NOTICE OF INTENT

Department of Revenue
Tax Policy and Planning Division

Sales Tax on Vending Machine Sales
(LAC 61.I.4301)

Under the authority of R.S. 47:1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq*., the Department of Revenue, Tax Policy and Planning Division, gives notice that rulemaking procedures have been initiated to amend LAC 61.I.4301-*Dealer* relative to purchases and sales by vending machine operators.

Act 11 of the 2024 Third Extraordinary Session of the Legislature repealed a provision that classified sales of tangible personal property to vending machine operators as sales at retail and the operator's subsequent sale through the vending machine exempt from tax. As a result of this repeal, sales of tangible personal property from vending machines qualify as sales at retail and the operator is required to collect and remit sales tax on those sales. The purpose of this Rule is to provide guidance to vending machine operators on how to calculate and account for the sales tax due on sales from its vending machines.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 43. Sales and Use Tax

§4301. Uniform State and Local Sales Tax Definitions

A. – C.*Cost Price(c)* …

Dealer—

a.-g. …

h. ~~Persons who sell tangible personal property to operators of vending machines are dealers.~~

~~i. For state sales or use tax purposes, such sales are taxable sales at retail as defined under R.S. 47:301(10)(b) and LAC 61:I.4301.C.*Retail Sale or Sale at Retail*. A vending machine operator is also a dealer, however, his sales of tangible personal property through coin-operated vending machines are not retail sales.~~

~~ii. For local sales or use tax purposes. Such sales are sale for resale.~~ A vending machine operator is a dealer and must report his sales of tangible personal property through coin-operated vending machines as retail sales.

<u>i. Gross taxable sales from coin-operated vending machines shall equal the total gross receipts from sales divided by one plus the total combined state and local tax rate.</u>

<u>ii. The vending machine operator shall display a notice on each vending machine that the advertised price includes applicable state and local sales taxes.</u>

i.-*Use Tax*…

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

Family Impact Statement

The proposed Rule has no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically, the implementation of this proposed Rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
4. The behavior and personal responsibility of children.
5. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Analysis

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed Rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Tax Policy and Planning Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., November 26, 2025.

Public Hearing

Interested persons may submit a written request for a public hearing no later than Monday, November 10, 2025, at 4:30 p.m. Requests may be submitted either by mail, addressed to Brandea Averett, Tax Policy and Planning Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098 or via email to Brandea.Averett@la.gov. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, a public hearing will be held on December 1, 2025, at 9:00 a.m. in the LaBelle Room, located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, La 70802, for all interested persons to attend and submit oral or written comments. To confirm whether or not the public hearing will be held, please visit the department's website at https://revenue.louisiana.gov/tax-policy/rules-regulations, and under "Types" select "Nonemergency Rulemaking". In accordance with the Americans with Disabilities Act, should individuals with a disability need an accommodation to participate, contact Brandea Averett at the address given above in the Public Comments section, by email at LDRadarequests@la.gov or by phone at (225) 219-2780.

Richard Nelson
Secretary of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sales Tax on Vending Machine Sales

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed amendment is not anticipated to result in any additional costs for state or local governments.

Act 11 of the 2024 Third Extraordinary Session repealed a provision that classified tangible personal property sold in vending machines as exempt from tax, as provided for in La. R.S. 47:301(10)(b). The proposed amendment provides guidance to vending machine operators on how to calculate and account for the sales tax due on sales of tangible personal property through coin-operated vending machines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment is estimated to increase SGF revenue by $1.3 M annually, as state sales tax will be paid on transactions at the vending machine, rather than when vending machine operators purchase tangible personal property at retail. Based on historical sales tax data from FY 22 to FY 24, the average annual state revenue loss reported on vending machine transactions was approximately $2.3 M under a 4.45% tax rate, implying $51.7 M in total vending machine sales. Applying the current 5% state sales tax rate results in potential annual collections of $2.6 M on vending machine transactions. Before Act 11 of the 3rd ES, state sales tax was due on purchases vending machine operators make from a wholesaler upon purchasing goods for resale. The Legislative Fiscal Office (LFO), for this fiscal economic impact analysis, assumes a markup of 100% from the cost of goods sold to the price at the vending machines to arrive at a pre-markup cost of goods of $25.9 M. This markup assumption is considered conservative, as actual markups may exceed 100%. Applying a 5% sales tax rate on those transactions yields an estimated collection of approximately $1.3 M on retail transactions. To gather the impact from the proposed amendment, subtract the $1.3 M collection estimate from $2.6 M to yield a potential revenue impact estimate of $1.3 M. This difference represents the increase in tax collections from moving state sales tax paid on purchases from wholesalers to the transactions taking place at vending machines. It is unclear if the sales tax return data captured all excluded sales, so this may be considered a conservative estimate.

Local governmental units are not affected by the proposed amendment, because local sales tax is already collected on the vending machine transaction, not the wholesale transaction. The proposed amendment will make the state and local sales tax uniform with respect to when sales tax is applied to vending machine transactions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

Owners of coin-operated vending machines in Louisiana will be directly impacted by the proposed amendment; however, the expected effect will be minimal. Vending machine operators are required to display a notice on each machine indicating that the advertised price includes all applicable state and local sales taxes.

The proposed rule is estimated to increase receipts on purchases made from vending machines by $1.3 M annually, as state sales tax will be paid on transactions at the vending machine, rather than when vending machine operators purchase tangible personal property at wholesale.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.

Richard Nelson
Secretary

Alan Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office