

**Revenue Ruling  
No. 06-015  
September 19, 2006**

**Sales and Use Tax**

**Taxability of Purchases for Maritime Transportation Vessels, Drilling Barges, and Drilling Ships**

The purpose of this Revenue Ruling is to discuss the sales tax exemptions on purchases made for vessels operating in foreign and interstate coastwise commerce, particularly as this exemption provided by La. Rev. Stat. Ann. § 47:305.1(B) applies to purchases for drilling ships and drilling barges following the amendment of the statute by Act 34 of the 2006 first extraordinary session of the Legislature and the decision of the Louisiana Supreme Court in *Mallard Bay Drilling v. Kennedy*, 2004-C-1089 (La. Sup. Ct. 6/29/05), 914 So. 2d 533.

The department's opinion is that the exemptions under the amended statute, for certain types of purchases by owners or operators of ships, barges, or vessels that are operating exclusively in foreign or interstate coastwise commerce, do not apply to purchases that are used for the operation of mineral exploration, drilling, or production barges in Louisiana waters. The reason that the exemption does not apply is that these types of barges, while working in Louisiana, are not operating "exclusively in foreign or interstate coastwise commerce".

The requirement that a ship, vessel, or barge be operated "exclusively in foreign or interstate coastwise commerce" in order to be eligible for the exemptions under R.S. 47:305.1(B) was not changed by Act 34. Neither did Act 34 expand the definition of the term "foreign or interstate coastwise commerce" to include petroleum drilling or producing activities.

As amended by Act 34, R.S. 47:305.1(B) and (C) provide as follows. The language added to the statute by Act 34 is in bold, and underlined.

B. The taxes imposed by taxing authorities shall not apply to materials and supplies purchased by the owners or operators of ships, **barges**, or vessels, **including drilling ships**, operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon **any such** ship, **barge**, or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon **such** ships, **barges**, or vessels operating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships, **barges**, or vessels; nor to laundry services performed for the owners or operators of such ships, **barges**, 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, **barges**, or vessels.

C. (1) For purposes of this Section, the term "foreign or interstate coastwise commerce" shall mean and include trade, traffic, transportation, or movement of passengers or property by, in, or on a ship, **barge**, or vessel, **including a drilling ship**:

(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, barge, or vessel movement services to or for ships, barges, or vessels, including drilling ships, 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, as defined in this Subsection.

In *Mallard Bay Drilling* the Louisiana Supreme Court considered the eligibility of purchases for drilling barges operating in Louisiana waters for the sales tax exemptions provided by La. Rev. Stat. Ann. § 47:305.1(B), as the statute was worded before its amendment by Act 34 . The court determined that the purchases were not eligible for exemption for two reasons:

- Prior to its amendment by Act 34, La. Rev. Stat. Ann. § 47:305.1(B) applied only to purchases for “ships or vessels”. The wording of La. Rev. Stat. Ann. § 47:305.1(B), the Court pointed out, was clearly different from the wording of the exemption provided by La. Rev. Stat. Ann. § 47:305.1(A), which applied another maritime-related sales tax exemption more broadly to “ships, vessels, or barges”. Since a drilling barge was not a ship or vessel, the court reasoned, the exemption under La. Rev. Stat. Ann. § 47:305.1(B) would not apply to purchases for drilling barges.
- The Supreme Court cited the determination of the Louisiana Board of Tax Appeals that the diesel fuel for Mallard Bay’s drilling barges was delivered in Louisiana, was consumed in Louisiana, and was a Louisiana sale. Additionally, the Court found that the sale of the diesel fuel, the delivery, and the consumption in Louisiana do not constitute “bona fide interstate commerce” as that phrase is used in La. R.S. 47:305(E), the statute that bars the taxation of “bona fide interstate commerce”. The Court determined that the levy of a sales tax on its diesel fuel purchases that are sold, delivered, and consumed in Louisiana does not constitute a tax on “bona fide interstate commerce.”

In response to the decision in *Mallard Bay*, the Legislature enacted Act 34 to expand the types of watercraft eligible for exemption under La. Rev. Stat. Ann. § 47:305.1(B) to include barges and drilling ships, but only those that are operating “exclusively in foreign or interstate coastwise

commerce”. As amended by Act 34, the exemptions under R.S. 47:305.1(B) apply only to vessels, including river transportation barges, used in interstate coastwise commerce, but not to supplies, fuel or lubricants, repair materials, laundry services, or repair services purchased for use in Louisiana territorial waters aboard vessels used for such non-interstate commerce activities as mineral exploration, drilling, or production. A drilling ship or mineral exploration, drilling, or production barge, while operating in Louisiana, is not operating in foreign or interstate coastwise commerce so as to be eligible for the sales tax exemption provided by R.S. 47:305.1(B).

For more information regarding this topic, please call the Policy Services Division at 225.219.2780.

Cynthia Bridges  
Secretary

By: Raymond E. Tangney  
Senior Policy Consultant  
Policy Services Division

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