State of Louisiana
Department of Revenue

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September 1, 2026

Via E-mail/R.R.R. to:

apa.h-wm@legis.la.gov
The Honorable Tony Bacala, Chairman
House Committee on Ways & Means
P.O. Box 94062
Baton Rouge, Louisiana 70804

apa.s-r&f@legis.la.gov
The Honorable Franklin Foil, Chairman
Senate Committee on Revenue & Fiscal Affairs
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: **Proposed Regulation LAC 61:I.4405 – Exemptions for Digital Tools**

Chairman Bacala and Chairman Foil:

On December 20, 2025, the Department of Revenue (the "Department") submitted to your committees for review a copy of the Notice of Intent to promulgate LAC 61.I.4405, *Exemptions for Digital Tools* ("Rule"). The proposed regulation clarifies the sales and use tax exemptions provided by La. R.S. 47:305.12 for purchases of digital products, computer software, prewritten computer software access services, and information services (collectively referred to as "digital tools" in the regulation).

After the Department received public comments and held public hearings on the proposed regulation, it substantively revised the original Notice of Intent twice. This report discusses the comments the Department received and the resulting revisions below.

I. Original Notice of Intent

The Department published the Notice of Intent in the December 2025 issue of the Louisiana Register. No one requested a public hearing, so the Department did not hold one.

The Department received the following written comments:

Comment 1:

The Louisiana Uniform Local Sales Tax Board ("LULSTB") requested that the Department revise the proposed Rule to provide greater clarity to the existing statutory exemptions, rather than expand those exemptions. Specifically, LULSTB requested that the Rule more clearly define "exclusively for commercial purposes" and distinguish software and digital products used directly in the production of taxable goods or services from those used for general business or administrative functions.

Response 1:
Through a Potpourri Notice ("Potpourri Notice #1") published on April 20, 2026, the Department revised the title of the Rule for clarity, removed inconsistent language, clarified examples, and added a definition of "exclusively for commercial purposes" to the Rule.

Comment 2:
Andre Burvant of Jones Walker on behalf of unidentified healthcare providers requested that the Department clarify the digital tools exemption for licensed healthcare facilities and providers provided for in statute.

Response 2:
The Department made this requested change through Potpourri Notice #1.

Comment 3:
The Louisiana Automobile Dealers Association ("LADA") provided comments that did not propose specific amendments to the Rule text but instead expressed general disagreement with the Department's examples of digital tools that qualify as being "used directly" in the production of goods and services for sale. The commenter contends that the Rule conflates statutory exclusions and exemptions, introduces standards not found in statute—such as "essential component" or "direct transformation"—and improperly narrows the scope of the exemption beyond legislative intent. The commenter further asserts that Dealership Transactional Software and Services are not general administrative tools but constitute regulated transactional infrastructure necessary to complete vehicle sales, financing, titling, repairs, and tax collection. The commenter also argues that legislative history reflects an intent to address primarily consumer-facing digital content rather than industry-specific business platforms. Based on these assertions, the commenter requests clarification that (1) Dealership Transactional Software and Services constitute non-taxable ingredients or components under La. R.S. 47:301(10)(b), and (2) independently qualify as digital tools used directly in the production of taxable goods and services under La. R.S. 47:305.12.

Response 3:

Through Potpourri Notice #1, the Department removed language from the Rule that could be interpreted as introducing standards not expressly stated in statute. However, the Department does not agree with the commenter's characterization of Dealership Transactional Software and Services or with the requested interpretations of La. R.S. 47:301(10)(b) and La. R.S. 47:305.12. The fact that a dealer may be contractually or regulatorily required to use certain digital tools does not make those tools an ingredient or component of the vehicle or repair services sold, nor does it mean the tools are used directly in the production of those vehicles or repair services. Dealers sell vehicles and repair services; software that facilitates transactions, financing, compliance, or recordkeeping does not become part of the vehicles or repair services themselves and therefore does not qualify for the exclusion or exemption.

While some legislative testimony used simplified, consumer-oriented examples, the committee also expressly considered the application of the exemption to business use. In particular, the Legislature considered and ultimately rejected a broader exemption for business use due to its potential fiscal impact. Instead, the Legislature enacted a narrower exemption in La. R.S. 47:305.12 through Act 10 of the 2024 Third Extraordinary Session. The Legislature largely based that exemption on the existing manufacturing machinery and equipment ("MME") exclusion, and the Department commonly refers to it as the commercial production exemption.

The purpose of La. R.S. 47:301(10)(b) and La. R.S. 47:305.12 is to prevent the double taxation of the same input, not to exempt software merely because a business that provides taxable goods or services uses it. In the context of automobile sales, there is no double taxation of the dealership's sales activities because the services a salesperson performs in connection with the sale of an automobile are not themselves subject to Louisiana sales and use tax. Although certain dealership services, such as automobile repair and servicing, are taxable, the exemption does not extend to software the dealership uses generally in its internal business operations. The fact that software may support the dealership's performance of a taxable repair service does not, by itself, establish that the software is an ingredient or component of that service or is used directly in the production of a taxable good or service. Accordingly, the Department does not agree that Dealership Transactional Software and Services qualify as non-taxable ingredients or components, or as digital tools used directly in the production of taxable goods.

II. <u>Potpourri #1</u>

As a result of the comments described in Section I, the Department published a revised Notice of Intent as Potpourri Notice #1 on April 20, 2026. The Department held a public hearing on June 2, 2026, at which representatives of the LADA and the LULSTB were present.

LULSTB provided oral comments that reiterated the comments it had previously submitted, as discussed in Section I.

LADA submitted both written and oral comments. The oral comments reiterated their previously submitted written comments, which are summarized as follows:

Written Comment #1

LADA contends that: (1) the revised definition of "used directly in the production of goods and services" continues to introduce standards not found in statute; (2) the proposed rule conflates the exclusion provided in La. R.S. 47:301(10)(b) with the exemption provided in La. R.S. 47:305.12; and (3) the proposed definition of "exclusively for commercial purposes" focuses on actual use rather than the purchaser's intent and could create uncertainty regarding incidental personal use and long-term licensing arrangements.

Response #1

Through Potpourri Notice #2, the Department has removed language from the Rule that could be interpreted as introducing standards the statute does not expressly state, by clarifying the definitions of "exclusively for commercial purposes" and "used by the business directly in the production of goods and services."

Specifically, the updated definition of "exclusively for commercial purposes" tracks the statute's purchase-or-license standard and avoids imposing a potentially broader requirement that the product be actually used exclusively for commercial purposes after acquisition.

The revisions to "used by the business directly in the production of goods and services" definition better conform to the statutory requirement that the service or product be "used by the business directly in the production of goods or services for sale to its customers" by focusing on whether the business actually uses the digital tool to produce the final good or service it sells to customers. The revised language replaces the broader "directly contributes to the creation, production process or functioning" standard with the narrower requirement that "the tool is used to produce that product or service." This more closely tracks the statute's requirement for direct use in production by limiting qualifying tools to those actually employed in creating the goods or services sold to customers.

As a result, the revision better aligns the definition with the Legislature's intent and statutory language, as the phrase "used by the business directly in the production of goods or services for sale to its customers" reflects.

We also note that La. R.S. 47:301(10)(b) and La. R.S. 47:305.12 address different types of transactions, so neither renders the other moot. Section 301(10)(b) excludes digital products that become ingredients or components of a final product or taxable service, while Section 305.12 provides an exemption for digital products and software that businesses use directly in producing taxable goods or services for customers. Because one applies to embedded inputs and the other to production-use tools, they operate in different contexts and remain independently meaningful. The Department's interpretation keeps the two provisions separate by applying each one to a different type of situation, so both can operate independently without overlapping or making the other unnecessary.

The Department continues to disagree with the commenter's characterization of Dealership Transactional Software and Services and its qualification for exemption under La. R.S. 47:301(10)(b) and La. R.S. 47:305.12 because such software and services do not constitute non-taxable ingredients or components of the cars the dealership sells, as La. R.S. 47:301(10)(b) requires, and do not independently qualify as digital tools used directly in the production of taxable goods and services under La. R.S. 47:305.12.

III. <u>Potpourri #2</u>

As a result of the comments described in Section II above, the Department published a revised Notice of Intent as Potpourri Notice #2 on July 20, 2026. Following publication of Potpourri Notice

#2, the Department held a public hearing on August 27, 2026. Representatives of Louisiana REALTORS ("LR") and Advantous were present. The Advantous representative attended to hear other participants' comments and did not offer comments on behalf of itself or its clients.

LR submitted both written and oral comments. The oral comments reiterated their previously submitted written comments, which are summarized as follows:

Written Comments:

The commenter requests that the Department expressly recognize multiple listing services ("MLS") as exempt "digital tools" under proposed LAC 61.I.4405 and La. R.S. 47:305.12. The commenter argues that MLS platforms are professional digital tools that licensed real estate brokers, agents, and appraisers use to perform brokerage functions, analyze listing information, coordinate transactions, and provide services to their customers. The commenter further asserts that MLS access qualifies for the exemption because the businesses purchase it for commercial purposes, do not intend it for personal consumption, and it consists of information that MLS members contribute.

The commenter proposes revisions to LAC 61.I.4405 to expressly include subscription-based professional platforms such as MLS within the definition of "digital tools," provide an exemption for professional platforms and MLS subscriptions, and clarify that the exemption includes bundled data, analytics, and workflow functionality.

Response:

The Department does not agree that MLS access or subscriptions qualify for the exemption under La. R.S. 47:305.12.

Section 305.12(A) requires, among other things, that the business use the software, information service, or digital product "directly in the production of goods or services for sale to its customers" and that the goods or services the business produces and sells be subject to sales and use tax or the insurance premium tax . An MLS does not meet these requirements.

An MLS is a tool that may be helpful to a real estate professional in performing his or her duties, but the business does not use it directly in producing the real estate brokerage services it provides to the customer. The information and functionality that the MLS provides may assist the broker in performing those services, but the broker does not incorporate the MLS itself into, or directly use it to produce the brokerage service.

In addition, real estate brokerage services are not subject to Louisiana sales and use tax. Consequently, those services do not satisfy the separate requirement in La. R.S. 47:305.12(A)(1)(c) that the goods or services the business produces and sells be subject to sales and use tax or the insurance premium tax. Thus, the exemption in Subsection (A) is not available even if the broker uses the MLS in the course of providing brokerage services.

The MLS also does not qualify under La. R.S. 47:305.12(B). That provision applies to digital products a business creates solely for its own business needs, provided those products are not the type that businesses offer for sale. An MLS subscription is not a digital product that the subscribing real estate business creates for its own internal business needs. Rather, it is an information service that MLS providers commercially offer and sell to subscribers for a fee.

The Department also does not agree with the proposed revisions to LAC 61.I.4405 that would expressly include MLS or other professional platforms within the definition of "digital tools." "Digital tools" is not itself a category the statute separately defines. The Rule uses the term as a term of convenience to refer collectively to the computer software, prewritten computer software access services, information services, and digital products that La. R.S. 47:305.12 addresses, without having to repeat those terms throughout the Rule. It does not expand the types of products or services that qualify for the statutory exemption.

Similarly, the proposed provisions expressly exempting professional platforms and bundled data, analytics, and workflow functionality would expand the scope of the statutory exemption beyond the requirements the Legislature established. Such an expansion would also have fiscal consequences that the Legislature did not contemplate when it enacted La. R.S. 47:305.12 and therefore is not appropriate through rulemaking.

Accordingly, the Department does not agree that MLS access qualifies as an exempt digital tool under either Subsection (A) or Subsection (B) of La. R.S. 47:305.12, and the amendments LR requested to LAC 61.I.4405 are not warranted.

Conclusion

The Department issues this report in accordance with La. R.S. 49:966(D)(1)(b) of the Administrative Procedure Act. The Department has considered the public comments to the proposed regulation.

After careful review and consideration of the public comments, the Department made substantive changes to the regulation as originally proposed through Potpourri Notice #1. Following the public hearing on Potpourri Notice #1 that the Department held on June 2, 2026, the Department made additional substantive revisions to the proposed regulation to further clarify the definitions of "exclusively for commercial purposes" and "used by the business directly in the production of goods and services." The Department incorporated these revisions into Potpourri Notice #2, published July 20, 2026.

Following the public hearing on Potpourri Notice #2 that the Department held on August 27, 2026, the Department has carefully considered the additional comments it received and does not believe further changes to the proposed regulation are warranted for the reasons set forth above. Accordingly, the Department intends to proceed with publication of the final rule using the text Potpourri Notice #2 contains.

Should you have any questions or need additional information, please contact me at (225) 219-2787.

Sincerely,

Stacey L. Greaud

Stacey L. Greaud
Director Tax Policy and Planning