



Revenue Information Bulletin
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Sales Tax

**Two Acts of 2002 Regular Legislative Session Affect the Sales Taxability of
Vessel Components, Repairs, Fuel, and Supplies**

Act No. 40 and Act No. 41 of the 2002 Regular Session of the Louisiana Legislature have expanded the sales and use tax exemptions on purchases of ship components by ship builders and ship owners, and on purchases of repair services and materials, fuel, operating materials and supplies, and laundry services by businesses whose ships or vessels provide services to other ships or vessels that are operating in foreign or interstate coastwise commerce. The two acts, which have essentially identical language, amend and reenact Louisiana Revised Statute 47:305.1. The two acts were effective June 25, 2002.

I. Law and Administrative Practice Before 2002 Amendments

R.S. 47:305.1, titled "Exclusions and exemptions; ships and ships' supplies", provides exemption from state and local sales tax for:

- sales of materials, equipment, and machinery which enter into and become component parts of ships, vessels, or barges, including commercial fishing vessels, drilling ships, or drilling barges, of fifty tons load displacement and over, built in Louisiana;
- the gross proceeds from the sale of such ships, vessels, or barges when sold by the builder thereof;
- sales of materials and supplies to owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof;
- sales of repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce;
- sales of materials and supplies used in repairs to ships or vessels operating exclusively in foreign or interstate coastwise commerce where the materials and supplies enter into and become component parts of such ships or vessels;
- sales of laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

Prior to the 2002 amendments, R.S. 47:305.1 did not provide definitions of "foreign or interstate coastwise commerce", "component part", or "component parts".

- **Component Parts**

In *Showboat Star Partnership, Showboat of Louisiana, Inc., and Lake Pontchartrain Showboat, Inc. versus Ralph Slaughter, Secretary of the Department Of Revenue and Taxation, State of Louisiana*, [00-C-1227 (La. Sup. Ct. 04/03/01); 789 So. 2d 554; 2001 La.

Lexis 1030], the Louisiana Supreme Court held that slot machines, cabinets, and roulette wheels were not component parts of vessels and were not eligible for the exemption provided by R.S. 47:305.1 for component parts of vessels of fifty tons load displacement and over. Thereafter, the department addressed this issue in Revenue Ruling No. 01-005, holding that component parts of vessels included only items attached in such a way that removing them would damage the items or the vessels from which they are removed. This did not include property installed on vessels to modify them for specific functions (e.g., fishing nets aboard a fishing vessel) or equipment necessary to meet government safety or navigation standards (e.g., life jackets, fire extinguishers, life boats, etc.) unless such equipment were permanently installed onto vessel structures as discussed by the Louisiana Supreme Court in *Showboat Star*.

- **Foreign and Interstate Coastwise Commerce**

In *Archer Daniels Midland Company et al. v. The Parish School Board of the Parish of St. Charles*, [01-C-0511 (La. Sup. Ct. 11/28/01), 802 So. 2d 1270], the Louisiana Supreme Court held that whether vessels were “operating exclusively in interstate or foreign commerce”, and entitled to the interstate commerce-related exemption provided by R.S. 47:305.1(B), was governed by the movement of vessels themselves, rather than the movement of the barges or cargo handled by vessels. Because the stevedoring vessels in question operated wholly within Louisiana waters, the Supreme Court held that the vessels were not entitled to sales tax exemption on their purchases of operating supplies, repair services, repair materials, or laundry services. In so holding, the Louisiana Supreme Court overruled the decision of the Louisiana First Circuit Court of Appeal 12 years earlier in *Cooper Stevedoring Co., Inc. v. Secretary of the Louisiana Dept. of Revenue and Taxation*, [555 So. 2d 32 (La. App. 1st Cir. 1989)]. Following the decision in *Archer Daniels Midland*, the department issued Revenue Ruling No. 02-004 stating that for periods prior to November 28, 2001, the department would abide by the First Circuit Court of Appeal decision in *Cooper Stevedoring* with respect to eligible purchases for those stevedoring vessels handling exclusively interstate cargo, even if the stevedoring vessels operated exclusively in Louisiana waters. Revenue Ruling No. 02-004 further stated that the department would not apply the First Circuit Court of Appeal decision in *Cooper Stevedoring* with respect to fleeting vessels or to any other type of locally used cargo-handling vessels, other than stevedoring vessels, for any period. Prospectively from November 28, 2001, purchases for stevedoring, cargo handling or fleeting vessels that operated solely in Louisiana waters would not be eligible for state sales tax exemption under La. R.S. 47:305.1(B). All purchases for such vessels, including fuel, supplies, repair services, and repair materials, would be subject to the sales or use tax.

II. Changes Made by Act Nos. 40 and 41

Acts 40 and 41 amend and reenact R.S. 47:305.1 to provide definitions for “foreign and interstate coastwise commerce”, “component part”, and “component parts”, and provide for the sales and use treatment of gaming equipment.

Component Parts

R.S. 47:305.1, as amended by Act Nos. 40 and 41 defines “component part” or “component parts” as any item or article of tangible personal property that is:

- a. incorporated into, attached to, or placed upon a ship, vessel, barge, commercial fishing vessel, drilling ship, or drilling barge during the construction of the vessel in the case of the exemption provided in R.S. 47:305.1(A) for sales of ship components and sales by builders of vessels of 50 tons or over load displacement, or during the repair of a vessel engaged exclusively in foreign or interstate coastwise commerce, in the case of the exemption provided by R.S. 47:305.1(B);
- b. required for the navigation or intended commercial operation of a vessel; or
- c. required to obtain certification or approvals from the United States Coast Guard or any regulatory agency or classification society with respect to a vessel.

Acts 40 and 41 provide that for purposes of R.S. 47:305.1, the determination of whether any item or article of tangible personal property is a component part shall be made without regard to any provision of the Louisiana Civil Code. The definitions of “component part” and “component parts” do not apply to any gaming equipment as defined in R.S. 27:44(12).

- **Foreign and Interstate Coastwise Commerce**

Acts 40 and 41 define “foreign or interstate coastwise commerce”, for purposes of R.S. 47:305.1, as trade, traffic, transportation, or movement of passengers or property by, in, or on a ship or vessel:

- a. between a point in one state and a point outside the territorial boundaries of such state;
- b. between points in the same state where the trade, traffic, transportation, or movement of passengers or property traverses through a point outside of the territorial boundaries of such state;
- c. at a point in or between points in the same state as part of or in connection with the business of providing or delivering materials, equipment, fuel, supplies, crew, repair services, laundry services, dredging waterways services, stevedoring services, other loading or unloading services, or ship or vessel movement services to or for ships or vessels that are operating in foreign or interstate coastwise commerce as defined in this Subsection; or
- d. at a point in or between points in the same state when such trade, traffic, transportation, or movement of passengers or property is part of or consists of one or more segments of trade, traffic, transportation, or movement of passengers or property that either (i) follows movement of passengers or property into or within the state from a point beyond the territorial boundaries of such state, (ii) precedes movement of the passengers or property from within the state to a point outside the territorial boundaries of such state, or (iii) is part of a stream of trade, traffic, transportation, or movement of passengers or property originating or terminating outside the territorial boundaries of such state or otherwise in foreign or interstate coastwise commerce.

Acts 40 and 41 specifically provide that “foreign or interstate coastwise commerce” shall not include intrastate commerce, which the acts define for purposes of R.S. 47:305.1 as “any trade, traffic, transportation, or movement of passengers or property in any state that is not described in the term ‘foreign or interstate coastwise commerce’” under R.S. 47:305.1.

III. How the Department Applies the Current Law

- **Component Parts**

1. Sales tax is not due on sales by builders of vessels of 50 tons or greater load displacement. The exemption applies to the entire vessel, including property other than gaming equipment, that builders attach to or place upon vessels during construction.
2. Other items or articles of tangible personal property added to vessels after their construction are subject to sales tax, unless:
 - o The tangible personal property is required for the navigation of or the intended commercial operation of the vessels;
 - o The tangible personal property is used in the repair of a vessel operating exclusively in foreign or interstate coastwise;
 - o The tangible personal property is required to obtain certification or approvals from the United States Coast Guard or any regulatory agency or classification society with respect to the vessels.
3. Gaming equipment added to vessels, either during or after the construction of vessels, is not eligible for sales tax exemption under R.S. 47:305.1.
4. Tangible personal property required for the navigation or intended commercial operation of the vessels on which the property is placed will be considered “component parts” of the vessels.
5. Tangible personal property attached to or placed upon vessels in order to obtain certification or approvals from the United States Coast Guard or any regulatory agency or classification society with respect to the vessels will be considered “component parts” of the vessels.

- **Foreign and Interstate Coastwise Commerce**

Sales tax is not payable on eligible purchases by owners or operators of vessels that are operating exclusively in “foreign or interstate coastwise commerce” as defined by Acts 40 and 41. Eligible purchases include materials and supplies that are loaded upon the vessels for consumption in their maintenance and operation; repair services performed upon the vessels, repair material and supplies that become component parts of the vessels, and laundry services to articles that are used in the course of the operation of the vessels.

Questions concerning these matters can be directed to the Taxpayer Services Division at 225/219-7356.

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