
DIGEST

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HB 101 Engrossed

2016 First Extraordinary Session

Jackson

Abstract: Imposes an additional 0.5% state sales and use tax on April 1, 2016, and provides for the expansion of the tax base by reducing the applicability of certain exclusions and exemptions.

Proposed law imposes a 4% state sales and use tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property as well as certain services.

Proposed law imposes an additional 0.5% state sales and use tax beginning April 1, 2016.

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

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

Specific method for determining pricing relative to the publication of a free news publication.

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

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

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

Crane with an operator.

Pallets used by a manufacturer for packaging.

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

Pollution control equipment.

Natural gas used in the production of iron.

Electricity for chlor-alkali manufacturing processes.

La. manufactured passenger aircraft.

Specific method of pricing equipment and devices associated with the wireless communication devices and wireless telephone service.

Alternative substance used as fuel.

Telephone directories used for advertising.

Butane and propane used for non-residential purposes.

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

Pelletized paper waste used as fuel for power generation.

Storm shutter devices.

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

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

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

Specific method for determining pricing relative to the publication of a free news publication.

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

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

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

Specific method of pricing equipment and devices associated with the wireless communication devices and wireless telephone service.

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

Services performed at an event for La. culture, crafts, food, art, and music, with a five year

annual attendance in excess of 300,000 (New Orleans Jazz Festival).

- (5) From the definition of "tangible personal property":

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

Custom computer software.

Equipment used for digital television conversion.

Newspapers.

- (6) From the definition of "use":

Free telephone directories used for advertising.

Alternative substance use as fuel.

Property created or derived as a residue or byproduct of certain manufacturing processes.

Specific method of pricing equipment and devices associated with the wireless communication devices and wireless telephone service.

Storm shutter device.

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

Proposed law changes present law by limiting the application of the following exclusions to sales and use taxes imposed by a political subdivision.

- (1) Oilfield drilling equipment to be re-leased or re-rented.
- (2) Airplanes or airplane equipment used by a commuter airline domiciled in La.
- (3) Pallets used by a manufacturer for packaging.
- (4) La. manufactured passenger aircraft
- (5) Equipment and devices associated with the wireless communication devices and wireless telephone service.
- (6) Telephone directories used for advertising.
- (7) Specific method for determining pricing relative to the publication of a free news

publication.

- (8) Pelletized paper waste used as fuel for power generation.
- (9) Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).
- (10) Property and services sold at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).
- (11) That portion of the value of refinery gas sold to another person by the person who owns the gas generation facility, whether at retail or wholesale, that is in excess of 52 cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be \$29.
- (12) Payments made by a manufacturer directly to a dealer of the manufacturer's product for the purpose of reducing the retail "sales price" of the product.
- (13) Speciality items sold to members of a nonprofit carnival organization for fund-raising purposes if the members are participating in a parade sponsored by the organization.
- (14) Equipment and devices associated with wireless communication devices and wireless telephone service.
- (16) Numismatic coins, and platinum, gold, and silver bullion.
- (17) Newspapers.
- (18) Free telephone directories used for advertising.
- (19) Property created or derived as a residue or byproduct of certain manufacturing processes.
- (20) Rental of a crane with an operator.
- (21) Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).

Proposed law repeals present law for the following exclusions from state and local sales and use tax:

- (1) Pollution control equipment
- (2) Natural gas used in the production of iron
- (3) Electricity for chlor-alkali manufacturing processes.

- (4) Alternative substance used as fuel.
- (5) Natural gas to be held, used or consumed in providing natural gas storage ("cushion" or "pad" gas).
- (6) Storm shutter devices.
- (7) Electric power and natural gas purchased or used by paper or wood products manufacturing facilities.
- (8) Custom computer software.
- (9) Equipment used for digital television conversion.

Present law excludes from the definition of "retail sale" the sale of butane and propane.

Proposed law changes present law by limiting the exclusions to butane and propane sold for residential use.

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

- (1) Racehorses.
- (2) Non-residential electric power utilities, natural gas, water, boiler fuel, and steam.
- (3) Motor vehicles returned to dealer inventory.
- (4) Amounts paid by radio and television stations for rights to broadcast content.
- (5) Motor vehicles, boats, and airplanes used as demonstrators.
- (6) Component parts for ships and barges in excess of 50 tons of displacement which are used in foreign or coastwise commerce.
- (7) Gate admissions to various charitable and nonprofit entertainment events.
- (8) Cable television installation.
- (9) Motion picture film rental.
- (10) Income from coin operated laundries.
- (11) Specific method of pricing equipment and devices associated with the wireless communication devices and wireless telephone service.

- (12) Leased vessels used in the production of minerals.
- (13) Purchases of materials, equipment, supplies, and services, and leases, by commercial fishers and seafood processors.
- (14) New vehicles furnished by dealers for drivers education.
- (15) Sales of gasohol.
- (16) Building materials for a nonprofit retirement center.
- (17) Speciality items sold to members of a nonprofit carnival organization for fund-raising purposes if the members are participating in a parade sponsored by the organization.
- (18) Admissions to performances by domestic nonprofit ballet companies.
- (19) Sales made by a nonprofit organization for the conservation of fish or migratory water fowl.
- (20) Ducks Unlimited and Bass Life.
- (21) Raw materials used in the printing process.
- (22) Per diem or car hire on freight cards, piggy-back cars, and rolling stock.
- (23) Purchase of trucks with a gross weight of 26,000 pounds or more and certain trailers if used at least 80% of the time in interstate commerce and whose activities are subject to the jurisdiction of the U.S. D.O.T.
- (24) Catalogs.
- (25) Railroad ties to be modified for installation at a location outside of the taxing jurisdiction.
- (26) Utilities, including electricity, used by steelworks and blast furnaces.
- (27) Off-road vehicles purchased by out of state buyers.
- (28) Sale of original, one-of-a-kind art from an established location within the boundaries of a cultural product district.
- (29) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (30) Capital equipment and software purchased by a radiation treatment center.

- (31) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (32) Purchase of certain construction materials by Hands on New Orleans and Rebuilding Together New Orleans covenant partners used on residential dwellings destroyed or damaged by Hurricanes Katrina or Rita.
- (33) Purchase, use, or rental of materials, services, property, and supplies by the Fore!Kids Foundation.
- (34) Purchase of certain construction supplies by the Make it Right Foundation.
- (35) Purchase of certain construction supplies by the St. Bernard Project, Inc.

Proposed law changes present law by limiting the applicability of the following exemptions to sales and use taxes imposed by a political subdivision:

- (1) Racehorses.
- (2) Non-residential electric power utilities, and boiler fuel, steam.
- (3) Motor vehicle returned to dealer inventory.
- (4) Amounts paid by radio and television stations for rights to broadcast content.
- (5) Motor vehicles, boats, and airplanes used as demonstrators.
- (6) Component parts for ships and barges used in foreign or coastwise commerce.
- (7) Labor, or sale of materials, services, and supplies, used for repairing, renovating or converting of any drilling rig, and associated machinery and equipment, which is used for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelf waters,
- (8) Gate admissions to various charitable and nonprofit entertainment events.
- (9) Cable television installation.
- (10) Motion picture film rental
- (11) Admissions to performances at a little theater.
- (12) Income from coin operated laundries.
- (13) Specific method of pricing equipment and devices associated with the wireless

communication devices and wireless telephone service.

- (14) Leased vessels used in the production of minerals.
- (15) Purchases of materials, equipment, and supplies, and leases, and services by commercial fishers and seafood processors.
- (16) Sales of gasohol.
- (17) Raw materials used in the printing process.
- (18) Per diem or car hire on freight cards, piggy-back cars, and rolling stock.
- (19) Purchase of trucks with a gross weight of 26,000 pounds or more and certain trailers if used at least 80% of the time in interstate commerce and whose activities are subject to the jurisdiction of the U.S. D.O.T.
- (20) Catalogs.
- (21) Railroad ties to be modified for installation at a location outside of the taxing jurisdiction.
- (22) Utilities, including electricity, used by steelworks and blast furnaces.
- (23) Sale of original, one-of-a-kind art from an established location within the boundaries of a cultural product district.
- (24) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (25) Capital equipment and software purchases by a radiation treatment center.
- (26) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (27) Purchase of certain construction materials by Hands on New Orleans and Rebuilding Together New Orleans covenant partners used on residential dwellings destroyed or damaged by Hurricanes Katrina or Rita.
- (28) Purchases, use, or rental of materials and services by the Fore!Kids Foundation.
- (29) Purchase of certain construction supplies by the Make it Right Foundation.
- (30) Purchase of certain construction supplies by the St. Bernard Project, Inc.

(31) Ducks Unlimited and Bass Life.

Proposed law repeals present law for the following sales and use tax exemptions:

- (1) New vehicles furnished by dealers for drivers education.
- (2) Building materials for a nonprofit retirement center.
- (3) Admissions to performances by domestic nonprofit ballet companies.
- (4) Sales made by a nonprofit organization for the conservation of fish or migratory water fowl.
- (5) Purchase by Sparta Groundwater District (obsolete).
- (6) Off-road vehicles purchased by out of state buyers.

Present law establishes a sales and use tax refund for materials used in the construction or restoration of a home in certain specific development areas.

Proposed law repeals present law.

Proposed law specifies that exclusions and exemptions applicable to the state sales and use tax are limited to the follow:

- (1) Food for home consumption.
- (2) Natural gas for residential use.
- (3) Electricity for residential use.
- (4) Water for residential use.
- (5) Prescription drugs.
- (6) Fuel that is subject to the road-use excise tax.
- (7) Purchases by a public trust.
- (8) Sales by state owned domed stadiums and baseball stadiums.
- (9) Sales by publicly owned facilities as provided in R.S. 39:468.
- (10) Isolated or occasional sales of tangible personal property.
- (11) Installation charges on tangible personal property.

- (12) Installation on oil field board roads.
- (13) Transaction involving the construction or overhaul of United States Navy vessels.
- (14) Manufacturers rebates on new motor vehicles.
- (15) Lease or rentals of railroad rolling stock.
- (16) Purchases and leases by free hospitals.
- (17) Certain educational materials and equipment used for classroom instruction.
- (18) Purchases by regionally accredited independent education institutions.
- (19) Purchases by nonprofit entities that sell donated goods.
- (20) Tangible personal property for resale.
- (21) Purchase of property for lease or rental.
- (22) Sales through coin-operated vending machines.
- (23) Sales of materials for further processing into articles of tangible personal property for sale at retail.
- (24) Sales of human tissue transplants.
- (25) Sales of raw agricultural products.
- (26) Sales to the United States government.
- (27) Sales of food by youth serving organizations chartered by Congress.
- (28) Purchases by a private postsecondary academic degree-granting institution.
- (29) Tangible personal property sold to food banks.
- (30) Purchases of food items for school lunch or breakfast programs by nonpublic elementary or secondary schools.
- (31) Articles traded in on purchases of tangible personal property.
- (32) Repair services performed in Louisiana when the repaired property is exported.
- (33) Funeral directing services.

- (34) Stocks, bonds, notes, or other obligations or securities.
- (35) Work product of certain professionals.
- (36) Pharmaceuticals administered to livestock for agricultural purposes.
- (37) Other constructions permanently attached to the ground.
- (38) Materials used in the collection of blood.
- (39) Aphaeresis kits and leuko reduction filters.
- (40) Donation to schools and food banks from resale inventory.
- (41) Use of motor vehicles in Louisiana by active duty military.
- (42) Credit for sales and use taxes paid to other states on tangible personal property imported in Louisiana.
- (43) Gross proceeds derived from the sale of livestock, poultry, and other farm products direct from the farm).
- (44) Feed and feed additives for animals held for business purposes.
- (45) Materials used in the harvesting or production of crawfish.
- (46) Materials used in the harvesting or production of catfish.
- (47) Farm products produced and used by farmers.
- (48) Sales of fertilizers and containers to farmers.
- (49) Sales of seeds for planting crops.
- (50) Sales of pesticides for agricultural purposes.
- (51) Property purchased for exclusive use outside the state.
- (52) Specific types of farm equipment.
- (53) Diesel fuel, butane, propane, or other liquefied petroleum gases used for farm purposes.
- (54) Purchases made with food stamps and WIC.
- (55) Pharmaceutical samples distributed in Louisiana.

(56) Commercial farm irrigation equipment.

(57) Purchases and leases of durable medical equipment under the provisions of Medicare.

Applicable to taxable periods beginning on and after April 1, 2016.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301(3) through (17) and (18)(d)(ii), (h), (i) through (l), and (o), 302(A), (B), and (C)(1), 305(A)(2), (C), (D)(1)(b) through (d) and (g) through (i), (F), (H)(introductory paragraph), and (I), 305.1(A) and (B), 305.6, 305.7, 305.9, 305.13, 305.14(A)(1), 305.16, 305.17, 305.18, 305.19, 305.20(A), (C)(introductory paragraph), and (G), 305.26, 305.28(A), 305.33, 305.39, 305.40, 305.41(A), 305.42, 305.43, 305.44(A)(introductory paragraph), 305.45(A)(introductory paragraph) and (B), 305.50(A)(1) and (2)(a)(introductory paragraph) and (F), 305.51(A), 305.56, 305.57(A), 305.59, 305.60, 305.61(A), 305.64(A)(1), (B), 305.49, and (C), 305.65(A) and (C), 305.68, 305.70, 305.71, and 315.2; Adds R.S. 47:302(V), 321(L), and 331(S))

Summary of Amendments Adopted by House

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

1. Add the imposition of an additional .50% sales and use tax beginning April 1, 2016.
2. Restore changes to present law concerning the sales and use tax exclusions and exemptions for manufacturing machinery and equipment for various business sectors.