeals present law.

Retained Exclusions, Exemptions, Rebates, and Credits

Present law provides for a variety of exemptions and exclusions applicable to state sales and use taxes. Further provides for various rebates, refunds, and also provides for alternate reporting methods.

Proposed law retains the following exclusions and exemptions:

- (1) Food for home consumption (R.S. 47:305(D)(1)(n) through (r) and Art. VII, § 2.2 of the Const.)
- (2) Natural gas, electricity, and water used for residential purposes (Art. VII, §2.2 of the Const.)
- (3) Prescription drugs for state sales taxes (Art. VII, §2.2 of the Const.)
- (4) Gasoline and other motor fuels subject to the state excise tax on fuel (Art. VII, §27 of the Const.)
- (5) Purchases by Pari-Mutual Horse Racetracks (R.S. 4:168)
- (6) Purchases by Off-Track Wagering Facilities (R.S. 4:227)
- (7) Credit Unions (R.S. 6:662)
- (8) Any transaction by a nonprofit electric cooperative that is exempt from tax (R.S. 12:425)
- (9) Purchases by La. Insurance Guaranty Association (R.S. 22:2065)
- (10) Purchases by Public Trust Cooperatives (R.S. 38:2212.4)
- (11) Sales of tangible personal property and services at certain public facilities (R.S. 39:467 and 468)
- (12) Isolated or occasional sales of tangible personal property by a person not engaged in such business (R.S. 47:301(1) and (10)(c)(ii)(bb))
- (13) Installation charges on tangible personal property (R.S. 47:301(3)(a))
- (14) Manufacturer's rebates on a new motor vehicle (R.S. 47:301(3)(e) and (13)(b))
- (15) "Sales or Cost Price" of Refinery Gas (R.S. 47:301(3)(f) and(13)(d))
- (16) The cost price for the printing of a news publication (R.S. 47:301(3)(h))
- (17) Leases or rentals of railroad rolling stock (R.S. 47:301(4)(k)), rail rolling stock sold or leased in La. (R.S. 47:305.50(E)(1)), and parts or services used in the fabrication, modification, or repair of rail rolling stock (R.S. 47:305.50(E)(2)).
- (18) Sales of room rentals by a homeless shelter (R.S. 47:301(6)(c))
- (19) Rentals or leases of certain oilfield property for re-lease or re-rental (R.S. 47:301(7)(b))
- (20) Leases or rentals by a short-term equipment rental dealer for the purpose of re-lease or re-rental (R.S. 47:301(7)(m))
- (21) Purchases by a regionally accredited independent educational institution (R.S. 47:301(8)(b))
- (22) Purchases of certain bibles, songbooks, or literature by certain religious institutions for instructional classes (R.S. 47:301(8)(d))
- (23) Tangible personal property for resale (R.S. 47:301(10)(a)(i))

- (24) Sales of food by a youth-serving organization chartered by the Congress of the U.S. (R.S. 47:301(10)(h))
- (25) Tangible personal property sold or donated to a food bank (R.S. 47:301(10)(j) and (18)(a)(i))
- (26) Sales or purchases of fire-fighting equipment by a volunteer fire department (R.S. 47:301(10)(o))
- (27) An article traded in on the purchase of tangible personal property (R.S. 47:301(13)(a))
- (28) Sales, (R.S. 47:301(14)(b)(i)), but only of admissions to an athletic and entertainment event held for or by an elementary or secondary school and membership fees or dues of a nonprofit, civic association
- (29) The exclusion for 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))
- (30) Funeral directing services (R.S. 47:301(14)(j))
- (31) Stocks, bonds, notes, and other obligations or securities (R.S. 47:301(16)(b)(i))
- (32) Sales of platinum, gold, and silver bullion, that is valued solely upon its precious metal content, whether in coin or ingot form (R.S. 47:301(16)(b)(ii)(aa))
- (33) Sales of certain numismatic coins (R.S. 47:301(16)(b)(ii)(bb) and (cc))
- (34) Work product of certain professionals (R.S. 47:301(16)(e))
- (35) Factory built homes (R.S. 47:301(16)(g))
- (36) Other constructions permanently attached to the ground (R.S. 47:301(16)(l))
- (37) Purchases of certain custom computer software (R.S. 47:301(22))
- (38) Any advertising service rendered by an advertising business (R.S. 47:302(D))
- (39) Helicopters leased for use in the extraction, production, or exploration for oil, gas, or other minerals (R.S. 47:302.1)
- (40) Use of a motor vehicle in La. by a member of the active duty military (R.S. 47:303(A)(3)(a) and 305.48)
- (41) Credit for sales and use taxes paid to another state on tangible personal property imported in La. (R.S. 47:303(A)(3)(a))
- (42) Sales of gasoline (not subject to motor fuels tax) (R.S. 47:305(D)(1)(a))
- (43) Boats, vessels, and other water craft as demonstrators (R.S. 47:303(D)(1), R.S. 47:305(D)(1)(i) & (H))
- (44) Sale and purchase of electricity (R.S. 47:305(D)(1)(d)) for use in production activity subject to the payment of state severance tax on production from a stripper well (R.S. 47:633(7)(c)(i) and (ii)(aa) and (bb))
- (45) Trucks, automobiles, aircraft, and boats, vessels, or other water craft withdrawn from stock or kept in dealer inventory and used as demonstrators (R.S. 47:305(D)(1)(i))

- (46) Sales or use of a meal by an educational institution, medical facility, mental institution, and an occasional meal furnished by an educational, religious, or medical organization (R.S. 47:305(D)(2))
- (47) 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))
- (48) Repairs and materials used on drilling rigs and equipment used exclusively for exploration or development of minerals (R.S. 47:305(I))
- (49) Ships, vessels, barges, and related supplies (R.S. 47:305.1)
- (50) Property purchased for exclusive use outside the state (R.S. 47:305.10)
- (51) Leases or rentals of vessels for use in offshore mineral production or the provision of services to those engaged in mineral production (R.S. 47:305.19)
- (52) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen (R.S. 47:305.20)
- (53) Sales or purchases by sheltered workshops or supported employment providers (R.S. 39:1604.4 and R.S. 47:305.38)
- (54) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption (R.S. 47:305.39)
- (55) Freight cars, piggyback trailers, and rail rolling stock, and railroad ties (R.S. 47:305.45 and 305.50(F))
- (56) A truck and trailer if used at least 80% of the time in interstate commerce (R.S. 47:305.50(A))
- (57) Sales or purchases by a council on aging (R.S. 47:305.66)
- (58) Motor vehicles used by those with orthopedic disabilities (R.S. 47:305.72)
- (59) Fiber-Optic cable equipment rebate (R.S. 47:305.73)
- (60) Purchases of diapers (R.S. 47:305.75)
- (61) Qualifying events providing La. heritage, culture, crafts, art, food, and sponsored by a domestic nonprofit organization (R.S. 47:301(10)(hh) and 14(k), 305.14(A)(1)(b))
- (62) Purchases or leases of motor vehicles for re-lease or re-rent by qualified lessors (R.S. 47:305.36)
- (63) Eligible purchases made during the annual Second Amendment Weekend Sales Tax Holiday (R.S. 47:305.62)
- (64) Vendor's compensation (R.S. 47:306(A)(3)(a))

Medical Devices, Equipment, and other Drugs

Proposed law repeals various individual exemptions and exclusions related to purchases of medical devices, equipment, and drugs in favor of enacting a consolidated exemption (R.S. 47:305.2) applicable to both state and local sales and use taxes related to medical devices, equipment, and drugs. The exemptions and exclusions repealed in proposed law but included in the consolidated exemption established in R.S. 47:305.2 as follows:

- (1) Purchase, lease, and sale of services by free hospitals (R.S. 47:301(7)(e), (10)(p), and (18)(c))

- (2) Sale, lease or rental of tangible personal property under Medicare (R.S. 47:301(7)(i) and (10)(u))
- (3) Sales of human-tissue transplants (R.S. 47:301(10)(d))
- (4) Drugs prescribed by a physician or dentist (R.S. 47:305(D)(1)(j))

Proposed law requires drugs prescribed by a physician, dentist, or other person authorized to prescribe drugs in this state to be exempt from state and local sales and use taxes.

- (5) Orthotic devices, including prescription eyeglasses and contact lenses, wheelchairs and lifts, and prosthetic devices as prescribed by a physician, optometrist, or licensed chiropractor for personal use (R.S. 47:305(D)(1)(k)(i) and(ii))
- (6) Sales of ostomy, colostomy, and ileostomy devices and equipment (R.S. 47:305(D)(1)(l))
- (7) Sales of medical devices used exclusively by the patient in the medical treatment of various diseases or administered exclusively to the patient by a physician, nurse, or other health care provider or facility, in the treatment of diseases under the supervision of and prescribed by a physician (R.S. 47:305(D)(1)(s))
- (8) Sales of orthotic devices, prosthetic devices, prostheses and restorative materials utilized by or prescribed by a dentist (R.S. 47:305(D)(1)(t))
- (9) Adaptive driving equipment and motor vehicle modification (R.S. 47:305(D)(1)(u))
- (10) Procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient (R.S. 47:305(D)(4)(b))
- (11) Sale of prescription drugs under the pharmaceutical vendor program for Titles XIX and XXI of the Social Security Act administered by the La. Dept. of Health (R.S. 47:305(D)(5)(a))
- (12) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription (R.S. 47:305(G))
- (13) Sales of insulin (R.S. 47:305.2)
- (14) Pharmaceutical samples distributed in La. (R.S. 47:305.47)
- (15) Purchase, lease or repair of certain capital equipment and computer software of qualifying radiation therapy treatment centers (R.S. 47:305.64)
- (16) Procurement and administration of prescription drugs administered exclusively in certain medical clinics (R.S. 47:305.76)
- (17) Purchases and leases of durable medical equipment paid by or under provisions of Medicare (R.S. 47:315.3)

Agricultural Inputs and other Agricultural Tangible Personal Property

Proposed law repeals various individual exemptions and exclusions related to farming and agriculture in favor of enacting a consolidated exemption (R.S. 47:305.3) applicable to both state and local sales taxes related to agricultural inputs, agricultural machinery and equipment, and other agricultural tangible personal property, provided that the purchase is directly related to the business activities of the purchaser. The exemptions and exclusions repealed in proposed law but included in the consolidated exemption established in R.S. 47:305.3 as follows:

- (1) Sales of raw agricultural commodities (R.S. 47:301(10)(c)(i)(aa)(II) and (e), and 305(A)(3) and (4)(b)(i) and (iii))
- (2) Pharmaceuticals administered to livestock for agricultural purposes (R.S. 47:301(16)(f))
- (3) Sales of farm products direct from the farm (R.S. 47:305(A)(1))
- (4) Livestock sold at market and racehorses claimed at races in La. (R.S. 47:305(A)(2))
- (5) Feed and feed additives for animals held for business purposes (R.S. 47:305(A)(4)(a))
- (6) Materials used in the production or harvesting of crawfish (R.S. 47:305(A)(5)(a))
- (7) Bait and feed used in the production or harvesting of crawfish (R.S. 47:305(A)(5)(b))
- (8) Materials used in the production or harvesting of catfish (R.S. 47:305(A)(6))
- (9) Farm products produced and used by the farmers (R.S. 47:305(B))
- (10) Sales of fertilizers and containers to farmers (R.S. 47:305(D)(1)(f))
- (11) Sales of seeds for planting crops (R.S. 47:305.3 and 301(10)(e))
- (12) Sales of utilities to commercial farmers for on-farm storage (R.S. 47:305.4)
- (13) Sales of pesticides for agricultural purposes (R.S. 47:305.8)
- (14) Purchases of feed, seed, and fertilizer by student farmers (R.S. 47:305.24)
- (15) First \$50,000 of the sales price of certain rubber tire and irrigation farm equipment (R.S. 47:305.25(A)(1-3) and 337.10(B))

Proposed law increases the amount of the exemption for farm equipment from the first \$50,000 of the sales price to the first \$150,000 of the sales price.

- (16) First \$50,000 of the sales price of new farm equipment used in poultry production (R.S. 47:301(13)(c))

Proposed law retains the present law limitation on the amount of the exemption for purchases of new farm equipment used in poultry production at the first \$50,000 of the sales price.

- (17) Sale of polyroll tubing (R.S. 47:305.25(A)(6) and 305.63)
- (18) Sales of certain fuels used for farm purposes (R.S. 47:305.37)
- (19) Sales of agricultural fencing materials to commercial farmers (R.S. 47:305.80)

Manufacturing Machinery and Equipment

Proposed law repeals various exclusions related to manufacturing machinery and equipment (MM&E) in favor of enacting a consolidated exemption (R.S. 47:305.5) applicable to state sales taxes related to purchases of (MM&E) for various industries including utilities, wood manufacturers and loggers, and news publications. Proposed law authorizes, but does not require local taxing authorities to exempt MM&E from their tax bases. The exclusions repealed in proposed law but included in the consolidated exemption established in R.S. 47:305.5 are as follows:

- (1) Purchases of MM&E (R.S. 47:301(3)(i), (13)(k), (28)(a), and 337.10(I))

- (2) Purchases of certain machinery and equipment used to produce a news publication (R.S. 47:301(3)(i)(ii)(aa)(I)(eee))
- (3) Purchases of consumables by paper and wood manufacturers and loggers (R.S. 47:301(3)(k))
- (4) Electricity for chlor-alkali manufacturing process (R.S. 47:301(10)(c)(ii)(aa))
- (5) Purchases of machinery and equipment by certain utilities (R.S. 47:301(16)(o)(i) and (ii))

Schools and Educational Materials

Proposed law repeals various individual exclusions related to sales of educational materials to and by elementary and secondary schools purchases of food items for school lunch or breakfast programs by certain schools in favor of enacting a consolidated exemption (R.S. 47:305.6) applicable to both state and local sales taxes related to sales of educational materials and purchases of food items for school lunch or breakfast programs. The exclusions repealed in proposed law but included in the consolidated exemption established in R.S. 47:305.6 are as follows:

- (1) Sales to and by certain elementary and second schools for educational materials and equipment used for classroom instruction (R.S. 47:301(7)(f),(10)(q) and(18)(e))
- (2) Purchases of food items for school lunch or breakfast programs by nonpublic elementary or secondary schools (R.S. 47:301(10)(dd))
- (3) Donations to certain schools (R.S. 47:301(18)(a)(i))

Present law provides for an exemption for the sale of admissions to athletic and entertainment events held for or by parochial and private elementary and secondary schools.

Proposed law retains present law.

Intergovernmental and Governmental Transactions

Proposed law repeals various individual exclusions related to purchases and sales by local and state governments as well as the Dept. of Military in favor of enacting a consolidated exclusion (R.S. 47:305.7) applicable to both state and local sales taxes related to these sales and purchases. The exclusions repealed in proposed law but included in the consolidated exemption established in R.S. 47:305.7 are as follows:

- (1) Transactions related to the construction or overhaul of U.S. Navy vessels (R.S. 47:301(7)(c))
- (2) Purchases by state and local governments (R.S. 47:301(8)(c))
- (3) Sales to the U.S. government and its agencies (R.S. 47:301(10)(g))
- (4) Sales of tangible personal property by the La. Military Dept. (R.S. 47:301(10)(ff))
- (5) Sales or purchases of equipment used in firefighting by bona fide volunteer and public fire departments (R.S. 47:301(10)(o))
- (6) Sales by thrift shops and military installations (R.S. 47:305.14(A)(4))
- (7) Purchases made under the Supplemental Nutrition Assistance Program (SNAP) through WIC Program vouchers (R.S. 47:305.46)

Proposed law establishes rules, for purposes of collecting or remitting sales or use taxes to the appropriate taxing jurisdictions, on sales of tangible personal property, digital products,

and services, for determining the proper jurisdiction to which the sale is sourced. The provisions of proposed law do not affect the imposition or computation of sales or use tax on leases or rentals based on a lump-sum or accelerated basis, or on the acquisition of property for lease. Proposed law includes exceptions to the general sourcing rules for vehicles and telecommunications services.

Proposed law establishes rules for the collection of sales tax on the sales price of bundled transactions if any product included in the bundled transaction would be taxable if sold separately. Proposed law defines a "bundled transaction" as the retail sale of two or more products where the products are otherwise distinct and identifiable and the products are sold for one nonitemized price. In order to show whether a retail sale consisted of one or more distinct and identifiable products and whether the products were sold for one nonitemized price, a seller shall maintain copies of invoices, service agreements, contracts, catalogs, price lists, rate cards, and other sales-related documents given to, or made available to, the purchaser.

Proposed law excepts the following transactions from the requirements of proposed law:

- (1) The sale of any products in which the sales price varies or is negotiable based on the selection by the purchaser of the products included in the transaction.
- (2) Retail sales of tangible personal property or a digital product and a service where the true object of the transaction is the service and the tangible personal property or digital product is essential to the use of the service, and is provided exclusively in connection with the service.
- (3) Retail sales of multiple services where one service is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service, and the true object of the transaction is the second nontaxable service. Further provides that the true object exception only applies to transactions that include a service and shall not apply to transactions that only include tangible personal property or digital products.
- (4) Transactions that include taxable products and nontaxable products and the sales price of the taxable products is de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis. The term "de minimis" means the sales price of the taxable products is 10% or less of the total sales price of the bundled products.
- (5) Retail sales of exempt tangible personal property and taxable tangible personal property where the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies and the sales price of the taxable tangible personal property is fifty percent or less of the total sales price of the bundled products.

Repealed exclusions, exemptions, rebates, and credits

Present law provides for a variety of exemptions and exclusions applicable to state sales and use taxes. Further provides for various rebates, refunds, and also provides for alternate reporting methods.

Proposed law repeals the following exclusions, exemptions, rebates, and alternative reporting methods:

- (1) Separately stated labor charges on property repaired out-of-state (R.S. 47:301(3)(b))
- (2) Installation of oil field board roads as provided in R.S. 47:301(3)(c)
- (3) Certain interchangeable components; optional method to determine (R.S. 47:301(3)(d))

- (4) Manufacturer rebates paid directly to a dealer (R.S. 47:301(3)(g) and (13)(e))
- (5) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization (R.S. 47:301(6)(b))
- (6) Rental or purchase of airplanes or airplane equipment and parts by La. domiciled commuter airlines (R.S. 47:301(7)(d) and R.S. 47:301(10)(k))
- (7) Vehicle rentals to a warranty customer (R.S. 47:301(7)(h))
- (8) Property used in the manufacture, production, or extraction of unblended diesel (R.S. 47:301(7)(j), (10)(y), and (18)(k))
- (9) Leases or rentals of a crane and related equipment with an operator (R.S. 47:301(7)(k))
- (10) Leases or rentals of pallets used in packaging products produced by a manufacturer (R.S. 47:301(7)(l))
- (11) Purchases by the Society of the Little Sisters of the Poor (R.S. 47:301(8)(e))
- (12) Purchases by a nonprofit entity that sells donated goods (R.S. 47:301(8)(f))
- (13) Purchases of property for lease or rental (R.S. 47:301(10)(a)(iii) and (18)(a)(iii))
- (14) Sales through a coin-operated vending machine (R.S.47:301(10)(b)(i))
- (15) Purchases of school buses that are new or less than five years old (R.S. 47:301(10)(i))
- (16) Pollution control devices and systems (R.S. 47:301(10)(l))
- (17) Pelletized paper waste used in a permitted boiler (R.S. 47:301(10)(n))
- (18) Sales of telephone directories by advertising companies (R.S.47:301(10)(t) and (18)(h))
- (19) Sales of cellular telephones and electronic accessories (R.S. 47:301(10)(v), (13)(g) and (h), and (18)(i))
- (20) Purchases of butane, propane, and liquefied petroleum gas by residential consumers (R.S. 47:301(10)(x))
- (21) Donation of toys (R.S. 47:301(10)(aa)(i) and (18)(m))
- (22) Purchases by a private postsecondary academic degree-granting institution (R.S. 47:301(10)(cc) and (18)(n))
- (23) Purchases of storm shutter devices (R.S. 47:301(10)(ee) and (18)(o))
- (24) Sales of anthropogenic carbon dioxide used in qualified tertiary recovery projects (R.S. 47:301(10)(gg) and(18)(p))
- (25) Sales of marijuana recommended for therapeutic use (R.S. 47:301(10)(ii))
- (26) Specialty Mardi Gras items purchased or sold by certain organizations (R.S. 47:301(13)(l), R.S. 47:305.40)
- (27) Admissions charges to athletic or entertainment events of colleges and universities (R.S. 47:301(14)(b)(i)(aa))
- (28) Admissions to museums (R.S. 47:301(14)(b)(ii))

- (29) Admissions to places of amusement at camp and retreat facilities (R.S. 47:301(14)(b)(iv))
- (30) Labor, materials, services, and supplies used for the repair, renovation, or conversion of drilling rig machinery and equipment which become component parts of a drilling rig used exclusively for exploration or development of minerals (R.S. 47:301(14)(g)(iii))
- (31) Certain geophysical survey information and data analyses (R.S. 47:301(16)(b)(iii))
- (32) Vehicle repairs subsequent to warranty lapse (R.S. 47:301(16)(c))
- (33) Purchases of certain custom computer software (R.S. 47:301(16)(h), and (23))
- (34) Materials used in the collection of blood (R.S. 47:301(16)(j))
- (35) Purchases by motor vehicle manufacturers (R.S.47:301(16)(m))
- (36) Purchases by glass manufacturers (R.S. 47:301(16)(m)(i))
- (37) Purchases of machinery and equipment by owners of certain radio stations (R.S. 47:301(16)(n))
- (38) Sales of newspapers (R.S. 47:301(16)(p))
- (39) Use tax on residue or byproducts consumed by the producer (R.S. 47:301(18)(d)(ii))
- (40) Miscellaneous telecommunications services (R.S. 47:301.1(B)(2)(a), (b), (c), (e) and (f))
- (41) Telecommunications services through coin-operated telephones (R.S. 47:301.1(B)(2)(d))
- (42) Interstate telecommunications services purchased by defined call centers (R.S. 47:301.1(D))
- (43) Purchases of off-road vehicles by certain buyers domiciled in another state (R.S.47:303(E)(1), R.S. 47:304(A), R.S. 47:305.56)
- (44) Cash-basis sales tax reporting and remitting for health and fitness club membership contracts (R.S. 47:303(F)). Repeal in proposed law applicable to the local sales tax base.
- (45) Sales of admission to entertainment events by a Little Theater organization (R.S. 47:305.6)
- (46) Sales of admission to musical performances sponsored by a nonprofit organization (R.S. 47:305.7)
- (47) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations (R.S. 47:305.13)
- (48) 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))
- (49) Sales and purchases by certain organizations that provide training for blind persons (R.S. 47:305.15(B))
- (50) Cable television installation and repair services (R.S. 47:305.16)

- (51) Receipts from coin-operated washing and drying machines in commercial laundromats (R.S. 47:305.17)
- (52) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations (R.S. 47:305.18)
- (53) New vehicles furnished by a dealer for driver-education programs (R.S. 47:305.26)
- (54) Sales of gasohol (R.S. 47:305.28)
- (55) Construction materials and operating supplies for certain nonprofit retirement centers (R.S. 47:305.33)
- (57) Specialty Mardi Gras items purchased or sold by certain organizations (R.S. 47:305.40)
- (58) Purchases and sales by Ducks Unlimited and Bass Life (R.S. 47:305.41)
- (59) Tickets to dance, drama, or performing arts presentations by certain nonprofit organizations (R.S. 47:305.42)
- (60) Purchases by and sales by certain nonprofit organizations dedicated to the conservation of fish and migratory waterfowl (R.S. 47:305.43)
- (61) Raw materials used in the printing process (R.S. 47:305.44)
- (62) Catalogs distributed in La. (R.S. 47:305.49)
- (63) Certain contract carrier buses used 80% in interstate commerce (R.S. 47:305.50(B))
- (64) Sickle cell disease organizations (R.S. 47:305.53)
- (65) Annual La. sales tax holiday (R.S. 47:305.54)
- (66) Sales of original one-of-a-kind works of art sold in certain locations (R.S. 47:305.57)
- (67) Hurricane preparedness La. sales tax holiday (R.S. 47:305.58)
- (68) Beginning October 1, 2021, sales of construction materials for charitable construction (R.S. 47:305.59)
- (69) Purchase of certain water conservation equipment for use in the Sparta Groundwater Conservation District (R.S. 47:305.61)
- (71) Purchases of construction materials by Hands n New Orleans and Rebuilding Together New Orleans Covenant Partners (R.S. 47:305.65)
- (72) Purchases of breastfeeding items (R.S. 47:305.67)
- (73) Purchases by the Fore!Kids Foundation (R.S. 47:305.68)
- (74) Sales of construction materials to the Make it Right Foundation (R.S. 47:305.70)
- (75) Sales of construction materials to the St. Bernard Project, Inc. (R.S. 47:305.71)
- (76) Purchases of tangible personal property pursuant to the sales tax holiday (R.S. 47:305.74)
- (77) Purchases of feminine hygiene products (R.S. 47:305.75)
- (78) Hurricane impacted agricultural fencing materials rebate (R.S. 47:305.77)

- (79) State sales tax paid on property destroyed in a natural disaster (R.S. 47:315.1)
- (80) Sales tax collected by qualified charitable institutions (R.S. 47:315.5)
- (81) Antique airplanes held by private collectors and not used for commercial purposes (R.S. 47:6001)
- (82) Sale of certain antique motor vehicles (R.S. 47:6040)
- (83) Refunds for purchases of tangible personal property by international travelers as part of the La. Tax Free Shopping Program (R.S. 51:1301 et seq.)

Present law authorizes, but does not mandate that local governments exempt certain purchases of tangible personal property from sales and use taxes levied by local political subdivisions. Proposed law makes various changes to present law to require rather than authorize purchases of certain tangible personal property be exempt from sales and use tax levied by local governmental subdivisions.

Digital Products and Services

Present law authorizes, but does not mandate that local governments exempt certain purchases of tangible personal property from sales and use taxes levied by local political subdivisions. Proposed law makes various changes to present law to require rather than authorize purchases of certain tangible personal property be exempt from sales and use tax levied by local governmental subdivisions.

Proposed law imposes sales and use tax on certain digital products and digital services as defined and provided for in proposed law.

Proposed law provides that "digital product" means digital audiovisual works, digital audio works, digital books, digital codes, digital applications and games, digital periodicals and discussion forums, all as defined in proposed law, and any other otherwise-taxable tangible personal property transferred electronically, whether digitally delivered, streamed, or accessed and whether purchased singly, by subscription, or in any other manner, including maintenance, updates, and support.

Proposed law stipulates that "digital product" shall not include any of the following:

- (1) Any intangible such as a patent, stock, bond, goodwill, trademark, franchise, or copyright.
- (2) Telecommunications services and ancillary services as defined in present law and proposed law.
- (3) Internet access service charges.
- (4) The representation of a work product resulting from a professional service, as described in present law, in an electronic form, such as an electronic copy of an engineering report prepared by an engineer that primarily involves the application of human effort, and the human effort originated after the customer requested the service.
- (5) A product having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities where the purchaser holds a copyright or other intellectual property interest in the product, in whole or part, if the purchaser uses the product solely for commercial purposes, including advertising or other marketing activities.
- (6) Cable television services, direct-to-home satellite services, video programming services, or satellite digital audio radio services.

Proposed law provides that for purposes of sales and use tax administration, the Dept. of Revenue shall not consider a person's ownership of, or rights in, digital products residing on servers located in this state in determining whether the person has substantial nexus with this state. Provides that for purposes of proposed law, "substantial nexus" means the requisite connection that a person has with a state to allow the state to subject the person to the state's taxing authority, consistent with the commerce clause of the U.S. Constitution.

Proposed law encompasses provisions addressing bundled transactions. Stipulates that in the case of the sale of a digital code that provides a purchaser with the right to obtain more than one digital product, and which may also include the right to obtain other products or services, and all of the products and services, digital or otherwise, to be obtained through the use of the code do not have the same sales and use tax treatment, both of the following shall apply:

- (1) The transaction shall be deemed to be the sale of the products and services to be obtained through the use of the code.
- (2) The sales and use tax shall apply to the entire selling price of the code, except as otherwise provided in proposed law.

Proposed law establishes sourcing rules for purposes of collecting sales and use taxes, or remitting sales taxes to the appropriate taxing jurisdictions, on sales of tangible personal property, digital products, and services.

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

- (1) A sales and use tax exemption for computer software or prewritten computer software access services, information services, and digital products when all of the following conditions are met:
 - (a) The service or product is purchased or licensed exclusively for commercial purposes.
 - (b) The service or product is used by the business directly in the production of goods or services for sale to its customers.
 - (c) The goods or services produced and sold by the business are subject to sales and use tax.
- (2) A use tax exemption for digital products created solely for the business needs of the person who created the digital products and are not the type of digital products that are offered for sale.

Proposed law provides that with respect to digital products, "sale" means the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the product.

Proposed law provides that with respect to digital services, "sale" means the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service.

Proposed law stipulates that the term "sale at retail", for purposes of present law and proposed law, does not include either of the following:

- (1) Consuming any digital product in producing for sale a new product or taxable service, where the digital product becomes an ingredient or component of the new product or taxable service.
- (2) Making any digital product available free of charge for the use or enjoyment of others.

Proposed law adds the following into the "sales of services" definition provided in present law, thereby subjecting these services to sales and use tax:

- (1) The furnishing of prewritten computer software access services as defined in proposed law.
- (2) The furnishing of information services as defined in proposed law.

Proposed law adds references to digital products alongside existing references to tangible personal property in the definitions of the following defined terms pertaining to sales and use tax provided in present law: "cost price", "dealer", "gross sales", "lease or rental", "purchaser", "sale", "retail sale" and "sale at retail", "sales price", "storage", "use", and "use tax".

Proposed law adds references to digital products alongside existing references to tangible personal property in present law providing for sales tax exemptions, thereby causing the exemptions to apply to digital products as well as to tangible personal property.

Proposed law adds references to digital products alongside existing references to tangible personal property in miscellaneous provisions of present law relative to sales and use tax administration.

Proposed law deletes from present law relative to sales and use taxes the defined term "computer software" and its corresponding definition.

Proposed law repeals from present law sales tax exclusions (provisions excluding certain items from the taxable base) for custom computer software and for newspapers.

Proposed law applies to taxable periods beginning on or after Jan. 1, 2025.

Proposed law authorizes and directs the La. State Law Institute to review all statutes modified or repealed by proposed law and to make necessary changes to the Uniform Local Sales Tax Code in accordance with R.S. 47:337.87.

Proposed law is applicable to taxable periods beginning on and after Jan. 1, 2025.

Effective if and when House Bill No. 1 of this 2024 3rd E.S. is enacted and becomes effective.

(Amends R.S. 12:425, R.S. 22:2065, R.S. 33:4169(D), R.S. 47:301(3), (4)(intro. para.), (4)(a) through (e) and (h) through (k), (5) through (10), (12) through (16), (18), (19), and (23) through (31), 301.1(A) (intro. para.), (B)(2)(b) through (d), (C)(2)(b), (D), and (E), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(intro. para.), (a) and (b)(intro. para.), 303(A)(2) and (3)(a), (B)(intro. para.), (1)(intro. para.) and (b)(intro. para.), (3)(b)(ii) and (4), (D)(1), (E), (F), and (G), 303.1(A), (B)(1)(intro. para.) and (c), (2)(b), and (5), 304(A) and (B), 305(A), (B), (C), (D)(1) and (E) through (I), 305.2 through 305.4, 305.6 through 305.8, 305.10(A) and (C) through (F), 305.13, 305.14(A)(1)(a) and (5), 305.20(A), (C) and (D), 305.38, 305.39, 305.50(B) through (F), 305.72(C), 305.73(B) through (F), 305.75, 306(A)(3)(a), 306.5(A)(1) and (2)(c) and (B), 307(A) through (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 318(A), 321(A), (B), and (C), 321.1(A), (B) and (C), 322, 331(A) through (C), 332, 337.2(C)(2) and (4)(a) and (b)(i)(aa)(II) and (bb)(II), 337.3(A), 337.4(B)(6), (7), and (8), 337.6(B), 337.8(B), 337.13(A), 340.1(A)(3) and (5), 463.8(B)(1)(b) and (3), and 6001(A), and R.S. 51:1286; Adds R.S. 47:301(4)(l) and (32) through (35), 301.3, 301.4, 301.5, 301.6 and 301.7, 305(J), 305.5, 305.12, 305.21, 305.22, and 305.72(D) through (F); Repeals R.S.40:582.1-582.7, R.S. 47:9, 301(4)(m) and (n), (16)(h) and (p), 301.1(B)(2)(e) and (f) and (F), 301.2, 302(F)-(J), (L)-(T), and (X)-(CC), 305(D)(3)-(6), 305.9, 305.14-305.18, 305.24-305.26, 305.28, 305.30, 305.33, 305.36, 305.37, 305.40-305.44, 305.46, 305.47, 305.49, 305.50(E) and (F), 305.52-305.54, 305.56-305.65, 305.67, 305.68, 305.70, 305.71, 305.73(A)(5) and (6), (E), and (F), 305.74, 305.76-305.80, 306(A)(3), (6), and (7), and (D), 315.1-315.3, 315.5, 321(E)-(Q), 321.1(E), (F), (I), and (J), 331(F)-(W), 337.2(A)(2) and (B)(3)(e)-(h), 337.4(B)(4) and (8), 337.5(A)(1)(e),

337.10.1-337.10.2, 337.11.1, 337.11.2, 337.11.4, 337.18(A)(3), 337.23(C)(1)(a)(ii), 338.1(B), 340(G)(6)(d), 6003, and 6040, and R.S. 51:1301-1316)

Summary of Amendments Adopted by House

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

1. Reduce the amount of the sales tax levied in R.S. 47:321.1 from .45% to .40%.
2. Change the effectiveness of the mandatory local sales and use tax exemption for prescription drugs from Jan. 1, 2025, to July 1, 2025.
3. Retain purchases by a regionally accredited independent educational institution as an exemption rather than an exclusion. (R.S. 47:301(8)(b))
4. Retain the exemption for credit unions. (R.S. 6:662)
5. Retain the exemption for sales or purchases by a council on aging. (R.S. 47:305.66)
6. Retain the exemption for sales of butane, propane, or other liquified petroleum gases for private, residential consumption and make the exemption applicable to the R.S. 47:321.1 sales tax levy. (R.S. 47:305.39)

The House Floor Amendments to the engrossed bill:

1. Add definition for "medical devices".
2. Change the maximum amount that may be collected on motor vehicles brought into this state by a new resident from \$90 to not to exceed \$90 after application of all credits if certain qualifications are met. Further requires the monies collected in these transactions to be paid to local tax authorities rather than state and local tax authorities.
3. Change references in proposed law with respect to the exemption for medical devices, equipment, and other drugs established in R.S. 47:305.2 from licensed physicians and other healthcare professionals to any person authorized to prescribe drugs and treatment by persons with prescriptive authority.
4. Recognize natural gas used in the production of iron in the "direct reduced iron process" as material for further processing into an article of tangible personal property for sale at retail.
5. Change the MM&E exemption, with respect to local sales and use taxes, from a mandatory local sales and use tax exemption to an optional exemption but requires local taxing authorities that elect to exempt MM&E to also adopt the definitions, exemptions, and limitations in proposed law applicable to the state exemption for MM&E.
6. Retain purchases of bibles, song books, or literature used for religious instruction classes as an exemption rather than an exclusion. (R.S. 47:301(8)(d))
7. Retain purchases of diapers for individual or personal use but retains the repeal for feminine hygiene products. (R.S. 47:305.75)

8. Change the effectiveness of proposed law from governor's signature to if and when House Bill No. 1 of this 2024 3rd E.S. is enacted and becomes effective.
9. Make technical changes.

Summary of Amendments Adopted by Senate

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

1. Imposes sales and use tax on certain digital products and digital services and defines "digital product".
2. Adds references to digital products alongside existing references to tangible personal property.
3. Retains certain sales tax credits, tax exemptions and exclusions previously set to be repealed.
4. Retains certain sales of services and provides changes to definitions relative to the furnishing of sleeping rooms, furnishing of admissions, parking or storage of motor vehicles, printing or copying services, laundry or cleaning services, furnishing of cold storage, repairs and maintenance of tangible personal property, and telecommunication currently subject to state and local sales and use tax.
5. Provides a local option for parishes for the Manufacturing Machinery and Equipment Sales Tax Exemption.
6. Makes technical changes.