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DIGEST

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HB 61 Original

2016 First Extraordinary Session

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**Abstract:** Dedicates the avails of the 2% state sales and use tax to the Stability in Higher Education Fund which is established as a special fund in the state treasury, and provides with respect to the base of that tax.

Present law establishes a dedication for economic development activities of an amount equal to 0.004% of all state sales and use tax annual collections that remain after satisfaction of the requirements of the Bond Security and Redemption Fund as required by present constitution. Of that amount, \$2 million is deposited into the Marketing Fund, which is established as a special fund within the state treasury for the support of various specific economic development organizations. All monies in excess of the Marketing Fund allocation are deposited into the La. Economic Development Fund, which is established as a special treasury fund to support a wide variety of economic development activities.

Proposed law changes present law by eliminating the dedication of the avails of the 2% state sales and use tax imposed under Ch. 2 of Subtitle II of Title 47 of the La. Revised Statutes of 1950, as amended, hereinafter the "2% tax". The revenues are instead dedicated to the new Stability in Higher Education fund, established under proposed law.

Proposed law establishes the Stability in Education Fund as a special treasury fund (fund) for purposes of the dedication of the avails of the 2% state sales and use tax.

Proposed law requires that after satisfying the requirements of the Bond Security and Redemption Fund as required by present constitution, the state treasurer shall deposit in and credit to the fund an amount equal to the avails of the 2% tax. The legislature is authorized to appropriate from the fund solely for support of public post-secondary education. Monies in the fund shall be invested in the same manner as the state general fund, and unencumbered and unexpended monies in the fund at the end of a fiscal year shall remain to the credit of the fund.

Present law authorizes a dealer to deduct \$25 per cash register as compensation for the cost of reprogramming cash registers as a result of a change in the state sales and use tax rate or base. The amount is deducted from the state tax collections before they are remitted to the Dept. of Revenue.

Proposed law repeals present law.

Present law imposes a combined 4% rate for state sales and use tax upon the sale at retail, the use, the consumption, the distribution, the storage, lease, or rental of tangible personal property (property) in La., as well as certain specific services.

Present law provides definitions for terms used for purposes of state and local sales and use tax. Present law establishes the following *exclusions* from tax in the form of definitions:

- (1) From the definition of "cost price":

The amount designated as a cash discount or a rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle license tax.

The portion of the value of refinery gas in excess of 52 cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be \$29.

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

Manufacturing machinery and equipment, for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, and specific farm equipment.

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

Property consumed in the manufacturing process by paper and wood products manufacturers.

(2) From the definition of "hotel", for purposes of the sales tax on services, nonprofit camp and retreat facilities, and facilities devoted exclusively to the temporary housing of homeless transient persons who are charged no more than \$20 per day.

(3) From the definition of "lease or rental":

Oilfield drilling equipment to be re-leased or re-rented.

Property used by a private contractor in the performance of a contract for the U.S. Navy.

Airplanes or airplane equipment used by a commuter airline domiciled in La.

Materials and equipment used for instruction by a private elementary or secondary school.

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

Pallets used by a manufacturer for packaging.

(4) From the definition of "person", private colleges and universities.

(5) From the definition of "retail sale":

Natural gas used in certain iron production methods.

Electricity for chlor-alkali manufacturing.

A new school bus or a school bus that is less than 5 years old purchased by an independent operator, to be used to service a public school.

Airplanes and airplane equipment for a commuter airline domiciled in La.

La. manufactured or assembled passenger aircraft to be delivered outside of La.

Pollution control equipment.

Pelletized paper waste used as fuel for power generation.

Property sold by a private elementary or secondary school, the proceeds of which support the school.

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

Telephone directories used for advertising.

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

Used books and course-related software purchased by online private colleges and universities, which materials are provided to students free of charge.

Food bought by a private elementary or secondary school for a breakfast or lunch program.

Storm shutter devices.

Property sold at a military installation.

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

Property sold at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).

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

The first \$50,000 of the sale price of new farm equipment used in poultry production.

That portion of the value of refinery gas sold to another person by the person who owns the gas generation facility, whether at retail or wholesale, that is in excess of 52 cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be \$29.

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

Manufacturing machinery and equipment, for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, and specific farm equipment.

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

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

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

Admissions to and membership fees or dues for nonprofit civic organizations, including by way of illustration and not of limitation the YMCA, YWCA, and Catholic Youth Organizations.

Admissions to museums.

Admissions to nonprofit camp or retreat facilities.

Repairs performed in La. when property is to be exported.

Labor, materials, services, and supplies for repairing, or converting a drilling rig, if the drilling rig is used in Outer Continental Shelf waters.

Services performed by a private contractor under contract with the U.S. Navy for the construction or overhaul of marine vessels.

Services performed at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).

(8) From the definition of "tangible personal property":

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

Geophysical survey information or geophysical data analysis transferred in the form of tangible personal property and furnished under a restricted use agreement.

A used factory built home, and that portion of the value of a new factory built home which exceeds 46%.

Custom computer software.

Equipment used for digital television conversion.

Machinery and equipment used by a glass manufacturer, radio station, or public utility in New Orleans, and tooling machinery used in a compression mold process.

Newspapers.

(9) From the definition of "use":

Rental of motor vehicles and other tangible personal property.

Property sold by a private elementary or secondary school, the proceeds of which support the school.

Free telephone directories used for advertising.

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

Use of educational materials and equipment by private elementary and secondary schools.

Alternative substances as fuel by a manufacturer.

Used books and course-related software by online private colleges and universities if purchased from outside of La. and provided to students free of charge.

Storm shutter device.

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

Proposed law limits the application of the exclusions to the 2% state sales and use taxes.

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

- (1) Animal feed and feed additives for animals kept for business purposes.
- (2) Materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of crawfish.
- (3) Materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of catfish.
- (4) Boiler fuel.
- (5) New trucks, new automobiles, and new aircraft withdrawn from stock by factory authorized new truck, new automobile, new aircraft dealers, and factory-authorized dealers of used trucks and used automobiles withdrawn from stock by new or used motor vehicle dealers, which are withdrawn for use as demonstrators.
- (6) Adaptive driving equipment and motor vehicle modifications prescribed for personal use by a physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the state.
- (7) Amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means supplied by licensors thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensors or distributors thereof.
- (8) Admissions to performances by little theaters.
- (9) Admissions to performances by nonprofit musical organizations.
- (10) Amounts paid by the operator of a motion picture theatre to a distributing agency for use of films of photoplay.
- (11) Admissions to entertainment events furnished by nonprofit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.
- (12) Gate admissions to grounds and parking fees at fairs and festivals sponsored by recognized nonprofit organizations chartered under the state of La.
- (13) Vessels leased for use offshore beyond the territorial limits of La. for the production of oil, gas, sulphur, and other minerals or for the providing of services to those engaged in such production.
- (14) The first \$50,000 of the sales price on certain farm equipment that includes storage for grain and materials for construction of such storage.
- (15) Vehicles loaned by a motor vehicle dealer free of charge to a secondary school, college, or public school board for exclusive use in a driver education program.

- (16) Materials for the construction of and supplies for the operation of any not-for-profit retirement center owned or operated by any public trust authority or not-for-profit.
- (17) Sales of Ducks Unlimited or Bass Life or any of their chapters or any rental or purchase of property or services by Ducks Unlimited or Bass Life or any of their chapters.
- (18) Admission to ballet performances of nonprofit ballet organizations.
- (19) Sales made by nonprofit organizations dedicated to the conservation of fish or migratory waterfowl.
- (20) Raw materials used in printing processes.
- (21) Rentals of freight cars, piggy-back cars, and rolling.
- (22) Pharmaceutical samples distributed without charge.
- (23) Catalogs.
- (24) All transactions of an offtrack wagering facility.
- (25) All transactions of a private contractor for the construction and operation of a sewerage or wastewater treatment facility for a political subdivision.
- (26) All transactions of a nonprofit electric cooperative.
- (27) Racehorses purchased at a claiming race or other sale.
- (28) Steam, water, electric power, and natural gas, boiler fuel utilized for nonresidential purposes (business utilities).
- (29) Water other than mineral, carbonated, and bottled water.
- (30) Any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration.
- (31) Fertilizer and containers used for farm products when sold directly to the farmer.
- (32) New boats, vessels, or other water craft withdrawn from stock by factory authorized dealers of new boats, vessels, or other water craft which are withdrawn for use as demonstrators.
- (33) Meals furnished by educational institutions, hospitals, nursing homes, adult continuing care retirement communities, mental institutions, and boarders of rooming houses.
- (34) Labor, materials, services, and supplies for repairing, or converting a drilling rig, if the drilling rig is used in Outer Continental Shelf waters.
- (35) Sales of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce.
- (36) Regarding ships, barges, or vessels, including drilling ships, operating exclusively in foreign or interstate coastwise commerce:

- (a) Materials and supplies loaded upon any such ship, barge, or vessel for use or consumption in the maintenance and operation thereof.
  - (b) Repair services performed upon those vessels, and materials and supplies used therein.
  - (c) Laundry services performed for the owners or operators of the vessels.
- (37) Pesticides used for agricultural purposes, including insecticides, herbicides and fungicides.
  - (38) Sales, admissions, and parking fees associated with events sponsored by certain nonprofit or religious organizations when the entire proceeds, except for necessary expenses used for educational, charitable, religious, or historical restoration purposes, including the furtherance of the purpose of the organization.
  - (39) Newspapers published in La. by religious organizations.
  - (40) An event sponsored by a domestic nonprofit organization that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code when the event provides La. heritage, culture, crafts, art, food, and music, and the sponsor has contracted for production management and financing services for the event.
  - (41) Installation and service of cable television equipment fees paid by a subscriber.
  - (42) Use of coin-operated washing or drying machines in a commercial laundromat.
  - (43) Purchases of materials, supplies, fuel, and repairs for the vessel of a qualified commercial fisherman.
  - (44) Purchases of materials, supplies, and repair services by certain seafood-processing facilities.
  - (45) The first \$50,000 of the sales price on qualifying irrigation farm equipment.
  - (46) Vehicles loaned by a motor vehicle dealer free of charge to a secondary school, college, or public school board for exclusive use in a driver education program.
  - (47) Gasahol.
  - (48) Diesel fuel, butane, propane, or other liquefied petroleum gases used or consumed for farm purposes.
  - (49) Purchases or sales of specialty items for use in connection with Mardi Gras activities.
  - (50) Purchase of trucks with a gross weight of 26,000 pounds or more and certain trailers if used at least 80% of the time in interstate commerce and whose activities are subject to the jurisdiction of the U.S. D.O.T.
  - (51) Purchase of certain contract carrier buses used 80% of the time in interstate commerce.
  - (52) Rail rolling stock sold or leased in Louisiana.
  - (53) Parts or services used in the fabrication, modification, or repair of rail rolling stock.

- (54) Railroad ties to be modified for installation at a location outside of the taxing jurisdiction.
- (55) Utilities, including electricity, used by steelworks and blast furnaces.
- (56) Purchases of certain items of tangible personal property, made on the first consecutive Friday and Saturday of August each year.
- (57) Sale of original, one-of-a-kind art from an established location within the boundaries of a cultural product district.
- (58) The first \$1,500 of the purchase price of certain hurricane preparedness items or supplies purchased on Saturday and Sunday during the last weekend in May of each year.
- (59) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (60) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (61) Purchases of firearms, ammunition, and hunting supplies for the first consecutive Friday through Sunday of September.
- (62) Purchases of polyroll tubing used for commercial farm irrigation.
- (63) Purchase, lease, or repair of capital equipment or software used to operate capital equipment at qualifying radiation therapy centers.
- (64) Purchase of certain construction materials by Hands on New Orleans and Rebuilding Together New Orleans covenant partners used on residential dwellings destroyed or damaged by Hurricanes Katrina or Rita.
- (65) Parish councils on aging.
- (66) Breastfeeding items.
- (67) Purchase, use, or rental of materials, services, property, and supplies by the Fore!Kids Foundation.
- (68) Purchase of certain construction supplies by the Make it Right Foundation.
- (69) Purchase of certain construction supplies by the St. Bernard Project, Inc.
- (70) Antique airplanes and certain other aircraft.

Proposed law limits the applicability of the exemptions provided in present law to a 2% state sales and use tax rate (R.S. 47:321 and 331).

Present law authorizes a refund of state sales and use taxes paid with regard to certain materials used in the rehabilitation of an existing structure or the construction of a new house and associated improvements in an approved housing development area as provided in the Louisiana Housing Area Development Law.

Proposed law limits the refund provided in present law to the 2% state sales and use tax rate (R.S. 47:321 and 331).



Present law authorizes a refund of state sales and use taxes collected by a qualified charitable organization on the sale of donated tangible personal property or items made from such donated property. The monies refunded must be used exclusively in La. for land acquisition, capital construction, or equipment, or debt service related thereto, or job training, job placement, employment, or other related community services and support program costs.

Proposed law limits the refund provided in present law to the 2% state sales and use tax rate (R.S. 47:321 and 331).

Present law authorizes a refund of state sales and use taxes paid by international travelers.

Proposed law limits the refund provided in present law to the 2% state sales and use tax rate (R.S. 47:321 and 331).

Effective if and when House Bill No. \_\_\_\_\_ and House Bill No. \_\_\_\_\_ of this 2016 R.S. are enacted and become effective and if the statutory language of such bills is identical to the engrossed version of House Bill No. 211 and House Bill No. 495, respectively, of the 2015 R.S.

(Amends R.S. 4:168 and 227, R.S. 12:425, R.S. 22:2065, R.S. 33:4169(D), R.S. 40:582.7 (intro. para.), R.S. 47:301(3), (6) through (10), (13) through (16), (18), and (27), 302(R)(2) and (3), (S), and (T), 305(A)(2), (4)(a), (5) and (6), (D)(1)(b) through (d), (f) through (i), and (u), (2)(a)(introductory paragraph), (F), and (I), 305.1(A) and (B), 305.6 through 305.9, 305.13, 305.14(A)(1), 305.16, 305.17, 305.18(A), 305.19, 305.20(C), 305.25(A)(introductory paragraph), 305.26, 305.28(A), 305.33, 305.37(A), 305.40(A)(introductory paragraph), 305.41, 305.42, 305.43(A), 305.44(A), 305.45(A)(introductory paragraph), 305.47, 305.49, 305.50(A)(1) and (2)(a), (B), (E), and (F), 305.51(A), 305.54(B)(1), 305.57(A), 305.58(A)(1), 305.59, 305.61(A), 305.62(B)(1), 305.63, 305.64(A)(1), 305.65(A), 305.66(A), 305.67, 305.68, 305.70, 305.71, 318(A), 321(H), (I), (J), and (K), 331(P)(3) and (4), (Q) and (R), and 6001(A), and R.S. 51:1307(C); Adds R.S. 39:100.147; Repeals §4 of Act No. 386 of 1990 R.S.)