

2016 First Extraordinary Session

HOUSE BILL NO. 104

BY REPRESENTATIVE STOKES

TAX/SALES-USE, STATE: Provides for the tax base for the state sales and use tax (Items #9 and 36)

1 AN ACT

2 To amend and reenact R.S. 47:301.(3), (6) through (8), (10), (13), (14), (16), and (18),

3 302(A), (B), (C) and 305, and to repeal R.S. 4:168 and 227, R.S. 40:582.1 through

4 582.7, R.S. 47:301(D), 302(D), 302.1, 303(D)(1) and (E)(1), 304(A), 305(D)(1)(a)

5 through (h) and (j) through (u) and (2) through (6), 305.6, 305.7, 305.8, 305.9,

6 305.11, 305.13, 305.14, 305.15(A) and (B), 305.16, 305.17, 305.18, 305.19, 305.25,

7 305.26, 305.33, 305.37, 305.38, 305.40, 305.41, 305.42, 305.43, 305.44, 305.45,

8 305.47, 305.49, 305.50(E)(1) and (2) and (F), 305.51, 305.52, 305.53, 305.54,

9 305.57, 305.58, and (G), 305.56, 305.59, 305.60, 305.61, 305.62, 305.63, 305.64,

10 305.65, 305.66, 305.67, 305.68, 305.69, 305.70, 305.71, 306(A)(2), 306.1, 306.2,

11 315.1, 315.2, 315.3 and 315.5, relative to state sales and use tax; to provide for the

12 definitions necessary for administration and imposition of the tax; to provide rates

13 of tax; to provide for effectiveness; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 47:301.(3), (6) through (8), (10), (13), (14), (16), and (18), 302(A),
16 (B), (C) and 305 are hereby amended and reenacted to read as follows:

17 §301. Definitions

18 As used in this Chapter the following words, terms, and phrases have the
19 meaning ascribed to them in this Section, unless the context clearly indicates a
20 different meaning:

1 * * *

2 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
3 property without any deductions therefrom on account of the cost of materials used,
4 labor, or service cost, except those service costs for installing the articles of tangible
5 personal property if such cost is separately billed to the customer at the time of
6 installation, transportation charges, or any other expenses whatsoever, or the
7 reasonable market value of the tangible personal property at the time it becomes
8 susceptible to the use tax, whichever is less.

9 (b) In the case of tangible personal property which has acquired a tax situs
10 in a taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for
11 repairs performed outside the taxing jurisdiction and is thereafter returned to the
12 taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts
13 and/or materials used in performing such repairs, if applicable labor charges are
14 separately stated on the invoice. If the applicable labor charges are not separately
15 stated on the invoice, it shall be presumed that the cost price is the total charge
16 reflected on the invoice.

17 ~~(c) "Cost price" shall not include the supplying and installation of board~~
18 ~~roads to oil field operators if the installation charges are separately billed to the~~
19 ~~customer at the time of installation.~~

20 ~~(d)(i)~~ (c)(i) In the case of interchangeable components located in Louisiana,
21 a taxpayer may elect to determine the cost price of such components as follows:

22 (aa) The taxpayer shall send to the secretary written notice of the calendar
23 month selected by the taxpayer as the first month for the determination of cost price
24 under this Paragraph (the "First Month"). The taxpayer may select any month. The
25 taxpayer shall send to the secretary notice of an election to designate a First Month
26 on the first day of the designated First Month, or ninety days from July 1, 1990,
27 whichever is later.

28 (bb) For the First Month and each month thereafter, cost price shall be based
29 and use tax shall be paid only on one-sixtieth of the aggregate cost price of the

1 interchangeably components deployed and earning revenue within Louisiana during
2 the month, without regard to any credit or other consideration for Louisiana state,
3 political subdivision, or school board use tax previously paid on such
4 interchangeably components.

5 (cc) Any election made under this Paragraph shall be irrevocable for a period
6 of sixty consecutive months inclusive of the First Month. If at any time after the
7 sixty-month period the taxpayer revokes its election, no credit or other consideration
8 for use taxes paid pursuant thereto shall be applied to any use tax liability arising
9 after such revocation.

10 (ii)(aa) For purposes of this Paragraph, "interchangeably component" means
11 a component that is used or stored for use in measurement-while-drilling instruments
12 or systems manufactured or assembled by the taxpayer, which measurement-while-
13 drilling instruments or systems collectively generate eighty percent or more of their
14 annual revenue from their use outside of the state.

15 (bb) "Measurement-while-drilling instruments or systems" means
16 instruments or systems which measure information from a downhole location in a
17 borehole, transmit the information to the surface during the process of drilling the
18 borehole using a wireless technique, and receive and decode the information on the
19 surface.

20 (iii) The method for determining cost price of interchangeably components
21 provided for in this Paragraph shall apply to any use taxes imposed by a local
22 political subdivision or school board. For purposes of that application, the words
23 "political subdivision" or "school board" as the case may be, shall be substituted for
24 the words "Louisiana" or "State" in each instance where those words appear in this
25 Paragraph and an appropriate official of the local political subdivision or school
26 board shall be designated to receive the notices required by this Paragraph.

27 (e) "Cost price" shall not include any amount designated as a cash discount
28 or a rebate by a vendor or manufacturer of any new vehicle subject to the motor
29 vehicle license tax. For purposes of this Paragraph "rebate" means any amount

1 offered by the vendor or manufacturer as a deduction from the listed retail price of
2 the vehicle.

3 ~~(f) The "cost price" of refinery gas shall be fifty-two cents per thousand~~
4 ~~cubic feet multiplied by a fraction the numerator of which shall be the posted price~~
5 ~~for a barrel of West Texas Intermediate Crude Oil on December first of the preceding~~
6 ~~calendar year and the denominator of which shall be twenty-nine dollars, and~~
7 ~~provided further that such cost price shall be the maximum value placed upon~~
8 ~~refinery gas by the state and by any political subdivision under any authority or grant~~
9 ~~of power to levy and collect use taxes.~~

10 ~~(g) "Cost price", for purposes of the use tax imposed by the state and its~~
11 ~~political subdivisions, shall exclude any amount that a manufacturer pays directly to~~
12 ~~a dealer of the manufacturer's product for the purpose of reducing and that actually~~
13 ~~results in an equivalent reduction in the retail "cost price" of that product. This~~
14 ~~exclusion shall not apply to the value of the coupons that dealers accept from~~
15 ~~purchasers as part payment of the "sales price" and that are redeemable by the~~
16 ~~dealers through manufacturers or their agents. The value of such coupons is deemed~~
17 ~~to be part of the "cost price" of the product purchased through the use of the coupons.~~

18 ~~(h)(i) For purposes of a publishing business which distributes its news~~
19 ~~publications at no cost to readers and pays unrelated third parties to print such news~~
20 ~~publications, the term "cost price" shall mean only the lesser of the following costs:~~

21 ~~(aa) The printing cost paid to unrelated third parties to print such news~~
22 ~~publications, less any itemized freight charges for shipping the news publications~~
23 ~~from the printer to the publishing business and any itemized charges for paper and~~
24 ~~ink.~~

25 ~~(bb) Payments to a dealer or distributor as consideration for distribution of~~
26 ~~the news publications.~~

27 ~~(ii) The definition of "cost price" provided for in this Subparagraph shall be~~
28 ~~applicable to taxes levied by all tax authorities in the state.~~

1 (i)(i) For purposes of the imposition of the use tax levied by the state and any
2 political subdivision whose boundaries are coterminous with those of the state, the
3 cost price of machinery and equipment used by a manufacturer in a plant facility
4 predominately and directly in the actual manufacturing for agricultural purposes or
5 the actual manufacturing process of an item of tangible personal property, which is
6 for ultimate sale to another and not for internal use, at one or more fixed locations
7 within Louisiana, shall be reduced as follows:

8 (aa) For the period ending on June 30, 2005, the cost price shall be reduced
9 by five percent.

10 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
11 cost price shall be reduced by nineteen percent.

12 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
13 cost price shall be reduced by thirty-five percent.

14 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
15 cost price shall be reduced by fifty-four percent.

16 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
17 cost price shall be reduced by sixty-eight percent.

18 (ff) For all periods beginning on or after July 1, 2009, the cost price shall be
19 reduced by one hundred percent.

20 (ii) For purposes of this Subparagraph, the following definitions shall apply:

21 (aa) "Machinery and equipment" means tangible personal property or other
22 property that is eligible for depreciation for federal income tax purposes and that is
23 used as an integral part in the manufacturing of tangible personal property for sale.
24 "Machinery and equipment" shall also mean tangible personal property or other
25 property that is eligible for depreciation for federal income tax purposes and that is
26 used as an integral part of the production, processing, and storing of food and fiber
27 or of timber.

28 (I) Machinery and equipment, for purposes of this Subparagraph, also
29 includes but is not limited to the following:

1 (aaa) Computers and software that are an integral part of the machinery and
2 equipment used directly in the manufacturing process.

3 (bbb) Machinery and equipment necessary to control pollution at a plant
4 facility where pollution is produced by the manufacturing operation.

5 (ccc) Machinery and equipment used to test or measure raw materials, the
6 property undergoing manufacturing or the finished product, when such test or
7 measurement is a necessary part of the manufacturing process.

8 (ddd) Machinery and equipment used by an industrial manufacturing plant
9 to generate electric power for self consumption or cogeneration.

10 (eee) Machinery and equipment used primarily to produce a news
11 publication whether it is ultimately sold at retail or for resale or at no cost. Such
12 machinery and equipment shall include but not be limited to all machinery and
13 equipment used primarily in composing, creating, and other prepress operations,
14 electronic transmission of pages from prepress to press, pressroom operations, and
15 mailroom operations and assembly activities. The term "news publication" shall
16 mean any publication issued daily or regularly at average intervals not exceeding
17 three months, which contains reports of varied character, such as political, social,
18 cultural, sports, moral, religious, or subjects of general public interest, and
19 advertising supplements and any other printed matter ultimately distributed with or
20 a part of such publications.

21 (II) Machinery and equipment, for purposes of this Subparagraph, does not
22 include any of the following:

23 (aaa) A building and its structural components, unless the building or
24 structural component is so closely related to the machinery and equipment that it
25 houses or supports that the building or structural component can be expected to be
26 replaced when the machinery and equipment are replaced.

27 (bbb) Heating, ventilation, and air-conditioning systems, unless their
28 installation is necessary to meet the requirements of the manufacturing process, even

1 though the system may provide incidental comfort to employees or serve, to an
2 insubstantial degree, nonproduction activities.

3 (ccc) Tangible personal property used to transport raw materials or
4 manufactured goods prior to the beginning of the manufacturing process or after the
5 manufacturing process is complete.

6 (ddd) Tangible personal property used to store raw materials or
7 manufactured goods prior to the beginning of the manufacturing process or after the
8 manufacturing process is complete.

9 (bb) "Manufacturer" means:

10 (I) A person whose principal activity is manufacturing, as defined in this
11 Subparagraph, and who is assigned by the Louisiana Workforce Commission a North
12 American Industrial Classification System code within the agricultural, forestry,
13 fishing, and hunting Sector 11, the manufacturing Sectors 31-33, the information
14 Sector 511110 as they existed in 2002, or industry code 423930 as a recyclable
15 material merchant wholesaler engaged in manufacturing activities, which must
16 include shredding facilities, as determined by the secretary of the Department of
17 Revenue.

18 (II) A person whose principal activity is manufacturing and who is not
19 required to register with the Louisiana Workforce Commission for purposes of
20 unemployment insurance, but who would be assigned a North American Industrial
21 Classification System code within the agricultural, forestry, fishing, and hunting
22 Sector 11, the manufacturing Sectors 31-33, the information Sector 511110 as they
23 existed in 2002, as determined by the Louisiana Department of Revenue from federal
24 income tax data, if he were required to register with the Louisiana Workforce
25 Commission for purposes of unemployment insurance.

26 (cc) "Manufacturing" means putting raw materials through a series of steps
27 that brings about a change in their composition or physical nature in order to make
28 a new and different item of tangible personal property that will be sold to another.
29 Manufacturing begins at the point at which raw materials reach the first machine or

1 piece of equipment involved in changing the form of the material and ends at the
2 point at which manufacturing has altered the material to its completed form. Placing
3 materials into containers, packages, or wrapping in which they are sold to the
4 ultimate consumer is part of this manufacturing process. Manufacturing, for
5 purposes of this Subparagraph, does not include any of the following:

6 (I) Repackaging or redistributing.

7 (II) The cooking or preparing of food products by a retailer in the regular
8 course of retail trade.

9 (III) The storage of tangible personal property.

10 (IV) The delivery of tangible personal property to or from the plant.

11 (V) The delivery of tangible personal property to or from storage within the
12 plant.

13 (VI) Actions such as sorting, packaging, or shrink wrapping the final
14 material for ease of transporting and shipping.

15 (dd) "Manufacturing for agricultural purposes" means the production,
16 processing, and storing of food and fiber and the production, processing, and storing
17 of timber.

18 (ee) "Plant facility" means a facility, at one or more locations, in which
19 manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial
20 Classification system as of 2002, of a product of tangible personal property takes
21 place.

22 (ff) "Used directly" means used in the actual process of manufacturing or
23 manufacturing for agricultural purposes.

24 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
25 equipment as defined herein without payment of the tax imposed by R.S. 47:302,
26 321, and 331 before receiving a certificate of exclusion from the secretary of the
27 Department of Revenue certifying that he is a manufacturer as defined herein.

1 (iv) The secretary of the Department of Revenue is hereby authorized to
2 adopt rules and regulations in order to administer the exclusion provided for in this
3 Subparagraph.

4 (j) For the purpose of the sales and use taxes imposed by the state ~~or any~~
5 ~~political subdivision whose boundaries are coterminous with those of the state~~, the
6 "cost price" of electric power or energy, or natural gas for the period beginning July
7 1, 2007 and thereafter, purchased or used by paper or wood products manufacturing
8 facilities shall not include any of such cost.

9 ~~(k)(i) For purposes of the imposition of the sales and use tax levied by the~~
10 ~~state or any political subdivision whose boundaries are coterminous with those of the~~
11 ~~state, the tax on the cost price of tangible property consumed in the manufacturing~~
12 ~~process, such as fuses, belts, felts, wires, conveyor belts, lubricants, and motor oils~~
13 ~~and the tax on the cost price of repairs and maintenance of manufacturing machinery~~
14 ~~and equipment shall be reduced as follows:~~

15 ~~(aa) For the period beginning July 1, 2010, and ending on June 30, 2011, the~~
16 ~~state sales and use tax on the cost price shall be reduced by twenty-five percent.~~

17 ~~(bb) For the period beginning July 1, 2011, and ending June 30, 2012, the~~
18 ~~state sales and use tax on the cost price shall be reduced by fifty percent.~~

19 ~~(cc) For the period beginning July 1, 2012, and ending June 30, 2013, the~~
20 ~~state sales and use tax on the cost price shall be reduced by seventy-five percent.~~

21 ~~(dd) For all periods beginning on and after July 1, 2013, the state sales and~~
22 ~~use tax on the cost price shall be reduced by one hundred percent.~~

23 ~~(ii) For purposes of this Subparagraph, "manufacturer" means a person~~
24 ~~whose principal activity is manufacturing and who is assigned an industry group~~
25 ~~designation by the United States Census of 3211 through 3222 or 113310 pursuant~~
26 ~~to the North American Industry Classification System of 2007.~~

27 * * *

28 ~~(6)(a)~~ "Hotel" means and includes any establishment engaged in the business
29 of furnishing sleeping rooms, cottages, or cabins to transient guests, where such

1 establishment consists of six or more sleeping rooms, cottages, or cabins at a single
2 business location.

3 ~~(b) For purposes of the sales and use taxes of all tax authorities in this state,~~
4 ~~the term "hotel" as defined herein shall not include camp and retreat facilities owned~~
5 ~~and operated by nonprofit organizations exempt from federal income tax under~~
6 ~~Section 501(a) of the Internal Revenue Code as an organization described in Section~~
7 ~~501(c)(3) of the Internal Revenue Code provided that the net revenue derived from~~
8 ~~the organizations's property is devoted wholly to the nonprofit organization's~~
9 ~~purposes. However, for purposes of this Paragraph, the term "hotel" shall include~~
10 ~~camp and retreat facilities which shall sell rooms or other accommodations to~~
11 ~~transient guests who are not attending a function of such nonprofit organization that~~
12 ~~owns and operates the camp and retreat facilities or a function of another nonprofit~~
13 ~~organization exempt from federal income tax under Section 501(a) of the Internal~~
14 ~~Revenue Code as an organization described in Section 501(c)(3) of the Internal~~
15 ~~Revenue Code. It is the intention of the legislature to tax the furnishing of rooms to~~
16 ~~those who merely purchase lodging at such facilities.~~

17 ~~(c) For purposes of the sales and use taxes of all tax authorities in this state,~~
18 ~~the term "hotel", as defined herein, shall not include a temporary lodging facility~~
19 ~~which is operated by a nonprofit organization described in Section 501(c)(3) of the~~
20 ~~Internal Revenue Code, provided that the facility is devoted exclusively to the~~
21 ~~temporary housing, for periods no longer than thirty days' duration, of homeless~~
22 ~~transient persons whom the organization determines to be financially incapable of~~
23 ~~engaging lodging at a facility defined by Subparagraph (a) of this Paragraph, and~~
24 ~~further provided that the lodging charge to such persons is no greater than twenty~~
25 ~~dollars per day.~~

26 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
27 property and the possession or use thereof by the lessee or renter, for a consideration,
28 without transfer of the title of such property. For the purpose of the leasing or
29 renting of automobiles, "lease" means the leasing of automobiles and the possession

1 or use thereof by the lessee, for a consideration, without the transfer of the title of
2 such property for a one hundred eighty-day period or more. "Rental" means the
3 renting of automobiles and the possession or use thereof by the renter, for a
4 consideration, without the transfer of the title of such property for a period less than
5 one hundred eighty days.

6 (b) ~~The term "lease or rental", however, as herein defined, shall not mean or~~
7 ~~include the lease or rental made for the purposes of re-lease or re-rental of casing~~
8 ~~tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other~~
9 ~~drilling or related equipment used in connection with the operating, drilling,~~
10 ~~completion, or reworking of oil, gas, sulphur, or other mineral wells.~~

11 (c) ~~The term "lease or rental", as herein defined shall not mean or include~~
12 ~~a lease or rental of property to be used in performance of a contract with the United~~
13 ~~States Department of the Navy for construction or overhaul of U.S. Naval vessels.~~

14 (d) ~~The term "lease or rental", as herein defined, shall not mean the lease or~~
15 ~~rental of airplanes or airplane equipment by a commuter airline domiciled in~~
16 ~~Louisiana.~~

17 (e) ~~For purposes of state and political subdivision sales and use tax, the term~~
18 ~~"lease or rental", as herein defined, shall not mean the lease or rental of items,~~
19 ~~including but not limited to supplies and equipment, which are reasonably necessary~~
20 ~~for the operation of free hospitals.~~

21 (f) ~~For purposes of "lease or rental" shall not mean the lease or rental of~~
22 ~~educational materials or equipment used for classroom instruction by approved~~
23 ~~parochial and private elementary and secondary schools which comply with the court~~
24 ~~order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal~~
25 ~~Revenue Code, limited to books, workbooks, computers, computer software, films,~~
26 ~~videos, and audio tapes.~~

27 (g) ~~For purposes of state and political subdivision sales and use tax, "lease~~
28 ~~or rental" shall not mean the lease or rental of tangible personal property to Boys~~

1 ~~State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such~~
2 ~~organizations for their educational and public service programs for youth.~~

3 ~~(h) For purposes of state and political subdivision sales and use tax, the term~~
4 ~~"lease or rental" shall not mean or include the lease or rental of motor vehicles by~~
5 ~~licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle~~
6 ~~manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased~~
7 ~~or rented motor vehicles to their customers in performance of their obligations under~~
8 ~~warranty agreements associated with the purchase of a motor vehicle or when the~~
9 ~~applicable warranty has lapsed and the leased or rented motor vehicle is provided to~~
10 ~~the customer at no charge.~~

11 ~~(i) For purposes of sales and use taxes levied and imposed by local~~
12 ~~governmental subdivisions, school boards, and other political subdivisions whose~~
13 ~~boundaries are not coterminous with those of the state, "lease or rental" by a person~~
14 ~~shall not mean or include the lease or rental of tangible personal property if such~~
15 ~~lease or rental is made under the provisions of Medicare.~~

16 ~~(j) Solely for purposes of the sales and use tax levied by the state or any~~
17 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
18 ~~term "lease or rental" shall not include the lease or rental in this state of~~
19 ~~manufacturing machinery and equipment used or consumed in this state to~~
20 ~~manufacture, produce, or extract unblended biodiesel.~~

21 ~~(k)(i) For purposes of any sales, use, or lease tax levied by the state or any~~
22 ~~political subdivision of the state, the term "lease or rental" shall not include the lease~~
23 ~~or rental of a crane and related equipment with an operator.~~

24 ~~(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes~~
25 ~~leased or rented with an operator are subject to the provisions of the sales and use tax~~
26 ~~law upon first use in Louisiana.~~

27 ~~(l)(i) For purposes of the sales and use tax levied by all tax authorities in this~~
28 ~~state, the term "lease or rental" shall not apply to leases or rentals of pallets which~~
29 ~~are used in packaging products produced by a manufacturer.~~

1 ~~(ii) For purposes of this Subparagraph, the term "manufacturer" shall mean~~
2 ~~a person whose primary activity is manufacturing and who is assigned by the~~
3 ~~Louisiana Workforce Commission a North American Industrial Classification~~
4 ~~System code within the manufacturing sectors 31-33 as they existed in 2002.~~

5 (8)(a) "Person", except as provided in Subparagraph (c), includes any
6 individual, firm, copartnership, joint adventure, association, corporation, estate, trust,
7 business trust, receiver, syndicate, this state, any parish, city and parish,
8 municipality, district or other political subdivision thereof or any board, agency,
9 instrumentality, or other group or combination acting as a unit, and the plural as well
10 as the singular number.

11 ~~(b) Solely for purposes of the payment of state sales or use tax on the lease~~
12 ~~or rental or the purchase of tangible personal property or services, "person" shall not~~
13 ~~include a regionally accredited independent institution of higher education which is~~
14 ~~a member of the Louisiana Association of Independent Colleges and Universities,~~
15 ~~if such lease or rental or purchase is directly related to the educational mission of~~
16 ~~such institution. However, the term "person" shall include such institution for~~
17 ~~purposes of the payment of tax on sales by such institution if the sales are not~~
18 ~~otherwise exempt.~~

19 (c)(i) For purposes of the payment of the state sales and use tax and the sales
20 and use tax levied by any political subdivision, "person" shall not include this state,
21 any parish, city and parish, municipality, district, or other political subdivision
22 thereof, or any agency, board, commission, or instrumentality of this state or its
23 political subdivisions.

24 (ii) Upon request by any political subdivision for an exemption identification
25 number, the Department of Revenue shall issue such number. The secretary may
26 promulgate rules and regulations in accordance with the Administrative Procedure
27 Act to carry out the provisions of this Item.

28 (d)(i) For purposes of the payment of the state sales and use tax and the sales
29 and use tax levied by any political subdivision, the term "person" shall not include

1 a church or synagogue that is recognized by the United States Internal Revenue
2 Service as entitled to exemption under Section 501(c)(3) of the United States Internal
3 Revenue Code.

4 (ii) The secretary of the Department of Revenue shall promulgate rules and
5 regulations defining the terms "church" and "synagogue" for purposes of this
6 exclusion. The definitions shall be consistent with the criteria established by the
7 U.S. Internal Revenue Service in identifying organizations that qualify for church
8 status for federal income tax purposes.

9 (iii) No church or synagogue shall claim exemption or exclusion from the
10 state sales and use tax or the sales and use tax levied by any political subdivision
11 before having obtained a certificate of authorization from the secretary of the
12 Department of Revenue. The secretary shall develop applications for such
13 certificates. The certificates shall be issued without charge to the institutions that
14 qualify.

15 (iv) The exclusion from the sales and use tax authorized by this
16 Subparagraph shall apply only to purchases of bibles, song books, or literature used
17 for religious instruction classes.

18 (e)(i) For purposes of the payment of the state sales and use tax and the sales
19 and use tax levied by any political subdivision, the term "person" shall not include
20 the Society of the Little Sisters of the Poor.

21 (ii) The secretary of the Department of Revenue shall promulgate rules and
22 regulations for purposes of this exclusion. The definitions shall be consistent with
23 the criteria established by the U.S. Internal Revenue Service in identifying tax-
24 exempt status for federal income tax purposes.

25 (iii) No member of the Society of the Little Sisters of the Poor shall claim
26 exemption or exclusion from the state sales and use tax or the sales and use tax
27 levied by any political subdivision before having obtained a certificate of
28 authorization from the secretary of the Department of Revenue. The secretary shall

1 state, and shall mean and include all such transactions as the collector, upon
2 investigation, finds to be in lieu of sales; provided that sales for resale be made in
3 strict compliance with the rules and regulations. Any dealer making a sale for resale,
4 which is not in strict compliance with the rules and regulations shall himself be liable
5 for and pay the tax. A local collector shall accept a resale certificate issued by the
6 Department of Revenue, provided the taxpayer includes the parish of its principal
7 place of business and local sales tax account number on the state certificate.
8 However, in the case of an intra-parish transaction from dealer to dealer, the
9 collector may require that the local exemption certificate be used in lieu of the state
10 certificate. The department shall accommodate the inclusion of such information on
11 its resale certificate for such purposes.

12 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
13 imposed by the state tax on transactions involving the sale for rental of automobiles
14 which take place on or after January 1, 1991, and by political subdivisions on such
15 transactions on or after July 1, 1996, and state sales and use taxes imposed tax on
16 transactions involving the lease or rental of tangible personal property other than
17 automobiles which take place on or after July 1, 1991, means a sale to a consumer
18 or to any other person for any purpose other than for resale as tangible personal
19 property, or for lease or rental in an arm's length transaction in the form of tangible
20 personal property, and shall mean and include all such transactions as the secretary,
21 upon investigation, finds to be in lieu of sales; provided that sales for resale or for
22 lease or rental in an arm's length transaction must be made in strict compliance with
23 the rules and regulations. Any dealer making a sale for resale or for lease or rental,
24 which is not in strict compliance with the rules and regulations, shall himself be
25 liable for and pay the tax. For purposes of the imposition of the tax imposed by any
26 political subdivision of the state, for the period beginning on July 1, 1999, and
27 ending on June 30, 2000, the term "retail sale" or "sale at retail" shall not include
28 one-fourth of the sales price of any tangible personal property which is sold in order
29 to be leased or rented in an arm's length transaction in the form of tangible personal

1 property. For purposes of the imposition of the tax imposed by any political
2 subdivision of the state, for the period beginning on July 1, 2000, and ending on June
3 30, 2001, the term "retail sale" or "sale at retail" shall not include one-half of the
4 sales price of any tangible personal property which is sold in order to be leased or
5 rented in an arm's length transaction in the form of tangible personal property. For
6 purposes of the imposition of the tax imposed by any political subdivision of the
7 state, for the period beginning on July 1, 2001, and ending on June 30, 2002, the
8 term "retail sale" or "sale at retail" shall not include three-fourths of the sales price
9 of any tangible personal property which is sold in order to be leased or rented in an
10 arm's length transaction in the form of tangible personal property. Beginning July
11 1, 2002, for the purposes of imposition of the tax levied by any political subdivision
12 of the state, the term "retail sale" or "sale at retail" shall not include the sale of any
13 tangible personal property which is sold in order to be leased or rented in an arm's
14 length transaction in the form of tangible personal property.

15 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
16 imposed by the state on transactions involving the sale for rental of automobiles
17 which take place prior to January 1, 1991, and by political subdivisions on such
18 transactions prior to July 1, 1996, and imposed on transactions involving the lease
19 or rental of tangible personal property other than autos which take place prior to July
20 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions
21 except for transactions involving the sale for rental of automobiles on or after July
22 1, 1996, means a sale to a consumer or to any other person for any purpose other
23 than for resale in the form of tangible personal property, and shall mean and include
24 all such transactions as the secretary, upon investigation, finds to be in lieu of sales;
25 provided that sales for resale must be made in strict compliance with the rules and
26 regulations. Any dealer making a sale for resale, which is not in strict compliance
27 with the rules and regulations, shall himself be liable for and pay the tax. However,
28 contrary provisions of law notwithstanding, any political subdivision may, by

1 ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii)
2 of this Subparagraph for purposes of the imposition of its sales and use tax.

3 (v) Became null and void on June 30, 2006.

4 ~~(vi) Solely for purposes of the payment of state sales and use tax, until~~
5 ~~January 1, 2007, the term "sale at retail" shall not include purchases made in~~
6 ~~connection with the filming or production of a motion picture by a motion picture~~
7 ~~production company which has been relieved from the payment of state sales and use~~
8 ~~tax under the provisions of Chapter 12 of Subtitle H of this Title, also known as the~~
9 ~~"Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively~~
10 ~~revoked if it is determined that a motion picture production company that has been~~
11 ~~relieved from payment of state sales and use tax under Chapter 12 failed to meet the~~
12 ~~conditions of such relief.~~

13 ~~(b)(i) Solely for purposes of the sales and use tax levied by the state, the sale~~
14 ~~of tangible personal property to a dealer who purchases said property for resale~~
15 ~~through coin-operated vending machines shall be considered a "sale at retail", subject~~
16 ~~to such tax. The subsequent resale of the property by the dealer through~~
17 ~~coin-operated vending machines shall not be considered a "sale at retail".~~

18 ~~(ii) Solely for purposes of the sales and use tax levied by political~~
19 ~~subdivisions, the term "sale at retail" shall include the sale of tangible personal~~
20 ~~property by a dealer through coin-operated vending machines.~~

21 ~~(c)(i)(aa) The term "sale at retail" does not include sale of materials for~~
22 ~~further processing into articles of tangible personal property for sale at retail.~~

23 ~~(bb) Solely for purposes of the sales and use tax levied by the state under~~
24 ~~R.S. 47:331, natural gas when used in the production of iron in the process known~~
25 ~~as the "direct reduced iron process" is not a catalyst and is recognized by the~~
26 ~~legislature to be a material for further processing into an article of tangible personal~~
27 ~~property for sale at retail.~~

1 ~~(ii)(aa) Solely for purposes of the sales and use tax levied by the state, the~~
2 ~~term "sale at retail" does not include sales of electricity for chlor-alkali~~
3 ~~manufacturing processes.~~

4 ~~(bb)~~ The term "sale at retail" does not include an isolated or occasional sale
5 of tangible personal property by a person not engaged in such business.

6 (d) The term "sale at retail" does not include the sale of any human tissue
7 transplants, which shall be defined to include all human organs, bone, skin, cornea,
8 blood, or blood products transplanted from one individual into another recipient
9 individual.

10 (e) The term "sale at retail" does not include the sale of raw agricultural
11 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in
12 preparing, finishing, manufacturing, or producing crops or animals for market. The
13 Department of Agriculture and Forestry may develop and promulgate guidelines to
14 determine who meets this definition. Any person meeting such guidelines shall
15 receive a certificate from the Department of Agriculture and Forestry indicating that
16 such person is eligible to purchase such items without paying tax thereon.

17 ~~(f) Notwithstanding any other law to the contrary, for purposes of the~~
18 ~~imposition of the sales and use tax of any political subdivision, the sale of a vehicle~~
19 ~~subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be~~
20 ~~deemed to be a "retail sale" or a "sale at retail":~~

21 ~~(i) In the political subdivision of the principal residence of the purchaser if~~
22 ~~the vehicle is purchased for private use, or~~

23 ~~(ii) In the political subdivision of the principal location of the business if the~~
24 ~~vehicle is purchased for commercial use, unless the vehicle purchased for~~
25 ~~commercial use is assigned, garaged, and used outside of such political subdivision,~~
26 ~~in which case the sale shall be deemed a "retail sale" or a "sale at retail" in the~~
27 ~~political subdivision where the vehicle is assigned, garaged, and used.~~

28 (g) The term "retail sale" does not include a sale of corporeal movable
29 property which is intended for future sale to the United States government or its

1 agencies, when title to such property is transferred to the United States government
2 or its agencies prior to the incorporation of that property into a final product.

3 (h) The term "sale at retail" does not include the sale of food items by youth
4 serving organizations chartered by congress.

5 ~~(i) The term "sale at retail" does not include the purchase of a new school
6 bus or a used school bus which is less than five years old by an independent operator,
7 when such bus is to be used exclusively in a public school system. This exclusion
8 shall apply to all sales and use taxes levied by any local political subdivision.~~

9 ~~(j) The term "sale at retail" does not include the sale of tangible personal
10 property to food banks, as defined in R.S. 9:2799.~~

11 ~~(k) The term "sale at retail" shall not include the sale of airplanes or airplane
12 equipment or parts to a commuter airline domiciled in Louisiana.~~

13 ~~(l) Solely for purposes of the state sales and use tax, the term "sale at retail"
14 shall not include the sale of a pollution control device or system. Pollution control
15 device or system shall mean any tangible personal property approved by the
16 Department of Revenue and the Department of Environmental Quality and sold or
17 leased and used or intended for the purpose of eliminating, preventing, treating, or
18 reducing the volume or toxicity or potential hazards of industrial pollution of air,
19 water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana.
20 For the purposes of any sales and use tax levied by a political subdivision, the term
21 "sale at retail" shall include the sale of a pollution control device or system. In order
22 to qualify, the pollution control device or system must demonstrate either: a net
23 decrease in the volume or toxicity or potential hazards of pollution as a result of the
24 installation of the device or system; or that installation is necessary to comply with
25 federal or state environmental laws or regulations.~~

26 ~~(m) For purposes of sales and use taxes imposed or levied by the state or any
27 political subdivision, the term "sale at retail" shall not include the sales of Louisiana-
28 manufactured or Louisiana-assembled passenger aircraft with a maximum capacity
29 of eight persons, if, after all transportation, including transportation by the purchaser,~~

1 ~~has been completed, the aircraft is ultimately received by the purchaser outside of~~
2 ~~Louisiana. The place at which the aircraft is ultimately received shall be considered~~
3 ~~as the place at which the aircraft is stored after all transportation has been completed.~~

4 ~~(n) For purposes of sales and use taxes imposed or levied by the state or any~~
5 ~~political subdivision thereof, the term "sale at retail" shall not include the sales of~~
6 ~~pelletized paper waste when purchased for use as combustible fuel by an electric~~
7 ~~utility or in an industrial manufacturing, processing, compounding, reuse, or~~
8 ~~production process, including the generation of electricity or process steam, at a~~
9 ~~fixed location in this state. However, such sale shall not be excluded unless the~~
10 ~~purchaser has signed a certificate stating that the fuel purchased is for the exclusive~~
11 ~~use designated herein. For purposes of this Subparagraph, "pelletized paper waste"~~
12 ~~means pellets produced from discarded waste paper that has been diverted or~~
13 ~~removed from solid waste which is not marketable for recycling and which is wetted,~~
14 ~~extruded, shredded, or formulated into compact pellets of various sizes for use as a~~
15 ~~supplemental fuel in a permitted boiler.~~

16 ~~(o) For the purposes of sales and use taxes imposed or levied by the state or~~
17 ~~any local governmental subdivision or school board, the term "sale at retail" shall not~~
18 ~~include the sale or purchase of equipment used in fire fighting by bona fide volunteer~~
19 ~~and public fire departments.~~

20 ~~(p) For purposes of state and political subdivision sales and use tax, the term~~
21 ~~"sale at retail" shall not include the sale of items, including but not limited to~~
22 ~~supplies and equipment, or the sale of services as provided in this Section, which are~~
23 ~~reasonably necessary for the operation of free hospitals.~~

24 ~~(q) For purposes of state and political subdivision sales and use tax, the term~~
25 ~~"sale at retail" shall not include:~~

26 ~~(i) The sale of tangible personal property by approved parochial and private~~
27 ~~elementary and secondary schools which comply with the court order from the Dodd~~
28 ~~Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,~~
29 ~~administrators, or teachers, or other employees of the school, if the money from such~~

1 sales, less reasonable and necessary expenses associated with the sale, is used solely
2 and exclusively to support the school or its program or curricula. This exclusion
3 shall not be construed to allow tax-free sales to students or their families by
4 promoters or regular commercial dealers through the use of schools, school faculty,
5 or school facilities.

6 (ii) ~~The sale to approved parochial and private elementary and secondary~~
7 ~~schools which comply with the court order from the Dodd Brumfield decision and~~
8 ~~Section 501(c)(3) of the Internal Revenue Code of educational materials or~~
9 ~~equipment used for classroom instruction limited to books, workbooks, computers,~~
10 ~~computer software, films, videos, and audio tapes.~~

11 (r) ~~For purposes of state and political subdivision sales and use tax, the term~~
12 ~~"sale at retail" shall not include the sale of tangible personal property to Boys State~~
13 ~~of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such~~
14 ~~organizations for their educational and public service programs for youth.~~

15 (s) ~~The term "sale at retail" or "retail sale", for purposes of sales and use~~
16 ~~taxes imposed by the state or any political subdivision or other taxing entity, shall~~
17 ~~not include any charge, fee, money, or other consideration received, given, or paid~~
18 ~~for the performance of funeral directing services. For purposes of this Subparagraph,~~
19 ~~"funeral directing services" means the operation of a funeral home, or by way of~~
20 ~~illustration and not limitation, any service whatsoever connected with the~~
21 ~~management of funerals, or the supervision of hearses or funeral cars, the cleaning~~
22 ~~or dressing of dead human bodies for burial, and the performance or supervision of~~
23 ~~any service or act connected with the management of funerals from time of death~~
24 ~~until the body or bodies are delivered to the cemetery, crematorium, or other agent~~
25 ~~for the purpose of disposition. However, such services shall not mean or include the~~
26 ~~sale, lease, rental, or use of any tangible personal property as those terms are defined~~
27 ~~in this Section.~~

28 (t) ~~For purposes of sales and use taxes levied by the state or any political~~
29 ~~subdivision of the state, the term "sale at retail" shall not include the transfer of title~~

1 ~~to or possession of telephone directories by an advertising company that is not~~
2 ~~affiliated with a provider of telephone services if the telephone directories will be~~
3 ~~distributed free of charge to the recipients of the telephone directories.~~

4 ~~(u) For purposes of sales and use taxes levied and imposed by local~~
5 ~~governmental subdivisions, school boards, and other political subdivisions whose~~
6 ~~boundaries are not coterminous with those of the state, "sale at retail" by a person~~
7 ~~shall not mean or include the sale of tangible personal property if such sale is made~~
8 ~~under the provisions of Medicare.~~

9 ~~(v) For purposes of the imposition of sales and use taxes imposed or levied~~
10 ~~by all taxing authorities in the state, in the case of the sale or other disposition by a~~
11 ~~dealer of any cellular, PCS, or wireless telephone, or any electronic accessories that~~
12 ~~are physically connected with such telephones and personal communication devices~~
13 ~~used in connection with the sale or use of mobile telecommunications services, the~~
14 ~~term "retail sale" or "sale at retail" shall mean and include the sale or any other~~
15 ~~disposition of such cellular, PCS, or wireless telephone, any electronic accessories~~
16 ~~that are physically connected with such telephones and personal communication~~
17 ~~devices by the dealer to the purchaser, but shall not mean or include the withdrawal,~~
18 ~~use, distribution, consumption, storage, donation, or any other disposition of any~~
19 ~~such cellular, PCS, or wireless telephone, any electronic accessories that are~~
20 ~~physically connected with such telephones, and personal communication devices by~~
21 ~~the dealer.~~

22 ~~(w) For purposes of the imposition of sales and use taxes imposed or levied~~
23 ~~by any political subdivision of the state, in the case of the sale or other disposition~~
24 ~~by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other~~
25 ~~wireless personal communication device that is used in connection with the sale or~~
26 ~~use of mobile telecommunications services, or any electronic accessory that is~~
27 ~~physically connected with any such telephone or personal communication device, the~~
28 ~~term "retail sale" or "sale at retail" shall mean and include the sale or any other~~

1 ~~disposition of any such telephone, other personal communication device, or~~
2 ~~electronic accessory.~~

3 ~~(x) For purposes of the sales and use tax imposed by the state or any political~~
4 ~~subdivision whose boundaries are coterminous with those of the state, the terms~~
5 ~~"retail sale" or "sale at retail" shall not include the following:~~

6 ~~(i) The sale or purchase by a person of any fuel or gas, including but not~~
7 ~~limited to butane and propane.~~

8 ~~(ii) Beginning July 1, 2008, the sale or purchase by any person of butane and~~
9 ~~propane.~~

10 ~~(y)(i) Solely for the purposes of sales and use taxes levied by the state or any~~
11 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
12 ~~term "sale at retail" shall not include the sale of manufacturing machinery and~~
13 ~~equipment used or consumed in this state to manufacture, produce, or extract~~
14 ~~unblended biodiesel.~~

15 ~~(ii) As used in this Subparagraph, the following words and phrases have the~~
16 ~~meaning ascribed to them:~~

17 ~~(aa) "Manufacturing machinery and equipment" means tangible property~~
18 ~~used or consumed, or held for use or consumption, as an integral part of a biodiesel~~
19 ~~manufacturing, production, or extraction facility, process, or item of equipment.~~
20 ~~Property shall be considered to be an integral part of such biodiesel manufacturing,~~
21 ~~production, or extraction facility, process, or item of equipment only if such property~~
22 ~~is used or consumed directly in the manufacturing, production, or extraction process~~
23 ~~or is part of, physically attached to, or otherwise directly associated with such~~
24 ~~property. Property, the installation of which is reasonably necessary for the proper~~
25 ~~installation, operation, maintenance of property which directly results in such~~
26 ~~manufacturing, production, or extraction shall be considered as directly associated~~
27 ~~with such property.~~

28 ~~(bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of~~
29 ~~long chain fatty acids derived from vegetable oils or animal fats, designated B100;~~

1 ~~and meeting the requirements of the definition provided for in D 6751 of the~~
2 ~~American Society of Testing and Materials (ATDM D 6751), before such fuel is~~
3 ~~blended with a petroleum-based diesel fuel.~~

4 ~~(z) Solely for the purposes of sales and use taxes levied by the state under~~
5 ~~R.S. 47:302 and 331 or any political subdivision whose boundaries are coterminous~~
6 ~~with those of the state, the term "sale at retail" shall not include the sale of any~~
7 ~~alternative substance when such alternative substance is used as a fuel by a~~
8 ~~manufacturer. "Alternative substance" means any substance other than oil and~~
9 ~~natural gas and any product of oil and natural gas. "Alternative substance" shall~~
10 ~~include petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, or~~
11 ~~tire-derived fuel, but not coal, lignite, refinery gas, nuclear fuel, or electricity.~~
12 ~~"Manufacturer" means a person whose principal activity is manufacturing and who~~
13 ~~is assigned by the Louisiana Workforce Commission a North American Industrial~~
14 ~~Classification System code with the agricultural, forestry, fishing, and hunting Sector~~
15 ~~11 or the manufacturing Sectors 31-33 as they existed in 2002.~~

16 ~~(aa)(i) For purposes of sales and use taxes imposed or levied by the state or~~
17 ~~any political subdivision of the state, the term "sale at retail" shall not include the~~
18 ~~sale of toys to a non-profit organization exempt from federal taxation pursuant to~~
19 ~~Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing~~
20 ~~organization is to donate toys to minors and the toys are, in fact, donated.~~

21 ~~(ii) The exclusion provided in this Subparagraph shall not apply if the~~
22 ~~donation is intended to ultimately yield a profit to a promoter of the organization or~~
23 ~~to any individual contracted to provide services or equipment, or both, to the~~
24 ~~organization.~~

25 ~~(iii) A certificate of exclusion shall be obtained from the secretary or the tax~~
26 ~~collector of the political subdivision, under such regulations as he shall prescribe, in~~
27 ~~order for nonprofit organizations to qualify for the exclusion provided for in this~~
28 ~~Subparagraph.~~

1 ~~(bb) For purposes of sales and use taxes imposed or levied by the state, the~~
2 ~~terms "retail sale" and "sale at retail" shall not include sales of natural gas to be held,~~
3 ~~used, or consumed in providing natural gas storage services or operating natural gas~~
4 ~~storage facilities.~~

5 ~~(cc) For purposes of the sales and use tax imposed by the state under R.S.~~
6 ~~47:331 or any political subdivision of the state, the terms "retail sale" or "sale at~~
7 ~~retail" shall not mean or include the purchase of textbooks and course-related~~
8 ~~software by a private postsecondary academic degree-granting institution, accredited~~
9 ~~by a national or regional commission that is recognized by the United States~~
10 ~~Department of Education and is licensed by the Board of Regents, which institution~~
11 ~~has its main location within this state and offers only online instruction, when all of~~
12 ~~the following apply:~~

13 ~~(i) The textbooks and course-related software are physically outside of this~~
14 ~~state when purchased from a vendor outside of this state and then imported into this~~
15 ~~state.~~

16 ~~(ii) The first student use of the textbooks and course-related software occurs~~
17 ~~outside of this state.~~

18 ~~(iii) The textbooks and course-related software are provided to the student~~
19 ~~free of charge.~~

20 ~~(dd) For purposes of sales and use taxes imposed or levied by the state, the~~
21 ~~terms "retail sale" or "sale at retail" shall not include the purchase of food items for~~
22 ~~school lunch or breakfast programs by nonpublic elementary or secondary schools~~
23 ~~which participate in the National School Lunch and School Breakfast programs or~~
24 ~~the purchase of food items by nonprofit corporations which serve students in~~
25 ~~nonpublic elementary or secondary schools and which participate in the National~~
26 ~~School Lunch and School Breakfast programs.~~

27 ~~(cc)(i) Solely for the purposes of the imposition of the state sales and use tax,~~
28 ~~the term "retail sale" and "sale at retail" shall not include the sale of any storm~~
29 ~~shutter device.~~

1 (ii) ~~As used in this Subparagraph, "storm shutter device" means materials~~
2 ~~and products manufactured, rated, and marketed specifically for the purpose of~~
3 ~~preventing window damage from storms.~~

4 (iii) ~~The secretary of the Department of Revenue, in consultation with the~~
5 ~~Department of Insurance, shall promulgate such rules and regulations in accordance~~
6 ~~with the Administrative Procedure Act as may be necessary to carry out the~~
7 ~~provisions of this Subparagraph.~~

8 (ff) ~~For purposes of sales taxes imposed by the state or any political~~
9 ~~subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales~~
10 ~~of tangible personal property by the Military Department, state of Louisiana, which~~
11 ~~occur on an installation or other property owned or operated by the Military~~
12 ~~Department.~~

13 (gg) ~~For purposes of sales and use tax imposed by the or any political~~
14 ~~subdivision of the state, the term "sale at retail" shall not include the sale of~~
15 ~~anthropogenic carbon dioxide for use in a qualified tertiary recovery project~~
16 ~~approved by the assistant secretary of the office of conservation of the Department~~
17 ~~of Natural Resources pursuant to R.S. 47:633.4.~~

18 (hh) ~~For purposes of sales and use tax imposed by the state, any political~~
19 ~~subdivision whose boundaries are coterminous with those of the state, or any other~~
20 ~~political subdivision, the term "sale at retail" shall not include the sale of tangible~~
21 ~~personal property at an event providing Louisiana heritage, culture, crafts, art, food,~~
22 ~~and music which is sponsored by a domestic nonprofit organization that is exempt~~
23 ~~from tax under Section 501(c)(3) of the Internal Revenue Code. The provisions of~~
24 ~~this Subparagraph shall apply only to an event which transpires over a minimum of~~
25 ~~seven but not more than twelve days and has a five-year annual average attendance~~
26 ~~of at least three hundred thousand over the duration of the event. For purposes of~~
27 ~~determining the five-year annual average attendance, the calculation shall include the~~
28 ~~total annual attendance for each of the five most recent years. The provisions of this~~
29 ~~Subparagraph shall apply only to sales by the sponsor of the event.~~

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(13)(a) "Sales price" means the total amount for which tangible personal property is sold, less the market value of any article traded in including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed six percent of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling, or repairing property sold.

(b) The term "sales price" shall not include any amount designated as a cash discount or a rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount offered by a vendor or manufacturer as a deduction from the listed retail price of the vehicle.

~~(c) "Sales price" shall not include the first fifty thousand dollars of the sale price of new farm equipment used in poultry production.~~

~~(d) Notwithstanding any other provision of law to the contrary, for purposes of state and political subdivision sales and use tax, the "sales price" of refinery gas, except for feedstock, not ultimately consumed as an energy source by the person who owns the facility in which the refinery gas is created as provided for in Subparagraph (18)(d) of this Section, but sold to another person, whether at retail or wholesale, shall be fifty-two 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 twenty-nine dollars, and provided further that such sales price shall be the maximum value placed upon refinery gas by the state and by any political subdivision under any authority or grant of power to levy and collect sales or use taxes, and such sale shall be taxable.~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~(e) The term "sales price", for purposes of the sales tax imposed by the state~~
2 ~~and its political subdivisions, shall exclude any amount that a manufacturer pays~~
3 ~~directly to a dealer of the manufacturer's product for the purpose of reducing and that~~
4 ~~actually results in an equivalent reduction in the retail "sales price" of that product.~~
5 ~~This exclusion shall not apply to the value of the manufacturer's coupons that dealers~~
6 ~~accept from purchasers as part payment of the "sales price" and that are redeemable~~
7 ~~by the dealers through manufacturers or their agents. The value of such coupons is~~
8 ~~deemed to be part of the "sales price" of the product purchased through the use of the~~
9 ~~coupons.~~

10 ~~(f) The term "sales price" shall exclude any charge, fee, money, or other~~
11 ~~consideration received, given, or paid for the performance of funeral directing~~
12 ~~services as defined in Subparagraph (10)(s) of this Section.~~

13 ~~(g) For purposes of the imposition of sales and use taxes imposed or levied~~
14 ~~by all taxing authorities in the state, in the case of the retail sale by a dealer of any~~
15 ~~cellular, PCS, or wireless telephone, any electronic accessories that are physically~~
16 ~~connected with such telephones and personal communications devices used in~~
17 ~~connection with the sale or use of mobile telecommunications services, as defined~~
18 ~~in R.S. 47:301(10)(v), the term "sales price" shall mean and include only the amount~~
19 ~~of money, if any, actually received by the dealer from the purchaser for each such~~
20 ~~cellular, PCS, or wireless telephone and any electronic accessories that are physically~~
21 ~~connected with such telephones and personal communication devices, but shall not~~
22 ~~include (i) any amount received by the dealer from the purchaser for providing~~
23 ~~mobile telecommunications services, or (ii) any commissions, fees, rebates, or other~~
24 ~~amounts received by the dealer from any source other than the purchaser as a result~~
25 ~~of or in connection with the sale of the cellular, PCS, or wireless telephone, any~~
26 ~~electronic accessories that are physically connected with such telephones and~~
27 ~~personal communication devices.~~

28 ~~(h) For the purpose of the imposition of sales and use tax imposed or levied~~
29 ~~by all taxing authorities in the state of any cellular, PCS, or wireless telephone used~~

1 in connection with the sale or use of mobile telecommunications services, as defined
2 in R.S. 47:301(10)(v), after January 1, 2002, the term "sales price" shall mean and
3 include the greater of (i) the amount of money actually received by the dealer from
4 the purchaser for each such telephone, or (ii) twenty-five percent of the cost of such
5 telephone to the dealer, but shall not include any amount received by the dealer from
6 the purchaser for providing mobile telecommunications services or any
7 commissions, fees, rebates, or other amounts received by the dealer from any source
8 other than the purchaser as a result of or in connection with the sale of the telephone.

9 (i)(i) ~~For purposes of a publishing business which distributes its news~~
10 ~~publications at no cost to readers and pays unrelated third parties to print such news~~
11 ~~publications, the term "sales price" shall mean only the lesser of the following costs:~~

12 (aa) ~~The printing cost paid to unrelated third parties to print such news~~
13 ~~publications, less any itemized freight charges for shipping the news publications~~
14 ~~from the printer to the publishing business and any itemized charges for paper and~~
15 ~~ink.~~

16 (bb) ~~Payments to a dealer or distributor as consideration for distribution of~~
17 ~~the news publications.~~

18 (ii) ~~The definition of "sales price" provided for in this Subparagraph shall be~~
19 ~~applicable to taxes levied by all tax authorities in the state.~~

20 (j) ~~For the purpose of the imposition of sales and use tax imposed or levied~~
21 ~~by any political subdivision of the state, in the case of any retail sale or sale at retail,~~
22 ~~of any cellular telephone, PCS telephone, or wireless telephone used in connection~~
23 ~~with the sale or use of mobile telecommunications services, as defined in R.S.~~
24 ~~47:301(10)(w), or any electronic accessory that is physically connected with any~~
25 ~~such telephone or personal communication device, the term "sales price" shall mean~~
26 ~~and include the greater of (i) the amount of money, if any, actually received by the~~
27 ~~dealer from the purchaser at the time of the retail sale or sale at retail by the dealer~~
28 ~~to the purchaser for each such telephone, personal communication device, or~~
29 ~~electronic accessory, or (ii) twenty-five percent of the cost of such telephone to the~~

1 dealer, but shall not include any amount received by the dealer from the purchaser
2 for providing mobile telecommunications services or any commissions, fees, rebates,
3 activation charges, or other amounts received by the dealer from any source other
4 than the purchaser as a result of or in connection with the sale of the telephone.

5 (k)(i) For purposes of the imposition of the sales tax levied by the and any
6 political subdivision whose boundaries are coterminous with those of the state, the
7 sales price of machinery and equipment purchased by a manufacturer for use in a
8 plant facility predominately and directly in the actual manufacturing for agricultural
9 purposes or the actual manufacturing process of an item of tangible personal
10 property, which is for ultimate sale to another and not for internal use, at one or more
11 fixed locations within Louisiana shall be reduced as follows:

12 (aa) For the period ending on June 30, 2005, the sales price shall be reduced
13 by five percent.

14 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
15 sales price shall be reduced by nineteen percent.

16 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
17 sales price shall be reduced by thirty-five percent.

18 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
19 sales price shall be reduced by fifty-four percent.

20 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
21 sales price shall be reduced by sixty-eight percent.

22 (ff) For all periods beginning on or after July 1, 2009, the sales price shall
23 be reduced by one hundred percent.

24 (ii) For purposes of this Subparagraph, "machinery and equipment",
25 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
26 facility", and "used directly" shall have the same meaning as defined in R.S.
27 47:301(3)(i)(ii).

28 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
29 equipment as defined herein without payment of the tax imposed by R.S. 47:302-321,

1 ~~and 331 before receiving a certificate of exclusion from the secretary of the~~
2 ~~Department of Revenue certifying that he is a manufacturer as defined herein.~~

3 ~~(iv) The secretary of the Department of Revenue is hereby authorized to~~
4 ~~adopt rules and regulations in order to administer the exclusion provided for in this~~
5 ~~Subparagraph.~~

6 ~~(l)(i) For purposes of the payment of the state sales and use and the sales and~~
7 ~~use tax levied by any political subdivision, the term "sales price" shall not include~~
8 ~~the price of specialty items sold to members for fund-raising purposes by nonprofit~~
9 ~~carnival organizations domiciled within Louisiana and participating in a parade~~
10 ~~sponsored by a carnival organization.~~

11 ~~(ii) The secretary of the Department of Revenue shall promulgate rules and~~
12 ~~regulations for purposes of this exclusion.~~

13 ~~(iii) No nonprofit carnival organization domiciled within Louisiana and~~
14 ~~participating in a parade sponsored by a carnival organization shall claim exemption~~
15 ~~or exclusion from the state sales and use tax or the sales and use tax levied by any~~
16 ~~political subdivision before having obtained a certificate of authorization from the~~
17 ~~secretary of the Department of Revenue. The secretary shall develop applications~~
18 ~~for such certificates. The certificates shall be issued without charge to the entities~~
19 ~~which qualify.~~

20 ~~(m) For purposes of the sales and use tax imposed by the state or any~~
21 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
22 ~~"sales price" of electric power or energy, or natural gas for the period beginning July~~
23 ~~1, 2007, and thereafter, sold for use by paper or wood products manufacturing~~
24 ~~facilities shall not include any of such price.~~

25 (14) "Sales of services" means and includes the following:

26 (a) The furnishing of sleeping rooms, cottages or cabins by hotels.

27 (b)(i) The sale of admissions to places of amusement, to athletic
28 entertainment other than that of schools, colleges, and universities, and recreational
29 events, and the furnishing, for dues, fees, or other consideration of the privilege of

1 access to clubs or the privilege of having access to or the use of amusement,
2 entertainment, athletic, or recreational facilities; ~~but the term "sales of services" shall~~
3 ~~not include membership fees or dues of nonprofit, civic organizations, including by~~
4 ~~way of illustration and not of limitation the Young Men's Christian Association, the~~
5 ~~Catholic Youth Organization, and the Young Women's Christian Association.~~

6 (ii) ~~Places of amusement shall not include "museums", which are hereby~~
7 ~~defined as public or private nonprofit institutions which are organized on a permanent~~
8 ~~basis for essentially educational or aesthetic purposes and which use professional staff~~
9 ~~to do all of the following:~~

10 (aa) ~~Own or use tangible objects, whether animate or inanimate.~~

11 (bb) ~~Care for those objects.~~

12 (cc) ~~Exhibit them to the public on a regular basis.~~

13 (iii) ~~Museums include but are not limited to the following institutions:~~

14 (aa) ~~Museums relating to art, history, including historic buildings, natural~~
15 ~~history, science, and technology.~~

16 (bb) ~~Aquariums and zoological parks.~~

17 (cc) ~~Botanical gardens and arboretums.~~

18 (dd) ~~Nature centers.~~

19 (ee) ~~Planetariums.~~

20 (iv) ~~For purposes of the sales and use taxes of all tax authorities in the state~~
21 ~~, the term "places of amusement" as used herein shall not include camp and retreat~~
22 ~~facilities owned and operated by nonprofit organizations exempt from federal income~~
23 ~~tax under Section 501(a) of the Internal Revenue Code as an organization described~~
24 ~~in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue~~
25 ~~derived from the organization's property is devoted wholly to the nonprofit~~
26 ~~organization's purposes.~~

27 (c) The furnishing of storage or parking privileges by auto hotels and parking
28 lots.

1 (d) The furnishing of printing or overprinting, lithographic, multilith, blue
2 printing, photostating or other similar services of reproducing written or graphic
3 matter.

4 (e) The furnishing of laundry, cleaning, pressing and dyeing services,
5 including by way of extension and not of limitation, the cleaning and renovation of
6 clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for
7 clothing, furs, and rugs. The service shall be taxable at the location where the
8 laundered, cleaned, pressed, or dyed article is returned to the customer.

9 (f) The furnishing of cold storage space, except that space which is furnished
10 pursuant to a bailment arrangement, and the furnishing of the service of preparing
11 tangible personal property for cold storage where such service is incidental to the
12 operation of storage facilities.

13 (g)(i)(~~aa~~) The furnishing of repairs to tangible personal property, including
14 but not restricted to the repair and servicing of automobiles and other vehicles,
15 electrical and mechanical appliances and equipment, watches, jewelry, refrigerators,
16 radios, shoes, and office appliances and equipment.

17 ~~(bb)(f) For purposes of the sales and use tax levied by the state under R.S.~~
18 ~~47:331 and by tax authorities in East Feliciana Parish, charges for the furnishing of~~
19 ~~repairs to tangible personal property shall be excluded from sales of services, as~~
20 ~~defined in this Subparagraph, when the repaired property is (1) delivered to a common~~
21 ~~carrier or to the United States Post Office for transportation outside the state, or (2)~~
22 ~~delivered outside the state by use of the repair dealer's own vehicle or by use of an~~
23 ~~independent trucker. However, as to aircraft, delivery may be by the best available~~
24 ~~means. This exclusion shall not apply to sales and use taxes levied by any other~~
25 ~~parish, municipality or school board. However, any other parish, municipality or~~
26 ~~school board may apply the exclusion as defined in this Subparagraph to sales or use~~
27 ~~taxes levied by any such parish, municipality, or school board. Offshore areas shall~~
28 ~~not be considered another state for the purpose of this Subparagraph.~~

1 ~~(H) For purposes of the sales and use tax levied by the tax authorities in~~
2 ~~Calcasieu Parish, charges for the furnishing of repairs to aircraft shall be excluded~~
3 ~~from sales of services, as defined in this Subparagraph, provided that the repairs are~~
4 ~~performed at an airport with a runway that is at least ten thousand feet long, one~~
5 ~~hundred sixty feet wide, and fourteen inches thick.~~

6 (ii) For the purposes of this Subparagraph, tangible personal property shall
7 include machinery, appliances, and equipment which have been declared immovable
8 by declaration under the provisions of Article 467 of the Louisiana Civil Code, and
9 things which have been separated from land, buildings, or other constructions
10 permanently attached to the ground or their component parts as defined in Article 466
11 of the Civil Code.

12 ~~(iii)(aa) For purposes of the sales and use taxes imposed by the state or any~~
13 ~~of its political subdivisions, sale of services shall not include the labor, or sale of~~
14 ~~materials, services, and supplies, used for the repairing, renovating, or converting of~~
15 ~~any drilling rig, or machinery and equipment which are component parts thereof,~~
16 ~~which is used exclusively for the exploration or development of minerals outside the~~
17 ~~territorial limits of the state in Outer Continental Shelf waters.~~

18 ~~(bb) For the purposes of this Subitem, "drilling rig" means any unit or~~
19 ~~structure, along with its component parts, which is used primarily for drilling,~~
20 ~~workover, intervention or remediation of wells used for exploration or development~~
21 ~~of minerals and "component parts" means any machinery or equipment necessary for~~
22 ~~a drilling rig to perform its exclusive function of exploration or development of~~
23 ~~minerals.~~

24 ~~(h) The term "sale of service" shall not include an action performed pursuant~~
25 ~~to a contract with the United States Department of the Navy for construction or~~
26 ~~overhaul of U.S. Naval vessels.~~

27 ~~(i) Solely for purposes of the sales and use tax levied by the state, the~~
28 ~~furnishing of telecommunications services for compensation, in accordance with the~~
29 ~~provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying~~

1 ~~a sales and use tax on telecommunications services not in effect on July 1, 1990,~~
2 ~~provided, however, that the provisions of this Subparagraph shall not be construed to~~
3 ~~prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax~~
4 ~~or assessment by any political subdivision of the state as defined in Article VI,~~
5 ~~Section 44(2) of the Constitution of Louisiana.~~

6 ~~(j) Notwithstanding any provision of law to the contrary, for purposes of sales~~
7 ~~or use taxation by the state or any local political subdivision, the term "sales of~~
8 ~~services" shall not mean or include any funeral directing services as defined in~~
9 ~~Subparagraph (10)(s) of this Section. Subject to approval by the House Committee on~~
10 ~~Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state~~
11 ~~Department of Revenue shall devise a formula for the calculation of the tax.~~

12 ~~(k) For purposes of sales and use tax imposed by the state, any political~~
13 ~~subdivision whose boundaries are coterminous with those of the state, or any other~~
14 ~~political subdivision, the term "sales of services" shall not mean or include admission~~
15 ~~charges for, outside gate admissions to, or parking fees associated with an event~~
16 ~~providing Louisiana heritage, culture, crafts, art, food, and music which is sponsored~~
17 ~~by a domestic nonprofit organization that is exempt from tax under Section 501(c)(3)~~
18 ~~of the Internal Revenue Code. The provisions of this Subparagraph shall apply only~~
19 ~~to an event which transpires over a minimum of seven but not more than twelve days~~
20 ~~and has a five-year annual average attendance of at least three hundred thousand over~~
21 ~~the duration of the event. For purposes of determining the five-year annual average~~
22 ~~attendance, the calculation shall include the total annual attendance for each of the~~
23 ~~five most recent years. The provisions of this Subparagraph shall apply only to~~
24 ~~admission charges for, outside gate admissions to, or parking fees associated with an~~
25 ~~event when the charges and fees are payable to or for the benefit of the sponsor of the~~
26 ~~event.~~

27 (15) "Storage" means and includes any keeping or retention in the taxing
28 jurisdiction of tangible personal property for use or consumption within the taxing

1 jurisdiction or for any purpose other than for sale at retail in the regular course of
2 business.

3 (16)(a) "Tangible personal property" means and includes personal property
4 which may be seen, weighed, measured, felt or touched, or is in any other manner
5 perceptible to the senses.

6 (b) The term "tangible personal property" shall not include:

7 (i) Stocks, bonds, notes, or other obligations or securities.

8 ~~(ii) Gold, silver, or numismatic coins, or platinum, gold, or silver bullion.~~

9 (iii) Proprietary geophysical survey information or geophysical data analysis
10 furnished under a restricted use agreement even though transferred in the form of
11 tangible personal property.

12 ~~(c) The term "tangible personal property" shall not include the repair of a~~
13 ~~vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse~~
14 ~~of the applicable warranty on that vehicle and at no charge to the owner of the~~
15 ~~vehicle. For the purpose of assessing a sales and use tax on this transaction, no~~
16 ~~valuation shall be assigned to the services performed or the parts used in the repair.~~

17 ~~(d)(i) Notwithstanding any provision of law to the contrary and solely for~~
18 ~~purposes of state sales and use tax, any sale of a prepaid calling service or prepaid~~
19 ~~wireless calling service, or both, shall be deemed to be the sale of tangible personal~~
20 ~~property.~~

21 ~~(ii) Prepaid calling services and prepaid wireless calling services shall be~~
22 ~~subject to the tax imposed by this Chapter if the sale takes place in this state. If the~~
23 ~~customer physically purchases a prepaid calling service or prepaid wireless calling~~
24 ~~service at the vendor's place of business, the sale is deemed to take place at the~~
25 ~~vendor's place of business. If the customer does not physically purchase the service~~
26 ~~at the vendor's place of business, the sale of a prepaid calling service or prepaid~~
27 ~~wireless calling service is deemed to take place at the first of the following locations~~
28 ~~that applies to the sale:~~

29 ~~(aa) The customer's shipping address, if the sale involves a shipment.~~

1 ~~(bb) The customer's billing address.~~

2 ~~(cc) Any other address of the customer that is known by the vendor.~~

3 ~~(dd) The address of the vendor or, alternatively in the case of a prepaid~~
4 ~~wireless calling service, the location associated with the mobile telephone number.~~

5 (e) The term "tangible personal property" shall not include work products
6 which are written on paper, stored on magnetic or optical media, or transmitted by
7 electronic device, when such work products are created in the normal course of
8 business by any person licensed or regulated by the provisions of Title 37 of the
9 Louisiana Revised Statutes of 1950, unless such work products are duplicated without
10 modification for sale to multiple purchasers. This exclusion shall not apply to work
11 products which consist of the creation, modification, updating, or licensing of
12 computer software.

13 ~~(f) The term "tangible personal property" shall not include pharmaceuticals~~
14 ~~administered to livestock used for agricultural purposes, except as otherwise provided~~
15 ~~in this Subparagraph. Only pharmaceuticals not included in the term "tangible~~
16 ~~personal property" shall be registered with the Louisiana Department of Agriculture~~
17 ~~and Forestry. Legend drugs administered to livestock used for agricultural purposes~~
18 ~~are not required to be registered, but such legend drugs that are not registered shall~~
19 ~~be "tangible personal property".~~

20 (g)(i) Notwithstanding the provisions of R.S. 9:1149.1 et seq., except as
21 otherwise provided in this Subparagraph, the term "tangible personal property" shall
22 not include factory built homes.

23 (ii) For purposes of this Subparagraph, "factory built home" means a
24 residential structure which is built in a factory in one or more sections and has a
25 chassis or integrated wheel delivery system, which is either:

26 (aa) A structure built to federal construction standards as defined in Section
27 5402 of Title 42 of the United States Code.

28 (bb) A residential structure built to the Louisiana State Uniform Construction
29 Code.

1 (cc) A manufactured home, modular home, mobile home, or residential
2 mobile home with or without a permanent foundation, which includes plumbing,
3 heating, and electrical systems.

4 (iii) "Factory built home" shall not include any self-propelled recreational
5 vehicle or travel trailer.

6 (iv) The term "tangible personal property" as applied to sales and use taxes
7 levied by the state or any other taxing authority in the state shall include a new
8 factory built home, for the initial sale from a dealer to a consumer, but only to the
9 extent that forty-six percent of the retail sales price shall be so considered as "tangible
10 personal property". Thereafter, each subsequent resale of a factory built home shall
11 not be considered as "tangible personal property".

12 (v) The sales and use taxes due on these transactions shall be paid to the
13 Louisiana Department of Public Safety and Corrections, office of motor vehicles, by
14 the twentieth day of the month following the month of delivery of the factory built
15 home to the consumer, along with any other information requested by the office of
16 motor vehicles.

17 ~~(h)(i) Solely for purposes of the imposition of the sales and use tax levied by~~
18 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
19 ~~the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term~~
20 ~~"tangible personal property" shall not include one-quarter of the cost price of custom~~
21 ~~computer software.~~

22 ~~(ii) Solely for purposes of the imposition of the sales and use tax levied by the~~
23 ~~state or any political subdivision whose boundaries are coterminous with those of the~~
24 ~~state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term~~
25 ~~"tangible personal property" shall not include one-half of the cost price of custom~~
26 ~~computer software.~~

27 ~~(iii) Solely for purposes of the imposition of the sales and use tax levied by~~
28 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
29 ~~the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term~~

1 ~~"tangible personal property" shall not include three-quarters of the cost price of~~
2 ~~custom computer software.~~

3 ~~(iv) Solely for purposes of the imposition of the sales and use tax levied by~~
4 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
5 ~~the state, for all taxable periods beginning on or after July 1, 2005, the term "tangible~~
6 ~~personal property" shall not include custom computer software.~~

7 ~~(i) Solely for purposes of the imposition of the state sales and use tax, the~~
8 ~~term "tangible personal property" shall not include digital television conversion~~
9 ~~equipment and digital radio conversion equipment as defined in this Section.~~

10 ~~(i) "Digital television conversion equipment" shall include the following:~~

11 ~~(aa) DTV transmitter and RF system.~~

12 ~~(bb) Transmission line.~~

13 ~~(cc) DTV antenna.~~

14 ~~(dd) Tower.~~

15 ~~(ee) Existing tower structural upgrade.~~

16 ~~(ff) Advanced TV receiver (STL receiver).~~

17 ~~(gg) Decoder (digital to analog converter for NTSC).~~

18 ~~(hh) DTV transmission system test and monitoring.~~

19 ~~(ii) Digital video/audio master control switcher.~~

20 ~~(jj) Analog to digital conversion.~~

21 ~~(kk) High definition up-converters.~~

22 ~~(ll) High definition bypass switcher.~~

23 ~~(mm) Down converters for standard definition.~~

24 ~~(nn) Advanced TV transmitter (STL transmitter).~~

25 ~~(oo) Advanced TV signal encoder.~~

26 ~~(pp) DTV transmission monitoring.~~

27 ~~(qq) High definition digital video switcher and DVE.~~

28 ~~(rr) High definition studio cameras.~~

29 ~~(ss) High definition graphics/graphic generator.~~

- 1 ~~(tt) High definition video monitoring.~~
- 2 ~~(uu) Conversion gear.~~
- 3 ~~(vv) High definition recorder/players, including tape, disk, etc.~~
- 4 ~~(ww) High definition video/audio signal router.~~
- 5 ~~(xx) High definition video/audio media server.~~
- 6 ~~(yy) MPEG or HDTV digital receivers for program content.~~
- 7 ~~(zz) High definition recorder/players, including tape, disk, etc.~~
- 8 ~~(aaa) High definition video/audio media server and workstations.~~
- 9 ~~(bbb) Digital EAS encoder/decoder.~~
- 10 ~~(ccc) High definition camcorder, including tape, disk, etc.~~
- 11 ~~(ddd) Advanced TV transmitters, including microwave.~~
- 12 ~~(ii) "Digital radio conversion equipment" shall include the following:~~
- 13 ~~(aa) IBOC transmitter.~~
- 14 ~~(bb) IBOC main channel and IBOC combiner.~~
- 15 ~~(cc) IBOC compatible antenna.~~
- 16 ~~(dd) Tower.~~
- 17 ~~(ee) IBOC coaxial bypass switcher.~~
- 18 ~~(ff) Digital STL.~~
- 19 ~~(gg) STL heliax transmission line.~~
- 20 ~~(hh) STL antenna.~~
- 21 ~~(ii) Digital console.~~
- 22 ~~(jj) EAS insertion.~~
- 23 ~~(kk) AES EBU conversion equipment.~~
- 24 ~~(ll) IBOC transmission testing and monitoring equipment.~~
- 25 ~~(mm) Digital processor.~~
- 26 ~~(iii) The exclusion from state sales and use tax authorized by this~~
- 27 ~~Subparagraph shall only apply to the first purchase of each enumerated item by an~~
- 28 ~~individual taxpayer who holds a Federal Communications Commission license issued~~
- 29 ~~pursuant to 47 CFR Part 73. Individual taxpayers operating under several broadcaster~~

1 ~~licenses shall be allowed one purchase of each enumerated item per license. Each~~
2 ~~subsequent purchase of any of the enumerated items by the same taxpayer or license~~
3 ~~holder shall be subject to sales and use tax.~~

4 (iv) ~~Repealed by Acts 2005, No. 243, §1, eff. June 29, 2005.~~

5 (v) ~~Any eligible taxpayer who has purchased any item enumerated in Item (i)~~
6 ~~or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the effective~~
7 ~~date of this Act, shall be entitled to a credit against the state sales and use tax due in~~
8 ~~any year for an amount equal to state sales and use tax paid on the purchase of the~~
9 ~~item.~~

10 (vi) ~~Local taxing authorities are hereby authorized to provide an exemption~~
11 ~~from any local sales and use tax liability to any taxpayers holding a Federal~~
12 ~~Communications Commission license issued pursuant to 47 CFR Part 73 which has~~
13 ~~purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local~~
14 ~~taxing authorities are further authorized to provide a credit against any tax liability~~
15 ~~for the amount of local sales tax paid by taxpayers holding Federal Communications~~
16 ~~Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in~~
17 ~~Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but prior~~
18 ~~to June 25, 2002.~~

19 (vii) ~~No exclusion from state sales and use tax as authorized in this~~
20 ~~Subsection shall be allowed after the Federal Communications Commission has~~
21 ~~issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to~~
22 ~~discontinue broadcasting their analog signal.~~

23 (viii) ~~The Department of Revenue shall adopt rules and regulations necessary~~
24 ~~for the implementation of this Act no later than August 1, 2002.~~

25 (j) ~~The term "tangible personal property", for purposes of the payment of~~
26 ~~sales and use taxes levied by all tax authorities in the state, shall not include materials~~
27 ~~used directly in the collection, separation, treatment, testing, and storage of blood by~~
28 ~~nonprofit blood banks and nonprofit blood collection centers.~~

1 ~~(k) The term "tangible personal property" for purposes of the sales and use~~
2 ~~taxes imposed by all tax authorities in this state shall not include apheresis kits and~~
3 ~~leuko reduction filters used by nonprofit blood banks and nonprofit blood collection~~
4 ~~centers.~~

5 ~~(l) For purposes of the sales and use tax imposed by the state of Louisiana,~~
6 ~~by a political subdivision whose boundaries are coterminous with those of the state,~~
7 ~~or by all political subdivisions of the state and without regard to the nature of the~~
8 ~~ownership of the ground, tangible personal property shall not include other~~
9 ~~constructions permanently attached to the ground which shall be treated as immovable~~
10 ~~property.~~

11 ~~(m)(i) Notwithstanding any other provision of law to the contrary, for~~
12 ~~purposes of the sales and use tax levied by the state under R.S. 47:331 or any political~~
13 ~~subdivision whose boundaries are coterminous with those of the state, the term~~
14 ~~"tangible personal property" shall not include machinery and equipment used by a~~
15 ~~motor vehicle manufacturer with a North American Industry Classification System~~
16 ~~(NAICS) Code beginning with 3361, or by a glass container manufacturer with a~~
17 ~~NAICS Code of 327213. This exclusion shall be subject to the definitions and~~
18 ~~requirements of Item (3)(i)(ii) of this Section.~~

19 ~~(ii) A political subdivision may provide for a sales and use tax exemption for~~
20 ~~the sales, cost, or lease or rental price of manufacturing machinery and equipment as~~
21 ~~provided for in this Section, either effective upon adoption or enactment or phased in~~
22 ~~over a period of time, or effective for a certain period of time or duration, all as set~~
23 ~~forth in the instrument, resolution, vote, or other affirmative action providing the~~
24 ~~exemption.~~

25 ~~(iii) Notwithstanding any other provision of this Section, tooling in a~~
26 ~~compression mold process shall be considered manufacturing machinery and~~
27 ~~equipment for purposes of this Section.~~

28 ~~(n)(i) For purposes of the imposition of the sales and use tax levied by the~~
29 ~~state, the term "tangible personal property" shall not include machinery and~~

1 ~~equipment purchased by the owner of a radio station located within the state that is~~
2 ~~licensed by the Federal Communications Commission for radio broadcasting, if the~~
3 ~~owner is either of the following:~~

4 ~~(aa) An individual domiciled in the state who owns a business with~~
5 ~~substantially all of its assets located in the state and substantially all of its payroll paid~~
6 ~~in the state.~~

7 ~~(bb) A business entity with substantially all of its assets located in the state~~
8 ~~and substantially all of its payroll paid in the state; provided that the business entity~~
9 ~~is not owned or controlled or is otherwise an affiliate of a multi-state business entity~~
10 ~~and is not owned or controlled by an individual who is not domiciled in the state.~~

11 ~~(ii) "Radio broadcasting" means the sound transmission made via~~
12 ~~electromagnetic waves for direct sound reception by the general public.~~

13 ~~(o)(i) For purposes of the imposition of the sales and use tax levied by the~~
14 ~~state and any political subdivision whose boundaries are coterminous with those of~~
15 ~~the state, the term "tangible personal property" shall not include machinery and~~
16 ~~equipment as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii) which~~
17 ~~is purchased by a utility regulated by the Public Service Commission or the council~~
18 ~~of the City of New Orleans. For the purposes of this Paragraph, the term "utility"~~
19 ~~shall mean a person regulated by the Public Service Commission or the council of the~~
20 ~~City of New Orleans who is assigned a North American Industrial Classification~~
21 ~~System Code 22111, Electric Power Generation, as it existed in 2002. Such utility~~
22 ~~shall also be considered a "manufacturer" for purposes of R.S. 47:301(3)(i)(ii).~~

23 ~~(ii) For purposes of this Subparagraph, a political subdivision whose~~
24 ~~boundaries are not coterminous with those of the state may provide for a sales and use~~
25 ~~tax exclusion for machinery and equipment as defined in and subject to the~~
26 ~~requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the~~
27 ~~Public Service Commission or the council of the city of New Orleans.~~

1 ~~(iii)~~ (i) The term "use", for purposes of sales and use taxes imposed by the
2 state on the use for rental of automobiles which take place on or after January 1, 1991,
3 and by political subdivisions on such use on or after July 1, 1996, and state sales and
4 use taxes imposed on the use for lease or rental of tangible personal property other
5 than automobiles which take place on or after July 1, 1991, shall not include the
6 purchase, the importation, the consumption, the distribution, or the storage of tangible
7 personal property to be leased or rented in an arm's length transaction as tangible
8 personal property. For purposes of the imposition of the tax levied by any political
9 subdivision of the state, for the period beginning July 1, 1999, and ending on June 30,
10 2000, the term "use" shall not include one-fourth of the cost price of any tangible
11 personal property which is purchased, imported, consumed, distributed, or stored and
12 which is to be leased or rented in an arm's length transaction in the form of tangible
13 personal property. For purposes of the imposition of the tax levied by any political
14 subdivision of the state, for the period beginning July 1, 2000, and ending on June 30,
15 2001, the term "use" shall not include one-half of the cost price of any tangible
16 personal property which is purchased, imported, consumed, distributed, or stored and
17 which is to be leased or rented in an arm's length transaction in the form of tangible
18 personal property. For purposes of the imposition of the tax levied by any political
19 subdivision of the state, for the period beginning July 1, 2001, and ending on June 30,
20 2002, the term "use" shall not include three-fourths of the cost price of any tangible
21 personal property which is purchased, imported, consumed, distributed, or stored and
22 which is to be leased or rented in an arm's length transaction in the form of tangible
23 personal property. Beginning July 1, 2002, for purposes of the imposition of the tax
24 levied by any political subdivision of the state, the term "use" shall not include the
25 purchase, the importation, the consumption, the distribution, or the storage of any
26 tangible personal property which is to be leased or rented in an arm's length
27 transaction in the form of tangible personal property.

28 ~~(iv)~~ (ii) The term "use", for purposes of sales and use taxes imposed by the
29 state on the use for rental automobiles which take place prior to January 1, 1991, and

1 by political subdivisions on such use prior to July 1, 1996, and imposed on the use for
2 lease or rental of tangible personal property other than automobiles which take place
3 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
4 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
5 include the purchase, the importation, the consumption, the distribution, or the storage
6 of tangible personal property to be leased or rented in an arm's length transaction as
7 tangible personal property.

8 (b) Notwithstanding any other law to the contrary, for purposes of the
9 imposition of the sales and use tax of any political subdivision, the use of a vehicle
10 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
11 deemed to be a "use":

12 (i) In the political subdivision of the principal residence of the purchaser if
13 the vehicle is purchased for private use, or

14 (ii) In the political subdivision of the principal location of the business if the
15 vehicle is purchased for commercial use, unless the vehicle purchased for commercial
16 use is assigned, garaged, and used outside of such political subdivision, in which case
17 the use shall be deemed a use in the political subdivision where the vehicle is
18 assigned, garaged, and used.

19 ~~(c) For purposes of state and political subdivision sales and use tax, "use"~~
20 ~~shall not include the exercise of any right or power by a free hospital over items,~~
21 ~~including but not limited to supplies and equipment, which are reasonably necessary~~
22 ~~for the operation of the free hospital.~~

23 (d)(i) Notwithstanding any other provision of law to the contrary, and except
24 as provided in Item (iii) of this Subparagraph, for purposes of state and political
25 subdivision sales and use tax, "use" means and includes the exercise of any right or
26 power over tangible personal property incident to the ownership thereof, except that
27 it shall not include the further processing of tangible personal property into articles
28 of tangible personal property for sale.

1 (ii) ~~Except as provided in Item (iii) of this Subparagraph for refinery gas, for~~
2 ~~purposes of state and political subdivision use tax, "use" shall not include the storage,~~
3 ~~consumption, or the exercise of any other right of ownership over tangible personal~~
4 ~~property which is created or derived as a residue or byproduct of such processing.~~
5 ~~Such residue or byproduct shall include but shall not be limited to catalyst cracker~~
6 ~~coke derived from crude oil, wood chips, bark, and liquor derived from the processing~~
7 ~~of sawlogs or pulpwood timber, or bagasse derived from sugarcane.~~

8 (iii) ~~Notwithstanding any other provision of law to the contrary, and~~
9 ~~notwithstanding the provisions of this Subparagraph, "use" shall include the exercise~~
10 ~~of any right of ownership over the consumption, the distribution, and the storage for~~
11 ~~use or consumption in this state of refinery gas, except the sale to another person,~~
12 ~~whether at retail or wholesale, only if the refinery gas is ultimately consumed as an~~
13 ~~energy source by the person who owns the facility in which it is created and is not~~
14 ~~sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be~~
15 ~~taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If~~
16 ~~refinery gas, except for feedstock, is sold to another person, whether at retail, or~~
17 ~~wholesale, such sale shall be taxable and the sales price value shall be as provided for~~
18 ~~in Subparagraph (13)(d) of this Section. The provisions of this Item shall not apply~~
19 ~~to feedstocks.~~

20 (e) ~~For purposes of state and political subdivision sales and use tax, "use"~~
21 ~~shall not include the purchase of or the exercise of any right or power over:~~

22 (i) ~~Tangible personal property sold by approved parochial and private~~
23 ~~elementary and secondary schools which comply with the court order from the Dodd~~
24 ~~Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,~~
25 ~~administrators, or teachers, or other employees of the school, if the money from such~~
26 ~~sales, less reasonable and necessary expenses associated with the sale, is used solely~~
27 ~~and exclusively to support the school or its program or curricula.~~

28 (ii) ~~Educational materials or equipment used for classroom instruction by~~
29 ~~approved parochial and private elementary and secondary schools which comply with~~

1 ~~the court order from the Dodd-Brumfield decision and Section 501(c)(3) of the~~
2 ~~Internal Revenue Code, limited to books, workbooks, computers, computer software,~~
3 ~~films, videos, and audio tapes.~~

4 (f) For purposes of state and political subdivision sales and use tax, "use"
5 shall not include the purchase of or the exercise of any right or power over tangible
6 personal property used by Boys State of Louisiana, Inc. and Girls State of Louisiana,
7 Inc. for their educational and public service programs for youth.

8 (g) ~~Notwithstanding any provision of law to the contrary, for purposes of~~
9 ~~sales or use taxation by the state or any local political subdivision, the term "use" shall~~
10 ~~not mean or include any funeral directing services as defined in Subparagraph (10)(s)~~
11 ~~of this Section.~~

12 (h) ~~For purposes of sales and use taxes levied by the state or any political~~
13 ~~subdivision of the state, the term "use" shall not include the exercise of any right of~~
14 ~~ownership in or the distribution of telephone directories acquired by an advertising~~
15 ~~company that is not affiliated with a provider of telephone services if the telephone~~
16 ~~directories will be distributed free of charge to the recipients of the telephone~~
17 ~~directories.~~

18 (i) ~~For purposes of the imposition of sales and use taxes imposed or levied by~~
19 ~~all taxing authorities in the state, in the case of the sale or any other disposition by a~~
20 ~~dealer of any cellular, PCS, or wireless telephone, any electronic accessories that are~~
21 ~~physically connected with such telephones and personal communications devices used~~
22 ~~in connection with the sale or use of mobile telecommunications services, as defined~~
23 ~~in R.S. 47:301(10)(v), the term "use" shall not include the withdrawal, use,~~
24 ~~distribution, consumption, storage, donation, or any other disposition of any such~~
25 ~~cellular, PCS, or wireless telephone, any electronic accessories that are physically~~
26 ~~connected with such telephones and personal communications devices by the dealer.~~

27 (j) ~~For purposes of the imposition of sales and use taxes imposed or levied by~~
28 ~~any political subdivision of the state, in the case of the sale or any other disposition~~
29 ~~by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other~~

1 ~~wireless personal communication device that is used in connection with the sale or~~
2 ~~use of mobile telecommunications services, as defined in R.S. 47:301(10)(w), or any~~
3 ~~electronic accessory that is physically connected with any such telephone or personal~~
4 ~~communications device, the term "use" shall not include the withdrawal, use,~~
5 ~~distribution, consumption, storage, donation, or any other disposition of any such~~
6 ~~telephone or electronic accessory by the dealer.~~

7 ~~(k) Solely for purposes of the sales and use tax levied by the state or any~~
8 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
9 ~~term "use" shall not include the purchase, the use, the consumption, the distribution,~~
10 ~~the storage for use or consumption, or the exercise of any right or power over~~
11 ~~manufacturing machinery and equipment used or consumed in this state to~~
12 ~~manufacture, produce or extract unblended biodiesel.~~

13 ~~(l) Solely for the purposes of sales and use taxes levied by the state or any~~
14 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
15 ~~term "use" shall not include the use, the consumption, the distribution, the storage for~~
16 ~~use or consumption in this state, or the exercise of any right or power over an~~
17 ~~alternative substance as that term is defined in Subparagraph (10)(z) of this Section~~
18 ~~when such alternative substance is used as a fuel by a manufacturer. "Manufacturer"~~
19 ~~means a person whose principal activity is manufacturing and who is assigned by the~~
20 ~~Louisiana Workforce Commission a North American Industrial Classification System~~
21 ~~code with the agricultural, forestry, fishing, and hunting Sector 11 or the~~
22 ~~manufacturing Sectors 31-33 as they existed in 2002.~~

23 ~~(m)(i) For the purposes of sales and use taxes imposed or levied by the state~~
24 ~~or any political subdivision of the state, the term "use" shall not include the purchase~~
25 ~~of or the exercise of any right or power over toys by a non-profit organization exempt~~
26 ~~from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code if~~
27 ~~the sole purpose of the purchasing organization is to donate toys to minors and the~~
28 ~~toys are, in fact, donated.~~

1 A. There is hereby levied a tax upon the sale at retail, the use, the
2 consumption, the distribution, and the storage for use or consumption in this state, of
3 each item or article of tangible personal property, as defined herein, the levy of said
4 tax to be as follows:

5 (1) ~~At~~ Until April 1, 2016, the rate of two per centum (2%) of the sales price
6 of each item or article of tangible personal property when sold at retail in this state;
7 the tax to be computed on gross sales for the purpose of remitting the amount of tax
8 due the state, and to include each and every retail sale. Beginning April 1, 2016, and
9 extending through June 30, 2021, the tax rate shall be two and one-half percent
10 (2.5%). Beginning July 1, 2021, the rate shall be one and one-half percent (1.5%).

11 (2)) ~~At~~ Until April 1, 2016, the rate of two per centum (2%) of the cost price
12 of each item or article of tangible personal property when the same is not sold but is
13 used, consumed, distributed, or stored for use or consumption in this state; provided
14 there shall be no duplication of the tax. Beginning April 1, 2016, and extending
15 through June 30, 2021, the tax rate shall be two and one-half percent (2.5%). _
16 Beginning July 1, 2021, the rate shall be one and one-half percent (1.5%).

17 B. There is hereby levied a tax upon the lease or rental within this state of
18 each item or article of tangible personal property, as defined herein; the levy of said
19 tax to be as follows:

20 (1)) ~~At~~ Until April 1, 2016, the rate of two per centum (2%) of the gross
21 proceeds derived from the lease or rental of tangible personal property, as defined
22 herein, where the lease or rental of such property is an established business, or part
23 of an established business, or the same is incidental or germane to the said business.
24 Beginning April 1, 2016, and extending through June 30, 2021, the tax rate shall be
25 two and one-half percent (2.5%). Beginning July 1, 2021, the rate shall be one and
26 one-half percent (1.5%).

27 (2)) ~~At~~ Until April 1, 2016, the rate of two per centum (2%) of the monthly
28 lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by
29 lessee or rentee to the owner of the tangible personal property. Beginning April 1,

1 2016, and extending through June 30, 2021, the tax rate shall be two and one-half
2 percent (2.5%). Beginning July 1, 2021, the rate shall be one and one-half percent
3 (1.5%).

4 C.(1) ~~There~~ Until April 1, 2016, there is hereby levied a tax upon all sales of
5 services, as herein defined, in this state, at the rate of two percent of the amounts paid
6 or charged for such services. Beginning April 1, 2016, and extending through June
7 30, 2021, the tax rate shall be two and one-half percent (2.5%). Beginning July 1,
8 2021, the rate shall be one percent (1.5%).

9 * * *

10 §305. Exclusions and exemptions from the tax

11 A.(1) ~~The gross proceeds derived from the sale in this state of livestock,~~
12 ~~poultry, and other farm products direct from the farm are exempted from the tax~~
13 ~~levied by taxing authorities, provided that such sales are made directly by the~~
14 ~~producers. When sales of livestock, poultry, and other farm products are made to~~
15 ~~consumers by any person other than the producer, they are not exempted from the tax~~
16 ~~imposed by taxing authorities.~~

17 (2) ~~The gross proceeds derived from the sale in this state of livestock at public~~
18 ~~sales sponsored by breeders' or registry associations or livestock auction markets are~~
19 ~~exempted from the sales and use tax levied by the state only. When public sales of~~
20 ~~livestock are made to consumers by any person other than through a public sale~~
21 ~~sponsored by a breeders' or registry association or a livestock auction market, they are~~
22 ~~not exempted from the sales and use tax imposed by the state. This Section shall be~~
23 ~~construed as exempting race horses entered in races and claimed at any racing meet~~
24 ~~held in Louisiana, whether the horse claimed was owned by the original breeder or~~
25 ~~not.~~

26 (3) Every agricultural commodity sold by any person, other than a producer,
27 to any other person who purchases not for direct consumption but for the purpose of
28 acquiring raw product for use or for sale in the process of preparing, finishing, or
29 manufacturing such agricultural commodity for the ultimate retail consumer trade,

1 shall be exempted from any and all provisions of the sales and use tax imposed by a
2 taxing authority, including payment of the tax applicable to the sale, storage, use,
3 transfer, or any other utilization of or handling thereof, except when such agricultural
4 commodity is actually sold as a marketable or finished product to the ultimate
5 consumer, and in no case shall more than one tax be exacted. For the purposes of this
6 Section, "agricultural commodity" means horticultural, viticultural, poultry, farm and
7 range products, and livestock and livestock products.

8 ~~(4)(a) The purchase of feed and feed additives for the purpose of sustaining~~
9 ~~animals which are held primarily for commercial, business, or agricultural use shall~~
10 ~~be exempted from the taxes levied by taxing authorities.~~

11 ~~(b) For purposes of this Subsection:~~

12 ~~(i) "Commercial use" means the purchasing, producing, or maintaining of~~
13 ~~animals, including breeding stock, for resale;~~

14 ~~(ii) "Business use" means the keeping and maintaining of animals which are~~
15 ~~used in performing services in conjunction with a business enterprise, such as sentry~~
16 ~~dogs and rental horses;~~

17 ~~(iii) "Agricultural use" means the maintaining of work animals and beasts of~~
18 ~~burden which are utilized in the activity of producing crops or animals for market, in~~
19 ~~the production of food for human consumption, in the production of animal hides or~~
20 ~~other animal products for market, or in the maintaining of breeding stock for the~~
21 ~~propagation of such agricultural use animals.~~

22 ~~(c) This exemption shall not apply to the purchase of feed or feed additives~~
23 ~~for animals kept primarily for personal, sporting, or other purposes, including but not~~
24 ~~limited to purchases for pets of any kind or hunting dogs.~~

25 ~~(5)(a) Solely for purposes of the sales and use tax levied by the state, such tax~~
26 ~~shall not apply to the sale or use of materials, supplies, equipment, fuel, and related~~
27 ~~items other than vessels used in the production or harvesting of crawfish. The person~~
28 ~~who purchases the exempt items shall claim the exemption by executing a certificate~~
29 ~~at the time of purchase. The Department of Revenue shall provide the certificates to~~

1 ~~retail merchants. Any merchant who in good faith, and after examination of the~~
2 ~~applicability of the certificate to that purchase with due care, neglects or fails to~~
3 ~~collect the tax herein provided, due to the presentation by the purchaser of a tax~~
4 ~~exemption certificate issued by the Department of Revenue, including those issued~~
5 ~~pursuant to R.S. 47:305.10, shall not be liable for the payment of the tax.~~

6 ~~(b) Solely for purposes of the sales and use tax levied by the state, such tax~~
7 ~~shall not apply to the sale or use of bait and feed used in the production or harvesting~~
8 ~~of crawfish. The person who purchases the exempt items shall claim the exemption~~
9 ~~by executing a certificate at the time of purchase. The Department of Revenue shall~~
10 ~~provide the certificates to retail merchants. Any merchant who in good faith, and~~
11 ~~after examination of the applicability of the certificate to that purchase with due care,~~
12 ~~neglects or fails to collect the tax herein provided, due to the presentation by the~~
13 ~~purchaser of a tax exemption certificate issued by the Department of Revenue,~~
14 ~~including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment~~
15 ~~of the tax.~~

16 ~~(6) Solely for purposes of the sales and use tax levied by the state, such tax~~
17 ~~shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and~~
18 ~~related items other than vessels used in the production or harvesting of catfish. The~~
19 ~~person who purchases the exempt items shall claim the exemption by executing a~~
20 ~~certificate at the time of purchase. The Department of Revenue shall provide the~~
21 ~~certificates to retail merchants. Any merchant who in good faith, and after~~
22 ~~examination of the applicability of the certificate to that purchase with due care,~~
23 ~~neglects or fails to collect the tax herein provided, due to the presentation by the~~
24 ~~purchaser of a tax exemption certificate issued by the Department of Revenue, shall~~
25 ~~not be liable for the payment of the tax.~~

26 ~~B. For purposes of the sales and use tax of all taxing authorities, the "use tax,"~~
27 ~~as defined herein, shall not apply to livestock and livestock products, to poultry and~~
28 ~~poultry products, to farm, range and agricultural products when produced by the~~
29 ~~farmer and used by him and members of his family.~~

1 C. ~~For purposes of the sales and use tax of all taxing authorities, where a part~~
2 ~~of the cost price of a motor vehicle is represented by a motor vehicle returned to the~~
3 ~~dealer's inventory, the use tax is payable on the total cost price less the wholesale~~
4 ~~value of the article returned.~~

5 D.(1) The sale at retail, the use, the consumption, the distribution, and the
6 storage to be used or consumed in the taxing jurisdiction of the following tangible
7 personal property is hereby specifically exempted from the tax imposed by taxing
8 authorities, except as otherwise provided in this Paragraph:

9 (a) Gasoline.

10 ~~(b) Steam.~~

11 (c) Water (not including mineral water or carbonated water or any water put
12 in bottles, jugs, or containers, all of which are not exempted).

13 ~~(d) Electric power or energy and any materials or energy sources used to fuel~~
14 ~~the generation of electric power for resale or used by an industrial manufacturing~~
15 ~~plant for self-consumption or cogeneration.~~

16 (e) Repealed by Acts 2007, No. 480, §2.

17 ~~(f) Fertilizer and containers used for farm products when sold directly to the~~
18 ~~farmer.~~

19 ~~(g) Natural gas.~~

20 ~~(h) All energy sources when used for boiler fuel except refinery gas.~~

21 (i) New trucks, new automobiles, new aircraft, and new boats, vessels, or
22 other water craft withdrawn from stock by factory authorized new truck, new
23 automobile, new aircraft dealers, and factory-authorized dealers of new boats, vessels,
24 or other water craft, and used trucks and used automobiles withdrawn from stock by
25 new or used motor vehicle dealers, which are withdrawn for use as demonstrators.

26 (j) Solely for purposes of the state sales and use tax, drugs prescribed by a
27 physician or dentist.

28 (k)(i) Solely for purposes of the state sales and use tax, orthotic, including
29 prescription eyeglasses and contact lenses, and prosthetic devices and wheelchairs and

1 wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors for
2 personal consumption or use.

3 (ii) Solely for purposes of the sales and use tax of political subdivisions, the
4 sale to, or the purchase by, an individual or by a medical service provider such as a
5 physician, clinic, surgical center, or other healthcare facility of a prosthetic device
6 which is sold or purchased with the intention of being personally used or consumed
7 by individuals pursuant to a prescription by a physician when the individual is
8 covered by the state of Louisiana Medicaid insurance program or a Medicaid
9 insurance program administered by a third party on behalf of the state of Louisiana.

10 (l) Solely for purposes of the state sales and use tax, the sale or purchase of
11 any ostomy, ileostomy or colostomy device or any other appliance including catheters
12 or any related item which is required as the result of any surgical procedure by which
13 an artificial opening is created in the human body for the elimination of natural waste.

14 (m) Solely for purposes of the state sales and use tax, patient aids prescribed
15 by a physician or a licensed chiropractor for home use.

16 (n) Solely for purposes of the state sales and use tax, food sold for preparation
17 and consumption in the home including by way of extension and not of limitation
18 bakery products.

19 (o) Solely for purposes of the state sales and use tax, dairy products.

20 (p) Solely for purposes of the state sales and use tax, soft drinks.

21 (q) Solely for purposes of the state sales and use tax, fresh fruits and
22 vegetables.

23 (r) Solely for purposes of the state sales and use tax, package foods requiring
24 further preparation by the purchaser.

25 (s) Solely for purposes of the state sales and use tax, any and all medical
26 devices used exclusively by the patient in the medical treatment of various diseases
27 or administered exclusively to the patient by a physician, nurse, or other health care
28 professional or health care facility in the medical treatment of various diseases under
29 the supervision of and prescribed by a licensed physician.

1 (t) Orthotic devices, prosthetic devices, prostheses and restorative materials
2 utilized by or prescribed by dentists in connection with health care treatment or for
3 personal consumption or use and any and all dental devices used exclusively by the
4 patient or administered exclusively to the patient by a dentist or dental hygienist in
5 connection with dental or health care treatment. Notwithstanding any other provision
6 of law to the contrary, the exemptions from the state sales and use tax provided in this
7 Subparagraph shall be applicable to any sales and use tax levied by any local
8 governmental subdivision or school board.

9 ~~(u) Solely for purposes of the state sales and use tax, adaptive driving~~
10 ~~equipment and motor vehicle modifications prescribed for personal use by a~~
11 ~~physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the~~
12 ~~state.~~

13 ~~(2)(a) Sales of meals furnished as follows shall be exempt:~~

14 ~~(i) To the staff and students of educational institutions, including but not~~
15 ~~limited to kindergartens, if the meals are consumed on the premises where purchased,~~
16 ~~or if they are purchased in advance by students, faculty, or staff pursuant to a meal~~
17 ~~plan sponsored by the institution or organization or purchased in advance pursuant to~~
18 ~~any other payment arrangement sanctioned by the institution or organization and~~
19 ~~generally available to students, faculty, and staff of the institution or organization,~~
20 ~~regardless of where such meals are consumed.~~

21 ~~(ii) To the staff and patients of hospitals and to the staff and residents of~~
22 ~~nursing homes, adult residential care providers, and continuing care retirement~~
23 ~~communities.~~

24 ~~(iii) To the staff, inmates, and patients of mental institutions.~~

25 ~~(iv) To the boarders of rooming houses.~~

26 ~~(v) Occasional meals furnished to the public in educational, religious, or~~
27 ~~medical organization facilities.~~

1 ~~(b) Except as provided for in Item (a)(i) of this Paragraph, the furnishing of~~
2 ~~such meals shall be exempt from the taxes imposed by this Chapter if the meals are~~
3 ~~consumed on the premises where purchased.~~

4 (3)(a) Except as provided in Subparagraph (b) of this Paragraph, food sales
5 by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales
6 made by an establishment not specifically exempted elsewhere who furnish facilities
7 for the consumption of the food on the premises are not exempt from the taxes
8 imposed by taxing authorities.

9 (b) Bakery products sold for consumption in the home when purchased at
10 grocery stores, bakeries, and donut shops, regardless of whether such businesses
11 furnish facilities for the consumption of food on the premises, shall be exempt from
12 state sales and use taxes.

13 (4)(a) The exemption for food, drugs, orthotic devices, prosthetic devices
14 except for those provided for in Item (1)(k)(ii) of this Subsection, and wheelchairs and
15 wheelchair lifts prescribed by physicians or licensed chiropractors for personal
16 consumption or use; for patient aids prescribed by a physician or licensed chiropractor
17 for home use; and ostomy, ileostomy or colostomy devices, or other appliances
18 including catheters or related items required as the result of any surgical procedure
19 by which an artificial opening is created in the human body for the elimination of
20 natural waste applies only to sales taxes imposed by the state of Louisiana and does
21 not apply to such taxes authorized and imposed by any school board, municipality,
22 or other local taxing authority notwithstanding any other provisions of law to the
23 contrary, and specifically, but not exclusively, R.S. 47:337.8.

24 (b) However, sales taxes authorized and imposed by any taxing authority shall
25 not apply to the procurement and administration of cancer and related chemotherapy
26 prescription drugs used exclusively by the patient in his medical treatment when
27 administered exclusively to the patient by a physician, nurse, or other health care
28 professional in a physician's office where patients are not regularly kept as bed
29 patients for twenty-four hours or more.

1 (5)(a) However sales taxes authorized and imposed by any school board,
2 municipality, or other local taxing authority shall not apply to the sale of prescription
3 drugs under the pharmaceutical vendor program for Title XIX of the Social Security
4 Act as administered by the Department of Health and Hospitals of the state of
5 Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such
6 drugs under Title XXI of the Social Security Act as administered by such department.

7 (b) The administration of prescription drugs used exclusively by the patient
8 in the medical treatment of various diseases or injuries when administered exclusively
9 to the patient by a physician, nurse, or other health care professional in a physician's
10 office where patients are not regularly kept as bed patients for twenty-four hours or
11 more shall be a professional service.

12 (c) For the time after July 1, 1999, school boards, municipalities, and other
13 local taxing authorities may by ordinance or resolution provide for the following:

14 (i) An exemption for the sale of prescription drugs administered as provided
15 for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and
16 administration of chemotherapy drugs used exclusively by the patient in his medical
17 treatment if administered exclusively to the patient by a physician, nurse, or other
18 health care professional in a physician's office where patients are not regularly kept
19 as bed patients for twenty-four hours or more.

20 (ii) An amnesty for any person who may have been responsible to impose,
21 collect, and/or remit the tax previously imposed on the transactions provided for in
22 Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or
23 amnesty is granted according to such reasonable terms and conditions as the
24 respective school boards, municipalities and other local taxing authorities may adopt.

25 (6) The exemptions from the state sales and use tax provided in this
26 Subsection in existence as of the effective date of Act 205 of 1978* shall be
27 applicable to any sales and use tax levied by any local governmental subdivision or
28 school board except as otherwise specifically provided in this Subsection. Without
29 determining the validity of any exemptions placed in this Subsection subsequent to

1 the effective date of Act 205 of 1978, all Acts after the 1991 Regular Session placing
 2 an exemption in this Subsection which is applicable to a political subdivision must,
 3 to be effective, specifically provide in the title and body of the bill that it is applicable
 4 to a political subdivision. The exemptions provided in R.S. 47:305(D)(1)(t) are
 5 hereby deemed to specifically comply with Act 205 of 1978.

6 E. It is not the intention of any taxing authority to levy a tax upon articles of
 7 tangible personal property imported into this state, or produced or manufactured in
 8 this state, for export; nor is it the intention of any taxing authority to levy a tax on
 9 bona fide interstate commerce; however, nothing herein shall prevent the collection
 10 of the taxes due on sales of tangible personal property into this state which are
 11 promoted through the use of catalogs and other means of sales promotion and for
 12 which federal legislation or federal jurisprudence enables the enforcement of the sales
 13 tax of a taxing authority upon the conduct of such business. It is, however, the
 14 intention of the taxing authorities to levy a tax on the sale at retail, the use, the
 15 consumption, the distribution, and the storage to be used or consumed in this state, of
 16 tangible personal property after it has come to rest in this state and has become a part
 17 of the mass of property in this state. At such time as federal legislation or federal
 18 jurisprudence as to sales in interstate commerce promoted through the use of catalogs
 19 and other means of sales promotions enables the enforcement of this Chapter or any
 20 other law or local ordinance imposing a sales tax against vendors that have no other
 21 nexus with the taxing jurisdiction, the following provisions shall apply to such sales
 22 on which sales and use tax would not otherwise be collected.

23 ~~F. The sales, use and lease taxes imposed by taxing authorities shall not apply~~
 24 ~~to the amounts paid by radio and television broadcasters for the right to exhibit or~~
 25 ~~broadcast copyrighted material and the use of film, video or audio tapes, records or~~
 26 ~~any other means supplied by licensors thereof in connection with such exhibition or~~
 27 ~~broadcast and the sales and use tax shall not apply to licensors or distributors thereof.~~

1 G. The sales, use, and lease taxes imposed by taxing authorities shall not
2 apply to the purchase or rental by private individuals of machines, parts therefor, and
3 materials and supplies which a physician has prescribed for home renal dialysis.

4 H. "Demonstrators" as used in Subsection D of this Section for purposes of
5 the sales and use tax levied by all taxing authorities shall mean all of the following:

6 (1) New and used trucks and automobiles for which dealer inventory plates
7 may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name
8 for use as demonstrators which are kept primarily on the dealer's premises during
9 normal business hours and which are available for demonstration purposes. However,
10 the occasional use of a demonstrator by authorized personnel of the dealer shall not
11 disqualify such demonstrator from the exemption herein designated.

12 (2) New boats, vessels, or other water craft, hereafter, "boats," which comply
13 with all the following:

14 (a) They are registered in a boat, vessel, or water craft dealer's name with the
15 appropriate agency.

16 (b) They are reported by the dealer to the department as demonstrators and
17 are clearly identified as demonstrators in the manner required by the department.

18 (c) They are used by those designated by such dealer for any activity which
19 results in the advertisement, promotion of sales, or demonstration of the qualities of
20 the boat for the purpose of increasing sales of such boats; provided that such use does
21 not occur on more than six consecutive days and does not occur on more than twelve
22 days in any calendar month. The dealer shall keep such logs or other records of such
23 use as shall be required by the department.

24 (d) They are ultimately sold at retail.

25 ~~I. The sales and use taxes imposed by the state of Louisiana or any of its~~
26 ~~political subdivisions shall not apply to the labor, or sale of materials, services, and~~
27 ~~supplies, used for repairing, renovating or converting of any drilling rig, or machinery~~
28 ~~and equipment which are component parts thereof, which is used exclusively for the~~
29 ~~exploration or development of minerals outside the territorial limits of the state in~~

1 ~~Outer Continental Shelf waters. For the purposes of this Subsection, "drilling rig"~~
2 ~~means any unit or structure, along with its component parts, which is used primarily~~
3 ~~for drilling, workover, intervention or remediation of wells used for exploration or~~
4 ~~development of minerals. For purposes of this Subsection, "component parts" means~~
5 ~~any machinery or equipment necessary for a drilling rig to perform its exclusive~~
6 ~~function of exploration or development of minerals.~~

7 J. Electricity, natural gas, water, and steam used by business in the industrial
8 sector shall be exempt from state sales and use taxes.

9 Section 2. R.S. 4:168 and 227 are hereby repealed in their entirety.

10 Section 3. R.S. 40:582.1 through 582.7 are hereby repealed in their entirety.

11 Section 4. R.S. 47:301.1(D), 302(D), 302.1, 303(D)(1) and (E)(1), 304(A), 305.6,
12 305.7, 305.8, 305.9, 305.11, 305.13, 305.14, 305.15(A) and (B), 305.16, 305.17, 305.18,
13 305.19, 305.25, 305.26, 305.33, 305.37, 305.38, 305.40, 305.41, 305.42, 305.43, 305.44,
14 305.45, 305.47, 305.49, 305.50(E)(1) and (2) and (F), 305.51, 305.52, 305.53, 305.54, 305.57,
15 305.58, and (G), 305.56, 305.59, 305.60, 305.61, 305.62, 305.63, 305.64, 305.65, 305.66,
16 305.67, 305.68, 305.69, 305.70, 305.71, 306(A)(2), 306.1, 306.2, 315.1, 315.2, 315.3 and
17 315.5, are hereby repealed in their entirety.

18 Section 5. R.S. 47:305(D) (1)(a) through (h) and (j) through (u) and (2) through (6)
19 are hereby repealed in their entirety.

20 Section 6. The provisions of Sections 1 through 4 of this Act shall be applicable for
21 taxable periods beginning on and after April 1, 2016.

22 Section 7. Section 5 of this Act shall take effect and become operative if and when
23 the proposed amendment of Article _____ of the Constitution of Louisiana contained in the
24 Act which originated as House Bill No. ___ of this 2016 Regular Session of the Legislature
25 is adopted at a statewide election and becomes effective.

26 Section 8. Sections 1 through 4 and 6 through 8 of this Act shall become effective
27 upon signature by the governor or, if not signed by the governor, upon expiration of the time
28 for bills to become law without signature by the governor, as provided by Article III, Section

1 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
2 by the legislature, this Act shall become effective on the day following such approval.

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 104 Original

2016 First Extraordinary Session

Stokes

Abstract: Repeals various exclusions and exemptions from state and local sales and use tax, and decrease the rate for the state sales and use tax from 4% to 4.5% until June 30, 2021 and decreases the rate from 4.5% to 3.5% thereafter .

Present law establishes numerous exclusions and exemptions from state and sales and use taxes.

Proposed law repeals various exclusions and exemptions from state sales and use tax.

Sections 1 through 4 are applicable for taxable periods beginning on and after April 1, 2016.

Section 5 of this Act is effective if and when the proposed amendment of Article__ of the Constitution of La. contained in the Act which originated as House Bill No. ___ of this 2016 R.S. of the Legislature is adopted at a statewide election and becomes effective.

Sections 1 through 4 and 6 through 8 are contingent upon signature of governor or lapse of time for gubernatorial action.

Amends R.S. 47:301.(3), (6) - (8), (10), (13), (14), (16), and (18), 302(A), (B), (C) and 305; Repeals R.S. 4:168 and 227, R.S. 40:582.1-582.7, R.S. 47:301(D), 302(D), 302.1, 303(D)(1) and (E)(1), 304(A), 305(D)(1)(A)-(h) and (j)-(u) and (2)-(6), 305.6, 305.7, 305.8, 305.9, 305.11, 305.13, 305.14, 305.15(A) and (B), 305.16, 305.17, 305.18, 305.19, 305.25, 305.26, 305.33, 305.37, 305.38, 305.40, 305.41, 305.42, 305.43, 305.44, 305.45, 305.47, 305.49, 305.50(E)(1) and (2) and (F), 305.51, 305.52, 305.53, 305.54, 305.57, 305.58, and (G), 305.56, 305.59, 305.60, 305.61, 305.62, 305.63, 305.64, 305.65, 305.66, 305.67, 305.68, 305.69, 305.70, 305.71, 306(A)(2), 306.1, 306.2, 315.1, 315.2, 315.3 and 315.5