

Revenue Information Bulletin No. 16-028

April 20, 2016

Sales Tax

Taxability of “Black Liquor” Created or Derived as a Residue or Byproduct from the Processing of Raw Materials When Used by the Manufacturer of Such Property

Act 25 of the 2016 First Extraordinary Session of the Louisiana Legislature enacted La. R.S. 47:302(V), 321(L), and 331(S) which provide that certain state exclusions and exemptions are operative and in effect for purposes of the imposition of state sales and use taxes pursuant to La. R.S. 47:302, 321, and 331. The effective date of Act 25 is April 1, 2016.

Act 26 of the 2016 First Extraordinary Session of the Louisiana Legislature enacted La. R.S. 47:321.1, which imposes an additional state sales and use tax in the amount of one percent (1%). Beginning April 1, 2016, certain state sales and use tax exemptions and exclusions will continue to be in effect with regard to the additional state sales and use tax levied pursuant to La. R.S. 47:321.1. The effective date of Act 26 is April 1, 2016.

Louisiana imposes a 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. La. R.S. 47:302, 321, and 331. “Tangible personal property” is defined by La. R.S. 47:301(16)(a) as personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The Louisiana Legislature has provided several exclusions and exemptions from sales and use taxes that would otherwise be due under the law.

Prior to the 2016 First Extraordinary Session of the Louisiana Legislature, by-products were excluded from use tax by La. R.S. 47:301(18)(d)(ii), which provides:

(ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for purposes of state and political subdivision use tax, “use” shall not include the storage, consumption, or the exercise of any other right of ownership over tangible personal property which is created or derived as a residue or byproduct of such processing. Such residue or byproduct shall include but shall not be limited to catalyst cracker derived from crude oil, wood chips, bark, and liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived from sugarcane.

However, because the above sales and use tax exclusion is not contained in Act 25 or 26, these by-products will be subject to tax unless such by-products do not have a taxable value or qualify for an alternative sales and use tax exemption or exclusion included in Act 25 or 26.

A Revenue Information Bulletin (RIB) is issued under the authority of LAC 61:III.101 D. A RIB is an informal statement of information issued for the public and employees that is general in nature. A RIB does not have the force and effect of law and is not binding on the public or the Department.

The liquor derived from the processing of saw logs or pulpwood timber, commonly referred to as black liquor is a by-product that is reused and recycled by paper mills as a part of the paper making process. The black liquor is used in the paper making process for the ability to recover caustic soda from the liquor. Such use would qualify under the separate and alternative further processing exclusion provided by La. R.S. 47:301(10)(C)(i)(aa), which remains effective under both Acts 25 and 26 of the First Extraordinary Session of the Louisiana Legislature.

Questions concerning the collection of state use taxes in effect can be directed to sales.inquiries@la.gov.

Kimberly Lewis Robinson
Secretary