authorities. Political subdivisions whose boundaries are not coterminous with those of the state are local taxing authorities.

Taxing Jurisdiction—the geographic area within which a taxing authority may legally levy and collect a sales or use tax.

Use—

a. *Use* under state and local sales or use tax law is intended to include not only the commonly accepted concept of *use* but also to cover the consumption, the distribution, or the storage, or the exercise of any right of power over tangible personal property. Since tax is imposed on the sale of tangible personal property, *use* has been defined to specifically exclude property sold at retail in the regular course of business.

b. Neither does use apply to materials or property which are combined with other materials to form an article of tangible personal property which will subsequently be sold at retail. In this instance, the tax on those materials will be collected on the retail sale. It is necessary, however, that materials excluded from the definition of use because they were consumed in creating a new piece of tangible personal property be identifiable in new property and not merely expended during the course of the processing. All such expended materials have been used by the processor or manufacturer and are taxable to him at the time of purchase by him.

Use Tax—the tax paid under state and local sales or use tax law for the use, consumption, distribution, or storage for use, distribution, or consumption within a taxing jurisdiction in lieu of sales taxes. This is the tax required to be paid if no sales tax has been paid on tangible personal property which is used, consumed, distributed, or stored for use within the taxing jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 31:697 (March 2005), LR 32:111 (January 2006), LR 32:865 (May 2006), LR 44:2022 (November 2018), amended by Department of Revenue, Tax Policy and Planning Division, LR 52:245 (February 2026).

§4302. Pollution Control Devices and Systems Excluded from the Definition of "Sale at Retail"

A. This Section describes the conditions under which certain sale or lease transactions involving tangible personal property used for pollution control purposes may be excluded from the definition of *sale at retail* for purposes of the 3 percent tax levied by this Chapter and the Louisiana Tourism Promotion District. It contains the qualifications which must be met by the property under consideration, the requirements which are imposed upon the applicant for the tax relief granted under this Act, and the procedures to be followed in applying for the relief.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein.

Act or This Act—Act 1019 of the 1991 Regular Session of the Louisiana Legislature.

Industrial Application—use, construction, or installation of a pollution control device or system by a business which is primarily engaged in the exploration for or mining of minerals, the manufacture or processing of raw materials into tangible personal property for resale, or the processing, treatment, disposition, control or containment, of polluting materials produced by another business.

Pollution—the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. Pollution includes solid waste, hazardous waste, sludge, chemical waste, radiological wastes, noise, and any other pollutants resulting from industrial emissions, discharges, or releases into air, water, or land.

Pollution Control Device or System—any one or more pieces of tangible personal property which is intended and installed for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana and which has been approved by the Department of Environmental Quality and the Department of Revenue and Taxation for the tax relief granted by this Act.

C. Qualifications. To qualify for the tax relief provided under this Act, a pollution control device or system must comply with the following requirements.

1. It must demonstrate to the Department of Environmental Quality its efficacy to a particular process or application. The equipment must be approved by both the Department of Environmental Quality and the Department of Revenue and Taxation in order to be excluded from the definition of *sale at retail* for state sales and use tax purposes.

2. It (or the applicant) must demonstrate either:

a. a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or

b. that installation is necessary to comply with federal or state environmental laws or regulations.

3. It must be intended for use in an industrial application. Use in residential, commercial, recreational, or other applications do not qualify.

D. Restrictions. This exclusion and the tax relief provided under this Act does not apply to:

1. modifications to processes carried out primarily for reasons other than the reduction of pollution;

2. installation or replacement of existing process units carried out primarily for reasons other than the reduction of pollution;

3. vehicles used to assist in operations.

E. Application and Documentation

1. Applicants seeking relief under this Act must submit an application to the Department of Revenue and Taxation for a certification of the pollution control device or system.

2. The respective departments may require the applicant to provide cost estimates, engineering drawings, equipment specification sheets, and any other documentation necessary to establish the identity and value of the property qualifying for the exclusion. The documentation must be sufficient to enable the Department of Environmental Quality to establish the efficacy of the pollution control device or system, and to allow the Department of Revenue and Taxation to ascertain the allowable tax relief.

3. After receiving certification from the Department of Environmental Quality, a certificate of tax exclusion and/or refund of taxes paid on approved pollution control equipment will be issued by the Department of Revenue and Taxation. Applicants must assemble and consolidate all invoices on purchases made by themselves and their subcontractors. Refunds will not be issued to subcontractors.

a. Owners and/or operators of qualifying pollution control devices or systems may apply for certification and refund of taxes paid on or after September 6, 1991, and prior to the date of certification.

b. In order for a pollution control device or system to qualify as tax free at the time of purchase, applicants must have received a certification of approval from the Department of Environmental Quality and the Department of Revenue and Taxation prior to the purchase or lease of the equipment. The applicant, or contractors who are duly authorized to act as an agent of the applicant, may present an approved certification in lieu of the tax at the time of purchase.

c. If the application for the tax exemption on the pollution control device or system cannot be processed and approved before purchases are made or property is imported into the state for the project, the state sales or use tax shall be paid at the time of purchase or importation. Tax refunds will be issued upon approval of the project and the filing of proper claims. Applicants filing for refunds will have purchased and installed, or intend to install, the pollution control device or system.

4. The owner and/or operator must report the final cost of the pollution control devices or systems to the Department of Revenue and Taxation. Audits and inspections may be performed by the respective departments to ascertain the efficacy of the equipment. The tax refund will be forfeited if the pollution control device or system does not meet the requirements of this Act.

5. Approval of the equipment for a sales tax refund does not relieve the applicant from obtaining any other permits otherwise required for the pollution control device or system, including permits to install or construct prior to start of construction.

6. Each application for tax relief must be signed by an officer, principal, or other person authorized to act in the behalf of the applicant, and must be accompanied by a certification affidavit executed by the owner and/or operator and a certification affidavit executed by a professional engineer. Both certification affidavits will be prepared on the application form supplied by the Department of Revenue and Taxation.

F. Confidentiality. Applications and all documentation and cost information which are submitted to the Department of Revenue and Taxation under this Act are considered confidential taxpayer information under the provisions of R.S. 47:1508. Information which pertains to pollution control devices or systems costs will be maintained only at the office of the Department of Revenue and Taxation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(10)(l).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18:1414 (December 1992).

§4303. Imposition of Tax

A.1. R.S. 47:302(A) imposes a tax at the rate of 2 percent upon the sale at retail or the use, consumption, distribution or storage for use or consumption in this state of each article of tangible personal property, as each of those terms are defined in R.S. 47:301. R.S. 47:321(A) and R.S. 47:331(A) each impose an additional 1 percent tax on the same basis, making the combined state sales tax rate 4 percent. If Louisiana sales tax has been paid upon the transfer of title to tangible personal property, then there will be no tax on the use, consumption, distribution, or storage for use or consumption of the item in this state by the purchaser, since R.S. 47:302 provides that there shall be no duplication of the tax.

2. Each and every item of tangible personal property sold at retail in this state is subject to the tax imposed by this Chapter unless a specific exemption is set forth in the statute. The tax is computed on gross sales and must include each and every retail sale. When tangible personal property is used, consumed, distributed, or stored for use or consumption in this state on which, for any reason whatsoever, no Louisiana sales tax has been paid, then the

ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to September 3, 1989.

2. Before the collector can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a federal income tax return in accordance with Section 166 of the United States Internal Revenue Code. Since the issuance of refunds is tied to charge-offs on the annual federal return, the collector will process one refund per year for each dealer.

3. If after a debt is charged off as worthless and a sales tax refund issued, all or some portion of the debt is collected, the gross amount collected shall be reported as a new sale for the period when the recovery is made.

4. The local credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1).

5. The sales tax is refundable only on those bad debts that are the result of credit or deferred payment sales of tangible personal property and sales of services financed by the dealer making the sale. No refund is authorized on bad debts arising from leases or rentals, even though tax may have been charged on such transactions, or on sales financed by lending institutions or independent credit card plans, unless the lender has full recourse against the seller for any unpaid amounts. The sales tax is refundable on bad debts which arise because of the issuance of worthless checks only to the extent the check was in payment of taxable tangible personal property.

6. No refund will be issued in the case where a dealer has repossessed saleable merchandise and cancelled the customer's credit obligation.

7. Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the collector. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

C. Refund claims submitted to the collector must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, for state sales or use tax purposes or September 3, 1989, for local sales or use tax purposes, nontaxable portion of debt written off, and tax claimed.

1. Refunds will not be issued based solely upon increases in bad debt reserve amounts. Dealers who maintain such reserve accounts must base their claims on the individual bad debts charged against the reserve.

2. Taxpayers who charge off more that 200 taxable accounts annually, and for whom the furnishing of detailed information required above would be unreasonably burdensome, may apply for permission to submit the required data in some other form.

3. All refund claims filed with the collector are subject to office or field examination and verification, so dealers must maintain auditable records to support their claims. The records must be able to substantiate that the sales tax was charged and remitted to the collector on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a federal income tax return before a refund of state sales or use tax will be processed by the Department of Revenue. The credit or refund for local sales or use tax shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with R.S. 47:337.34(B)(1). In the absence of the required records, a dealer will not be entitled to refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315, R.S. 47:337.2, R.S 47:337.34, and R.S 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:97 (January 2005).

§4371. Sales Tax Refund for Tangible Personal Property Destroyed in a Natural Disaster

A. Under certain circumstances, a refund is allowed for state sales or use tax paid on tangible personal property that has been destroyed in a natural disaster. The conditions and requirements are as follows.

1. The property destroyed must be classified as tangible personal property at the time of destruction rather than being classified as real or immovable property. For purposes of determination of the classification of such property, reference and guidance shall be to the rules of the Louisiana Civil Code. In Louisiana, property is classified as either movable or immovable rather than as personal or real. Under Louisiana law a corporeal movable is equivalent to tangible personal property at common law, and an immovable is equivalent to real property. Generally speaking a house or a building and all central heating or cooling systems, lighting fixtures, lavatories, etc., that are actually connected with or attached to the house or building by the owner are immovable by their nature. Such items as clothing, drugs, food, recreation equipment, appliances not permanently attached to a house or building where the removal thereof would not damage the movable or immovable, etc., would be classified as tangible personal property or movable property, and the sales tax paid on these items would be eligible to be refunded. Automobiles, trucks, motorcycles, boats, boat trailers, and other vehicles will not be considered tangible personal property used in or about a person's home, apartment, or homestead. The sales

tax paid on these items is not eligible to be refunded under this statute.

2. Such property destroyed must be a part of and used in or about a person's home, apartment or homestead, on which Louisiana sales tax has been paid by the owner of the property destroyed in an area subsequently determined by the president of the United States to warrant assistance by the federal government. Therefore, it is necessary that individuals suffer the loss, since R.S. 47:315.1 does not apply to partnerships or corporations. Further, it does not apply to business losses, even by individuals, since the law limits the losses to property that is part of and used in or about a person's home, apartment or homestead. Also, the area where the natural disaster occurred must be designated as an area warranting assistance by the federal government in order to qualify under this Section.

3. The claimant suffering the loss of the tangible personal property must be the owner of such property that purchased and paid the Louisiana sales tax on such property. Any refund claim filed shall be made in accordance with the rules and regulations prescribed by the secretary. Accordingly, any refund claim shall be filed on or before the end of the third calendar year following the year in which the property was destroyed, and the refund claim shall be limited to the tax paid on such tangible personal property destroyed for which no reimbursement was received by insurance or otherwise.

4. A refund claim packet can be obtained from the secretary, and when the claimant properly executes the required forms and prepares a sworn statement attesting to the facts, a refund will be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1. and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:99 (January 2005), LR 32:262 (February 2006).

§4372. Payment of Sales and Use Taxes by Persons Constructing, Renovating, or Altering Immovable Property

A. General. The purpose of this Section is to help clarify which party to the transaction is liable for the payment of sales and use taxes on the purchase, use, consumption, distribution, or storage for use or consumption of tangible personal property in this state when such property is used in the construction, alteration, or repair of an immovable property, and such tangible personal property is transferred from the contractor to its customer in an immovable state.

B. Definition. For the purposes of this Section, the term *contractor* means any dealer, as defined in this Chapter, who contracts or undertakes to construct, manage, or supervise the construction, alteration, or repair of any immovable property, such as buildings, houses, roads, levees, pipelines, oil and gas wells (downhole), and industrial facilities. It also includes subcontractors. The term *contractor* shall not include a dealer who fabricates or constructs property that is sold to another person as tangible personal property, provided that the fabricator or constructor of the tangible personal property does not affix that tangible personal property to the buyer's immovable property.

C. Sales of tangible personal property, including materials, supplies, and equipment, made to contractors, or their contractors, subcontractors, or agents, for use in the construction, alteration, or repair of immovable property are presumed to be sales to consumers or users, not sales for resale, and therefore the contractor is liable for the taxes imposed by this Chapter on their purchases or importations of such tangible personal property. This presumption may be rebutted by a showing of credible evidence, such as a writing signed by the contractor's customer stating that title and/or possession of itemized articles of tangible personal property were transferred to the customer prior to their being made immovable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 38:1995 (August 2012).

§4373. Nonresident Contractors

A. General. This Section provides the procedures that must be followed by nonresident contractors who do business in this state as required by R.S. 47:9 and R.S. 47:306(D). This Section also provides the procedures that must be followed by state and local agencies charged with the responsibility for granting permits and/or licenses for the lawful commencement of construction contracts in this state as required by R.S. 47:337.18(C). This Section also provides the necessary definitions.

B. Definitions. For the purposes of this Section, the following terms are defined.

Contractor—any dealer, as defined in this Chapter, who enters into contracts for the construction, renovation, or repair of immovable properties, such as buildings, houses, roads, levees, pipelines, and industrial facilities. It also includes subcontractors who enter into similar agreements with a general or prime contractor. The term *contractor* shall not include businesses that fabricate or construct property that is sold to another person as tangible personal property, even though the property may be subsequently incorporated into the construction of an immovable. The term *contractor* shall include any project owner who obtains any permit, license, or certificate necessary for the lawful commencement of any construction contract.

Nonresident Contractor—any contractor who does not meet any of the following criteria for resident status.

B. Reconstructions qualify for exemption under R.S. 47:305.1(A) if they:

1. modify the craft's function, such as conversion of a deck barge to a crane barge; or

2. restore the craft to seaworthiness following its destruction by sinking, collision, or fire.

C.1. For the purposes of the exemption provided in R.S. 47:305.1(B), vendors may assume that ships' supplies and materials delivered to the dock will be loaded upon the vessel for use or consumption in the maintenance of the vessel.

2. The exemption provided in R.S. 47:305.1(B) for repair services performed upon ships and vessels operating exclusively in foreign or interstate coastwise commerce also applies to component parts removed from those ships, vessels, or barges and repaired elsewhere.

D. For the purposes of the exemption granted under R.S. 47:305.1, the following definitions apply.

Commerce—the transporting of goods or persons by ship, vessel, or barge exclusively to carry on a trade or business.

Load Displacement—the weight of the volume of water displaced by a ship, vessel, or barge when loaded to its maximum capacity.

Owner or *Operator*—any person who has title to, possession of, or control over the operation of any ship, vessel, or barge defined in R.S. 47:305.1.

Ship, Vessel, or *Barge*—any craft used primarily for transporting persons or property by water, or any craft designed or altered to perform specialized marine-related services, such as dredging, fleeting, geological surveying, cargo transferring, and which possesses all of the following characteristics:

a. performs its services in navigable waters;

b. is capable of being moved by floatation from one location to another in navigable waters; and

c. is registered as a vessel with the United States Coast Guard or is eligible for registration.

Ships Supplies and Materials—all tangible personal property loaded on and used or consumed in the maintenance or operation of a ship, vessel, or barge and its crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by Department of Revenue, Policy Services Division, LR 30:1044 (May 2004).

§4404. Seeds Used in Planting of Crops

A. The sale at retail of seeds for use by a commercial farmer in the planting of crops of any kind is exempt from state and local sales or use tax. Crops do not include the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the commercial farmer is engaged in the business of harvesting those plants and selling them in the commercial market.

B. It is not necessary that the farm operation result in a net profit or that a given acreage of any particular crop be planted. The only requirement is that the planting be made by a commercial farmer.

C. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47.305.3, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:99 (January 2005), LR 44:2022 (November 2018).

§4406. Little Theater Tickets

A. The exemption provided by R.S. 47:305.6 excludes from state and local sales or use tax–the sale of admission tickets by little theater organizations. This exemption has been construed to cover the sale of tickets by any nonprofit organization whose sole purpose is the presentation of stage productions by nonprofessional actors and the advancement of amateur acting. The exemption extends to all such organizations whether they are officially known by the name Little Theater or by some other appropriate designation.

B. In order to meet this exemption, the sale of tickets must be made by the organization conducting the presentation. The exemption does not extend to the sale of tickets by promoters who are expected to profit from the endeavor, even though the performance may be staged by personnel associated with a little theater organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.6, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:93 (January 2005).

§4407. Tickets to Musical Performances of Nonprofit Musical Organizations

A. R.S. 47:305.7 specifically exempts the sale of admission tickets by Louisiana nonprofit corporations or organizations engaged in the presentation of musical performances, or who are known as symphony organizations,

from state and local sales or use tax. The exemption covers only sales of tickets made by corporations or organizations established within Louisiana and does not apply to the sales of tickets within this state which might be made by similar organizations or companies from outside of the state. The exemption does not apply to the sales of tickets by a domestic corporation or organization if the performance will be presented by a symphony group from outside of the state.

B. The exemption provided by this Section does not apply to performances intended to yield a profit to the promoters of the event regardless of the domicile of the performers. Neither does this exemption apply to the sales of tickets by domestic nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances if the event being staged is not directly related to the primary purpose of those organizations. As an example, tickets sold by symphony organizations to an athletic event would not qualify for the exemption provided by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.7, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:100 (January 2005).

§4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail to commercial farmers of pesticides used for agricultural purposes. This exemption includes, but is not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. Definitions

Agricultural Purposes—any purpose directly connected with the operation of any farm, including poultry, fish, and crawfish farms, ranch, orchard or any other operation by which products are grown on the land in sufficient quantity to constitute a commercial operation. The exemption is not intended to cover the sale of pesticides for use in private family vegetable gardens or in protecting ornamental plants used for landscape purposes.

Pesticides—include any preparation useful in the control of insects, plant life, fungus, or any other pests detrimental to agricultural crops, including the control of animal pests that meets the definition of a pesticide in accordance with the Department of Agriculture and Forestry of the state of Louisiana under R.S. 3:3202. Qualifying pesticides must be registered with the U.S. Environmental Protection Agency (EPA) and the Louisiana Department of Agriculture and Forestry or any other appropriate governmental agency and must carry a valid EPA FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) number issued by the U.S. Environmental Protection Agency or a special label number assigned by the Louisiana Department of Agriculture and Forestry. The exemption also includes any solution mixed with a qualifying pesticide to allow for the proper distribution and application of the pesticide, including but not limited to crop oils, surfactants, adjuvants, emulsions, soaps, and drift agents.

C. Dealer Requirements. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the presentation of valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31:95 (January 2005), LR 44:2023 (November 2018).

§4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from state and local sales or use tax. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect state or local sales or use tax because of the exemption provided in R.S. 47:305.9 must be able to identify the motion picture theater operators to whom films were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. In some cases, agreements between film distributors and theater operators may not be leases or rentals. Section 4301 defines *lease or rental* and provides exceptions to the definition of *lease or rental*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 31:94 (January 2005).

§4413. Admissions to Entertainment Furnished by Certain Domestic Nonprofit Corporations

A. R.S. 47:305.13 grants a limited exemption to organizations created under the laws of the state of Louisiana as nonprofit, charitable, educational, or religious organizations from state and local sales or use tax on the sale of admissions to entertainment events. Such sales of admissions are exempt only when the entire proceeds, with the exception of necessary expenses connected with the event, are used for the purpose for which the organization was formed. The requirement that the entire proceeds from the sales of tickets, except for necessary expenses, must be used for the purpose for which the organization was formed eliminates from exempt status any event where payment has been made to a promoter or promotional firm for engaging the services of persons not directly connected with the sponsoring organization.

B. Only sales of admissions made by recognized domestic nonprofit, charitable, educational, or religious organizations are exempt under this Section. In order to meet the nonprofit requirement, an organization or corporation must have no provision for making of dividends or payments of any profits to any organizers or stockholders and none of the income may inure to the benefit of any private shareholder or individual. In order to qualify as a charitable organization, it must freely and voluntarily minister to the physical needs of those unable to help themselves, or promote the welfare of mankind at large, or of a community, or of some class from a part of a community, or be one which would not deny assistance to persons unable to pay even though it may charge for assistance to those who are able to pay. An educational institution is construed to mean a school, seminary, college, or other institution having an instructional staff and a curriculum designed to cultivate the mental, moral, religious, or physical facilities of those whom it seeks to educate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.13, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:88 (January 2005).

§4414. Cable Television Installation and Repair

A. R.S. 47:305.16 provides an exemption for sales and use taxes imposed by the state or by any political subdivision thereof on necessary fees incurred in connection with the installation and service of cable television. Such exemption shall not apply to purchases made by any cable television system, but shall apply only to funds collected from the subscriber for regular service, installation and repairs.

B. Contractors and sub-contractors engaged in the business of installing and servicing the cable television system, whether on a lump-sum or a cost-plus basis, are deemed to be purchasers and consumers of the materials used by them. Vendors of such materials are required to collect the sales tax thereon and to remit same to the appropriate taxing authority.

C. Charges for repairs to television sets or other tangible personal property that is not considered a part of the cable television system are taxable as sales of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.16.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

§4416. Purchases of Mardi Gras Specialty Items

A. R.S. 47:305.40 grants an exemption solely from state sales or use tax on purchases of specialty items for use in connection with Mardi Gras activities. The exemption is available to:

1. carnival organizations domiciled within Louisiana that plan to sponsor either a Mardi Gras ball or parade during the next Mardi Gras season; and

2. nonprofit organizations domiciled within Louisiana that plan to participate in a parade sponsored by a carnival organization.

B. Each such eligible organization shall annually request and obtain from the Department of Revenue and Taxation a Certificate of Exemption that may be presented to vendors of specialty items in lieu of the tax at the time of purchase. The request may be either in the form of a letter or on forms supplied by the Department of Revenue and Taxation, and shall contain the following information:

1. name and address of the organization;

2. type of organization, either:

a. carnival organization sponsoring a parade or ball during next Mardi Gras season; or

b. nonprofit organization participating in a carnival organization parade during next Mardi Gras season;

3. event or events to be sponsored or participated in for which tax-free purchases are being made;

4. type of specialty items to be purchased tax-free under the authority of the exemption certificate;

5. name of the officer authorized to make purchases on behalf of the organization;

6. name and signature of the officer of the organization making the request.

C. Subsection 4416.B defines *specialty items* for purposes of the exemption as those items which are specially designed for the carnival or nonprofit organization and bear the organization's name or insignia. Examples of such items are doubloons, necklaces, beads, throws, cups, and coasters. Other types of specialty items may also qualify for the exemption if they are purchased for use in a Mardi Gras

activity, bear the name or insignia of the organization, and are either for free distribution to the public or for use in conjunction with a Mardi Gras ball, such as flags, posters, invitations, programs, decorations, napkins, and tablecloths.

D. The resale of specialty items by the purchasing organization to its members shall be regarded as exempt sales under the provisions of this Section, but only when those items are used exclusively in conjunction with a Mardi Gras parade or ball. The sale of novelty items such as shirts and hats, on a continuing basis, which are not used exclusively in conjunction with a Mardi Gras parade or ball, shall be regarded as taxable sales under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.40 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31:93 (January 2005).

§4417. Exclusions and Exemptions; Purchases Made with United States Department of Agriculture Food Stamp Coupons and Purchases Made under the Women, Infants, and Children's Program

A. This Section specifically exempts from the sales and use tax imposed by this Chapter, and any such tax imposed by any parish, board, or municipality, purchases of the following items:

1. eligible food items, as defined by the United States Department of Agriculture (USDA) regulations for the Food Stamp Program, when such food items are purchased with United States Department of Agriculture Food Stamp Coupons;

2. eligible food items authorized for purchase under the Women, Infants, and Children's (WIC) Program as administered by the Louisiana Department of Health and Human Resources, when such items are purchased with WIC Program Vouchers.

B. Definitions

Eligible Food Items for Purchases Made with Food Stamps—as defined in the regulations of the Food Stamp Program of the United States Department of Agriculture.

Eligible Food Items or Purchases Made with WIC Vouchers—the specific items authorized to be purchased with the WIC voucher used as the medium of exchange.

United States Department of Agriculture Food Stamp Coupons (*Food Stamps*)—coupons issued by the USDA Food Stamp Program.

WIC Program Vouchers (*WIC Vouchers*)—payment vouchers issued by the Women, Infants, and Children's (WIC) Program.

C. Limitations

1. The exemption for food items purchased with food stamps is limited to those items defined as eligible foods in the regulations of the USDA Food Stamp Program. As the definition of eligible foods changes, the food items eligible for this exemption will automatically qualify or become disqualified.

2. The exemption for eligible food items purchased with WIC vouchers is limited to those items specifically stated on the voucher which is used as the medium of exchange.

3. The exemptions for purchases utilizing food stamps and WIC vouchers are further limited to the amount of food stamps and WIC vouchers used in the transaction. Eligible food items purchased with mediums of exchange other than food stamps or WIC vouchers, such as cash, will be subject to applicable state and local sales and use taxes.

D. Purpose and Method

1. Federal regulations require that the exemption for food stamp purchases be administered so as to minimize the sales tax burden on any order of eligible foods. A special problem arises when a patron presents a combination of food stamps and cash in payment of eligible food consisting of food for preparation and consumption in the home (exempt from state sales taxes) and eligible food items such as ice, bottled water, loose candy, and seeds and plants for the production of food which except for this exemption would be taxable. Grocers are currently required to sort each order by separating the eligible food items from the entire order, either physically or through the use of electronic equipment. Since ice, bottled water, etc. are otherwise taxable items, the federal regulations would require a second sort to ensure that the food stamps are applied to those items first.

2. In order to comply with federal regulations that mandate food stamps be allocated first to taxable eligible food items, and to eliminate the need for double-sorting by dealers, purchases of eligible food items paid for with a combination of food stamps and cash will be given the following treatment for state sales tax purposes. Once the food stamps have been applied to the purchase, the remaining portion of eligible items which is to be paid for with cash will be treated as food for home consumption, notwithstanding any restrictions by R.S. 47:305(D). Thus, of the remaining portion of the eligible food items to be paid for with cash, items such as ice, bottled water, and loose candy will be taxed at the same rate as milk or bread. This method does not in any way affect ice, bottled water, loose candy, and other such items which are purchased by a patron who does not present food stamps in payment.

E. Purchases of items not considered eligible food items by the USDA regulations, such as detergent, will not be affected by this regulation and will remain subject to applicable state and local sales and use taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.46.

semi trailer, *tandem truck*, *tractor* and *truck-tractor* as defined in R.S. 47:451.

H. The weights referred to in R.S. 47:305.50 are "gross vehicle weight ratings" (GVWR), as determined by vehicle manufacturers. Manufacturers' determinations of GVWR are usually indicated on plates or decals affixed to vehicles at the time of their manufacture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.50, R.S. 47:337.2, R.S. 47:337.9, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003), amended LR 31:97 (January 2005), LR 35:1254 (July 2009).

§4423. State Sales Tax Holiday on Purchases of Hurricane-Preparedness Items

A. Revised Statute 47:305.58 allows for an exemption of the state sales tax on sales made on the last Saturday and Sunday of each May of certain hurricane-preparedness items or supplies.

1. Tax-free purchases are authorized on the first $1,500 of the sales price of each hurricane-preparedness item.

2. The sales tax exemption only applies to purchases of the following items or supplies:

a. any portable self-powered light source, including candles, flashlights and other articles of property designed to provide light;

b. any portable self-powered radio, two-way radio, or weather band radio;

c. any tarpaulin or other flexible waterproof sheeting;

d. any ground anchor system or tie-down kit;

e. any gas or diesel fuel tank;

f. any package of AAA-cell, AA-cell, C-cell, D-cell, 6 volt, or 9-volt batteries, excluding automobile and boat batteries;

g. any cell phone battery and any cell phone charger;

h. any nonelectric food storage cooler;

i. any portable generator used to provide light or communications or preserve food in the event of a power outage;

j. any *storm shutter device*, as defined by R.S. 47:305.58;

k. any carbon monoxide detector; and

l. any reusable freezer pack such as "blue ice."

3. The state sales tax exemption provided does not apply to hurricane-preparedness items or supplies sold at any "airport," "public lodging establishment or hotel," "convenience store," or "entertainment complex."

B. Definitions

Airport—any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; all appurtenant areas used or suitable for airport buildings or other airport facilities; and all appurtenant rights of way including easements through or other interest in air space over land or water and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas and efficient operation thereof.

Convenience Store—retail businesses that are smaller in square footage than full-line grocery stores, discount stores, department stores, or pharmacies, and that place primary emphasis on providing the public convenient locations from which to quickly purchase from limited lines of consumable products.

a. In order to be considered a *convenience store*, sales must consist primarily of motor fuel and lubricants; snack foods, including sandwiches, hot dogs, candy, nuts, and chips; beer; liquor; wine; tobacco products; soft drinks; fishing baits; newspapers; and magazines, and the sales of the business must be sufficiently diversified within these product lines so that the business is not classified as a specialty retailer such as a liquor store, sandwich shop, newsstand, or tobacco shop.

b. *Convenience stores* typically have the following characteristics:

i. inside sales areas that are less than 5,000 sq. ft.;

ii. off-street parking and/or convenient pedestrian access; and

iii. extended hours of operation with many open 24 hours, seven days a week.

Entertainment Complex—a premise that is a site for the performance of musical, theatrical, or other entertainment; country clubs; tennis clubs; swimming clubs; bowling establishments; skating rinks; movie theatres; amusement parks; zoos; or similar entertainment-oriented businesses.

Hotel—any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location. The term *public lodging establishment* is interpreted to include other businesses that offer lodging to transient guests for compensation, including "bed and breakfast" businesses.

C. Procedure for State Sales Tax Holiday

1. A taxpayer may make state sales tax-free purchases on the first $1,500 of the sales price on each of the above enumerated hurricane-preparedness items or supplies on the last Saturday and Sunday of each May.

2. The state sales tax holiday shall not apply to any vendor defined under Subsection B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and Sec. 2 of Act 429 of the 2007 Regular Session.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 34:1426 (July 2008).

§4427. Sales and Use Tax Exemption for Charitable Construction of Animal Shelters

A. R.S. 47:305.59(B) provides a state sales and use tax exemption for sales of construction materials to certain animal shelter purchased between October 1, 2021, and June 30, 2025, are intended to be used in constructing new animal shelters in Louisiana, and construction begins on or before June 30, 2025. The local sales and use tax exemption is effective July 1, 2021, for construction beginning between July 1, 2021, and June 30, 2025.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed therein.

Animal Shelter—a public or private entity designated by the parish, municipality, or other local governmental authority for keeping or housing its impounded animals or a private, not for profit entity whose mission or practice is protecting the welfare of animals and the placement of those animals in permanent homes or with animal rescue organizations.

Animal Shelter Facility—a building, structure, site, enclosure, or other facility used or operated for the housing or keeping of any stray, homeless, abandoned, or unwanted animals, including any facility designated by a parish, municipality, or other local governmental authority for the keeping or housing of any impounded animals.

Louisiana Animal Shelter Registry—the registry established and maintained by the state veterinarian for animal shelters as set forth in R.S. 3:2366.

C. Eligibility. To qualify for the sales and use tax exemption on sales of construction materials, the following conditions must be satisfied at the time of application:

1. The animal shelter is registered with the Louisiana animal shelter registry.

2. The animal shelter intends to use the purchased materials in constructing a new animal shelter facility located within this state.

3. The animal shelter and the proposed new construction must comply with the provisions of R.S. 3:2461 et seq. and R.S. 3:2471 et seq.

4. Purchases of materials for the construction of a new animal shelter facility must occur between October 1, 2021 and June 30, 2025 for the state sales tax exemption to be applicable.

a. Purchases of materials for the repair of, for an addition to, or for alterations to existing animal shelter facilities do not qualify for the exemption.

D. Limitations. The following limitations shall apply for the sales and use tax exemption on sales of construction materials.

1. The animal shelter shall not be eligible for the exemption if the animal shelter engages in the business of selling animals at retail or the business of breeding animals.

2. The animal shelter shall not be eligible for the exemption if the animal shelter is a residential dwelling or attached in any manner to a residential dwelling.

E. Application

1. All applications for the exemption shall be submitted to the secretary of the Department of Revenue on a form prescribed by the secretary.

2. Applicants shall provide appropriate documentation to the secretary, as follows:

a. proof of address and estimated costs of construction for the proposed animal shelter facility;

b. resolution, declaration, or letter from the parish, municipality, or other local governmental entity; and

c. any other documentation required by the secretary to make a determination as to whether the exemption is applicable;

d. the most recent submission to the state veterinarian required by R.S. 3:2366(E).

AUTHORITY NOTE: Promulgated in accordance with R.S.47:305.59(B) and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 48:506 (March 2022).

§4428. Partial Sales and Use Tax Exemption on Boats

A. General. Revised Statute 47:305.23 authorizes an exemption for sales and use tax in excess of $20,000 otherwise due on the sale or use of boats registered in Louisiana if the tax is paid within 90 days of the sale or importation.

B. Definitions

Consumer Price Index United States—a program of the Bureau of Labor Statistics which measures the average change over time in prices paid by the urban consumer.

Department—the Louisiana Department of Revenue.

C. Eligibility Requirements. The following requirements shall be met to obtain the exemption: