



**Revenue Information Bulletin
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Sales Tax**

Legislature Provides Phased-In Exclusion for Manufacturing Equipment

Act 1 of the 2004 First Extraordinary Session of the Louisiana Legislature provides phased-in exclusions from the state sales, use, lease, and rental tax for machinery and equipment used by eligible manufacturers in plant facilities predominantly and directly in the actual manufacturing for agricultural purposes or in the actual manufacturing of tangible personal property that is for sale to another. The exclusions provided are from the definition of “cost price” for use tax purposes under Revised Statute 47:301(3), “sales price” for sales tax purposes under R.S. 47:301(13), and “gross proceeds” (from lease or rental), “monthly lease or rental price paid” and “monthly lease or rental price contracted or agreed to be paid” as used in R.S. 47:302(B), 321(B), and 331(B) imposing the tax on lease and rental transactions. The legislation authorizes political subdivisions of the state to provide these exclusions from local sales, use, lease, and rental taxes but does not require that they do so.

Section 1 of Act 1 provides that the phase-in of these exclusions will begin July 1, 2005, with the first of seven reductions that will conclude with the full exclusion of manufacturing machinery and equipment from the state taxable base on July 1, 2011. Sections 2 and 3 provide for alternative phase-in periods that span over six years, but their implementation is contingent upon the increase of future forecasts by the Revenue Estimating Conference of state general fund revenues for the 2004-05 state fiscal year, as compared to the forecast of 2004-05 revenues that the Revenue Estimating Conference adopted on December 16, 2003.

The phase-in timetable provided by Section 1 of the Act will be used if future forecasted general fund 2004-05 revenues do not exceed the December 16, 2003, estimate by at least \$180 million. The phase-in timetable provided by Section 2 will be used if future forecasted 2004-05 general fund revenues exceed the December 16, 2003, estimate by at least \$180 million, but by less than \$235 million. The phase-in timetable provided by Section 3 will be used if a future forecast of 2004-05 revenues exceeds the December 16, 2003, estimate by \$235 million or more. The phase-in of the exclusions provided by Sections 2 and 3 will begin on the first day of the second month following the adoption by the Revenue Estimating Conference of a revised 2004-05 revenue estimate at the appropriate level.

The following table describes the phase-in schedules under the three possible timetables provided in Act No. 1.

Fiscal Year	Amount of Increase in Revenue Forecast From December 16, 2003		
	< \$180 Million, Section 1 of Act 1	≥ \$180 Million, < \$235 Million, Section 2 of Act 1	≥ \$235 Million, Section 3 of Act 1
	Percentage of Taxable Price to be Excluded		
2004-05	0%	2%	5%
2005-06	14%	16%	19%
2006-07	28%	31%	35%
2007-08	42%	47%	54%
2008-09	56%	61%	68%
2009-10	70%	75%	82%
2010-11	84%	100%	100%
2011-12	100%		

Qualifications for Exclusion

In order for tangible personal property to be excluded from sales taxation in the percentages authorized in the act, the tangible personal property must be:

- **Manufacturing “machinery and equipment”**

“Machinery and equipment” is defined in the act as tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part in the manufacturing of tangible personal property for sale. “Machinery and equipment” also includes tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part of the production, processing, and storing of food and fiber or of timber.

Specific examples of tangible personal property that the act categorizes as eligible “machinery and equipment” are computers and software that are an integral part of the machinery and equipment used directly in the manufacturing process; machinery and equipment necessary to control pollution at a plant facility where pollution is produced by the manufacturing operation; and machinery or equipment used to test or measure raw materials, the property undergoing manufacturing, or the finished product, when such test or measurement is a necessary part of the manufacturing process.

Categorized by the act as ineligible for the manufacturing “machinery and equipment” exclusions are a building and its structural components, unless the building or structural component is so closely related to the machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced; heating, ventilation, and air-conditioning systems, unless their installation is necessary to meet the requirements of the manufacturing process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities; tangible personal property used to transport raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete; and tangible personal property used to store raw materials or

manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete.

- **Used by a “manufacturer”**

The term “manufacturer” is defined in the act as a person whose principal activity is manufacturing, and who is assigned by the Louisiana Department of Labor a North American Industry Classification System (NAICS) code within the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33, as they existed in 2002.

- **Used by that manufacturer in a “plant facility” predominantly and “directly” in the actual “manufacturing for agricultural purposes” or in the actual “manufacturing” process of an actual item of tangible personal property which is for ultimate sale to another, and not for internal use, at one or more fixed locations in Louisiana**

The term “plant facility” is defined as “a facility, at one or more locations, in which manufacturing referred to in sectors 11 and 31-33 of the North American Industry Classification System of 2002, of a product of tangible personal property takes place.” “Used directly” means used in the actual process of manufacturing or manufacturing for agricultural purposes.

“Manufacturing for agricultural purposes,” means the production, processing, and storing of food and fiber and the production, processing, and storing of timber.

“Manufacturing”, the act provides, means putting raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new and different item of tangible personal property that will be sold to another. The act provides that manufacturing begins at the point at which raw materials reach the first machine or piece of equipment involved in changing the form of the material and ends at the point at which manufacturing has altered the material to its completed form. Placing materials into containers, packages, or wrapping in which they are sold to the ultimate consumer is part of this manufacturing process.

The act provides that for purposes of the sales tax exclusions, manufacturing does not include repackaging or redistributing; the cooking or preparing of food products by a retailer in the regular course of retail trade; the storage of tangible personal property; the delivery of tangible personal property to or from the plant; the delivery of tangible personal property to or from storage within the plant; and actions such as sorting, packing, or shrink wrapping the final material for ease of transporting and shipping.

- **Purchased by a person who has received a certificate of exclusion from the Louisiana Department of Revenue certifying that he is a manufacturer**

Optional Local Exclusions

The act authorizes, but does not require, political subdivisions of the state to allow the same exclusions of manufacturing equipment from the definitions of “cost price”, “sales price”, “gross proceeds”, “monthly lease or rental price paid” and “monthly lease or rental price contracted or agreed to be paid.” Political subdivisions may, under the act, allow any or all of the definitional

exclusions, either upon adoption or enactment or phased in over a period of time set forth in the instrument providing the exclusion.

Farm Equipment

Through the several definitions quoted above, depreciable machinery and equipment is excluded from taxation in the specified percentages when it is used by eligible businesses predominately and directly in the actual production, processing and storing of food, fiber, and timber. Some, but not all, of the machinery and equipment that is eligible for these exclusions are also eligible for the exemption provided by R.S. 47:305.25(A)(1) and (2) on the first \$50,000 of the sales price of certain farm equipment.¹

In the determination of the taxable base on the sale to an eligible purchaser of a farm tractor, cane harvester, cane loader, cotton picker, combine, haybaler, sprayer, clipper, cultivator, disc, plow, spreader, or other attachments, the exclusions provided by Act 1 will be applied first. The \$50,000 exemption is then deducted from the taxable amount remaining after the exclusions authorized by Act 1 are applied. For example, assume the sale of a farm tractor on July 1, 2005, costing \$100,000. The tax is calculated as follows:

Gross sales price	\$100,000.00
Less Act 1 Exclusion (14%)	(14,000.00)
Remainder	86,000.00
Less R.S. 47:305.25 exemption	(50,000.00)
Taxable Base	\$36,000.00
State Tax Due (4%)	\$1,440.00

Only the sales of the farm tractors, cane harvesters, cane loaders, cotton pickers, combines, haybalers, sprayers, clippers, cultivators, discs, plows, spreaders, and other attachments specified by R.S. 47:305.25(A)(1) and (2), are eligible for the exemption on the first \$50,000 of the sales price. Other depreciable farm-related machinery and equipment used by eligible businesses predominately and directly in the actual production, processing and storing of food, fiber, and timber qualify only for the exclusion provided by Act 1.

Questions concerning this matter can be directed to the Taxpayer Services Division at 225.219.7356.

Cynthia Bridges
Secretary

¹ The exemptions for farm-related equipment provided by R.S. 47:305.25(A)(3), (4) and (5) are suspended indefinitely by R.S. 47:321(H) with respect to the 1 percent tax levied by R.S. 47:321, and through June 30, 2009, with respect to the other 3 percent of the state sales and use tax levy, as provided by R.S. 47:302(Q) and 302(R), and 47:331(O) and 331(P).