



Sales Tax Statutes and Regulations

THIS BOOKLET CONTAINS:

General Information for
Filing Louisiana Sales
and Use Tax Returns

Chapters 2, 2-A, 2-B, and 2-C of Subtitle II
of Title 47,
Louisiana Revised Statutes of 1950,
as amended, Sections 301-335.9

Louisiana Administrative Code,
Title 61, Part I, Chapter 43,
Sections 4301-4420

Ordinance of the Louisiana
Tourism Promotion District

Table of Tax Rates for
Suspended Exemptions

R-1001
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This version contains legislative changes through the
2002 Regular Session of the Louisiana Legislature.

Foreword

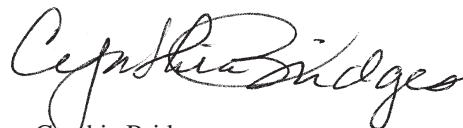
This handbook contains general Louisiana sales and use tax information from the *Louisiana Tax Guide*, the current text of the Louisiana sales and use tax law and regulations, and a table of tax rates for suspended exemptions. Inconsistencies in spelling, capitalization, and punctuation are due to the differences of the quoted source materials.

Louisiana Revised Statutes 47:301 through 47:335.9 are current through the 2002 Regular Legislative Session. Listed after each statute is the pertinent regulation or rule that has been promulgated by this department in accordance with the Administrative Procedures Act of 1981. The codified section numbers used for the regulations are those appearing in Title 61, Part I, of the Louisiana Administrative Code.

Louisiana's total sales and use tax rate is 4 percent. This rate is comprised of 2 percent tax levied by Revised Statute 47:302, 1 percent tax levied by Revised Statute 47:321, .97 percent tax levied by Revised Statute 47:331, and .03 percent levied by the Tourism Promotion District. Many Louisiana parishes, municipalities, school boards, and special districts levy and collect additional sales and use taxes at the local level. The regulations in this handbook, however, apply only to state sales taxes. While we cannot issue official rulings on local tax matters, we can provide, upon request, an unofficial list of addresses and telephone numbers of local tax authorities. Taxpayers that have Internet access can link to their local tax authority through the Louisiana Association of Tax Administrators' website at www.laota.com.

Since July 1, 1986, most exemptions from the Louisiana general sales tax have been either partially or fully suspended. Currently, exemptions that are not protected from suspension are subject to 4 percent state sales tax until June 30, 2004. However, because of the passage of Amendment 2 on the November 5, 2002 ballot, purchases of food for home consumption, electricity, water, and natural gas utilities for residential purposes are subject to 3.9 percent state sales tax until January 1, 2003, 2 percent tax state sales tax from January 1, through June 30, 2003, and exempt from state sales tax beginning July 1, 2003. Purchases of electricity, water, and steam for commercial purposes are subject to 3.9 percent state sales tax July 1, 2002 through June 30, 2003, and 3.8 percent from July 1, 2003, through June 30, 2004. The table on pages 157–171 of this booklet gives a more detailed explanation of the suspensions and rates for recent years.

This book should answer most questions about Louisiana state sales tax. If you need additional information, please contact our Taxpayer Services Division at (225) 219-7356.



Cynthia Bridges
Secretary
Louisiana Department of Revenue

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General Information

Who must file

The state general sales tax is payable by users, consumers, lessees, and persons receiving services taxable under the law. If a seller or lessor qualifies as a dealer under the definition of the term at R.S. 47:301(4), that party must apply for a sales tax certificate, collect the proper taxes from customers, and file returns with the Department of Revenue. A seller or lessor will qualify as a dealer subject to tax collection requirements if that person leases, rents, or sells tangible personal property in the state, furnishes services in the state that are taxable under the statute, holds property in the state for resale, maintains a business location in the state, operates in the state through full-time or part-time resident or nonresident salesmen or agents, maintains an inventory in the state of tangible personal property for lease or rental, or delivers in a vehicle owned or operated by the seller.

Registration for filing

The CR-1 registration form should be requested, completed, and submitted at least one month prior to opening for business to ensure the timely receipt of the sales tax certificate and tax return forms for filing.

Rate of tax

The aggregate four percent (4%) state sales tax rate consists of three point ninety seven percent (3.97%) Louisiana state sales tax, and point zero three percent (.03%) Louisiana Tourism Promotion District sales tax. Prior to October 1, 1996, the aggregate four percent (4%) state sales tax rate consisted of two point ninety seven percent (2.97%) Louisiana state sales tax, point zero three percent (.03%) Louisiana Tourism Promotion District sales tax, and one percent (1%) Louisiana Recovery District sales tax. From July 1, 1986 through June 30, 2002, certain traditionally exempt transactions are subject to state sales tax ranging from one to four percent (1% - 4%).

Sales tax returns

All new accounts are required to file state sales tax returns on a monthly basis. Dealers whose sales tax liabilities average less than \$250 per month after filing six returns may apply to file returns on a

quarterly basis. Monthly and quarterly filers must file timely returns, even if no tax liabilities are due.

Taxpayers whose only sales or use tax liabilities consist of taxes due on their purchases, will be issued use tax certificates. These taxpayers will be required to file returns only for those periods in which taxes are due.

All information pertinent to the business required by the sales tax reporting form must be included on the return. This will include not only information as to how the tax liability was calculated, but also the return period, the signature of the preparer, the signature of the business owner, and the date signed. Instructions for preparing the sales tax return are mailed with each form.

Date payment and return due

Sales tax returns are due, along with any payment of taxes due to the Department of Revenue, on or before the twentieth of the month following the close of the calendar month or calendar quarter of the reporting period.

Basis of tax

The state general sales tax is payable on the sales price [R.S. 47:301(13)] in the case of a transaction subject to a sales tax, and on the cost price [R.S. 47:301(3)] in the case of a transaction subject to use tax. The taxable base will include the total amount for which tangible personal property is sold, including any services rendered by the seller in connection with the sale, the gross amount charged for the lease or rental of tangible personal property, and the gross amount charged for taxable services.

The state general sales and use tax is levied on the following transactions:

- (1) The sale of tangible personal property at retail in this state;
- (2) The use, consumption, distribution, or storage for use or consumption in this state of any tangible personal property;
- (3) The lease or rental within this state of any item or article of tangible personal property; and,
- (4) The sale of services as defined in the statutes under R.S. 47:301(14); the furnishing of rooms

by hotels; the sale of admissions to places of amusement and to athletic and recreational events, and the furnishing of privileges of access to amusement, entertainment, athletic, or recreational facilities; the furnishing of storage or parking privileges by auto hotels and parking lots; the furnishing of printing and overprinting; the furnishing of laundry, cleaning, pressing, and dyeing services; the furnishing of cold-storage space and the preparation of property for such storage; the furnishing of repairs to tangible personal property; and the furnishing of telecommunications services.

Dealers required to register for sales tax purposes

If a dealer properly invoices and collects the tax from his customer, the customer's tax payment responsibility on the transaction is ended, provided that the customer retains evidence to show that the tax was properly paid. When a purchase is made from a seller who is not required to collect the tax, or who for any reason fails to collect the tax, the purchaser is responsible for a use-tax payment to be reported directly to the department. When a dealer fails to properly collect the sales or use tax from his customer, both parties remain liable for the tax until it is finally paid, and the department may proceed against either party for the amount due. A direct use-tax payment is due also on the lower of the original cost price or market value of property imported into the state for use on which Louisiana sales or use tax has not previously been paid. Credit for sales or use taxes paid in other states is allowable, under certain conditions, against the Louisiana use tax.

Advance payment of sales tax

The law contains an advance sales tax provision under which manufacturers, distributors, and other persons making wholesale sales must collect the tax on sales of tangible personal property to other dealers for resale. Dealers paying the advance tax may deduct the actual amount paid on their sales tax returns as a credit against the tax due on their resale of the property.

Special numbers

Certain taxpayers may qualify for special numbers so they will not be required to pay sales tax on

purchases from vendors. Wholesalers and some retailers qualify for a "W" number under R.S. 47:306(B). In order to qualify, 50 percent or more of the dealer's sales must not constitute retail sales. The use of the special number is limited to the purchase of resale inventory only.

A direct pay (DP) number is available under R.S. 47:303.1 for dealers who have average purchases for a three-year period of \$15 million dollars. This allows the dealer, mainly an industrial manufacturing facility, to make all purchases tax free from their supplier and report the tax due directly to the Department of Revenue.

Vendor's compensation

Compensation of one and one-tenth percent (1.1%) of the tax is allowed dealers filing sales and/or use tax returns within the time prescribed by the statute.

Exclusions

Certain types of transactions have been excluded from the definitions in R.S. 47:301 making the tax inapplicable to them. Exclusions enacted after June 30, 1988, were subject to the one percent (1%) Louisiana Recovery District tax that expired September 30, 1996. These transactions no longer bear the tax.

- (1) The isolated or occasional sale of tangible personal property (other than motor vehicles subject to license and title) by a person not engaged in such business. [R.S. 47:301(1), 47:301(10)(c), and 47:303(B)(4)]
- (2) Cash discounts and rebates given by a vendor or manufacturer on any new motor vehicle. [R.S. 47:301(3)(e) and 47:301(13)(b)]
- (3) Amounts paid by manufacturers directly to dealers of the manufacturers' products for the purpose of reducing the sales price of the product if the sales price is actually reduced. [R.S. 47:301(3)(g) and R.S. 47:301(13)(e)]
- (4) Sales or purchases of certain tangible personal property acquired for lease or rental in arm's-length transactions according to the following timetable:

- (a) Effective July 1, 1990, automobiles acquired for lease in terms of at least 180 days.
 - (b) Effective January 1, 1991, all automobiles acquired for lease or rental, regardless of term. [R.S. 47:301(10)(a), R.S. 47:301(18)(a)]
 - (c) Effective July 1, 1991, all tangible personal property acquired for lease or rental [R.S. 47:301(7)(a), 47:301(10)(a), and 47:301(18)(a)]
 - (5) The lease or rental made for the purpose of re-lease or re-rental of casing, tools, pipe, drill pipe, tubing, etc., used in connection with the operating, drilling, completion, or reworking of oil, gas, sulphur, or other mineral wells. [R.S. 47:301(7)(b)]
 - (6) The lease or rental of property to be used in the performance of a contract with the United States Navy for the construction or overhaul of a United States Navy vessel, and sales of services that are performed pursuant to such a contract. [R.S. 47:301(7)(c) and 47:301(14)(h)]
 - (7) The lease or sale of airplanes or airplane equipment and the sale of airplane parts by Louisiana domiciled commuter airlines. [R.S. 47:301(7)(d) and 47:301(10)(k)]
 - (8) Sales and rentals of tangible personal property and services to hospitals that provide free care to all patients. [R.S. 47:301(7)(e), 47:301(10)(p), 47:301(18)(c) and 47:301(21)]
 - (9) The lease, rental, or purchase of educational materials or equipment used for class room instruction by approved parochial and private elementary and secondary schools. (Suspended 7/1/00 - 6/30/01) [R.S. 47:301(7)(f), 47:301(10)(q), and 47:301(18)(e)]
 - (10) The lease, rental, or purchase of tangible personal property by Boy's State of Louisiana, Inc., and Girl's State of Louisiana, Inc. [R.S. 47:301(7)(g), and 47:301(10)(r), 47:301(18)(f)]
 - (11) The lease or rental of motor vehicles of licensed motor vehicle dealers for the free use by their customers. [R.S. 47:301(7)(h)]
 - (12) Sales and rentals of tangible personal property and services to independent institutions of higher education. [R.S. 47:301(8)(b)]
 - (13) Purchases, leases, storage, or use of tangible personal property and services by the state or any of its agencies, boards or commissions, any instrumentality of the state, or its political subdivisions, or any parish, city, or other political subdivision. [R.S. 47:301(8)(c)]
 - (14) Sales of bibles, songbooks, and literature used for religious classes by churches and synagogues recognized under IRC 501(c)(3). [R.S. 47:301(8)(d)]
 - (15) Sales and rentals by the Society of the Little Sisters of the Poor. [R.S. 47:301(8)(e)]
- Note: R.S. 47:301(8)(d) and (e) are subject to the full 4% state sales tax per preliminary injunction issued on March 23, 2002 by U.S. District Court for the Eastern District of LA. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.
- (16) Capital expenditures for new research equipment by a biotechnology company. [R.S. 47:301(10)(a)(v)]
 - (17) Purchases made in connection with the filming or production of a motion picture by a motion picture production company. [R.S. 47:301(10)(a)(vi)]
 - (18) Sales of tangible personal property through vending machines. [R.S. 47:301(10)(b)]
 - (19) Sales of electricity for chlor-alkali manufacturing processes. [R.S. 47:301(10)(c)]
 - (20) Sales of human tissue transplants including human organs, bone, skin, cornea, blood, or blood products transplanted from one individual to another. [R.S. 47:301(10)(d)]
 - (21) Sales of food items by youth serving organizations chartered by Congress. [R.S. 47:301(10)(h)]
 - (22) Sales of school buses less than five years old to independent operators for use in a public school system. [R.S. 47:301(10)(i)]
 - (23) Sales of tangible personal property to qualifying food banks. [R.S. 47:301(10)(j)]

General Information

- (24) Pollution control equipment that has been approved by the Department of Revenue and the Department of Environmental Quality and is intended for reducing potential hazards of industrial pollution of air, water, noise, solid waste, or other hazardous waste. [R.S. 47:301(10)(l)]
- (25) Aircraft manufactured in Louisiana that have a seating capacity in excess of fifty persons. [R.S. 47:301(10)(m)]
- (26) Pelletized paper waste, as defined, when used as a combustible fuel by an electrical utility or in an industrial application, processing, compounding, reuse, or production process. [R.S. 47:301(10)(n)]
- (27) Fire-fighting equipment purchased by bona fide volunteer fire departments. [R.S. 47:301(10)(o)]
- (28) The providing of funeral directing services. [R.S. 47:301(10)(s), 47:301(13)(f), 47:301(14)(j) and 47:301(18)(g)]
- (29) The transfer of title to or possession of telephone directories by an advertising company that is not affiliated with a provider of telephone services. [R.S. 47:301(10)(t)]
- (30) The sale or other disposition by a dealer of cellular, PCS, or wireless telephones, and electronic accessories. [R.S. 47:301(10)(v), 47:301(13)(g), and 47:301(18)(i)]
- (31) Where a part of the sale price is represented by an article traded in, the sales tax is payable on the total purchase price less the market value of the article traded in. [R.S. 47:301(13)(a)]
- (32) The first \$50,000 of the sales price of new poultry production farm equipment. [R.S. 47:301(13)(c)]
- (33) Admissions to art, history, and scientific museums; aquariums, zoological parks, botanical gardens, arboretums, and other places of amusement that are classified as museums. [R.S. 47:301(14)(b)]
- (34) Repairs performed in Louisiana when the repaired property is delivered out of state. [R.S. 47:301(14)(g)]
- (35) The sales or purchase of interstate telecommunication services for the operation of a call center. (Effective April 1, 2001 through June 30, 2003) [R.S. 47:301(14)(i)]
- (36) Monetized bullion having a value of \$1,000 or more. [R.S. 47:301(16)(b)]
- (37) Repairs performed by a licensed motor vehicle dealer on vehicles subsequent to the lapse of an applicable warranty, where the work is done at no charge to the owner of the vehicle. [R.S. 47:301(16)(c)]
- (38) The sale or purchase of pharmaceuticals administered to livestock for agricultural purposes. [R.S. 47:301(16)(f)]
- (39) The sale or purchase of used manufactured homes and 54 percent of the cost of new manufactured homes (Effective as of July 1, 2001). [R.S. 47:301(16)(g)]
- (40) The sale or purchase of custom computer software (This exclusion is to be implemented in increments beginning July 1, 2002). [R.S. 47:301(16)(h), 301(22), and 301(23)]
- (41) The first purchase digital television conversion equipment and digital radio conversion equipment by taxpayers that hold a Federal Communications Commission license issued pursuant to 47 CFR Part 73. [R.S. 47:301(16)(i)]
- (42) Materials used directly in the collection, separation, treatment, testing, and storage of blood by nonprofit blood banks and nonprofit blood collection centers. [R.S. 47:301(16)(j)]
- (43) Apheresis kits and leuko reduction filters used by nonprofit blood banks and nonprofit blood collection centers. [R.S. 47:301(16)(k)]
- (44) Tangible personal property created or derived as a residue or byproduct (other than refinery gas) from the processing of raw materials for resale when used by the manufacturer of such property. [R.S. 47:301(18)(d)]

Exemptions

The various statutory exemptions provided under R.S. 47:305 have been partially and temporarily suspended from July 1, 1986, to the present date. Exemptions enacted after June 30, 1988, were not

exempt from the one percent (1%) Louisiana Recovery District tax, which was in effect from July 1, 1988, through September 30, 1996. For detailed information concerning which particular exemptions are affected and the applicable dates and rates, contact the Taxpayer Services Division, Sales Tax Section, at 225•219•7356.

- (1) Gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm, provided that such sales are made directly by the producers. [R.S. 47:305(A)(1)]
- (2) Animal feeds and feed additives used to sustain animals that are held for commercial, business, or agricultural purposes. [R.S. 47:305(A)(4)]
- (3) Materials, equipment, supplies, fuel, and related items (except vessels) used in the production or harvesting of crawfish and catfish. [R.S. 47:305(A)(5) and 47:305(A)(6)]
- (4) Livestock and livestock products, poultry and poultry products, farm, range, and agricultural products when produced by the farmer and used by him and members of his family. [R.S. 47:305(B)]
- (5) Gasoline, steam, water (not including mineral water or carbonated water, or any water put up in bottles, jugs, or containers, all of which are not exempted), electric power or energy, materials and energy sources used to fuel the generation of electric power when the electric power is to be sold by or used by an industrial manufacturing plant for self-consumption or cogeneration, newspapers, fertilizer and containers used for farm products when sold directly to the farmer, natural gas, all energy sources other than refinery gas used for boiler fuel, new automobiles, new trucks, new aircraft withdrawn from stock by factory-authorized dealers, and used automobiles and trucks withdrawn from stock by new or used motor vehicle dealers, with the approval of the secretary of Revenue and titled in the dealer's name for use as demonstrators. [R.S. 47:305(D)(1)(a-i)]
- (6) Drugs prescribed by a physician or dentist for personal consumption or use; orthotic and prosthetic devices and wheelchairs and wheelchair lifts prescribed by physicians for personal consumption or use; ostomy, colostomy, ileostomy devices and appliances; the pur-

chase or rental by private individuals of materials and supplies for home renal dialysis; insulin; patient aids prescribed by physicians for home use; patient aids prescribed by chiropractors for home use; orthotic devices, prosthetic devices, prostheses, and restorative materials used or prescribed by dentists; all medical devices prescribed by a registered physician. [R.S. 47:305(D)(1)(j-m, s-t), 47:305(G), and R.S. 47:305.2]

- (7) Sales of food for preparation and consumption in the home. The exemption will extend to food items that are pre-packaged in larger than single-serving size, or which require or are generally intended for further preparation by the purchasers prior to consumption. Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and similar establishments are not covered by the exemption.

Sales of meals furnished to the staff and students of educational institutions, including kindergartens; the staff and patients of hospitals; the staff, inmates, and patients of mental institutions; boarders of rooming houses; and occasional meals furnished in connection with or by educational, religious, or medical organizations. This exemption will apply only if the meals are sold in facilities not open to outsiders or the general public and are consumed on the premises where purchased. [R.S. 47:305(D)(1)(n-r) and 47:305(D)(2-3)]

Constitutional amendment #2 on the November 5th, 2002 ballot (Stelly Plan), reduced the rate of state sales tax on: Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r), Natural gas, electricity, and water sold directly to the consumer for residential use, and Prescription drugs. Effective January 1, 2003 those items will be taxed at 2 percent (except for prescription drugs which have not been subject to the suspension of exemption rate of tax) until July 1, 2003 when excluded fully from the state sales tax.

The rate of state sales tax on electricity, water utility service, natural gas and steam sold for non-residential use has been reduced to 3.9 percent beginning July 1, 2002 and 3.8 percent beginning July 1, 2003.

- (8) Bona fide interstate commerce. [R.S. 47:305(E)]

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- (9) The sales, use, or lease taxes on amounts paid by television broadcasters for the right to exhibit or broadcast copyrighted material, film, video, audit tapes, etc. [R.S. 47:305(F)]
- (10) Materials, services, and supplies used for repairing, renovating or converting drilling rigs, or machinery and equipment which are component parts thereof, which is used exclusively for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelfwaters. [R.S. 47:305(I)]
- (11) Sales of materials, equipment, and machinery that enter into and become component parts of ships, vessels, or barges, including commercial fishing vessels, drilling ships, and drilling barges of fifty tons load displacement and over; the gross proceeds from the sale of such ships, vessels, or barges sold by the builder thereof. [R.S. 47:305.1(A)]
- (12) Materials and supplies purchased by the owners and operators of ships or vessels operating exclusively in foreign or interstate commerce where such materials and supplies are loaded upon the ship or vessels operating exclusively in foreign or interstate coastwise commerce; the materials and supplies used in such repairs, where such materials and supplies enter into and become a component part of such ships or vessels; 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. [R.S. 47:305.1(B)]
- (13) Seeds used in planting crops (does not include seeds used in planting a garden to produce food for personal consumption by the planter and his family). [R.S. 47:305.3]
- (14) Sales of admission tickets by Little Theater organizations. [R.S. 47:305.6]
- (15) Tickets to musical performances of Louisiana nonprofit musical organizations. This exemption shall not apply to performances given by out-of-state or nonresident symphony companies, nor shall this exemption apply to any performance intended to yield a profit to the promoters thereof. [R.S. 47:305.7]
- (16) Pesticides used for agricultural purposes (including, but not limited to insecticides, herbicides, and fungicides). [R.S. 47:305.8]
- (17) Motion picture film rental by an operator of a motion picture theater. [R.S. 47:305.9]
- (18) Property purchased for use outside the state (under certain conditions). [R.S. 47:305.10]
- (19) Sale of admissions to entertainment events furnished by recognized domestic nonprofit charitable, educational, and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized. [R.S. 47:305.13]
- (20) Admissions (including outside gate admissions), parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expenses connected therewith, are used for educational, charitable, religious, or historical restoration purposes including the furtherance of the organization's purpose. Sales by thrift shops located on military installations are included in this exemption as are sales of newspapers by religious organizations provided the sales price does not exceed the cost to publish the newspaper. Purchases of books, workbooks, computer software, films, videos, and audiotapes by nonprofit literacy organizations were added to the exclusion in the 2002 Regular Legislative Session. [R.S. 47:305.14]
- (21) Sales or purchases by blind persons and certain organizations that provide training to blind persons and that have received approval from the Department of Revenue. [R.S. 47:305.15]
- (22) Cable television installation and repair. [R.S. 47:305.16]
- (23) Income from coin-operated washing and drying machines in commercial laundromats. [R.S. 47:305.17]

- (24) Outside gate admissions to grounds and parking fees at fairs, festivals, and expositions sponsored by nonprofit organizations, not including regular commercial ventures that are in competition with retail merchants. [R.S. 47:305.18]
- (25) The lease of vessels for use in the production of minerals. [R.S. 47:305.19]
- (26) Purchases of repair parts, repair services, operating materials and supplies, diesel fuel, and lubricants for use on commercial fishing vessels operated by Louisiana domiciled and resident licensed commercial fishermen, or for use by seafood processing facilities that own, lease, or contract with a qualified vessel. [R.S. 47:305.20]
- (27) Units of mobile, motorized, self-propelled, earth-moving farm and construction equipment are exempted from the use tax when removed from resale inventory by licensed dealers as a method of promoting the sale. [R.S. 47:305.22]
- (28) The first fifty thousand dollars (\$50,000) of the sales price of each item and attachment of specified types of farm equipment used in the production and harvesting of food and fiber is exempted. The tax is payable on the portion of the sales price in excess of the exempt amount. [R.S. 47:305.25]
- (29) New vehicles furnished by dealers on a free-loan basis for driver education programs accredited by the Louisiana Department of Education. [R.S. 47:305.26]
- (30) The sale or purchase of gasohol with at least ten percent alcohol if such alcohol was produced in Louisiana from agricultural commodities. [R.S. 47:305.28]
- (31) Purchases, leases, or rentals of certain "energy conservation property." Application for the exemption must be submitted to and approved by the Board of Commerce and Industry. This exemption expired December 31, 1989. [R.S. 47:305.31]
- (32) Purchases of materials for the construction of and supplies for the operation of certain not-for-profit retirement centers. [R.S. 47:305.33]
- (33) The purchase or importation of motor vehicles, trailers, or semitrailers to be leased or rented at reasonable market rates by qualified lessors for use on public roadways. The tax is due on all receipts from the lease or rental of the property. [R.S. 47:305.36]
- (34) Diesel fuel, butane, propane, and other liquefied petroleum gases used or consumed for farm purposes. [R.S. 47:305.37]
- (35) Tangible personal property sold, used or consumed, distributed, or stored for use or consumption by sheltered workshops licensed by the Louisiana Department of Social Services as day developmental centers for the mentally retarded. [R.S. 47:305.38]
- (36) Butane, propane, and liquefied petroleum gases purchased by consumers for the private residential purpose of cooking and heating. [R.S. 47:305.39]
- (37) Specialty items for use in connection with Mardi Gras activities. Specialty items exempted are those items designed for the carnival that bear the organization's name or insignia. [R.S. 47:305.40]
- (38) Sales, purchases, rentals, or services received by Ducks Unlimited or Bass Life. [R.S. 47:305.41]
- (39) Admission tickets sold by any domestic nonprofit organization engaged in the preparation and presentation of the performing arts. [R.S. 47:305.42]
- (40) Sales made by a nonprofit organization dedicated exclusively to the conservation of fish or migratory waterfowl. [R.S. 47:305.43]
- (41) Sales of certain materials and chemicals used by commercial printers, such as artwork, dies, etc. [R.S. 47:305.44]
- (42) Piggy-back cars and rolling stock owned, operated, or leased in Louisiana and per diem or car-hire charges on freight cars. [R.S. 47:305.45]
- (43) Sales of food paid for with USDA food coupons or WIC (Women, Infants, and Children) program vouchers. [R.S. 47:305.46]

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- (44) Pharmaceutical samples distributed free of charge in Louisiana. [R.S. 47:305.47]
- (45) Motor vehicles purchased in another state by active duty military personnel, under certain conditions. [R.S. 47:305.48]
- (46) Catalogs that are distributed free of charge within Louisiana. [R.S. 47:305.49]
- (47) Purchases of trucks with a gross weight of 26,000 pounds or more, trailers and semi-trailers as defined in R.S. 47:451, and contract carrier buses that are used at least 80% of the time in interstate commerce. [R.S. 47:305.50(A)]
- (48) The sale or purchase of utilities used by steelworks and blast furnaces, which are classified as SIC 3312 by the Standard Industrial Classification Code. [R.S. 47:305.51]

Penalties

Severe penalties, including fines and/or imprisonment, are provided under the Louisiana statutes for failure to comply. Specific penalties and amounts are described in R.S. 47:306, 1602, 1604, 1604.1, 1604.2, and 1606.

Local Sales/Use Taxes

Parishes, municipalities, school boards, and other governing authorities are authorized to impose sales/use taxes. These sales/use taxes are in addition to those imposed by Louisiana, and are administered and collected at the local level separately from the taxes collected by the Department of Revenue. There are many similarities between state sales/use tax statutes and local sales/use tax ordinances, but there are also many differences, especially in regard to the applicability of exemptions. Questions concerning local sales/use taxes should be directed to local authorities. A list of the addresses for local sales tax authorities is provided by the Department's Taxpayer Services.

Forms

The following forms are used in sales tax administration. Copies of forms pertaining to your business or customers can be obtained from any office of the department. Copies of some forms may also be

downloaded from the department's website at www.rev.state.la.us.

Applications and General Forms

- R-1003 List of Local Sales Tax Collecting Agencies and Rates
- R-1020 Designation of Construction Contractor as Agent of a Governmental Entity
- R-1022 Application for Offshore Number
- R-1027 Sales Tax Registration Certificate
- R-1048 Application for Exemption from Collection of Louisiana Sales Tax at Certain Fund Raising Activities
- R-1050PC Instructions - Pollution Control Refund Guidelines
- R-1051PC Instructions - Natural Disaster and Flood Damage Refund Guidelines
- R-1052PC Instructions - Enterprise Zone Rebate Guidelines
- R-1061L Application - Authority to Remit Lease/Rental Sales Tax Directly to the Department of Revenue
- R-1083 Sales Tax Rate Schedule
- R-1130 Schedule - List of General Contractors and Subcontractors
- R-1312L Application - Mardi Gras Exemption (Suspended until July 1, 2004)
- R-1318 Application for Advance Sales Tax Exemption "W" number
- R-1331 Tax Payment Certification for Boat Registration
- R-1334 Application by Commercial Fisherman for Exemption
- R-1339 Nonresident Contractor (4 page Set)
- R-1340 Certification of Status by Contractors/Subcontractors (2 pg Set)
- R-1341 Instruction Sheet For Contract Completion (3 pg Set)
- R-1341A Schedule - Contract Completion Form
- R-1342 Contractor Tax Registration Numbers and Contract Information
- R-1343 Contractor/Subcontractor Surety Bond (2 pg Set)
- R-1343A Application - Contractor/Subcontractor Surety Bond
- R-1345 Application for Exemption by Seafood Processing Facility
- R-1349 Application for Refund - Pollution Control
- R-1362 Claim for Refund - Property Destroyed by Natural Disaster
- R-1362I Instructions - General Information for Refund Claims resulting from Property Damage caused by a Natural Disaster or Flood

- R-1362S Sales Tax Refund Schedule Disaster Loss of Tangible Personal Property (LGST-D-76)
- R-1363 Claim for Refund – Titled Assets Destroyed by Natural Disaster (LGST-D-76M)
- R-1365 Schedule - List of Subcontractors and Suppliers
- R-1368 Certification of the Purchase of Motor Boats in Louisiana for Registration in Another State by a Nonresident
- R-1369A Application - Exemption on Purchases by Qualified Churches
- R-1370L Application for Motor Vehicle Lessor Exemption “L” Number
- R-1372 Application for Exclusion on Purchases or Leases by Certain Parochial and Private Elementary and Secondary Schools
- R-1378 Application - Contractor Registration and Bond Information
- R-1379 Instructions - Medical Device Refund Guidelines
- R-1380 Manufacturer's Direct Pay Application
- R-16018 Central Registration Application Booklet (CR-1)
- R-20127L Claim for Refund
- R-20128 Request for Waiver of a Penalty for Delinquency
- R-20193L Authorization Agreement for Electronic Funds Transfer of Tax Payment
- R-20193I Instructions for Authorization Agreement for Electronic Funds Transfer of Tax Payment
- R-20194 Information on Electronic Funds Transfer Program
- R-20201 Louisiana Electronic Funds Transfer Guidelines

Brochures

- R-20068 Flea Markets, Craft Shows, and Itinerant Vendors Sales Tax
- R-20073 New Business Guide
- R-20161 Rights of the Taxpayer
- R-20162 Louisiana Tax Facts
- R-20164 Motor Vehicle Sales Tax
- R-20165 Sales Tax: Restaurants, Lounges, and Nightclubs
- R-20170 Sales Tax Brochure for Furniture and Appliance Dealers
- R-20171 Sales Tax Brochure for Farm Implementation and Heavy Equipment Dealers
- R-20207 SEATA Information Sharing Program Brochure

Exemption Certificates

- R-1006 Exemption Certificate – Covering Purchases of Food Products for Preparation and Consumption in the Home and in Certain Institutions (Suspended until July 1, 2002)
- R-1007 Exemption Certificate – Purchases by Sellers of Livestock, Livestock Products, and Commercial Growers
- R-1009 Exemption Certificate – Shipbuilders of Vessels over Fifty (50) Tons Load Displacement (LGST-51A)
- R-1010 Exemption Certificate – For Ships and Vessels Operating in Interstate Commerce (LGST-51B)
- R-1013 Exemption Certificate – For-hire Carriers in Interstate/Foreign Commerce (LGST-12)
- R-1018 Exemption Certificate – Mobile Homes
- R-1023 Exemption Certificate – Purchases by Companies with O/S Number for Offshore Use (LGST-9 O/S)
- R-1028 Exemption Certificate – Purchases by Wholesalers and Manufacturers for Resale or Further Processing (LGST-9)
- R-1032 Exemption Certificate - Construction Contractors Designated as Agents of Governmental Agencies
- R-1041 Exemption Certificate - Institutional or Retail Dealer Purchases of Medical-Related Property
- R-1054 Exemption Certificate – Purchases by Electrical Cooperatives (LGST 950) (Suspended until July 1, 2002)
- R-1056 Exemption Certificate – Purchases by State Agencies and Certain Political Subdivisions
- R-1059 Exemption Certificate - Exemption for purchases by Boys State/Girls State
- R-1060 Exemption Certificate – Purchases of Certain Farm Equipment
- R-1062L Exemption Certificate - Authority to Remit Lease/Rental Sales Tax Directly to the Department of Revenue
- R-1065 Exemption Certificate - Non-Road Utility Vehicles used on Commercial Farms
- R-1079 Resale Certificate – Foreign Purchasers (LGST-9A)
- R-1096 Exemption Certificate – Offshore Area (LGST-9D)
- R-1310 Exemption Certificate – Purchases of Vehicles for Lease or Rental (LGST-9L)
- R-1311 Resale Certificate – Motor Vehicles (LGST-9C)

General Information

- R-1319 Exemption Certificate – Purchases of Tangible Personal Property for Harvesting Catfish and Crawfish (LGST-30) (Suspended until July 1, 2002)
- R-1322 Exemption Certificate – Purchases by Holders of Direct Payment Permit Numbers (LGST-DP)
- R-1332 Exemption Certificate – Purchases of Telecommunications Services for Resale
- R-1335 Exemption Certificate – Commercial Fishermen
- R-1336 Vendor's Certificate of Exemption for Commercial Fishermen
- R-1344 Exemption Certificate – Tangible Personal Property for Rent or Lease (LGST-61)
- R-1346 Exemption Certificate – Purchases by Qualified Seafood Processing Facilities
- R-1352 Exemption Certificate – Purchases by Commercial Printers of Certain Items (LGST-9P) (Suspended until July 1, 2004)
- R-1353 Exemption Certificate – Rent for Rent (LGST-9RR)
- R-1355 Exemption Certificate – Purchases by Blind Vendors (LGST 78)
- R-1356 Exemption Certificate – Purchases by Federal Government (LGST-100)
- R-1357 Exemption Certificate – Purchases by Credit Unions (LGST 100A)
- R-1359 Exemption Certificate – Certain Purchases by Bona Fide Organized Volunteer Fire Departments (LGST 564)
- R-1360 Exemption Certificate - Purchase of Mardi Gras specialty items by qualified carnivals and non-profit organizations (Suspended until July 1, 2004)
- R-1361 Exemption Certificate - Purchases by Non-Profit Retirement Centers (Suspended until July 1, 2004)
- R-1364 Statement of Exemption From Bonding Requirements – Nonresident Contractor Program
- R-1366 Exemption Certificate - Purchases by Manufacturers using the Direct Iron Process
- R-1367 Exemption Certificate – Purchases of Certain Trucks, Trailers and Busses Used in Interstate Commerce
- R-1373 Exemption Certificate – Purchases or Leases by Certain Parochial and Private Elementary and Secondary Schools (Suspended until July 1, 2004)
- R-1376L Exemption Certificate - Government Agencies Exemption for Hotels

Tax Return Forms

- R-1029 Monthly Sales Tax Return
- R-1029DS Hotel/Motel Sales Tax Return
- R-1029HM Hotel/Motel – Recovery District
- R-1029I Sales Tax Return – General Instructions
- R-1030 Service Contractor Tax and Tour Tax Return
- R-1031 Catalogs Sales Tax Return
- R-1325 Hotel Occupancy Tax and Food and Beverage Tax Return
- R-1329 Automobile Rental Excise Tax Return

Assistance

Taxpayer Services Division
Sales Tax Section
Louisiana Department of Revenue
Post Office Box 201
Baton Rouge, LA 70821•0201
225•219•7356 (Assistance)

Sales Tax
Law and
Regulations

R.S. 47:301. Definitions

As used in this Chapter the following words, terms, and phrases have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

(1) “Business” includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect. The term “business” shall not be construed to include the occasional and isolated sales by a person who does not hold himself out as engaged in business.

(2) “Collector” means the Collector of Revenue for the State of Louisiana and includes his duly authorized assistants.

(3)(a) “Cost price” means the actual cost of the articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service cost, except those service costs for installing the articles of tangible personal property if such cost is separately billed to the customer at the time of installation, transportation charges, or any other expenses whatsoever, or the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax, whichever is less.

(b) In the case of tangible personal property which has acquired a Louisiana tax situs and is thereafter transported outside the state of Louisiana for repairs performed outside the state of Louisiana and is thereafter returned to the state of Louisiana, the cost price shall be deemed to be the actual cost of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice. If the applicable labor charges are not separately stated on the invoice, it shall be presumed that the cost price is the total charge reflected on the invoice.

(c) “Cost price” shall not include the supplying and installation of board roads to oil field operators if the installation charges are separately billed to the customer at the time of installation.

(d)(i) In the case of interchangeable components located in Louisiana, a taxpayer may elect to determine the cost price of such components as follows:

(aa) The taxpayer shall send to the secretary written notice of the calendar month selected by the taxpayer as the first month for the determination of cost price under this Paragraph (the “First Month”). The taxpayer may select any month. The taxpayer shall send to the secretary notice of an election to designate a First Month on the first day of the designated First Month, or ninety days from July 1, 1990, whichever is later.

(bb) For the First Month and each month thereafter, cost price shall be based and use tax shall be paid only on one-sixtieth of the aggregate cost price of the interchangeable components deployed and earning revenue within Louisiana during the month, without regard to any credit or other consideration for Louisiana state, political subdivision, or school board use tax previously paid on such interchangeable components.

(cc) Any election made under this Paragraph shall be irrevocable for a period of sixty consecutive months inclusive of the First Month. If at any time after the sixty-month period the taxpayer revokes its election, no credit or other consideration for use taxes paid pursuant thereto shall be applied to any use tax liability arising after such revocation.

(ii)(aa) For purposes of this Paragraph, “interchangeable component” means a component that is used or stored for use in measurement-while-drilling instruments or systems manufactured or assembled by the taxpayer, which measurement-while-drilling instruments or systems collectively generate eighty percent or more of their annual revenue from their use outside of the state.

(bb) “Measurement-while-drilling instruments or systems” means instruments or systems which measure information from a downhole location in a borehole, transmit the information to the surface during the process of drilling the borehole using a wireless technique, and receive and decode the information on the surface.

(iii) The method for determining cost price of interchangeable components provided for in this Paragraph shall apply to any use taxes imposed by a local political subdivision or school board. For purposes of that application, the words “political subdivision” or “school board” as the case may be, shall be substituted for the words “Louisiana” or “State” in each instance where those words appear in this Paragraph and an appropriate official of the local political subdivision or

school board shall be designated to receive the notices required by this Paragraph.

(e) "Cost price" shall not include any amount designated as a cash discount or a rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount offered by the vendor or manufacturer as a deduction from the listed retail price of the vehicle.

NOTE: See Senate Concurrent Resolution 104 of the 1985 Regular Session regarding R.S. 47:301(3)(f).

(f) The "cost price" of refinery gas shall be fifty-two cents per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be twenty-nine dollars, and provided further that such cost price shall be the maximum value placed upon refinery gas by the state and by any political subdivision under any authority or grant of power to levy and collect use taxes.

(g) "Cost price", for purposes of the use tax imposed by the state and its political subdivisions, shall exclude any amount that a manufacturer pays directly to a dealer of the manufacturer's product for the purpose of reducing and that actually results in an equivalent reduction in the retail "cost price" of that product. This exclusion shall not apply to the value of the coupons that dealers accept from purchasers as part payment of the "sales price" and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the "cost price" of the product purchased through the use of the coupons.

(h)(i) For purposes of a publishing business which distributes its news publications at no cost to readers and pays unrelated third parties to print such news publications, the term "cost price" shall mean only the lesser of the following costs:

(aa) The printing cost paid to unrelated third parties to print such news publications, less any itemized freight charges for shipping the news publications from the printer to the publishing business and any itemized charges for paper and ink.

(bb) Payments to a dealer or distributor as consideration for distribution of the news publications.

(ii) The definition of "cost price" provided for in this Subparagraph shall be applicable to taxes levied by all tax authorities in the state.

(4) "Dealer" includes every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in this state. "Dealer" is further defined to mean:

(a) Every person, who imports, or causes to be imported, tangible personal property from any state or foreign country for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in this state.

(b) Every person who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, or consumption, or distribution, or storage to be used or consumed in this state, tangible personal property as defined herein.

(c) Any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this Chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property.

(d)(i) Any person who leases or rents tangible personal property for a consideration, permitting the use or possession of the said property without transferring title thereto.

(ii) However, a person who leases or rents tangible personal property to customers who provide information to such person that they will use the property only offshore beyond the territorial limits of the state shall not be included in the term "dealer" for purposes of the collection of the rental or lease tax of the state, statewide political subdivisions, and other political subdivisions on such lease or rental contracts. For purposes of this Item "use" means the operational or functional use of the property and not other uses related to its possession such as transportation, maintenance, and repair. It is the intention of this Item that the customers of such persons shall remit any tax due on the lease or rental of such property directly to the state and local taxing bodies to whom they are due.

- (e) Any person who is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto.
- (f) Any person, who sells or furnishes any of the services subject to tax under this Chapter.
- (g) Any person, as used in this act, who purchases or receives any of the services subject to tax under this Chapter.
- (h) Any person engaging in business in this state. "Engaging in business in this state" means and includes any of the following methods of transacting business: maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or by having an agent, salesman, or solicitor operating within the state under the authority of the seller or its subsidiary irrespective of whether such place of business, agent, salesman, or solicitor is located in this state permanently or temporarily or whether such seller or subsidiary is qualified to do business in this state, or any person who makes deliveries of tangible personal property into the state other than by a common or contract carrier.
- (i) Any person who sells at retail any tangible personal property to a vending machine operator for resale through coin-operated vending machines.
- (j) Any person who makes deliveries of tangible personal property into the state in a vehicle owned or operated by said person.
- (k) The term "dealer" shall not include lessors of railroad rolling stock used either for freight or passenger purposes. However, the term "dealer" shall include lessees, other than a railway company or railroad corporation, of such property and such lessees shall be responsible for the collection and payment of all state and local sales and use taxes.
- (l) The term "dealer" shall include every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.
- (5) "Gross sales" means the sum total of all retail sales of tangible personal property, without any deduction whatsoever of any kind or character except as provided in this Chapter.
- (6)(a) "Hotel" means and includes any establishment engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages, or cabins at a single business location.
- (b) For purposes of the sales and use taxes of all tax authorities in this state, the term "hotel" as defined herein shall not include camp and retreat facilities owned and operated for religious purposes by nonprofit religious organizations, which includes recognized domestic nonprofit corporations organized for religious purposes, provided that the net revenue derived from the organization's property is devoted wholly to religious purposes. For purposes of this Paragraph, the term "hotel" shall include camp and retreat facilities which sell rooms or other accommodations to transient guests. However, "transient guest" for purposes of this Paragraph shall not include guests who participate in organized religious activities which take place at such camp or retreat facilities. It is the intention of the legislature to tax the furnishing of rooms to those who merely purchase lodging at such facilities.
- (7)(a) "Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for a consideration, without transfer of the title of such property. For the purpose of the leasing or renting of automobiles, "lease" means the leasing of automobiles and the possession or use thereof by the lessee, for a consideration, without the transfer of the title of such property for a one hundred eighty-day period or more. "Rental" means the renting of automobiles and the possession or use thereof by the renter, for a consideration, without the transfer of the title of such property for a period less than one hundred eighty days.
- (b) The term "lease or rental", however, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion, or re-working of oil, gas, sulphur, or other mineral wells.

(c) The term “lease or rental”, as herein defined shall not mean or include a lease or rental of property to be used in performance of a contract with the United States Department of the Navy for construction or overhaul of U.S. Naval vessels.

(d) The term “lease or rental”, as herein defined, shall not mean the lease or rental of airplanes or airplane equipment by a commuter airline domiciled in Louisiana.

(e) For purposes of state and political subdivision sales and use tax, the term “lease or rental”, as herein defined, shall not mean the lease or rental of items, including but not limited to supplies and equipment, which are reasonably necessary for the operation of free hospitals.

NOTE: The text of R.S. 47:301(7)(f) does not apply to transactions occurring from July 1, 2000, through June 30, 2001. It applies to transactions occurring from July 1, 2001 through June 30, 2003. See Acts 1998, No. 47, § 1, and Acts 2000, No. 33, § 1.

(f) For purposes of state and political subdivision sales and use tax, “lease or rental” shall not mean the lease or rental of educational materials or equipment used for classroom instruction by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, limited to books, workbooks, computers, computer software, films, videos, and audio tapes.

(g) For purposes of state and political subdivision sales and use tax, “lease or rental” shall not mean the lease or rental of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations for their educational and public service programs for youth.

(h) For purposes of state and political subdivision sales and use tax, the term “lease or rental” shall not mean or include the lease or rental of motor vehicles by licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased or rented motor vehicles to their customers in performance of their obligations under warranty agreements associated with the purchase of a motor vehicle or when the applicable warranty has lapsed and the

leased or rented motor vehicle is provided to the customer at no charge.

(i) For purposes of sales and use taxes levied and imposed by local governmental subdivisions, school boards, and other political subdivisions whose boundaries are not coterminous with those of the state, “lease or rental” by a person shall not mean or include the lease or rental of tangible personal property if such lease or rental is made under the provisions of Medicare.

(8)(a) “Person”, except as provided in Subparagraph (c), includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any parish, city and parish, municipality, district or other political subdivision thereof or any board, agency, instrumentality, or other group or combination acting as a unit, and the plural as well as the singular number.

(b) For purposes of the payment of state sales or use tax on the lease or rental or the purchase of tangible personal property or services, “person” shall not include a regionally accredited independent institution of higher education which is a member of the Louisiana Association of Independent Colleges and Universities, if such lease or rental or purchase is directly related to the educational mission of such institution. However, the term “person” shall include such institution for purposes of the payment of tax on sales by such institution if the sales are not otherwise exempt.

(c) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, “person” shall not include this state, any parish, city and parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, or instrumentality of this state or its political subdivisions.

NOTE: The exclusion provided under R.S. 47:301(8)(d) is not enforced per a preliminary injunction issued on March 23, 2002, by U.S. District Court for the Eastern District of LA. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.

(d)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied

by any political subdivision, the term “person” shall not include a church or synagogue that is recognized by the United States Internal Revenue Service as entitled to exemption under Section 501(c)(3) of the United States Internal Revenue Code.

(ii) The secretary of the Department of Revenue shall promulgate rules and regulations defining the terms “church” and “synagogue” for purposes of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying organizations that qualify for church status for federal income tax purposes.

(iii) No church or synagogue shall claim exemption or exclusion from the state sales and use tax or the sales and use tax levied by any political subdivision before having obtained a certificate of authorization from the secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the institutions that qualify.

(iv) The exclusion from the sales and use tax authorized by this Subparagraph shall apply only to purchases of bibles, song books, or literature used for religious instruction classes.

NOTE: The exclusion provided under R.S. 47:301(8)(e) is not enforced per a preliminary injunction issued on March 23, 2002, by U.S. District Court for the Eastern District of LA. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.

(e)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term “person” shall not include the Society of the Little Sisters of the Poor.

(ii) The secretary of the Department of Revenue shall promulgate rules and regulations for purposes of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying tax-exempt status for federal income tax purposes.

(iii) No member of the Society of the Little Sisters of the Poor shall claim exemption or exclusion from the state sales and use tax or the sales and

use tax levied by any political subdivision before having obtained a certificate of authorization from the secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the entities which qualify.

(9) “Purchaser” means and includes any person who acquires or receives any tangible personal property, or the privilege of using any tangible personal property, or receives any services pursuant to a transaction subject to tax under this Chapter.

(10)(a)(i) For purposes of the imposition of the state sales and use tax “retail sale” or “sale at retail” means a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for the lease of automobiles in an arm’s length transaction, and shall mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale or for lease of automobiles in an arm’s length transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for the lease of automobiles, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax.

(ii) For purposes of the imposition of the sales and use tax levied by a political subdivision or school board, “retail sale” or “sale at retail” shall mean a sale to a consumer or to any other person for any purpose other than for resale in the form of tangible personal property, and shall mean and include all such transactions as the collector, upon investigation, finds to be in lieu of sales; provided that sales for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax.

(iii) “Retail sale” or “sale at retail” for purposes of sales and use taxes imposed by the state on transactions involving the sale for rental of automobiles which take place on or after January 1, 1991, and by political subdivisions on such transactions on or after July 1, 1996, and state sales and use taxes imposed on transactions involving the lease or rental of tangible personal property other than automobiles which take place on or after July 1, 1991, means a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for lease or rental in an arm’s length transaction in the form of tangible personal property, and shall

mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale or for lease or rental in an arm's length transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for lease or rental, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 1999, and ending on June 30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 2000, and ending on June 30, 2001, the term "retail sale" or "sale at retail" shall not include one-half of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For purposes of the imposition of the tax imposed by any political subdivision of the state, for the period beginning on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or "sale at retail" shall not include three-fourths of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. Beginning July 1, 2002, for the purposes of imposition of the tax levied by any political subdivision of the state, the term "retail sale" or "sale at retail" shall not include the sale of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property.

(iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes imposed by the state on transactions involving the sale for rental of automobiles which take place prior to January 1, 1991, and by political subdivisions on such transactions prior to July 1, 1996, and imposed on transactions involving the lease or rental of tangible personal property other than autos which take place prior to July 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions except for transactions involving the sale for rental of automobiles on or after July 1, 1996, means a sale to a consumer or to any other person for any purpose other than for resale in the form of tangible personal property, and shall

mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax. However, contrary provisions of law notwithstanding, any political subdivision may, by ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph for purposes of the imposition of its sales and use tax.

NOTE: R.S. 47:301(10)(a)(v), enacted by Acts 2002, 1st Ex. Sess., No. 3, § 1, eff. July 1, 2002, becomes null and void on June 30, 2006.

(v)(aa) For purposes of sales and use taxes of all tax authorities in the state, the term "sale at retail" shall not apply to any capital expenditure for new research equipment by a biotechnology company.

(bb) "Biotechnology company" means and includes qualified commercial biotechnology research companies identified by the North American Industry Classification System by code numbers 541710, 325412, 325414, 334516, or 339112.

(cc) The exclusion provided for in Subitem (aa) shall not apply to the purchase of any consumable by a qualified biotechnology company.

(vi) For purposes of the payment of state sales and use tax, until January 1, 2007, the term "sale at retail" shall not include purchases made in connection with the filming or production of a motion picture by a motion picture production company which has been relieved from the payment of state sales and use tax under the provisions of Chapter 12 of Subtitle II of this Title, also known as the "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively revoked if it is determined that a motion picture production company that has been relieved from payment of state sales and use tax under Chapter 12 failed to meet the conditions of such relief.

(b) The sale of tangible personal property to a dealer who purchases said property for resale through coin-operated vending machines shall be considered a "sale at retail", subject to the tax levied by R.S. 47:302(A) and R.S. 47:321(A). The subsequent resale of the property by the dealer

through coin-operated vending machines shall not be considered a “sale at retail”.

(c)(i) The term “sale at retail” does not include sale of materials for further processing into articles of tangible personal property for sale at retail. Natural gas when used in the production of iron in the process known as the “direct reduced iron process” is not a catalyst and is recognized by the legislature to be a material for further processing into an article of tangible personal property for sale at retail.

(ii) The term “sale at retail” does not include sales of electricity for chlor-alkali manufacturing processes, nor does it include an isolated or occasional sale of tangible personal property by a person not engaged in such business.

(d) The term “sale at retail” does not include the sale of any human tissue transplants, which shall be defined to include all human organs, bone, skin, cornea, blood, or blood products transplanted from one individual into another recipient individual.

(e) The term “sale at retail” does not include the sale of raw agricultural commodities, including but not limited to feed, seed, and fertilizer, to be utilized in preparing, finishing, manufacturing, or producing crops or animals for market. The Department of Agriculture and Forestry shall develop and promulgate guidelines to determine who meets this definition. Any person meeting such guidelines shall receive a certificate from the Department of Agriculture and Forestry indicating that such person is eligible to purchase such items without paying tax thereon. The guidelines promulgated pursuant to this Paragraph shall not become effective prior to January 1, 1995.

(f) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the sale of a vehicle subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be deemed to be a “retail sale” or a “sale at retail”:

(i) In the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use, or

(ii) In the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in

which case the sale shall be deemed a “retail sale” or a “sale at retail” in the political subdivision where the vehicle is assigned, garaged, and used.

(g) The term “retail sale” does not include a sale of corporeal movable property which is intended for future sale to the United States government or its agencies, when title to such property is transferred to the United States government or its agencies prior to the incorporation of that property into a final product.

(h) The term “sale at retail” does not include the sale of food items by youth serving organizations chartered by congress.

(i) The term “sale at retail” does not include the purchase of a new school bus or a used school bus which is less than five years old by an independent operator, when such bus is to be used exclusively in a public school system. This exclusion shall apply to all sales and use taxes levied by any local political subdivision.

(j) The term “sale at retail” does not include the sale of tangible personal property to food banks, as defined in R.S. 9:2799.

(k) The term “sale at retail” shall not include the sale of airplanes or airplane equipment or parts to a commuter airline domiciled in Louisiana.

(l) For purposes of the state sales and use tax, the term “sale at retail” shall not include the sale of a pollution control device or system. Pollution control device or system shall mean any tangible personal property approved by the Department of Revenue and the Department of Environmental Quality and sold or leased and used or intended for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the purposes of any sales and use tax levied by a political subdivision, the term “sale at retail” shall include the sale of a pollution control device or system. In order to qualify, the pollution control device or system must demonstrate either: a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or that installation is necessary to comply with federal or state environmental laws or regulations.

(m) The term “sale at retail” shall not include the sales of Louisiana manufactured or assembled

passenger aircraft with a capacity in excess of fifty persons, if, after all transportation, including transportation by the purchaser, has been completed, the aircraft is ultimately received by the purchaser outside of Louisiana.

(n) For purposes of sales and use taxes imposed or levied by the state or any political subdivision thereof, the term "sale at retail" shall not include the sales of pelletized paper waste when purchased for use as combustible fuel by an electric utility or in an industrial manufacturing, processing, compounding, reuse, or production process, including the generation of electricity or process steam, at a fixed location in this state. However, such sale shall not be excluded unless the purchaser has signed a certificate stating that the fuel purchased is for the exclusive use designated herein. For purposes of this Subparagraph, "pelletized paper waste" means pellets produced from discarded waste paper that has been diverted or removed from solid waste which is not marketable for recycling and which is wetted, extruded, shredded, or formulated into compact pellets of various sizes for use as a supplemental fuel in a permitted boiler.

(o) For the purposes of sales and use taxes imposed or levied by the state or any local governmental subdivision or school board, the term "sale at retail" shall not include the sale or purchase of equipment used in fire fighting by bona fide volunteer and public fire departments.

(p) For purposes of state and political subdivision sales and use tax, the term "sale at retail" shall not include the sale of items, including but not limited to supplies and equipment, or the sale of services as provided in this Section, which are reasonably necessary for the operation of free hospitals.

NOTE: The text of R.S. 47:301(10)(q) does not apply to transactions occurring from July 1, 2000, through June 30, 2001. It applies to transactions occurring from July 1, 2001 through June 30, 2003. See Acts 1996, No. 15, as amended by Acts 1998, No. 47, and Acts 2000, No. 33.

(q) For purposes of state and political subdivision sales and use tax, the term "sale at retail" shall not include:

(i) The sale of tangible personal property by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students, administrators, or teachers, or other employees of the school, if the money from such sales, less reasonable and necessary expenses associated with the sale, is used solely and exclusively to support the school or its program or curricula. This exclusion shall not be construed to allow tax-free sales to students or their families by promoters or regular commercial dealers through the use of schools, school faculty, or school facilities.

(ii) The sale to approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code of educational materials or equipment used for classroom instruction limited to books, workbooks, computers, computer software, films, videos, and audio tapes.

(r) For purposes of state and political subdivision sales and use tax, the term "sale at retail" shall not include the sale of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations for their educational and public service programs for youth.

(s) The term "sale at retail" or "retail sale", for purposes of sales and use taxes imposed by the state or any political subdivision or other taxing entity, shall not include any charge, fee, money, or other consideration received, given, or paid for the performance of funeral directing services. For purposes of this Subparagraph, "funeral directing services" means the operation of a funeral home, or by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition. However, such services shall not mean or include the sale, lease, rental, or use of any tangible personal property as those terms are defined in this Section.

(t) For purposes of sales and use taxes levied by the state or any political subdivision of the state,

the term “sale at retail” shall not include the transfer of title to or possession of telephone directories by an advertising company that is not affiliated with a provider of telephone services if the telephone directories will be distributed free of charge to the recipients of the telephone directories.

(u) For purposes of sales and use taxes levied and imposed by local governmental subdivisions, school boards, and other political subdivisions whose boundaries are not coterminous with those of the state, “sale at retail” by a person shall not mean or include the sale of tangible personal property if such sale is made under the provisions of Medicare.

NOTE: The exclusion provided under R.S. 47:301(10)(v) is not enforced per a preliminary injunction issued on July 24, 2002, by the Nineteenth Judicial District Court, Parish of East Baton Rouge. The preliminary injunction prohibits the application and enforcement of Act 85 of the 2002 Regular Legislative Session, which enacted R.S. 47:301(10)(v), (13)(g) and (h), and (18)(i). Vendors of cellular phones and accessories must continue paying or collecting sales and use tax on these transactions while the case is in litigation.

(v) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the sale or other disposition by a dealer of any cellular, PCS, or wireless telephone, or any electronic accessories that are physically connected with such telephones and personal communication devices used in connection with the sale or use of mobile telecommunications services, the term “retail sale” or “sale at retail” shall mean and include the sale or any other disposition of such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices by the dealer to the purchaser, but shall not mean or include the withdrawal, use, distribution, consumption, storage, donation, or any other disposition of any such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices by the dealer. For purposes of this Section, the term “mobile telecommunications services” shall have the same meaning as that term has in R.S. 47:301(14)(i)(ii)(bb), as amended by Section 1 of Act No. 1175 of the 2001 Regular Session of the Legislature.

(11) “Retailer” means and includes every person engaged in the business of making sales at retail or for distribution, or use or consumption, or storage to be used or consumed in this state.

(12) “Sale” means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(13)(a) “Sales price” means the total amount for which tangible personal property is sold, less the market value of any article traded in including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed six percent of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling, or repairing property sold.

(b) The term “sales price” shall not include any amount designated as a cash discount or a rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this Paragraph “rebate” means any amount offered by a vendor or manufacturer as a deduction from the listed retail price of the vehicle.

(c) “Sales price” shall not include the first fifty thousand dollars of the sale price of new farm equipment used in poultry production.

NOTE: See Senate Concurrent Resolution 104 of the 1985 Regular Session regarding R.S. 47:301(13)(d).

(d) Notwithstanding any other provision of law to the contrary, for purposes of state and political subdivision sales and use tax, the “sales price” of refinery gas and other petroleum byproducts, except for feedstock, not ultimately consumed as an energy source by the person who owns the facility in which the refinery gas or other petroleum byproduct is created as provided for in Subparagraph (18)(d) of this Section, but sold to another person, whether at retail, wholesale, or for further processing, shall be the average of the monthly spot market price per thousand cubic feet of natural gas delivered into pipelines in Louisiana as reported by the Natural Gas Clearing House and as determined by the Department of Revenue for natural gas severance tax purposes at the time of such sale, or the price for which such property is actually sold, whichever is greater, and such sale shall be taxable.

(e) The term “sales price”, for purposes of the sales tax imposed by the state and its political subdivisions, shall exclude any amount that a manufacturer pays directly to a dealer of the manufacturer’s product for the purpose of reducing and that actually results in an equivalent reduction in the retail “sales price” of that product. This exclusion shall not apply to the value of the manufacturer’s coupons that dealers accept from purchasers as part payment of the “sales price” and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the “sales price” of the product purchased through the use of the coupons.

(f) The term “sales price” shall exclude any charge, fee, money, or other consideration received, given, or paid for the performance of funeral directing services as defined in Subparagraph (10)(s) of this Section.

NOTE: The exclusion provided under R.S. 47:301(13)(g) and (h) is not enforced per a preliminary injunction issued on July 24, 2002, by the Nineteenth Judicial District Court, Parish of East Baton Rouge. The preliminary injunction prohibits the application and enforcement of Act 85 of the 2002 Regular Legislative Session, which enacted R.S. 47:301(10)(v), (13)(g) and (h), and (18)(i). Vendors of cellular phones and accessories must continue paying or collecting sales and use tax on these transactions while the case is in litigation.

(g) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the retail sale by a dealer of any cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term “sales price” shall mean and include only the amount of money, if any, actually received by the dealer from the purchaser for each such cellular, PCS, or wireless telephone and any electronic accessories that are physically connected with such telephones and personal communication devices, but shall not include (i) any amount received by the dealer from the purchaser for providing mobile telecommunications services, or (ii) any commissions, fees, rebates, or other amounts received by the dealer from any source other than the purchaser as a result of or in connection with the sale of the cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communication devices.

(h) For the purpose of the imposition of sales and use tax imposed or levied by all taxing authorities in the state of any cellular, PCS, or wireless telephone used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), after January 1, 2002, the term “sales price” shall mean and include the greater of (i) the amount of money actually received by the dealer from the purchaser for each such telephone, or (ii) twenty-five percent of the cost of such telephone to the dealer, but shall not include any amount received by the dealer from the purchaser for providing mobile telecommunications services or any commissions, fees, rebates, or other amounts received by the dealer from any source other than the purchaser as a result of or in connection with the sale of the telephone.

(i)(i) For purposes of a publishing business which distributes its news publications at no cost to readers and pays unrelated third parties to print such news publications, the term “sales price” shall mean only the lesser of the following costs:

(aa) The printing cost paid to unrelated third parties to print such news publications, less any itemized freight charges for shipping the news publications from the printer to the publishing business and any itemized charges for paper and ink.

(bb) Payments to a dealer or distributor as consideration for distribution of the news publications.

(ii) The definition of “sales price” provided for in this Subparagraph shall be applicable to taxes levied by all tax authorities in the state.

(14) “Sales of services” means and includes the following:

(a) The furnishing of sleeping rooms, cottages or cabins by hotels.

(b)(i) The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, and universities, and recreational events, and the furnishing, for dues, fees, or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational facilities; but the term “sales of services” shall not include membership fees or dues of nonprofit, civic organizations, including by way of illustration and not of limitation the Young Men’s Christian Association, the Catholic Youth Organization, and the Young Women’s Christian Association.

NOTE: Section 1. It is the intention of the Legislature that the provisions of Act 796 of the 1989 Regular Session of the Legislature restate and clarify that sales of admissions to “museums”, as that term is defined by R.S.47:301(14)(b)(ii), were not intended to have been included in the application of the sales tax since the original enactment of such tax, and that, therefore, the provisions of Act 796 shall be remedial, shall have retroactive effect and shall apply to admissions to such museums sold prior to September 3, 1989, as well as admissions sold after that date. The Department shall cease to attempt to collect sales tax on admissions to such museums sold prior to September 3, 1989 and shall withdraw tax assessments and terminate litigation seeking to collect tax on such admissions or seeking a return of taxes on such admissions collected under protest.

Section 2. No taxpayer shall be due a refund pursuant to this Section unless it shall have paid any taxes under protest and instituted suit for the refund of those taxes prior to January 1, 1990.

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law.

Enacted by Acts 1991, No. 172.

(ii) Places of amusement shall not include “museums”, which are hereby defined as public or private nonprofit institutions which are organized on a permanent basis for essentially educational or aesthetic purposes and which use professional staff to do all of the following:

(aa) Own or use tangible objects, whether animate or inanimate.

(bb) Care for those objects.

(cc) Exhibit them to the public on a regular basis.

(iii) Museums include but are not limited to the following institutions:

(aa) Museums relating to art, history, including historic buildings, natural history, science, and technology.

(bb) Aquariums and zoological parks.

(cc) Botanical gardens and arboretums.

(dd) Nature centers.

(ee) Planetariums.

(iv) For purposes of the sales and use taxes of all tax authorities in the state, the term “places of amusement” as used herein shall not include camp and retreat facilities owned and operated for religious purposes by nonprofit religious organizations, which includes recognized domestic nonprofit corporations organized for religious purposes, provided that the net revenue derived from the organization’s property is devoted wholly to religious purposes.

(c) The furnishing of storage or parking privileges by auto hotels and parking lots.

NOTE: See House Concurrent Resolution 63 of the 1987 Regular Session regarding R.S. 47:301(14)(d).

(d) The furnishing of printing or overprinting, lithographic, multilith, blue printing, photostating or other similar services of reproducing written or graphic matter.

(e) The furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovation of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs.

(f) The furnishing of cold storage space, except that space which is furnished pursuant to a bailment arrangement, and the furnishing of the service of preparing tangible personal property for cold storage where such service is incidental to the operation of storage facilities.

(g)(i) The furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment. Charges for the furnishing of repairs to tangible personal property may be excluded from sales of services, as defined in this Subparagraph, when the repaired property is delivered to the customer in another state either by common carrier or the repair dealer's own vehicle, however, as to aircraft, delivery may be by the best available means. This exclusion shall not apply to sales and use taxes levied by any parish, municipality or school board. However, any parish, municipality or school board may apply the exclusion as defined in this Subparagraph to sales or use taxes levied by any such parish, municipality, or school board. Off-shore areas shall not be considered another state for the purpose of this Subparagraph.

(ii) For the purposes of this Subparagraph, tangible personal property shall include machinery, appliances, and equipment which have been declared immovable by declaration under the provisions of Article 467 of the Louisiana Civil Code, and things which have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined in Article 466 of the Civil Code.

(h) The term "sale of service" shall not include an action performed pursuant to a contract with the United States Department of the Navy for construction or overhaul of U.S. Naval vessels.

(i)(i) The furnishing of telecommunication services for compensation.

(ii) Except as otherwise provided in this Subparagraph, the term "telecommunication services" means:

(aa) Local telephone service, private communication service, toll telephone service, including such service provided by alternate operator service providers, and teletypewriter or computer exchange service.

NOTE: The following text of R.S. 47:301(14)(i)(ii)(bb), as amended by Acts 2001, No. 1175, § 1, is effective August 2, 2002, until repealed by a judgment that substantially limits or impairs the essential elements of §§ 1 or 2 of Act 1175. See Acts 2001, No. 1175, §§ 1, 3, and 5 and see the note following § 301.

(bb) Mobile telecommunications service which means a mobile service that is provided for profit, is an interconnected service, and is available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public; or which is the functional equivalent of such a mobile service. Mobile telecommunications services provided by a customer's home service provider shall be subject to the tax imposed by this Chapter when the customer's place of primary use is in this state. In the case of mobile telecommunications service:

(I) "Charges for mobile telecommunications service" means any charge for, or associated with, the provision of mobile telecommunications service, or any charge for, or associated with, a service provided as an adjunct to a mobile telecommunications service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(II) "Customer" means any person or entity that contracts with a home service provider or the end user of the mobile telecommunications service if the end user is not the person or entity that contracts with the home service provider for mobile telecommunications service.

(III) "Designated database provider" means a corporation, association, or other entity represent-

ing all of the political subdivisions of the state and that is:

(aaa) Responsible for providing an electronic database if the state has not provided the database.

(bbb) Approved by municipal and parish governing authorities of the state whose responsibility it would otherwise be to provide the electronic database.

(IV) "Electronic database" means the database provided to the home service provider. The electronic database may be provided by the state or if the state does not provide such a database to home service providers, then by the designated database provider.

(aaa) Such electronic database, whether provided by the state or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, that, allowing for de minimis deviations, designates for each street address in the state, including to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code for each taxing jurisdiction, for each level of taxing jurisdiction, identified by one nationwide standard numeric code. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction. The nationwide standard numeric codes shall contain the same number of numeric digits with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission, or their respective successors. Each address must be provided in standard postal format.

(bbb) The state or the designated database provider that provides or maintains the electronic database shall provide notice of the availability of the then current electronic database and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in the state.

(ccc) The home service provider using the data contained in the electronic database shall not be

liable for any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in the database provided by the state or designated database provider, subject to the provisions of R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) and (ggg). The home service provider shall reflect changes made to the database during the calendar quarter no later than thirty days after the end of the quarter.

(ddd) If neither the state nor designated database provider provides an electronic database, a home service provider shall not be liable for any tax, charge, or fee liability in the state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) and (ggg), the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg) is deemed to be in compliance with this Section. The protection provided in this Subsubitem (IV)(ddd) given to home service providers that are in compliance with this Subsubitem (IV)(ddd) shall apply until the later of eighteen months after the nationwide standard numeric code described in R.S. 47:301(14)(i)(ii)(bb)(IV)(aaa) has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or six months after the state or a designated database provider in the state provides such electronic database.

(eee) For purposes of R.S. 47:301(14)(i)(ii)(bb)(IV)(ddd), there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions; implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and used all reasonable obtainable and usable data pertaining to municipal annexations, incorporations, reor-

ganizations and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

(V) “Enhanced zip code” means a United States postal zip code of 9 or more digits.

(VI) “Home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(VII) “Interconnected” means a direct or indirect connection through automatic or manual means, by wire, microwave, or other technologies such as store and forward, to permit the transmission or reception of messages or signals to or from points in the public switched network.

(VIII)(aaa) “Interconnected service” means a service that is interconnected with the public switched network or interconnected with the public switched network through an interconnected service provider that gives subscribers the capability to communicate to or receive communication from all other users on the public switched network or for which a request for interconnection is pending with the Federal Communications Commission.

(bbb) A mobile service is deemed to offer interconnected service even if the service allows subscribers to access the public switched network only during specified hours of the day, or if the service provides general access to points on the public switched network but also restricts access in certain limited ways. Interconnected service does not include any interface between a licensee’s facilities and the public switched network exclusively for a licensee’s internal control purposes.

(IX) “Licensed service area” means the geographic area in which the home service provider is authorized by law or contract to provide mobile telecommunications service to the customer.

(X) “Mobile service” means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(aaa) One-way and two-way radio communications services.

(bbb) A mobile service that provides a regularly interacting group of base, mobile, portable, and associated control and relay stations, whether

licensed on an individual, cooperative, or multiple basis, for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.

(ccc) Any service for which a license issued by the Federal Communications Commission is required in a personal communications service.

(XI) “Place of primary use” of mobile telecommunications service shall be the street address representative of where the customer’s use of mobile telecommunications service primarily occurs.

(aaa) This address must be within the licensed service area of the home service provider and must be either the residential or the primary business street address of the customer.

(bbb) The home service provider shall be responsible for obtaining and maintaining the customer’s place of primary use.

(ccc) The home service provider shall be entitled to treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on August 1, 2002, as that customer’s place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted unless a taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(ddd) If the home service provider’s reliance on information provided by its customer is in good faith, it shall be entitled to rely on the applicable residential or business street address supplied by the customer as the place of primary use unless a taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(eee) If the home service provider’s reliance on information provided by its customer regarding the customer’s place of primary use is in good faith, it shall not be liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge unless a

taxing jurisdiction or the state has given the home service provider a notice of determination as set forth in R.S. 47:301(14)(i)(ii)(bb)(XI)(fff) or (ggg).

(fff) A taxing jurisdiction, or the state on behalf of any taxing jurisdiction or taxing jurisdictions within the state, may determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of place of primary use and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. However, if the taxing jurisdiction making such determination is not the state, such taxing jurisdiction shall obtain the consent of all affected taxing jurisdictions within the state and shall give the customer an opportunity to demonstrate in accordance with applicable state or local tax, charge, or fee administrative procedures that the address is the customer's place of primary use before giving such notice of determination.

(ggg) A taxing jurisdiction, or the state on behalf of any taxing jurisdiction or taxing jurisdictions within the state, may determine that the assignment of a taxing jurisdiction by a home service provider under R.S. 47:301(14)(i)(ii)(bb)(IV)(ddd) does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. However, if the taxing jurisdiction making the determination is not the state, it must obtain the consent of all affected taxing jurisdictions within the state and give the home service provider an opportunity to demonstrate in accordance with applicable state or local tax, charge, or fee administrative procedures that the assignment reflects the correct taxing jurisdiction before giving such notice of determination.

(hhh) If a customer believes that an amount of tax or assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, before seeking any other remedy the customer shall notify the home service provider in writing. The customer shall include in this written notification the street address for his place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within sixty days of receiving a notice under this Section, the home service

provider shall review its records and the electronic database or enhanced zip code used to determine the customer's taxing jurisdiction. If this review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax erroneously collected from the customer for a period of up to two years. If this review shows that the amount of tax, assignment of place of primary use, or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer.

(iii) If the customer is dissatisfied with the response of the home service provider under this Section, the customer may seek a correction or refund from the taxing jurisdiction affected.

(XII) "Prepaid telephone calling service" means the right to exclusively purchase telecommunications services that must be paid for in advance, and that enable the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

(XIII) "Reseller"

(aaa) Means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

(bbb) Does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(XIV) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

(XV)(aaa) If a mobile telecommunications service is not subject to the taxes levied by the state pursuant to R.S. 47:302(C) and R.S. 47:331(C) or taxes levied by other taxing jurisdictions, and if the amount paid or charged for such mobile telecommunications service is aggregated with and not separately stated from the amount paid or charged for any service that is subject to such taxes, then the nontaxable mobile telecommuni-

cations service shall be treated as being subject to such taxes unless the home service provider can reasonably identify the amount paid or charged for the mobile telecommunications service not subject to such taxes from its books and records kept in the regular course of business.

(bbb) If a mobile telecommunications service is not subject to the taxes levied by the state pursuant to R.S. 47:302(C) and 331(C) or by other taxing jurisdictions, a customer may not rely upon the nontaxability of such mobile telecommunications service unless the customer's home service provider separately states the amount charged for such nontaxable mobile telecommunications service or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the amount charged or paid for such nontaxable mobile telecommunications service.

NOTE: The following text of R.S. 47:301(14)(i)(ii)(bb), as amended by Acts 2001, No. 1175, § 3, becomes effective on the date of a final judgment that substantially limits or impairs essential elements of §§ 1 or 2 of Act 1175. See the note following §301.

(bb) Cellular mobile telephone or telecommunication service, specialized mobile radio or paging service, and any other form of mobile or portable one-way or two-way communication.

NOTE: The following text of R.S. 47:301(14)(i)(ii)(cc)(I), as amended by Acts 2001, No. 1175, § 1, becomes effective on August 2, 2002, until or unless it is repealed on the date of a final judgment that substantially limits or impairs the essential elements of §§ 1 or 2 of Act 1175. See the note following §301.

(cc)(I) Interstate telecommunication services; however, only the amounts paid for interstate telecommunication services which either originate or terminate in this state and which are charged to a service address in this state, regardless of where such amounts are billed or paid, shall be subject to the tax imposed by this Chapter. Notwithstanding the foregoing, all mobile telecommunications services shall be taxed as set forth in Subitem (14)(i)(ii)(bb) of this Section.

NOTE: The following text of R.S. 47:301(14)(i)(ii)(cc)(I), as amended by Acts 2001, No. 1175, § 3, becomes effective on the date of a final judgment that substantially limits or impairs essential elements of §§ 1 or 2 of Act 1175. See the note following §301.

(cc)(I) Interstate telecommunication services; however, only the amounts paid for interstate telecommunication services which either originate or terminate in this state and which are charged to a service address in this state, regardless of where such amounts are billed or paid, shall be subject to the tax imposed by this Chapter.

(II) Notwithstanding any provision of law to the contrary, with respect to sales of interstate telecommunication services to any person for use in the operation of one or more call centers:

(aaa) The tax imposed pursuant to this Chapter shall not apply to such sales reflected on bills submitted prior to July 1, 2003.

(bbb) The tax imposed pursuant to this Chapter shall not exceed twenty-five thousand dollars per calendar year with respect to such sales reflected on bills submitted on or after July 1, 2003.

(ccc) For purposes of applying the limitation set forth in R.S. 47:301(14)(i)(ii)(cc)(II)(bbb), all entities wholly owned by the same person or entity shall be considered a single person.

(III) For purposes of R.S. 47:301(14)(i)(ii)(cc)(II), the term "call center" means one or more locations that utilize telecommunication services in one or more of the following activities: customer services, soliciting sales, reactivating dormant accounts, conducting surveys or research, fund raising, collection of receivables, receiving reservations, receiving orders, or taking orders. The limitations set forth in R.S. 47:301(14)(i)(ii)(cc)(II) shall apply only to holders of a direct payment number issued by the department pursuant to R.S. 47:303.1. In order to obtain such direct payment number, the applicant must establish that it satisfies the criteria set forth in R.S. 47:301(14)(i)(ii)(cc)(II). The provisions of R.S. 47:303.1(B)(1) and (3) shall not apply to any application for a direct payment number under R.S. 47:301(14)(i)(ii)(cc)(II). The department shall not issue any refunds of taxes paid prior to receiving a direct payment number.

(dd) Charges for the connection of or change to any of the services described in Subitems (aa), (bb), or (cc) of this Item.

(iii) The term “telecommunication services” shall not include:

(aa) Telecommunication services paid for by inserting coins in coin-operated telephones available to the public;

(bb) Any excise, franchise, or similar tax or like fee or assessment levied by the United States, by the state of Louisiana, or by any political subdivision as defined in Article VI, Section 44(2) of the Constitution of Louisiana, upon the purchase, sale, use, or consumption of any telecommunication services, which tax, fee, or assessment is collected by the seller from the purchaser.

(cc) Repealed by Acts 2000, No. 22, § 9, effective June 15, 2000.

NOTE: The following text of R.S. 47:301(14)(i)(iii)(cc), will become effective as provided by Acts 2000, No. 22, § 8. Section 14 of that act states, “If it is determined by the legislature or by a court of competent jurisdiction that a regulatory authority has failed to assure that one hundred percent of the tax savings experienced by a telecommunication service provider, whose rates are regulated by such authority, inures proportionately to the benefit of all classes of customers of such provider as required by Section 7 of this Act, then Sections 8 and 10 of this Act shall become effective on the first day of the second month following the month in which such determination is made.”

(cc) Any interstate telecommunication services, or any telecommunication services for which rates are approved by or subject to approval by the Federal Communications Commission, including interstate subscriber line charges.

NOTE: The following text of R.S. 47:301(14)(i)(iii)(dd), as amended by Acts 2001, No. 1175, § 1, becomes effective on August 2, 2002, until repealed by a judgment that substantially limits or impairs the essential elements of §§ 1 or 2 of Act 1175. See Acts 2001, No. 1175, §§ 1, 3, and 5 and see the note following §301.

(dd) The furnishing of any telecommunication services for resale, including charges for the use of intercompany facilities pursuant to shared network facility arrangements, access charges paid by intrastate or interstate interexchange telecommunications carriers and interconnection charges paid by providers of any mobile telecommunications service, provided that any dealer making a sale of telecommunication services for resale shall obtain a certificate from the purchaser of such services certifying that such services are purchased for the purpose of resale, the form of the certification to be determined by rules and regulations to be promulgated by the secretary.

NOTE: The following text of R.S. 47:301(14)(i)(ii)(dd), as amended by Acts 2001, No. 1175, § 3, becomes effective on the date of a final judgment that substantially limits or impairs the essential elements of §§ 1 or 2 of Act 1175. See the note following §301.

(dd) The furnishing of any telecommunication services for resale, including charges for the use of intercompany facilities pursuant to shared network facility arrangements, access charges paid by intrastate or interstate interexchange telecommunications carriers and interconnection charges paid by providers of cellular, mobile, and paging telecommunication services, provided that any dealer making a sale of telecommunication services for resale shall obtain a certificate from the purchaser of such services certifying that such services are purchased for the purpose of resale, the form of the certification to be determined by rules and regulations to be promulgated by the secretary.

(ee) Services or transactions defined in this Subparagraph among entities classified as members of an affiliated group as provided by federal law (26 U.S.C. Section 1504), provided, however, that these provisions shall not apply to any services that would have been taxable under this Chapter as it existed on October 1, 1990.

(ff) Information and data services, including storage of data or information for subsequent retrieval, the retrieval of data or information, or the processing, or reception and processing, of data or information intended to change its form or content.

NOTE: The following text of R.S. 47:301(14)(i)(iii)(gg), will become effective as provided by Acts 2000, No. 22, § 8. Section 14 of that act states, “If it is determined by the legislature or by a court of competent jurisdiction that a regulatory authority has failed to assure that one hundred percent of the tax savings experienced by a telecommunication service provider, whose rates are regulated by such authority, inures proportionately to the benefit of all classes of customers of such provider as required by Section 7 of this Act, then Sections 8 and 10 of this Act shall become effective on the first day of the second month following the month in which such determination is made.”

(gg) Telecommunication services paid for in advance by the purchase of a prepaid telephone calling card or prepaid authorization number as provided for in Subparagraph (16)(d) of this Section.

(iv) For the purposes of this Subparagraph, the following definitions shall apply:

(aa) The term “local telephone service” means the access to a local telephone system and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system.

(bb) The term “teletypewriter or computer exchange service” means the access from a teletypewriter, telephone, computer, or other data station and the privilege of intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations constituting a part of the same teletypewriter or computer exchange system. The term “teletypewriter or computer exchange service” does not include the storage of data or information for subsequent retrieval, the retrieval of data or information, or the processing, or reception and processing, of data or information intended to change its form or content.

(cc) The term “toll telephone service” means: a telephonic-quality communication for which there is a toll charge that varies in amount according to the distance and elapsed transmission time of each individual communication; or a service that entitles the subscriber or user, upon the payment of a periodic charge that is determined as a flat amount or upon the basis of total elapsed trans-

mission time, or upon some combination thereof, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located. The term “toll telephone service” includes intrastate wide-area telephone service charges.

(dd) The term “private communication service” means a communication service furnished to a regular subscriber or user that entitles the subscriber or user to exclusive or priority use of a communication channel or group of channels, or to the use of an intercommunication system for the subscriber’s stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subitems (aa), (bb), or (cc) of this Item (iv); switching capacity, extension lines, and stations, or other associated services which are provided in connection with, and which are necessary or unique to the use of, channels or systems described in this clause; or the channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(ee) The term “alternate operator service provider” means any reseller of toll telephone service, as defined in subitem (cc) of this Item (iv), that provides live or mechanical operator assistance to the end user of such toll telephone service.

(ff) The term “interstate telecommunication services” means any telecommunication service which originates in this state but does not terminate in this state or which terminates in this state but does not originate in this state.

NOTE: The following text of R.S. 47:301(14)(i)(v) is effective as provided by Acts 2000, No. 22, § 10. Section 14 of that act states, “If it is determined by the legislature or by a court of competent jurisdiction that a regulatory authority has failed to assure that one hundred percent of the tax savings experienced by a telecommunication service provider, whose rates are regulated by such authority, inures proportionately to the benefit of all classes of customers of such provider as required by Section 7 of this Act, then Sections 8 and 10 of this Act shall become effective on the first

day of the second month following the month in which such determination is made.”

(v) To prevent actual multistate taxation of an interstate telecommunication service subject to taxation under this Chapter, any taxpayer, upon proof that such taxpayer has paid a tax in another state on such service, shall be allowed a credit against the tax imposed by this Chapter to the extent of the amount of such tax paid in such other state.

(vi)(aa) Local political subdivisions are prohibited from levying a sales and use tax on telecommunication services not in effect on July 1, 1990.

(bb) The provisions of this Subparagraph shall not be construed to prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax or assessment by any political subdivision of the state as defined in Article VI, Section 44(2) of the Constitution of Louisiana.

(j) Notwithstanding any provision of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term “sales of services” shall not mean or include any funeral directing services as defined in Subparagraph (10)(s) of this Section. Subject to approval by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state Department of Revenue shall devise a formula for the calculation of the tax.

(15) “Storage” means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state or for any purpose other than for sale at retail in the regular course of business.

(16)(a) “Tangible personal property” means and includes personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses.

(b) The term “tangible personal property” shall not include:

(i) Stocks, bonds, notes, or other obligations or securities.

(ii) Gold, silver, or numismatic coins, or platinum, gold, or silver bullion having a total value of one thousand dollars or more.

(iii) Proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement even though transferred in the form of tangible personal property.

(c) The term “tangible personal property” shall not include the repair of a vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse of the applicable warranty on that vehicle and at no charge to the owner of the vehicle. For the purpose of assessing a sales and use tax on this transaction, no valuation shall be assigned to the services performed or the parts used in the repair.

(d)(i) Notwithstanding any provision of law to the contrary and for state purposes only, any sale of a prepaid telephone calling card or prepaid authorization number, or both, shall be deemed to be the sale of tangible personal property.

NOTE: The following text of R.S. 47:301(16)(d)(ii), as amended by Acts 2001, No. 1175, § 1, is effective August 2, 2002. See Acts 2001, No. 1175, §§ 1, 3, and 5 and see note below.

(ii) Unless the sale of a prepaid telephone calling card or prepaid authorization number occurs at the vendor’s place of business, it shall be conclusively presumed that the retail sale has occurred at the customer’s shipping address. The reauthorization of a prepaid telephone calling card or a prepaid authorization number shall be conclusively presumed to be a retail sale which occurs at the customer’s billing address, except in the case of the reauthorization of a prepaid calling card or a prepaid authorization number used exclusively for mobile telecommunications service in which case it shall be conclusively presumed to be a retail sale which occurs at the mobile telecommunications service customer’s place of primary use.

NOTE: The following text of R.S. 47:301(16)(d)(ii), as amended by Acts 2001, No. 1175, § 3, becomes effective on the date of a final judgment that substantially limits or impairs the essential elements of §§ 1 or 2 of Act 1175. See the note following §301.

(ii) Unless the sale of a prepaid telephone calling card or prepaid authorization number occurs at the vendor’s place of business, it shall be conclusively presumed that the retail sale has occurred

at the customer's shipping address. The reauthorization of a prepaid telephone calling card or a prepaid authorization number shall be conclusively presumed to be a retail sale which occurs at the customer's billing address.

(e) The term "tangible personal property" shall not include work products which are written on paper, stored on magnetic or optical media, or transmitted by electronic device, when such work products are created in the normal course of business by any person licensed or regulated by the provisions of Title 37 of the Louisiana Revised Statutes of 1950, unless such work products are duplicated without modification for sale to multiple purchasers. This exclusion shall not apply to work products which consist of the creation, modification, updating, or licensing of computer software.

(f) The term "tangible personal property" shall not include pharmaceuticals administered to livestock used for agricultural purposes. All such pharmaceuticals shall be registered with the Louisiana Department of Agriculture and Forestry.

NOTE: The following text of R.S. 47:301(16)(g), originally enacted by Acts 2000, No. 30, § 1, was to become effective if, as, and when a judgment in Shirley M. Avants, et al v. John Neely Kennedy, Secretary, No. 434575, Division D, Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana, becomes final and nonappealable or a written compromise settlement disposing of all claims is finalized and signed. Acts 2001, No. 1212, § 7, amended this provision of Act 30 to become effective on July 1, 2001. Acts 2002, No. 56, effective July 1, 2002, amended R.S. 47:301(16)(g)(iv) to extend the exclusion to local taxing districts within the state.

(g)(i) Except as otherwise provided in this Subparagraph, the term "tangible personal property" shall not include manufactured homes for which certification has been made as required by Section 5415 of Title 42 of the United States Code.

(ii) For purposes of this Subparagraph, "manufactured home" means a structure as defined in Section 5402 of Title 42 of the United States Code. For purposes of this Subparagraph, "manufactured home" shall also mean any structure which meets all the requirements of a manufactured home as defined in Section 5402 of Title 42 of the United States Code except the size requirements

and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development or required by the fire marshal of the state of Louisiana. "Manufactured home" shall not include any self-propelled recreational vehicle.

(iii) The term "tangible personal property" as applied to sales and use taxes levied by the state only shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that forty-six percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall not be considered as "tangible personal property".

(iv) The provisions of this Subparagraph shall be applicable to the sales and use taxes levied by all local taxing districts within the state, for manufactured homes used for residential purposes, in the following manner:

(aa) Effective January 1, 2003, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that eighty-six and one-half percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of seventy-five percent of the resale price.

(bb) Effective January 1, 2004, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that seventy-three percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of fifty percent of the resale price.

(cc) Effective January 1, 2005, the term "tangible personal property" shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that fifty-nine and one-half percent of the retail sales price shall be so considered as "tangible personal property". Thereafter, each subsequent resale of a manufactured home or mobile home shall be considered as "tangible personal property", but only to the extent of twenty-five percent of the resale price.

(dd) Effective January 1, 2006, the term “tangible personal property” shall include a new manufactured home, for the initial sale from a dealer to a consumer, but only to the extent that forty-six percent of the retail sales price shall be so considered as “tangible personal property”. Thereafter, each subsequent resale of a manufactured home or mobile home shall not be considered as “tangible personal property”.

(ee) The provisions of this Subparagraph shall only apply to a manufactured home or mobile home that the buyer certifies is intended solely for use as residential housing. The office of motor vehicles shall promulgate rules and regulations amending the process for the application for title to provide for the certification that a manufactured home or mobile home is intended for residential use and will be situated on a particular and identified lot or tract of land.

(h)(i) For purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term “tangible personal property” shall not include one-quarter of the cost price of custom computer software.

(ii) For purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term “tangible personal property” shall not include one-half of the cost price of custom computer software.

(iii) For purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term “tangible personal property” shall not include three-quarters of the cost price of custom computer software.

(iv) For purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for all taxable periods beginning on or after July 1, 2005, the term “tangible personal property” shall not include custom computer software.

(i) For purposes of the imposition of the state sales and use tax, the term “tangible personal property” shall not include digital television conversion equipment and digital radio conversion equipment as defined in this Section.

(i) “Digital television conversion equipment” shall include the following:

(aa) DTV transmitter and RF system.

(bb) Transmission line.

(cc) DTV antenna.

(dd) Tower.

(ee) Existing tower structural upgrade.

(ff) Advanced TV receiver (STL receiver).

(gg) Decoder (digital to analog converter for NTSC).

(hh) DTV transmission system test and monitoring.

(ii) Digital video/audio master control switcher.

(jj) Analog to digital conversion.

(kk) High definition up-converters.

(ll) High definition bypass switcher.

(mm) Down converters for standard definition.

(nn) Advanced TV transmitter (STL transmitter).

(oo) Advanced TV signal encoder.

(pp) DTV transmission monitoring.

(qq) High definition digital video switcher and DVE.

(rr) High definition studio cameras.

(ss) High definition graphics/graphic generator.

(tt) High definition video monitoring.

(uu) Conversion gear.

(vv) High definition recorder/players, including tape, disk, etc.

(ww) High definition video/audio signal router.

- (xx) High definition video/audio media server.
- (yy) MPEG or HDTV digital receivers for program content.
- (zz) High definition recorder/players, including tape, disk, etc.
- (aaa) High definition video/audio media server and workstations.
- (bbb) Digital EAS encoder/decoder.
- (ccc) High definition camcorder, including tape, disk, etc.
- (ddd) Advanced TV transmitters, including microwave.
- (ii) "Digital radio conversion equipment" shall include the following:
 - (aa) IBOC transmitter.
 - (bb) IBOC main channel and IBOC combiner.
 - (cc) IBOC compatible antenna.
 - (dd) Tower.
 - (ee) IBOC coaxial bypass switcher.
 - (ff) Digital STL.
 - (gg) STL heliax transmission line.
 - (hh) STL antenna.
 - (ii) Digital console.
 - (jj) EAS insertion.
 - (kk) AES EBU conversion equipment.
 - (ll) IBOL transmission testing and monitoring equipment.
 - (mm) Digital processor.
- (iii) The exclusion from state sales and use tax authorized by this Subparagraph shall only apply to the first purchase of each enumerated item by an individual taxpayer who holds a Federal Communications Commission license issued pursuant to 47 CFR Part 73. Individual taxpayers operating under several broadcaster licenses shall be allowed one purchase of each enumerated item

per license. Each subsequent purchase of any of the enumerated items by the same taxpayer or license holder shall be subject to sales and use tax.

(iv) The exclusion from sales and use tax authorized in this Subparagraph shall not apply to purchases made by taxpayers holding Federal Communications Commission radio broadcast licenses issued pursuant to 47 CFR Part 73 until such time as the Federal Communications Commission mandates a radio conversion to digital broadcasting.

(v) Any eligible taxpayer who has purchased any item enumerated in Item (i) or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the effective date of this Act, shall be entitled to a credit against the state sales and use tax due in any year for an amount equal to state sales and use tax paid on the purchase of the item.

(vi) Local taxing authorities are hereby authorized to provide an exemption from any local sales and use tax liability to any taxpayers holding a Federal Communications Commission license issued pursuant to 47 CFR Part 73 which has purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local taxing authorities are further authorized to provide a credit against any tax liability for the amount of local sales tax paid by taxpayers holding Federal Communications Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but prior to June 25, 2002.

(vii) No exclusion from state sales and use tax as authorized in this Subsection shall be allowed after the Federal Communications Commission has issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to discontinue broadcasting their analog signal.

(viii) The Department of Revenue shall adopt rules and regulations necessary for the implementation of this Act no later than August 1, 2002.

(j) The term "tangible personal property", for purposes of the payment of sales and use taxes levied by all tax authorities in the state, shall not include materials used directly in the collection, separation, treatment, testing, and storage of blood by nonprofit blood banks and nonprofit blood collection centers.

(k) The term “tangible personal property” for purposes of the sales and use taxes imposed by all tax authorities in this state shall not include apheresis kits and leuko reduction filters used by nonprofit blood banks and nonprofit blood collection centers.

(17) “Off-road vehicle” is any vehicle manufactured for off road use which is issued a manufacturer’s statement of origin that cannot be issued a registration certificate and license to operate on the public roads of this state because at the time of manufacture the vehicle does not meet the safety requirements prescribed by R.S. 32:1301 through R.S. 32:1310. This includes vehicles that are issued a title only by the Vehicle Registration Bureau, Department of Public Safety and Corrections, such as all terrain vehicles and recreational and sport vehicles, but it does not include off road vehicles used for farm purposes, farm equipment, or heavy construction equipment.

NOTE: Acts 1996, No. 12 amended R.S. 47:301(10)(a)(i) and (ii) and R.S. 47:301(18)(a)(i) and (ii) to exclude “motor vehicles” purchased for subsequent lease or rental from sales and use tax until July 1, 1998. Acts 1998, No. 10 amended Acts 1996, No. 12, Section 3 to extend this exclusion until July 1, 2000. However, Acts 1998, No. 22, which provides an exclusion for food donated to a food bank, replaced “motor vehicles” with “automobiles” in R.S. 47:301(18)(a)(i) and (ii). Acts 2000, No. 28 subsequently amended Acts 1996, No. 12, Section 3 to extend the exclusion until July 1, 2002. Acts 2002, No. 64 amended Acts 1996, No. 12, Section 3 to make the exclusion permanent.

Acts 2000, No. 44, Section 2, provides that Acts 1998, No. 22, Section 2, regarding donations to food banks, shall apply to all donations made on, before or after July 1, 1998.

(18)(a)(i) For purposes of the imposition of the state sales and use tax, “use” means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular

course of a business. The term “use” shall not include the purchase, the importation, the consumption, the distribution, or the storage of automobiles to be leased in an arm’s length transaction, nor shall the term “use” include the donation of food items to a food bank as defined in R.S. 9:2799(B).

(ii) For purposes of the imposition of the sales and use tax levied by a political subdivision or school board, “use” shall mean and include the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of a business. The term “use” shall not include the donation of food items to food bank as defined in R.S. 9:2799(B).

(iii) The term “use”, for purposes of sales and use taxes imposed by the state on the use for rental of automobiles which take place on or after January 1, 1991, and by political subdivisions on such use on or after July 1, 1996, and state sales and use taxes imposed on the use for lease or rental of tangible personal property other than automobiles which take place on or after July 1, 1991, shall not include the purchase, the importation, the consumption, the distribution, or the storage of tangible personal property to be leased or rented in an arm’s length transaction as tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 1999, and ending on June 30, 2000, the term “use” shall not include one-fourth of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm’s length transaction in the form of tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 2000, and ending on June 30, 2001, the term “use” shall not include one-half of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm’s length transaction in the form of tangible personal property. For purposes of the imposition of the tax levied by any political subdivision of the state, for the period beginning July 1, 2001, and ending on June 30, 2002, the term

“use” shall not include three-fourths of the cost price of any tangible personal property which is purchased, imported, consumed, distributed, or stored and which is to be leased or rented in an arm’s length transaction in the form of tangible personal property. Beginning July 1, 2002, for purposes of the imposition of the tax levied by any political subdivision of the state, the term “use” shall not include the purchase, the importation, the consumption, the distribution, or the storage of any tangible personal property which is to be leased or rented in an arm’s length transaction in the form of tangible personal property.

(iv) The term “use”, for purposes of sales and use taxes imposed by the state on the use for rental automobiles which take place prior to January 1, 1991, and by political subdivisions on such use prior to July 1, 1996, and imposed on the use for lease or rental of tangible personal property other than automobiles which take place prior to July 1, 1991, and for purposes of local sales and use taxes levied by political subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall include the purchase, the importation, the consumption, the distribution, or the storage of tangible personal property to be leased or rented in an arm’s length transaction as tangible personal property.

(b) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the use of a vehicle subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be deemed to be a “use”:

(i) In the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use, or

(ii) In the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in which case the use shall be deemed a use in the political subdivision where the vehicle is assigned, garaged, and used.

(c) For purposes of state and political subdivision sales and use tax, “use” shall not include the exercise of any right or power by a free hospital over items, including but not limited to supplies and equipment, which are reasonably necessary for the operation of the free hospital.

(d)(i) Notwithstanding any other provision of law to the contrary, and except as provided in Item (iii) of this Subparagraph, for purposes of state and political subdivision sales and use tax, “use” means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the further processing of tangible personal property into articles of tangible personal property for sale.

(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 coke derived from crude oil, wood chips, bark, and liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived from sugarcane. If petroleum byproducts other than feedstock is sold to another person, whether at retail, wholesale, or for further processing, such sale shall be taxable and the value shall be as provided for in Subparagraph (13)(d) of this Section.

NOTE: See Senate Concurrent Resolution 104 of the 1985 Regular Session regarding R.S. 47:301(18)(d)(iii).

(iii) Notwithstanding any other provision of law to the contrary, and notwithstanding the provisions of this Subparagraph, “use” shall include the exercise of any right of ownership over the consumption, the distribution, and the storage for use or consumption in this state of refinery gas, except the sale to another person, whether at retail or wholesale, only if the refinery gas is ultimately consumed as an energy source by the person who owns the facility in which it is created and is not sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If refinery gas, except for feedstock, is sold to another person, whether at retail, wholesale, or for further processing, such sale shall be taxable and the value shall be as provided for in Subparagraph (13)(d) of this Section. The provisions of this Item (d)(iii) shall not apply to feedstock.

NOTE: The following text of R.S. 47:301(18)(e) is effective until July 1, 2003, excluding the period from July 1, 2000 through June 30, 2001. See Acts 1996, No. 15, as amended by Acts 1998, No. 47, and Acts 2000, No. 33.

(e) For purposes of state and political subdivision sales and use tax, “use” shall not include the purchase of or the exercise of any right or power over:

(i) Tangible personal property sold by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students, administrators, or teachers, or other employees of the school, if the money from such sales, less reasonable and necessary expenses associated with the sale, is used solely and exclusively to support the school or its program or curricula.

(ii) Educational materials or equipment used for classroom instruction by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, limited to books, workbooks, computers, computer software, films, videos, and audio tapes.

(f) For purposes of state and political subdivision sales and use tax, “use” shall not include the purchase of or the exercise of any right or power over tangible personal property used by Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. for their educational and public service programs for youth.

(g) Notwithstanding any provision of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term “use” shall not mean or include any funeral directing services as defined in Subparagraph (10)(s) of this Section.

(h) For purposes of sales and use taxes levied by the state or any political subdivision of the state, the term “use” shall not include the exercise of any right of ownership in or the distribution of telephone directories acquired by an advertising company that is not affiliated with a provider of telephone services if the telephone directories will be distributed free of charge to the recipients of the telephone directories.

NOTE: The exclusion provided under R.S. 47:301(18)(i) is not enforced per a preliminary injunction issued on July 24, 2002, by the Nineteenth Judicial District Court, Parish of East Baton Rouge. The preliminary injunction prohibits the application and enforcement of Act 85 of the 2002 Regular Legislative Session, which enacted R.S. 47:301(10)(v), (13)(g) and (h), and (18)(i). Vendors of cellular phones and accessories must continue paying or collecting sales and use tax on these transactions while the case is in litigation.

(i) For purposes of the imposition of sales and use taxes imposed or levied by all taxing authorities in the state, in the case of the sale or any other disposition by a dealer of any cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices used in connection with the sale or use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term “use” shall not include the withdrawal, use, distribution, consumption, storage, donation, or any other disposition of any such cellular, PCS, or wireless telephone, any electronic accessories that are physically connected with such telephones and personal communications devices by the dealer.

(19) “Use tax” includes the use, the consumption, the distribution, and the storage as herein defined. No use tax shall be due to or collected by:

(a) The state on tangible personal property used, consumed, distributed, or stored for use or consumption in the state if the sale of such property would have been exempted or excluded from sales tax at the time such property became subject to the taxing jurisdiction of the state.

(b) Any political subdivision on tangible personal property used, consumed, distributed, or stored for use or consumption in such political subdivision if the sale of such property would have been exempted or excluded from sales tax at the time such property became subject to the taxing jurisdiction of the political subdivision.

(20) “Drugs” includes all pharmaceuticals and medical devices which are prescribed for use in the treatment of any medical disease.

(21) “Free hospital” means a hospital that does not charge any patients for health care provided by the hospital.

(22) The term “computer software” means a set of statements, data, or instructions to be used directly or indirectly in a computer in order to bring about a certain result in any form in which those statements, data, or instructions may be embodied, transmitted, or fixed, by any method now known or hereafter developed, regardless of whether the statements, data, or instructions are capable of being perceived by or communicated to humans. Computer software includes all types of software including operational, applicational, utilities, compilers, and all other forms.

(23)(a) The term “custom computer software” means computer software prepared, created, adapted, or modified to the special order of a particular purchaser, licensee, or user; or to meet the specific needs or requirements of a particular purchaser, licensee, or user, regardless of the means by or through which such computer software is furnished, delivered, or transmitted, and regardless of whether such software incorporates or consists of preexisting routines, utilities, or other computer software components.

(b) In order to be considered “custom computer software”, the computer software must require preparation, creation, adaption, or modification by the vendor in order to be used in a specific work environment or to perform a specific function for the user.

(c) Updates, upgrades, and new versions of custom computer software shall be considered custom computer software, provided such upgrades, updates, and new versions meet the definition of custom computer software contained in this Chapter.

(24) The term “news publication” shall mean any printed periodical that:

(a) Appears at regular intervals.

(b) Contains reports of a varied character, such as political, social, cultural, sports, moral, religious, or other subjects of general public interest.

(c) Contains not more than seventy-five percent advertising.

(d) Is not owned or published as an auxiliary to another nonpublishing business, organization, or entity.

***NOTE: Acts 2000, No. 22, § 14, provides that §§ 8 and 10 of the Act (affecting R.S. 47:301(14)(i)(iii)(cc) and (gg) and (i)(v)) will become effective “If it is determined by the legislature or by a court of competent jurisdiction that a regulatory authority has failed to assure that one hundred percent of the tax savings experienced by a telecommunication service provider, whose rates are regulated by such authority, inures proportionately to the benefit of all classes of customers of such provider as required by Section 7 of this Act, then Sections 8 and 10 of this Act shall become effective on the first day of the second month following the month in which such determination is made.”**

NOTE: Acts 2001, No. 1175, § 5, provides that “The intent of this Act is to amend Louisiana law so that it conforms to the federal Mobile Telecommunications Sourcing Act, P.L. 106-252, codified at 4 U.S.C., Sections 116 through 126. If it is determined by the legislative oversight committees of the Department of Revenue, which are set forth in R.S. 49:968, that a court of competent jurisdiction has entered a final judgment on the merits that (1) is based on federal or state law; (2) is no longer subject to appeal; and (3) substantially limits or impairs the essential elements of Section 1 or 2 of this Act, then the provisions enacted by such Sections shall be repealed, and Sections 3 and 4 of this Act shall be effective, all as of the date of entry of such judgment.”

Source: Acts 1948, No. 9, § 6. Amended by Acts 1954, No. 143, § 1; Acts 1954, No. 290, § 1; Acts 1966, No. 124, § 1; Acts 1966, No. 187, § 1; Acts 1976, No. 90, § 1, eff. Jan. 1, 1977; Acts 1976, No. 92, § 1, eff. Jan. 1, 1977; Acts 1976, No. 481, § 1, eff. Jan. 1, 1977; Acts 1977, 1st Ex.Sess., No. 17, § 1, eff. July 1, 1978; Acts 1978, No. 756, § 1; Acts 1980, No. 137, § 2; Acts 1983, No. 446, § 1, eff. July 3, 1983; Acts 1984, No. 359, § 1, eff. Sept. 1, 1984; Acts 1984, No. 697, § 1, eff. Sept. 1, 1984; Acts 1985, No. 488, § 1, eff. Sept. 1, 1985; Acts 1985, No. 901, § 1, eff. Sept. 1, 1985; Acts 1987, No. 199, § 1, eff. July 1, 1987; Acts 1987, No. 326, § 1, eff. July 1, 1987; Acts 1987, No. 435, § 1, eff. July 9, 1987; Acts 1988, No. 307, § 1, eff. July 7,

1988; Acts 1988, No. 355, § 1, eff. July 7, 1988; Acts 1989, No. 264, § 1, eff. Aug. 1, 1989; Acts 1989, No. 331, § 1; Acts 1989, No. 796, § 1; Acts 1989, No. 833, § 1; Acts 1989, 2nd Ex.Sess., No. 10, § 1; Acts 1989, 2nd Ex.Sess., No. 14, § 1, eff. Aug. 1, 1989; Acts 1990, No. 140, § 1, eff. July 1, 1990; Acts 1990, No. 388, § 1, eff. Aug. 1, 1990; Acts 1990, No. 403, § 1; Acts 1990, No. 409, § 1; Acts 1990, No. 444, § 1; Acts 1990, No. 478, § 1; Acts 1990, No. 719, § 1, eff. July 1, 1990; Acts 1990, No. 724, § 1, eff. July 1, 1990; Acts 1990, No. 817, § 1; Acts 1990, No. 1030, § 1, eff. Jan. 1, 1991; Acts 1990, No. 1064, § 1, eff. July 1, 1990; Acts 1991, No. 292, § 1, eff. July 1, 1991; Acts 1991, No. 350, § 1; Acts 1991, No. 388, § 1, eff. July 8, 1991; Acts 1991, No. 772, § 1, eff. July 1, 1991; Acts 1991, No. 1019, § 1; Acts 1991, No. 1029, § 1, eff. Sept. 1, 1991; Acts 1992, No. 226, § 1; Acts 1992, No. 514, § 1; Acts 1992, No. 884, § 1; Acts 1992, No. 926, § 1, eff. July 1, 1992; Acts 1992, No. 926, § 1, eff. July 1, 1993; Acts 1994, No. 6, § 1, eff. July 1, 1994; Acts 1994, No. 8, § 1, eff. June 7, 1994; Acts 1994, No. 29, § 1; Acts 1995, No. 284, § 1, eff. July 1, 1995; Acts 1996, No. 7, § 1, eff. July 1 1996; Acts 1996, No. 12, § 1, eff. July 1, 1996; Acts 1996, No. 15, § 1, eff. July 1, 1997; Acts 1996, No. 20, § 1, eff. July 1, 1996; Acts 1996, No. 28, § 1, eff. July 1, 1996; Acts 1996, No. 29, § 1, eff. July 2, 1996; Acts 1996, No. 33, § 1, eff. July 2, 1996; Acts 1996, No. 43, § 1, eff. July 2, 1996; Acts 1998, No. 22, § 1, eff. July 1, 1998; Acts 1998, No. 37, § 1, eff. June 24, 1998; Acts 1998, No. 40, § 1; Acts 1998, No. 46, § 1, eff. June 24, 1998; Acts 1998, No. 49, § 1, eff. Aug. 1, 1998; Acts 1998, No. 58, § 1, eff. July 1, 1998; Acts 1999, No. 1266, § 1, eff. July 12, 1999; Acts 2000, No. 22, §§ 2, 8, eff. June 15, 2000 as to § 2, eff. following legislative or judicial determination pursuant to § 14 of Act as to § 8; Acts 2000, No. 30, § 1, eff. on resolution of litigation; Acts 2000, No. 33, § 2, eff. July 1, 2000; Acts 2000, No. 47, § 1, eff. July 1, 2000; Acts 2001, No. 60, § 1, eff. July 1, 2001; Acts 2001, No. 874, § 1, eff. June 26, 2001; Acts 2001, No. 1175, § 1, eff. Aug. 2, 2002, and § 3, eff. on date of final judgment substantially limiting or impairing essential elements of §§ 1 or 2; Acts 2002, 1st Ex.Sess., No. 3, § 1, eff. July 1, 2002; Acts 2002, 1st Ex.Sess., No. 5, § 1, eff. July 1, 2002; Acts 2002, 1st Ex.Sess., No. 7, § 1, eff. July 1, 2002; Acts 2002, No. 56, § 1, eff. July 1, 2002; Acts 2002, No. 58, § 1, eff. June 25, 2002; Acts 2002, No. 61, § 1, eff. June 25, 2002; Acts 2002, No. 67, § 1, eff. July 1, 2002; Acts 2002, No. 70, § 1, eff. July 1, 2002; Acts 2002, No. 71, § 1, eff. June 25, 2002; Acts 2002, No. 85, §§ 1, 2, eff. June 27, 2002.

LAC 61:I.4301. Definitions

A. General. Words and phrases shall be read with their context and the specific section of law to which they are applicable. They shall be construed according to the common usage of the language. Technical words and phrases, and such others as may have acquired a peculiar meaning in the field of taxation shall be construed according to such peculiar meaning. The word shall is mandatory and the word may is permissive. Unless otherwise clearly indicated, words used in singular include the plural and words used in the plural include the singular.

B. Words, terms and phrases defined in R.S. 47:301(1) through R.S. 47:301(20), inclusive, have the meaning ascribed to them therein and as further provided in §4301.C.

C. All examples included in the text of these rules and regulations are for illustration only and in no case should they be construed to impose a limitation.

Business—

a. Business as used in this Chapter covers any activity reasonably expected to result in gain, benefit or advantages, either directly or indirectly; the fact that operations resulted in a loss or did not provide the expected benefits or advantages would not eliminate an activity from the business classification. It is intended that some degree of continuity, regularity or permanency be involved so that the doing of any single act pertaining or related to a particular business would not be considered engaging in or carrying on that business; a series of such acts would be so considered.

b. Continuous employment, occupation, or profession engaged in for livelihood which occupies the majority of time and attention, or activity in which time and capital are invested on future outcome are within the meaning of business just as barter or exchange of things, rights or services for value are within the meaning of business. It is not necessary for any activity to constitute the sole occupation to remain within the intended definition.

c. The term business does not include isolated and occasional sales by persons who do not hold themselves out as engaged in business. This exclusion clearly applies to sales made by the owners of property who had acquired the property for use or

consumption, and is not engaged in selling similar property on a repeated or continuing basis.

d. Whether an activity constitutes the carrying on of a business demands an analysis of the continuing nature of the activity, and may change with respect to any particular person. By way of example, trustees or receivers conducting a continuing retail merchandising activity, even though solely by court order, would be construed to be in the merchandising business, while the sale conducted by the same trustees or receivers in order to liquidate the business pursuant to a later court order would not be construed to be carrying on a business. Further, the occasional sale of used equipment made by a person engaged in the equipment rental business would not be construed to constitute the business of selling equipment, but if the same lessor of equipment frequently, routinely or continuously offered used equipment for sale, then he would be construed to be engaged in that business.

Collector—

a. As used in this Chapter, collector means the collector of revenue of the state of Louisiana and includes his duly authorized assistants. Any duly authorized representative of the collector, when acting under his authority and direction, has the same powers and responsibilities as the collector, but only to the extent so delegated.

b. Similarly, as used in this Chapter, secretary means the secretary of the Department of Revenue and Taxation of the state of Louisiana, and is synonymous with collector.

c. The authority to make assessments, impose or waive penalties, enter into agreements legally binding upon the department relative to extensions of time, for filing, running of prescriptive periods, installment payments of tax liability, and the filing and release of assessments and liens has been delegated extremely sparingly. Most employees of the department do not have authority to perform these functions on behalf of the secretary. Questions involving any of those legal actions should be addressed directly to the secretary, who has the sole power to delegate his authority in those areas.

d. No action taken by any employee shall be binding upon the secretary unless specific authority has been delegated to the employee for the type of action taken.

Cost Price—

a. Cost price is defined by R.S. 47:301(3) to mean the lesser of:

i. the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax; or

ii. the actual cost of the article subject to the use tax liability.

iii. The lessor of the two values applies, regardless of the manner by which the property was acquired, whether by purchase, by manufacture, or otherwise, and regardless of whether acquired within the state or outside the state.

b. The statutory requirement for a comparison between reasonable market value and actual cost necessarily demands that both elements being compared be on a comparable basis.

c. For purposes of the comparison, the reasonable market value of tangible personal property is the amount a willing seller would receive from a willing buyer in an arms length exchange of similar property at or near the location of the property being valued. The amount which would be realized from a forced sale is not acceptable as the market value for this purpose.

d. In arriving at actual cost of tangible personal property for the purpose of the required comparison, all labor and overhead costs which are billed to the purchaser of the property, except for separately stated installation charges, are included. In the case of property manufactured, fabricated and/or altered to perform a specific function prior to the tax incident, every item of cost must be included. Thus, material, labor, overhead, and any other cost of any nature whatsoever must be included. However, labor, overhead, and other costs which represent services rendered to the property by the owner or his employees are not to be included. Employees, for purposes of this Paragraph are defined to mean personnel who are on the property owner's payroll on a permanent basis, and not for the sole purpose of completing the immediate tasks of rendering their services to the property in question, and for which all payroll taxes are withheld and remitted by the property owner. The only transportation charges which are to be included in the cost are the transportation charges which can be identified as part of the acquisition cost of materials, and only in cases wherein the transpor-

tation was either performed or arranged by the vendor of the materials.

e. Although the point of tax incidence is at the location of use, the transportation charges for transporting the property from the owner's location of storage to the point of tax incidence is not included in the cost.

f. In the case of property withdrawn from stock by a manufacturer holding similar property for resale, no element of profit will be added to cost in calculating the amount to be used in comparison with market value.

g. Since installation is not included as a taxable service under this Chapter, the cost of installing tangible personal property should not be included in "cost price" if such cost were separately billed or accounted for at the time of installation so as to afford positive identification. In the absence of separate billing or accounting for installation costs, they will be included in arriving at "actual cost".

R.S. 47:301(3)(c) specifically provides that the separately stated charge made by oil field board road dealers for the initial furnishing and installation of board roads shall not be included in the "cost price" of the rental or sale.

Dealer—

a. Chapter 2 of Subtitle II of Title 47 of the Revised Statutes of 1950, as amended, imposes a tax upon the sales of tangible personal property in this state, the use, consumption, distribution and the storage for use or consumption in this state of tangible personal property, the lease or rental within this state of tangible personal property, and upon the sales of certain services. The tax in each instance is collectible from the dealer.

b. In view of the total reliance of the sales tax statutes upon the dealer for collection of the tax, the law meticulously ascribes to the term dealer the broadest possible meaning relevant to the taxes imposed by this Chapter. R.S. 47:301(4) clearly holds either party to any transaction, use, consumption, storage, or lease involving tangible personal property and either the performer or recipient of services liable for payment of the tax through the broad statutory definition of dealer.

c. R.S. 47:301(4) includes as a dealer every person who manufactures or produces tangible personal property for sale at retail, use, consumption, distribution or for storage to be used or consumed in this state. Thus, the firm which manufactures or pro-

duces a product used or consumed by it in the conduct of its business becomes a dealer for sales and use tax purposes, even though none of that particular product is offered for sale.

d. Any person who imports property into the state, or who causes property to be imported into the state is a dealer for purposes of the sales and use tax whether the property is to be used, consumed, distributed, or for storage to be used or consumed in the state, or is intended for resale.

e. Persons who sell tangible personal property, who hold such property for sale, or who have sold tangible personal property are dealers. Similarly, any person who has used, consumed, distributed or stored tangible personal property for use or consumption in the state is defined as a dealer, unless it can be proved that sales or use tax has previously been paid to the state of Louisiana to the extent required by this Chapter on the particular item.

f. Both the lessor (or rentor) and the lessee (or rentee) are defined as dealers by the statute, as are both the person who performs services of a nature subject to tax and the person for whom the services are performed. See R.S. 47:301(14) and LAC 61:I.4301.C.Sales of Services for a list of the services subject to the tax.

g. Dealer also includes any person engaging in business in the state. See R.S. 47:301(1) and LAC 61:I.4301.C.Business for the definition of business as used in this Chapter. Engaging in business is further defined to include the maintaining of an office, distribution house, sales house, warehouse or other place of business, either directly, indirectly, or through a subsidiary or through a seller authorizing an agent, salesman or solicitor to operate within the state or by permitting a subsidiary to authorize the solicitation activity. Engaging in business also includes making deliveries of tangible personal property into the state by any means other than by a common or contract carrier. Qualification to do business within the state is not among the considerations of whether a person is engaged in business for this purpose. Neither is it material whether the place of business or personnel are permanent or temporary in nature.

h. Persons who sell tangible personal property to operators of vending machines are dealers, and such sales are taxable sales at retail, as defined under §4301.C.Retail Sale or Sale at Retail. A vending machine operator is also a dealer, as contemplated by this Paragraph; however, his

sales of tangible personal property through coin-operated vending machines are not retail sales.

i. R.S. 47:301(4)(i) also includes in the definition of dealer any person who makes deliveries of tangible personal property into the state in a vehicle which is owned or operated by that person.

Drugs—

R.S. 47:301(20) applies a broader definition of drugs than the term indicates in common usage, for purposes of applying the exemption which is offered under R.S. 47:305(D)(l)(j) and (s). This definition encompasses not only pharmaceutical remedies and chemical compounds, but also medical devices which are prescribed for use in the treatment of any medical disease. Devices which do not properly fall into the already established categories of orthotic or prosthetic devices or patient aids, could qualify for this category of tangible personal property. Examples of these would be pace-makers and heart catheters.

Gross Sales—

a. Gross sales as used in this Chapter is construed to mean the total of the sales prices for each individual item or article of tangible personal property subject to the tax imposed by R.S. 47:302, R.S. 47:321, and R.S. 47:331 with no reduction for any purpose, unless specifically provided by statute.

b. The only deductions allowed from the total of the sales prices of all items of tangible personal property subject to tax are those provided in R.S. 47:305(C) and in R.S. 47:315.

c. R.S. 47:305(C) permits the total sales price of an article of tangible personal property to be reduced by the part of the selling price represented by an article traded in. The allowed deduction is not to exceed the market value of the item traded in. For this purpose, the market value is the amount a willing seller would receive from a willing buyer in an arms length exchange of similar property at or near the location of the property being traded.

d. R.S. 47:315 allows the total of sales prices of all items of tangible personal property subject to the tax to be reduced by the selling price of any article of property returned to the seller in such manner as to cancel the transaction. Repossessions of property sold on the installment basis because of failure by the purchaser to make agreed installment payments do not constitute a return of merchandise allowable as a deduction from gross sales

and the sales price for the subsequent sale of repossessed property is fully taxable and must be included in gross sales.

e. For sales of certain property specifically exempted from all or a part of the tax imposed by this Chapter, see R.S. 47:301(10) with respect to isolated or occasional sales made by a person not engaged in the business of making such sales, R.S. 47:305 with respect to the sales of livestock, poultry and other farm products by the producer and the sales of agricultural products as a raw material for further processing before the sale at retail to the ultimate consumer, R.S. 47:305(D) and R.S. 47:305.1 through R.S. 47:305.46 for various other exemptions and R.S. 47:321 for the partial exemption of drugs prescribed by a physician for personal consumption or use and food purchased for consumption off the premises where purchased.

Hotel—

a. The term hotel has been defined in this Chapter to be somewhat more restrictive than normally construed, both as to use of the facility and relative size. Only those establishments engaged in the business of furnishing sleeping rooms, cottages or cabins primarily to transient guests consisting of six or more guest or sleeping rooms at a single business location meet the statutory definition. If an establishment has less than six sleeping rooms, cottages or cabins at a single business location or if more than one-half of the guests are permanent, regardless of the number of sleeping rooms, cottages or cabins, the establishment is not a hotel for purposes of this Chapter.

b. In determining whether an establishment furnishes sleeping rooms primarily to transient guests, each guest must be considered individually. A guest who engages his lodging and pays his bill on a monthly basis and who remains as a guest for two consecutive months is considered to be a permanent guest and not transient. Guests who remain for any lesser period are considered transient.

c. In the case of an establishment having two distinct types of accommodations, sleeping rooms and apartments containing cooking and eating facilities, the apartments are not considered in determining whether the establishment meets the definition for a hotel. For example, an establishment having 12 apartments and five sleeping rooms for transients is not within the hotel requirements. However, an establishment having 12 apartments, five sleeping rooms occupied by or used by

transient guests and four sleeping rooms occupied by permanent guests does meet the definition of a hotel since the apartments are completely disregarded, there are more than six sleeping rooms, and the majority of the sleeping rooms are rented to transient guests.

Lease or Rental—

a. General. The lease or rental of tangible personal property for a consideration in Louisiana is a transaction that is subject to the sales or use tax. The term lease or rental means the grant to another of the right to use and possess tangible personal property for a period of time and for a consideration without the transfer of title to the property. In a lease transaction, the lessee obtains possession or use of the tangible personal property, so that the lessee has enjoyment of the property during a certain time period. Re-leases or sub-leases and re-rentals or sub-rentals are also considered as leases or rentals.

b. Statutory Exclusions. Some arrangements or agreements for the use of tangible personal property are specifically excluded in R.S. 47:301(7) (b) through (h) from the definition of lease or rental. The types of arrangements or agreements that are not defined as leases or rentals are:

i. the lease or rental for re-lease or re-rental of property to be used in connection with the operating, drilling, completion, or reworking of oil, gas, sulfur, or other mineral wells. The lease or rental for re-lease or re-rental of casing tools, pipe, drill pipe, tubing, compressors, tanks, pumps, power units, and other drilling or related equipment qualifies for exclusion if the property is to be used for one of the specified purposes. The re-lease or re-rental to the ultimate user is not exempt;

ii. the lease or rental of property to be used in the performance of contracts with the United States Navy for the construction or overhaul of U.S. Naval vessels;

iii. the lease or rental of airplanes or airplane equipment by commuter airlines domiciled in Louisiana;

iv. the lease or rental of items that are reasonably necessary for the operation of free hospitals in Louisiana;

v. the lease or rental of certain limited items of educational materials for classroom instruction by

approved private and parochial elementary and secondary schools;

vi. the lease or rental by Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. of materials for use by those organizations in their educational and public service programs for youth; and

vii. the lease or rental of motor vehicles by motor vehicle dealers and manufacturers for use in furnishing to customers in the performance of dealers' or manufacturers' warranty obligations or when the applicable warranty has lapsed and the leased or rented motor vehicle is provided at no charge.

c. Transactions involving both the providing of tangible personal property and the performance of a service.

i. A lease or rental does not include providing tangible personal property with an operator who provides some additional service for a fixed or indeterminate period of time when the essence of the transaction is the performance of a service. The essence of the transaction is to provide a service when obtaining the tangible personal property is not an end in and of itself but rather furnishes the mechanism through which a service is provided.

ii. In order to determine the essence of a transaction involving both the performance of a service and the providing of tangible personal property, the facts and circumstances of each transaction must be examined. The following factors suggest, but are not necessarily conclusive, that the essence of the transaction is for the performance of a service:

(a). in order for the tangible personal property to perform as designed, the owner's operator maintains control over the property. This level of control by the owner's operator involves more than maintaining, inspecting, or setting-up the property;

(b). the contract between the owner of the property and the person receiving the services and property provides for the performance of a specific job that requires services for a certain number of hours or until completion of a specific job;

(c). the performance of the job using the tangible personal property is conducted in a manner determined by the owner of the property;

(d). the owner of the tangible personal property is responsible for choosing the particular piece of property to be used in the transaction; or

(e). the owner of the tangible personal property has a standard business practice of not allowing customers to rent the property separately from the services provided.

d. *Revenue Sharing Arrangements.* Agreements, joint ventures, arrangements, or partnerships between exhibitors (movie theater operators) and film distributors place significant restrictions on the use of the movies and on the proceeds from the use of the movies. These agreements are more in the nature of revenue sharing agreements and would not qualify as leases or rentals because of the restrictions placed on the party using the tangible personal property. An example of this arrangement would be an agreement between an exhibitor and a film distributor that not only stipulates that the proceeds from the showing of the film are to be shared, but also specifies the amount to be charged to the movie patron, the number of and/or the time of showings, or the types or sizes of the facilities where the film is shown.

Person—

a. The term person as used in this Chapter includes:

i. natural persons; and

ii. artificial persons, including, but not limited to, corporations, limited liability companies, estates, trusts, business trusts, syndicates, cities and parishes, parishes, municipalities, this state, any district or political subdivision, department or division thereof, any board, agency, or other instrumentality thereof, acting unilaterally or as a group or combination, as well as receivers, referees in bankruptcy, agricultural associations, labor unions, firms, copartnerships, partnerships in commendam, registered limited liability partnerships, joint ventures, associations, singularly or in the plural, who have the legal right or duty, whether explicit, implied or assumed, to perform any of the transactions described in this Chapter.

b. A natural or artificial person's classification as exempt under any other tax statute has no effect on that person's status under the sales tax law. For example, a religious, charitable, educational, scientific, civic, social or fraternal organization, including hospitals and similar institutions, may be statutorily exempted from other taxes but remain classified as persons for sales tax purposes.

c. R.S. 47:301(8) provides exclusions from the definition of person for purchases made by certain

entities. Although these entities are not responsible for paying sales and use taxes on some or all of their purchases, they must collect and remit sales tax on their taxable sales transactions.

i. The two entities granted exclusions from paying state and local sales and use tax on all of their purchases are:

(a). the state of Louisiana, its parishes, its municipalities, its special districts, its political subdivisions, and any other agencies, boards, commissions, or instrumentalities of the state or its political subdivisions;

(b). the Society of the Little Sisters of the Poor. Before claiming exemptions, the Society must obtain a certificate of authorization from the Sales Tax Division of the Department of Revenue.

ii. The two entities granted exclusions from paying sales and use tax on some of their purchases are:

(a). regionally accredited independent institutions of higher education that are members of the Louisiana Association of Independent Colleges and Universities. Purchases, leases, or rentals of tangible personal property or purchases of taxable services by these institutions that are directly related to the educational missions of eligible institutions are excluded from state sales and use tax. Purchases, leases, and rentals directly related to the educational mission of the eligible institution are interpreted broadly to include those transactions required to construct, maintain, or supply classrooms, libraries, laboratories, dormitories, athletic facilities, and administrative facilities. Examples include purchases of supplies, equipment, utilities, leases or rentals of equipment, and repair services to university property;

(b). churches and synagogues exempt under Internal Revenue Code Section 501(c)(3) are excluded from paying state and local sales and use tax on purchases of bibles, songbooks, or literature used for religious instruction classes. Eligible institutions must obtain certificates of authorization from the Sales Tax Division of the Department of Revenue.

d. The exclusion from the definition of person is granted only for purchases made by these entities on their own behalf. Representatives of these entities making purchases for the entity may also be excluded from the definition of person when their purchases are deemed the equivalent of an acquisition by the entity itself. The most common ex-

amples of representatives purchasing on behalf of these entities are:

i. mandataries (agents) purchasing materials or leasing or renting equipment for immovable property construction contracts; and

ii. employees purchasing lodging services while traveling on official business of the entity.

e. The following elements establish an immovable property contractor's purchases as the legal equivalent of a R.S. 47:301(8) entity's purchases so as to exclude the transactions from sales and use tax. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal contractors satisfying the following criteria are also entitled to the exclusion from the definition of person. The following criteria assume that the R.S. 47:301(8) entity is an immovable property contractor with an agency agreement with a government department or agency.

i. The government department or agency must acquire title to the property at the time of purchase. Except as otherwise provided in the contract between the parties, the risk of loss must be with the governmental entity.

ii. There must be a signed agreement authorizing the contractor to act as purchasing agent for the entity. The department's form, Designation of Construction Contractor as Agent of a Governmental Entity, may be used for this purpose, or a custom agreement may be substituted if it includes all terms and conditions listed in the form prepared by the department. The form is available at any department office and through the department's web site at: www.rev.state.la.us. Copies of the signed agreement must be made available to tax authorities and vendors upon request. Purchases by the designated agent will be recognized as those of the government entity if all parties to the contract strictly follow the terms of the agreement.

f. The following elements establish when the renting of a hotel room to an employee of a R.S. 47:301(8) entity is legally equivalent to the entity's purchase of the service. Additionally, due to the federal government's immunity from state taxation under The Supremacy Clause, U.S. Const. Art. VI, §2, federal employees are also entitled to the exclusion from the definition of person when renting hotel rooms in the state. Since most purchases of lodging services for persons excluded by R.S. 47:301(8) are made by government employees, the

following criteria are drafted from the perspective of those entities:

i. Renting a hotel room to an employee of the United States government, the state of Louisiana, or a political subdivision of the state of Louisiana who is traveling on official business is considered a sale of a service to the government employer regardless of the form of payment to the hotel, provided the lodging services are obtained by the employee at the direction of the employer and accounted to and reimbursed by the government agency.

ii. The exclusion must be documented in one of the following ways:

(a). with a copy of the employee's written travel orders certifying that the government employer will reimburse the actual lodging expenses incurred. The travel orders must be on government letterhead or forms and signed by an authorized representative of the government entity other than the employee engaging the hotel services. The orders must state that the employee is authorized to secure a room for a specific time period at a specific hotel or at a hotel within a defined travel area;

(b). if written travel orders are unavailable or if the travel orders are incomplete or insufficient to satisfy all of the requirements in §4301.C.Person.f.ii.(a), an exemption certificate signed by the employee and the authorized agent of the governmental agency other than the employee will certify the transaction's exempt status. The hotel can accept the department's certificate entitled Certificate of Governmental Exemption from the Payment of Hotel Lodging Taxes or one used by federal agencies, provided the form states that the employee's expenses are reimbursed by the employer in the actual amount incurred.

iii. Hotels must retain this documentation to support a sales tax deduction for room rentals to government employees on official business. Failure to do so will cause the deduction to be disallowed unless the hotel can provide competent independent evidence to certify the exemption's validity. The exemption will also be disallowed if it is determined that the documentation was obtained fraudulently or that the hotel knew the documentation was invalid when the employee presented it.

iv. This exclusion is not allowed on hotel room charges incurred by other nations, other states

and their political subdivisions, or their employees.

Purchaser—

a. Purchaser is defined to include not only persons who acquire tangible personal property in a transaction subject to the tax imposed by this Chapter, but also any person who acquires or receives the privilege of using any tangible personal property, as in the case of property rented from others, or any person who receives services of a nature subject to tax.

b. The term is construed to complement dealer as defined in R.S. 47:301(4) and the secretary may proceed against either for any tax due.

Retail Sale or Sale at Retail—

a. The major tax levied by this Chapter is imposed upon retail sales or sales at retail which contemplates the taxing of any transaction by which title to tangible personal property is transferred for a consideration, whether paid in cash or otherwise, to a person for any purpose other than for resale.

b. While specific exemptions are provided in the third paragraph of R.S. 47:301(10) with respect to sales of materials for further processing into articles for resale and with respect to casual, isolated or occasional sales, and other exemptions are provided for sales of particular items or classes of property by R.S. 47:305, R.S. 47:305.1 through R.S. 47:305.46, the intent of the law is to classify every sale made to the final user or consumer for any imaginable purpose, other than for resale, as a retail sale or a sale at retail. For purposes of R.S. 47:301(10), whether a transaction is exempt from taxation by statute, jurisprudence, or by constitution has no bearing on classification of the transaction.

c. Sales of tangible personal property to operators of coin-operated vending machines are sales at retail. Thus, dealers who resell tangible personal property through coin-operated vending machines are treated as consumers of the articles of property they purchase for resale by vending machine and are liable for sales or use tax on their acquisition cost of the articles. The resale of the property through vending machines is not a retail sale, and is not subject to the taxes imposed under this Chapter.

d. Sales of materials for further processing into articles of tangible personal property for subse-

quent sale at retail do not constitute retail sales. This exemption does not cover materials which are used in any process by which tangible personal property is produced, but only those materials which themselves are further processed into tangible personal property. Whether materials are further processed or simply used in the processing activity will depend entirely upon an analysis of the end product. Although any particular materials may be fully used, consumed, absorbed, dissipated or otherwise completely disappear during processing, if it does not become a recognizable and identifiable component which is of some benefit to the end product, it is not exempt under this provision. The fact that a material remained as a recognizable component of an end product by accident because the cost of removal from the end product was prohibitive, or for any other reason, if it does not benefit the property by its presence, it was not material for further processing and the sale is not exempt under this provision.

d. It is not the intention of this Chapter to impose a tax on an isolated or occasional sale, frequently termed a casual sale, except with respect to the sale of motor vehicles, which are specifically covered by R.S. 47:303(4). The primary consideration in determining whether a sale meets exemption requirements is whether the seller is in the business, or holds himself to be in the business, of selling merchandise or tangible personal property of similar nature, and not solely upon the frequency of the transactions. As examples, a firm engaged in the retail grocery business who sold a cash register originally acquired for their own use is not engaged in the business of selling cash registers, and the sale would be exempt; an office machine firm who sold carpeting acquired for their own use is not in the business of selling carpets, and the sale would be exempt; the periodic sale of articles by auction to recover storage, repair or labor liens unpaid by the owner of the property are exempt, provided the person forcing the sale does not hold himself out to be in the business of selling such merchandise. If the person causing the sale of property by auction takes title to the property prior to sale, it will be presumed that he has become engaged in the business and the sales will be taxable.

Retailer—

a. The term retailer as used in this Chapter not only covers persons engaged in the business (as defined in R.S. 47:301(1) and LAC 61:I.4301.C.Business) of making retail sales or sales at retail (as defined in R.S. 47:301(10) and

LAC 61:I.4301.C.Retail Sale or Sale of Retail, but also includes any person engaged in the business of transferring title to tangible personal property for a consideration to others for their use or consumption, or for distribution or for storage to be used or consumed in this state.

b. The term does not include persons who make isolated or occasional sales and who do not hold themselves out to be in the business of selling the particular kind or type of property involved in a casual sale.

Sale—

a. R.S. 47:301(12) defines a sale as receiving or giving consideration in return for:

i. transferring title or ownership of tangible personal property;

ii. transferring possession of tangible personal property when the seller retains legal title to the property as security to ensure full payment of the selling price;

iii. fabricating tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work; and

iv. furnishing, preparing or serving tangible personal property that is consumed on the premises of the seller.

b. Fabricating or fabrication, for sales tax purposes, means to make, build, create, produce, or assemble components of tangible personal property, or to make tangible personal property work in a new or different manner.

c. A sale includes, but is not limited to, transactions where:

i. tangible personal property is transferred on a conditional basis (i.e., the customer has the option of returning the property and obtaining a refund of the sales price); and

ii. payment is made in a form other than money, as in a barter agreement, an exchange of property, or a promissory note.

d. When tangible personal property, like food, is served on the vendor's premises, the vendor is required to charge sales tax for:

i. the total price of preparing and serving the food even if these charges are billed separately; and

ii. tips and gratuities, if the vendor fails to separately list these charges on the bill, or if any portion of these amounts (except reimbursement for credit card processing fees) is retained by the vendor. Sales tax is not charged on tips and gratuities if they are separately stated and the total amounts collected are distributed to the employees that prepare and serve the food.

e. When tangible personal property, like food, is served at the customer's premises, sales tax is not charged for preparing and serving the food, provided these charges are separately stated from the sale of the food.

Sales Price—

a. R.S. 47:301(13)(a) defines sales price as the total amount, including cash, credit, property, or services, that is received or paid for the sale of tangible personal property. Any part of the sales price that is related to costs incurred by the vendor to bring the product to market or make the product available to customers becomes part of the tax base and is subject to sales tax even if a separate charge is made on the invoice.

i. Costs included in the sales price are:

(a). materials used;

(b). resale inventory;

(c). freight or shipping costs from the supplier to the vendor, or from the vendor to the customer where the transportation by the vendor is an essential or necessary element of the agreement of sale, as would normally be true in transactions for the sale and delivery of ready-mixed concrete or similar products:

(i). these transportation expenses are incurred by a seller in acquiring tangible personal property for sale or in transporting tangible personal property to the place of sale and form part of the seller's overhead, and

(ii). cannot be excluded from the taxable sales price even when separately stated to the purchaser;

(d). utilities;

(e). insurance;

(f). financing for business operations;

(g). labor;

(h). overhead;

(i). service costs:

(i). handling charges are considered service costs; and

(ii). are distinguishable from charges for transportation under the definition of sales price and related court decisions;

(j). costs incurred by a vendor that are charged for the procurement, or purchasing, of tangible personal property on behalf of the customer; and

(k). excise taxes imposed on the producer, processor, manufacturer or importer, as these taxes become a part of the dealer's cost.

ii. The following are examples of charges not considered part of the sales price because they are not related to costs incurred by the vendor to bring the product to market:

(a). freight, shipping, or delivery charges from the vendor or the vendor's agent directly to the customer after the sale has taken place when the following two conditions are met.

(i). The seller of the tangible personal property separately states the charges for the actual delivery or transportation of the sold property from the place of the sale to the destination designated by the purchaser.

(ii). On the invoices for the sale and transportation of tangible personal property, the place of the sale of the property, and the fact that the transportation is rendered subsequent to the sale and purchase and for the buyer's account, must be clearly determinable.

(b). federal retailers' excise tax that must be collected from the consumer or user.

(i). If these taxes are billed to the user or customer separately, they should be excluded from the tax base.

(ii). However, if the retailers' excise tax is not billed separately, the total selling price, including the excise tax, is taxable.

iii. R.S. 47:301(13)(a) specifically excludes the following charges from the definition of sales price provided they are separately stated:

(a). the market value of an item traded in on the sale, as specified in R.S. 47:301(13)(a):

(i). the trade-in item must be one the vendor would normally accept in the course of business and must be similar to the item being purchased. An example of this is trading in a motorcycle on the purchase of a pickup truck;

(ii). exchanging an item that is not similar to the item being purchased will be treated as a barter or exchange agreement as described in R.S. 47:301(12). An example of this would be the owner of a clothing store providing suits to the owner of an appliance store in return for a dishwasher. In this instance, each selling party must report the transaction on his sales tax return;

(iii). the transfer of ownership of the trade-in must occur simultaneously with the sales transaction;

(iv). the trade-in value must be established prior to the sale;

(b). interest charges not exceeding the legal interest rate to finance the sale;

(c). service charges for financing, up to six percent of the amount financed;

(d). cash discounts allowed by the vendor if the customer takes advantage of the discount;

(e). labor to install the tangible personal property;

(f). charges by a seller for installing property that he has sold;

(i). installing includes the charge by the seller of movable property for setting up that property on or the attachment of that property to other movable or immovable property that is already owned or possessed by the purchaser;

(ii). examples of the types of installation charges that are excludable from sales price under this provision are the charges for setting up an appliance in a home or business, or the first-time attachment of a new mobile telephone, new radio, or new speakers to a customer owned vehicle that previously was without such property;

(iii). exclusion is not intended, however, for the charges for removal and replacement of worn or malfunctioning components of movables, such as the removal and replacement of tires and batteries in vehicles. These types of services constitute repairs to movables that are defined in R.S. 47:301(14)(g) as taxable "sales of services;"

(g). charges to set up the property on the taxpayer's premises;

(h). charges for remodeling or repairing the property sold if:

(i). these services are provided prior to the sale;

(ii). the vendor sends the property to another dealer or service provider for remodeling or repair and pays sales taxes on these taxable services; and

(iii). the services are separately itemized and identified in the billing to the customer;

(iv). if the remodeling or repairing is performed by the vendor either:

[a]. prior to the sale; or

[b]. after the sale but before the customer takes possession of the item;

[c]. then these would be costs of the vendor incurred to bring the product to market or make a product available to customers and would become part of the tax base;

(v). any services performed after the property is in the possession of the customer are taxable under R.S. 47:301(14).

iv. In all instances where an expense is required to be separately stated, the effect of combining the charge with another taxable item included in the sales price will subject the entire amount to sales tax.

v. R.S. 47:301(13)(b) provides an exclusion from sales price for the amounts of cash discounts and rebates that manufacturers and vendors of new vehicles offer to purchasers of vehicles.

(a). The exclusion will apply both to the discounts and rebates that are based on vehicle make and model, as well as to the discounts and rebates that are based on customer usage of manufacturer-issued credit cards.

(b). In order for this exclusion to apply, the customer must assign the discount or rebate to the selling dealer of the vehicle, so that the discount or rebate results directly in a reduction of the price to be paid for the vehicle.

(c). In cases where a customer accepts a rebate or discount in cash, and does not assign the amount to the selling dealer as a deduction from the listed retail price of the vehicle, the exclusion from sales price will not apply.

vi. R.S. 47:301(13)(c) excludes from taxable sales price the first \$50,000 paid for new farm equipment used in poultry production.

(a). This exclusion applies only to the price of property that is identifiable at the time of sale as being for use in poultry production.

(b). The exemption is available only to commercial producers who sell poultry or the products of poultry in commercial quantities.

(c). The portion of the sales price of any item of commercial farm equipment in excess of \$50,000 will be included in the taxable sales price.

vii. R.S. 47:301(13)(e) excludes the value of payments made directly to retail dealers by manufacturers seeking a reduction in the price retail dealers charge for the manufacturers' products. These payments, often called buy downs, are applied by the retail dealer to the selling prices of the manufacturer's products. Retail dealers must collect the tax on the discounted sales price after applying the manufacturers' payments.

viii. In cases where all or a part of the purchase price of tangible personal property is paid to the selling dealer by the presentation of a coupon, the determination of the taxable sales price will depend on the type of coupon that is presented.

(a). Manufacturer's coupons that the selling dealer accepts from the customer and can be redeemed through a manufacturer or coupon agent are not allowed as a reduction of the sales price. Because the retailer's total compensation includes the amount paid by the customer after presenting the coupon and the amount reimbursed by the manufacturer for the coupon's face value, the tax is based on the actual selling price of the item before the discount for the coupon.

(b). The retailer's own coupons, which the selling dealer is unable to redeem through another party,

provides a cash discount that can be excluded from the sales price. The sales tax on a sale involving this type of coupon will be computed on the price paid after an allowance for the selling dealer's coupon discount.

ix. R.S. 47:301(13)(f) provides that sales price excludes any consideration received, given, or paid for the performance of funeral directing services. The term funeral directing services is defined and further discussed at R.S. 47:301(10)(s).

(a). No exclusion from taxation is allowed on the sale, lease, or rental, of tangible personal property by funeral directors to customers, or

(b). on the purchase, lease, use, consumption, distribution, or storage for use of tangible personal property by funeral directors in connection with their performance of professional services.

b. R.S. 47:301(13)(d) provides that, in the case of the sale by a manufacturer of refinery gas or other petroleum byproducts that are to be used by the purchasers as other than feedstock, the taxable sales price shall be the greater of:

i. the actual sales price of the byproducts; or

ii. the average monthly spot market price per thousand cubic feet of natural gas delivered into pipelines in Louisiana, as reported by the Natural Gas Clearing House at the time of such sale.

Sales of Services—

a. The Louisiana Sales Tax Law basically treats the furnishing of services and permission to use certain kinds of property the same as the sale of merchandise, and the law classifies those items as sales of services. Only those services specifically itemized under the provisions of R.S. 47:301(14)(a)-(g), are taxable.

b. The entire amount charged to a customer for any of the taxable items listed in R.S. 47:301(14)(a)-(g) is taxable if billed in a lump sum. Although the law provides many exemptions, unless they are specifically identified and segregated in billings to customers, the entire charge will be subject to the tax. Whether the consideration paid for sales of services is in the form of cash or otherwise is immaterial.

c. R.S. 47:301(14)(a) includes the furnishing of sleeping rooms, cottages, or cabins by hotels as sales of services. Hotels have been defined in R.S.

47:301(6) and the regulation issued under LAC 61:I.4301.C.Hotel. If an establishment meets the definition of a hotel as defined in the pertinent Subsection, all charges for the furnishing of rooms in that establishment, other than to permanent full-time occupants, constitute sales of services under this Chapter.

d. Under the provisos of R.S. 47:301(14)(b) charges for admissions to places of amusement, entertainment, recreation, or athletic events, except those sponsored by schools, colleges, or universities, are classified as sales of services and as such are taxable under this Chapter. Note that only those events which are sponsored by schools, colleges, and universities are exempt. The same admissions charged by charitable, religious, social and other organizations are taxable, unless specifically exempted under some other provision.

i. Fees or other consideration and dues paid for the privilege of obtaining access to clubs are similarly classified as sales of services under this particular section of the law. Such dues, fees, or other consideration are taxable even though some personal services may be rendered by the owner of the club after access thereto has been obtained. Dues, fees, or other consideration paid for the privilege of having access to places of amusement, entertainment, athletic, or recreational facilities are also included in the definition of sales of service.

ii. The cost of stock or certificates of membership required to be purchased prior to becoming a member of a club is not included in sales of services if the club member has the prerogative of disposing of the stock or certificate of membership when he ceases to utilize the club or facilities. If a member is required to surrender his stock or certificate of membership upon leaving a club, then the purchase price is considered nothing more than a fee for his participation and is classified as sales of services.

e. R.S. 47:301(14)(c) includes the furnishing of storage or parking privileges by auto hotels or parking lots as taxable sales of services. Parking lots are held to include facilities for the parking of transient trailers. For purposes of this determination, trailers will be presumed to be transient unless the parking space is engaged for a period in excess of 30 consecutive days at any one time and provided the trailers have not been removed from their wheels and placed on permanent foundation. Some hotels advertise free parking facilities for their guests and it is presumed that the room rate charged the guests is sufficiently high to cover the

cost of parking, in which event the charge would be taxed under the provisions of R. S. 47:301(14)(a). This charge is taxable under R. S. 47:301(14)(a) if included in the room rate or under R.S. 47:301(14)(c) if billed separately.

f. R.S. 47:301(14)(d) provides that the furnishing of printing or overprinting, lithograph and multilith, blue printing, photostating, or other similar services of reproducing written or graphic matter, shall be included under sales of services. Generally, the activities of persons engaged in this type of business fall within two basic categories. The first is the production of tangible personal property, whereby raw materials are converted into items such as circulars, books, envelopes, folders, posters and other types of merchandise which are sold directly to their customer. These transactions fall within the definition of sales at R.S. 47:301(12) and are taxable as sales of tangible personal property. The materials used by the printer in the production of the end product are covered by the exemption provided in R.S. 47:301(10), and are exempt to the printer at the time of purchase by him. In addition, R.S. 47:305.44 provides an exemption for raw materials and certain consumables which are consumed by a printer. The second basic business activity engaged in by printers which subject them to the provisions of the sales tax law is the furnishing of services. This classification covers printing done on materials furnished by the printer's customers which are returned to the customer upon completion of the printer's service. In cases where plates, mats, photographs, or other similar items are used in the performance of either a pure service as intended by R.S. 47:301(14)(d) or whether in the production of tangible personal property, if those materials are delivered to the printer's customer and a charge therefore is made, this transaction constitutes a sale of tangible personal property and is taxable. In cases where the materials are delivered to the customer and no charge is made, it is presumed that the charge for services or the charge for other printed matter delivered to the customer is sufficiently high to include the billing for those materials.

g. R.S. 47:301(14)(e) deals with the furnishing of restoration, renovation, and cleaning services. Under that statute, the furnishing of laundry service, pressing and dyeing service, washateria, drying service, or cleaning service is defined as sales of services, making them taxable under this Chapter.

i. In the case of a business of washing automobiles, trucks, or other mobile equipment, if the owner of

the establishment furnishes either personnel who assist in the cleaning or mechanical devices which perform the cleaning, the service is taxable. However, if the customer simply uses equipment made available to him by the establishment and does his own cleaning, then there has been no taxable cleaning service rendered by the owner of the business and there is no taxable transaction under R.S. 47:301 (14)(e).

ii. The restoration, renovation, and cleaning of other tangible personal property such as pipe, tanks, and barges is also a taxable service under this Chapter, either under this Paragraph or under R.S. 47:301(14)(g) as a repair, since such services are performed in order to rejuvenate or re-enable the property and restore it to a desired performance standard.

iii. In addition to the various services described above, R.S. 47:301(14)(e) also defines the furnishing of storage space for clothing, furs, and rugs as sales of services. All charges for the furnishing of such storage space are taxable regardless of whether or not the owner of the business is engaged solely in that activity or the furnishing of space is purely incidental to the operation of some other business.

h. R.S. 47:301(14)(f) defines the furnishing of cold storage space and preparing tangible personal property for cold storage as services subject to sales and use tax.

i. Cold Storage Space—a space that is artificially frozen or refrigerated to prevent the stored items from perishing or deteriorating.

ii. Furnishing of Cold Storage Space—transactions in which cold storage space is provided to customers for a consideration when the owner or operator of the cold storage space designates specific areas or volumes of space for the customers' use. The customers are required to compensate for the space allotted regardless of the degree of use of the space.

iii. Transactions that are not considered the furnishing of cold storage space for sales tax purposes include:

(a). storage space in air-conditioned warehouses or mini-storage units that are cooled to a normal room temperature level; and

(b). storage space in facilities where the possession of customers' property is transferred to the

owner or operator of a cold storage space for retention and safekeeping as in a bailment or deposit transaction.

iv. Preparing Tangible Personal Property for Cold Storage—all activities necessary to prepare the product to be stored for cold storage. This includes but is not limited to packaging, wrapping, containerizing, cleaning or washing.

(a). Preparing tangible personal property for cold storage is included in sales of services only if it is incidental to the operation of cold storage facilities.

(b). Separately stated charges for handling the property to be placed in or removed from the facility are not subject to the sales tax. If handling charges are included in the price for the furnishing of cold storage space or preparing tangible personal property for cold storage, tax is due on the entire amount.

i. R.S. 47:301(14)(g)(i) includes as sales of services the furnishing of repairs to tangible personal property. By clear illustration in the statute, both repair and routine servicing of all kinds of tangible personal property are included as taxable services. All repairs performed within Louisiana on tangible personal property are taxable sales of services except for repaired property which is returned to a customer located in another state by common carrier or by the repair dealer's vehicle. The charge for repairs to property returned to a customer's location in the offshore area are taxable regardless of the mode of transportation. Repair services performed outside the state of Louisiana to property which is normally or permanently located here except for its removal for repair, would not be taxable under this provision. However, if property is shipped outside the state for repairs, any additions made thereto may subject the property to the use tax imposed by R.S. 47:302(A)(2) upon its return to the state. If personnel normally attached to a repair installation within the state go outside the state, for instance, to a location offshore which is clearly outside the limits of the state of Louisiana to perform repairs, those repairs are not taxable under this Chapter.

i. Prepaid repairs such as maintenance contracts and other similar transactions are included in sales of services under this Paragraph, if the tangible personal property to which they apply is located in Louisiana and the agreement calls for any necessary repairs to be performed at the location of the property.

ii. R.S. 47:301(14)(g)(ii) provides that tangible personal property, for purposes of sales of services, shall include machinery, appliances, and equipment which have been declared immovable under the provisions of Article 467 of the Louisiana Civil Code. It also includes things incorporate into land, buildings, or other construction, which have been separated from the land, buildings, or other construction. Similarly, the component parts of buildings and other construction, as defined by Article 466 of the Louisiana Civil Code, are movable property when they are separated from the building or other construction, and repairs thereto are includable in taxable sales of services.

Storage—Since storage for use or consumption of tangible personal property is taxed under the provisions of R.S. 47:302, R.S. 47:321, and R.S. 47:331, the term storage is defined herein to exclude storage of property which will later be sold at retail and taxed because of the sale. The term does not require the keeping of property in a warehouse but includes the keeping or retention or stockpiling of property in any manner whether indoors or out. If property has come to rest in this state and will later be used or consumed here, it meets the definition of storage for purposes of this Chapter.

Tangible Personal Property—

a. R.S. 47:301(16)(a) defines tangible personal property as personal property that can be seen, weighed, measured, felt, touched, or is perceptible to the senses. The Louisiana Supreme Court has ruled that tangible personal property is equivalent to corporeal movable property as defined in Article 471 of the Louisiana Civil Code. The Louisiana Civil Code describes corporeal movable property as things that physically exist and normally move or can be moved from one place to another. Examples of tangible personal property include but are not limited to:

i. durable goods such as appliances, vehicles, and furniture;

ii. consumable goods such as food, cleaning supplies, and medicines;

iii. utilities such as electricity, water, and natural gas; and

iv. digital or electronic products such as "canned" computer software, electronic files, and "on demand" audio and video downloads.

b. Prepaid telephone cards and authorization numbers (for state sales or use tax purposes) and work products consisting of the creation, modification, updating, or licensing of canned computer software are specifically defined as tangible personal property by law.

c. Repairs of machinery, appliances, and equipment that have been declared immovable under Article 467 of the Louisiana Civil Code and things that have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined by Article 466 of the Louisiana Civil Code are treated as taxable repairs of tangible personal property under R.S. 47:301(14)(g).

i. Things are considered separated from an immovable when they are detached and repaired at a location off the customer's immediate property where the immovable is located or at the repair vendor's facility, even if that facility is on property owned, leased, or occupied by the customer. If the thing is detached from the immovable and repaired on the customer's immediate property, it is not considered separated from the immovable and the repair would not be subject to tax.

ii. The customer's immediate property is the tract of land that is owned, leased, or occupied by the customer where the immovable is located.

iii. Tracts of land owned, leased, or occupied by the customer that are separated only by a public road or right-of-way from the land where the immovable is located are also considered the customer's immediate property.

d. Tangible personal property does not include:

i. incorporeal property such as patents, copyrights, rights of inheritance, servitudes, and other legal rights or obligations;

ii. work products presented in a tangible form that have worth because of the technical or professional skills of the seller. Work products are considered non-taxable technical or professional services if the tangible personal property delivered to the client is insignificant in comparison to the services performed and there is a distinction between the value of the intangible content of the service and the tangible medium on which it is transferred. These do not include items that have intrinsic value, like works of art, photographs, or videos. Also, documents that are prepared or reproduced without modification are considered tan-

gible personal property. Examples of sales of technical or professional services that are transmitted to the customer in the form of tangible personal property include but are not limited to:

(a). audience, opinion, or marketing surveys;

(b). research or study group reports;

(c). business plans; and

(d). investment analysis statements.

iii. property defined as immovable by the Louisiana Civil Code.

e. Items specifically excluded from the definition of tangible personal property include:

i. stocks, bonds, notes, or other obligations or securities;

ii. gold, silver, or numismatic coins of any value;

iii. platinum, gold, or silver bullion having a total value of \$1,000 or more;

iv. proprietary geophysical survey information or geophysical data analysis furnished under a restrictive use agreement even if transferred in the form of tangible personal property;

v. parts and services used in the repairs of motor vehicles if all of the following conditions are met:

(a). the repair is performed by a dealer licensed by the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle and Parts Commission;

(b). the repair is performed subsequent to the lapse of an original warranty that was included in the taxable price of the vehicle by the manufacturer or the seller;

(c). the repair is performed at no charge to the owner; and

(d). the repair charge is not paid by an extended warranty plan that was purchased separately.

vi. pharmaceuticals administered to livestock used for agricultural purposes as defined by the Louisiana Department of Agriculture and Forestry under LAC 7:XXIII.103; and

vii. work products of persons licensed under Title 37 of the Louisiana Revised Statutes such as legal documents prepared by an attorney, financial statements prepared by an accountant, and drawings and plans prepared by an architect or engineer for a specific customer. However, if these items are reproduced without modification they are considered tangible personal property and subject to sales or use tax.

f. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after June 30, 2001, are excluded from the definition of tangible personal property for state sales or use taxes. Manufactured or mobile homes purchased in or delivered from another state to Louisiana after December 31, 2002, are excluded from the definition of tangible personal property for local sales or use taxes when the buyer certifies the manufactured or mobile home will be used as a residence.

i. For state sales taxes, the entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured or mobile homes are excluded from the definition of tangible personal property and not subject to tax.

ii. For local sales taxes when the buyer certifies the manufactured or mobile home will be used as a residence:

(a). After December 31, 2002, and before January 1, 2004—25 percent of the price paid for used manufactured or mobile homes and 13 percent of the price paid for new manufactured or mobile homes are excluded from the definition of tangible personal property and not subject to tax;

(b). After December 31, 2003, and before January 1, 2005—50 percent of the price paid for used manufactured or mobile homes and 27 percent of the price paid for new manufactured or mobile homes are excluded from the definition of tangible personal property and not subject to tax;

(c). After December 31, 2004, and before January 1, 2006—75 percent of the price paid for used manufactured or mobile homes and 40 percent of the price paid for new manufactured or mobile homes are excluded from the definition of tangible personal property and not subject to tax; and

(d). After December 31, 2005—The entire price paid for used manufactured or mobile homes and 54 percent of the price paid for new manufactured

or mobile homes are excluded from the definition of tangible personal property and not subject to tax.

iii. Manufactured or mobile homes are structures that are transportable in one or more sections, built on a permanent chassis, designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and include plumbing, heating, air-conditioning, and electrical systems. The units must be either eight body feet or more in width or 40 body feet or more in length in the traveling mode, or at least 320 square feet when erected on site. These size requirements may be disregarded if the manufacturer voluntarily certifies to the distributor or dealer at the time of delivery that the structure conforms to all applicable federal construction and safety standards for manufactured homes.

iv. Manufactured or mobile homes do not include modular homes that are not built on a chassis, self-propelled recreational vehicles, or travel trailers.

g. The sale or purchase of custom computer software on or after July 1, 2002, and before July 1, 2005, is partially excluded, and on or after July 1, 2005, completely excluded, from the definition of tangible personal property under R.S. 47:301(16)(h). This exclusion applies to state sales tax, the sales tax of political subdivisions whose boundaries are coterminous with the state, and the sales tax of political subdivisions whose boundaries are not coterminous with the state that exempt custom computer software by ordinance as authorized by R.S. 47:305.52. Custom computer software is software that is specifically written for a particular customer or that adapts prewritten or "canned" software to the needs of a particular customer.

i. Before July 1, 2002—Purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software before July 1, 2002, are considered purchases of tangible personal property for resale. Use tax is not due on these purchases and any sales tax paid is eligible for tax credit against the tax collected on the retail sale of the custom software.

ii. Phase-in period—The sales tax exclusion for custom computer software will be phased in at the rate of 25 percent per year beginning on July 1, 2002. During the phase-in period, purchases of prewritten or canned software that are incorporated into and resold as a component of custom computer software will be considered a purchase

for resale according to the applicable sales tax exclusion percentage in effect at the time of sale. The custom software vendor must pay sales tax on the purchase price of the canned software and may claim tax credit for the percentage that is resold as tangible personal property. If 75 percent of the sales price of the custom computer software is taxable, the vendor is allowed a tax credit for 75 percent of tax paid on the canned software purchase. Conversely, if sales tax was not paid by the custom software vendor on the purchase of canned software that is incorporated into custom software, use tax will be due on the percentage that is not considered to be a purchase for resale. The sales tax exclusion percentage will increase each year during the phase-in period and guidelines on the phase in of this exclusion will be published in a Revenue Ruling.

iii. July 1, 2005—The purchase of prewritten or canned software that is incorporated into and resold as a component of custom computer software sold on or after July 1, 2005, will be considered the purchase of tangible personal property for the personal use of the custom software vendor and subject to sales or use tax.

h. The first purchase of digital television conversion equipment by a taxpayer that holds a Federal Communications License issued pursuant to 47 CFR Part 73 is excluded from the definition of tangible personal property for state sales tax and local sales tax if the local authority adopts this exemption by ordinance.

i. Digital television conversion equipment—items listed in R.S. 47:301(16)(i).

ii. First Purchase—the first purchase of each item from the categories of digital television conversion equipment listed in R.S. 47:301(16)(i).

iii. License holders may obtain a credit for sales taxes paid on the first purchase of digital television conversion equipment made after January 1, 1999, and before June 25, 2002, by submitting a request on forms prescribed by the Department of Revenue. Guidelines for claiming the credit will be published in a Revenue Ruling.

iv. License holders may obtain an exemption certificate from the Department of Revenue and make first purchases of qualifying digital equipment on or after June 25, 2002, without paying state sales tax or local sales tax in those local jurisdictions that elect to provide an exemption for these purchases. Sales tax paid on first purchases of quali-

fying digital equipment on or after June 25, 2002, may be refunded as tax paid in error.

v. License holders must submit to the Department of Revenue an annual report of the purchases of digital equipment for which exclusion has been claimed that includes all information required by the Department to verify the value of exclusion claimed. Guidelines for submitting this report will be published in a Revenue Ruling.

Use—

a. Use under this Chapter is intended to include not only the commonly accepted concept of use but also to cover the consumption, the distribution, or the storage, or the exercise of any right of power over tangible personal property. Since tax is imposed on the sale of tangible personal property, use has been defined to specifically exclude property sold at retail in the regular course of business.

b. Neither does use apply to materials or property which are combined with other materials to form an article of tangible personal property which will subsequently be sold at retail. In this instance, the tax on those materials will be collected on the retail sale. It is necessary, however, that materials excluded from the definition of use because they were consumed in creating a new piece of tangible personal property be identifiable in new property and not merely expended during the course of the processing. All such expended materials have been used by the processor or manufacturer and are taxable to him at the time of purchase by him.

Use Tax—the tax paid under this Chapter for the use, consumption, distribution, or storage for use, distribution, or consumption within this state in lieu of sales taxes. This is the tax required to be paid if no sales tax has been paid on tangible personal property which is used, consumed, distributed, or stored for use within this state.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554 (December 2002), LR 28:2556 (December 2002), LR

28:2556 (December 2002), LR 29:186 (February 2003).

LAC 61:I.4302. Pollution Control Devices and Systems Excluded from the Definition of “Sale at Retail”

A. This Section describes the conditions under which certain sale or lease transactions involving tangible personal property used for pollution control purposes may be excluded from the definition of “sale at retail” for purposes of the 3 percent tax levied by this Chapter and the Louisiana Tourism Promotion District. It contains the qualifications which must be met by the property under consideration, the requirements which are imposed upon the applicant for the tax relief granted under this act, and the procedures to be followed in applying for the relief.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein:

Pollution Control Device or System—any one or more pieces of tangible personal property which is intended and installed for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana and which has been approved by the Department of Environmental Quality and the Department of Revenue and Taxation for the tax relief granted by this act.

Pollution—the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. Pollution includes solid waste, hazardous waste, sludge, chemical waste, radiological wastes, noise, and any other pollutants resulting from industrial emissions, discharges, or releases into air, water, or land.

Act or This Act—Act 1019 of the 1991 Regular Session of the Louisiana Legislature.

Industrial Application—the use, construction, or installation of a pollution control device or system by a business which is primarily engaged in the exploration for or mining of minerals, the manufacture or processing of raw materials into tangible personal property for resale, or the processing,

treatment, disposition, control or containment, of polluting materials produced by another business.

C. Qualifications. To qualify for the tax relief provided under this Act, a pollution control device or system must comply with the following requirements:

1. It must demonstrate to the Department of Environmental Quality its efficacy to a particular process or application. The equipment must be approved by both the Department of Environmental Quality and the Department of Revenue and Taxation in order to be excluded from the definition of sale at retail for state sales and use tax purposes.

2. It (or the applicant) must demonstrate either:

a. a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or

b. that installation is necessary to comply with federal or state environmental laws or regulations.

3. It must be intended for use in an industrial application. Use in residential, commercial, recreational, or other applications do not qualify.

D. Restrictions. This exclusion and the tax relief provided under this Act does not apply to:

1. modifications to processes carried out primarily for reasons other than the reduction of pollution;

2. installation or replacement of existing process units carried out primarily for reasons other than the reduction of pollution;

3. vehicles used to assist in operations.

E. Application and Documentation

1. Applicants seeking relief under this Act must submit an application to the Department of Revenue and Taxation for a certification of the pollution control device or system.

2. The respective departments may require the applicant to provide cost estimates, engineering drawings, equipment specification sheets, and any other documentation necessary to establish the identity and value of the property qualifying for the exclusion. The documentation must be sufficient to enable the Department of Environmental Quality to establish the efficacy of the pollution control device

or system, and to allow the Department of Revenue and Taxation to ascertain the allowable tax relief.

3. After receiving certification from the Department of Environmental Quality, a certificate of tax exclusion and/or refund of taxes paid on approved pollution control equipment will be issued by the Department of Revenue and Taxation. Applicants must assemble and consolidate all invoices on purchases made by themselves and their subcontractors. Refunds will not be issued to subcontractors.

a. Owners and/or operators of qualifying pollution control devices or systems may apply for certification and refund of taxes paid on or after September 6, 1991, and prior to the date of certification.

b. In order for a pollution control device or system to qualify as tax free at the time of purchase, applicants must have received a certification of approval from the Department of Environmental Quality and the Department of Revenue and Taxation prior to the purchase or lease of the equipment. The applicant, or contractors who are duly authorized to act as an agent of the applicant, may present an approved certification in lieu of the tax at the time of purchase.

c. If the application for the tax exemption on the pollution control device or system cannot be processed and approved before purchases are made or property is imported into the state for the project, the state sales or use tax shall be paid at the time of purchase or importation. Tax refunds will be issued upon approval of the project and the filing of proper claims. Applicants filing for refunds will have purchased and installed, or intend to install, the pollution control device or system.

4. The owner and/or operator must report the final cost of the pollution control devices or systems to the Department of Revenue and Taxation. Audits and inspections may be performed by the respective departments to ascertain the efficacy of the equipment. The tax refund will be forfeited if the pollution control device or system does not meet the requirements of this Act.

5. Approval of the equipment for a sales tax refund does not relieve the applicant from obtaining any other permits otherwise required for the pollution control device or system, including permits to install or construct prior to start of construction.

6. Each application for tax relief must be signed by an officer, principal, or other person authorized to

act in the behalf of the applicant, and must be accompanied by a certification affidavit executed by the owner and/or operator and a certification affidavit executed by a professional engineer. Both certification affidavits will be prepared on the application form supplied by the Department of Revenue and Taxation.

F. Confidentiality. Applications and all documentation and cost information which are submitted to the Department of Revenue and Taxation under this Act are considered confidential taxpayer information under the provisions of R.S. 47:1508. Information which pertains to pollution control devices or systems costs will be maintained only at the office of the Department of Revenue and Taxation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(10)(l).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18:1414 (December 1992).

R.S. 47:302. Imposition of tax

A. There is hereby levied 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, as defined herein, the levy of said tax to be as follows:

(1) At the rate of two per centum (2%) of the sales price of each item or article of tangible personal property when sold at retail in this state; the tax to be computed on gross sales for the purpose of remitting the amount of tax due the state, and to include each and every retail sale.

(2) At the rate of two per centum (2%) of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; provided there shall be no duplication of the tax.

B. There is hereby levied a tax upon the lease or rental within this state of each item or article of tangible personal property, as defined herein; the levy of said tax to be as follows:

(1) At the rate of two per centum (2%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, where

the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business.

(2) At the rate of two per centum (2%) of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property.

NOTE: The following text of R.S. 47:302(C) is effective from August 2, 2002, until April 1, 2016, unless repealed by a legislative or judicial determination as specified in Acts 2001, No. 1175, § 5.

C.(1) There is hereby levied a tax upon all sales of services, as herein defined, in this state, at the rate of two percent of the amounts paid or charged for such services.

(2) Notwithstanding any provision of law to the contrary, effective on April 1, 2016, as provided by Act 22 of the 2000 Regular Session, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff), which are reflected on bills submitted by telecommunication service providers to their customers which are dated on and after that date, regardless of when such services were provided.

(3) The tax levied in this Section shall be collected from the dealer, as defined herein, shall be paid at the time and in the manner hereinafter provided, and shall be, in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of this Title.

(4) In the case of mobile telecommunications services, charges for the services which are billed by or for the customer's home service provider shall be deemed to be provided by the customer's home service provider and are subject to the tax imposed by this Paragraph if the customer's place of primary use is located in the state.

NOTE: The following text of R.S. 47:302(C) as amended by Acts 2001, No. 1175, § 3, becomes effective, pursuant to Acts 2001, No. 1175, § 5, following a judicial determination that sub-

stantially limits or impairs the essential elements of Sections 1 or 2 of Act 1175.

C.(1) There is hereby levied a tax upon all sales of services, as herein defined, in this state, at the rate of two percent of the amounts paid or charged for such services.

(2) Notwithstanding any provision of law to the contrary, effective on April 1, 2016, as provided by Act 22 of the 2000 Regular Session, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff), which are reflected on bills submitted by telecommunication service providers to their customers which are dated on and after that date, regardless of when such services were provided.

(3) The tax levied in this Section shall be collected from the dealer, as defined herein, shall be paid at the time and in the manner hereinafter provided, and shall be, in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of this Title.

NOTE: The following text of R.S. 47:302(C) becomes effective on April 1, 2016.

C.(1) There is hereby levied a tax upon all sales of services, as herein defined, in this state, at the rate of two percent of the amounts paid or charged for such services.

(2) Notwithstanding any provision of law to the contrary, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff).

(3) The tax levied in this Section shall be collected from the dealer, as defined herein, shall be paid at the time and in the manner hereinafter provided, and shall be, in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of this Title.

D. Notwithstanding any other provision of law to the contrary, no state sales or use tax nor any such tax levied by a political subdivision shall be levied on any advertising service rendered by an

advertising business, including but not limited to advertising agencies, design firms, and print and broadcast media, or any member, agent, or employee thereof, to any client whether or not such service also involves a transfer to the client of tangible personal property. However, a transfer of mass-produced advertising items by an advertising business which manufactures the items itself to a client for the client's use, which transfer involves the furnishing of minimal services other than manufacturing services by the advertising business shall be a taxable sale or use of tangible personal property; provided that in no event shall tax be levied on charges for creative services which are separately invoiced.

E. No exemption from the state sales and use tax granted after the effective date of this Act and granted pursuant to the provisions of this Chapter or Chapter 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable to any sales and use tax levied by any local governmental subdivision or school board unless the state exemption specifically provides that it applies to such sales and use tax levies. In the absence of any such specific application of the state exemption to sales and use tax levies of any local governmental subdivision or school board, any state exemption granted pursuant to the provisions of this Chapter or Chapter 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable only to the levy and collection of the state sales and use tax.

F. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period August 1, 1988 through June 30, 1989, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.15, 305.20, 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperable and of no effect.

G. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1990 through June 30, 1991, the exemptions to the two percent tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 39:468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 47:305.1, 47:305.2, 47:305.3, 47:305.8, 47:305.10, 47:305.14, 47:305.15, 47:305.20, 47:305.37, 47:305.38, 47:305.46, and R.S.

51:1787, shall be inapplicable, inoperable, and of no effect.

H. Notwithstanding any other provisions to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1991 through June 30, 1992, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

I. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1992 through June 30, 1994, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

J. Notwithstanding any other provisions of law to the contrary, including the provisions of Subsection I of this Section as proposed by House Bill 568 of the 1992 Regular Session, the provisions of R.S. 47:305(D)(1)(t) shall remain in effect for the period beginning on July 1, 1992 and ending on June 30, 1994.

K. An additional tax shall be levied as follows:

(1) At the rate of four percent of the sales price of each item or article of tangible personal property when sold at retail in this state; the tax to be computed on gross sales for the purpose of remitting the amount of tax due the state, and to include each and every retail sale.

(2) At the rate of four percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state; provided there shall be no duplication of the tax.

(3) The tax levied under this Subsection shall be in addition to the tax levied upon such sales under Subsection A of this Section and any other tax levied under other Sections of this Chapter,

and shall be subject to the same definitions, exemptions, tax credits, penalties, and limitations now or hereafter prescribed in this Chapter.

(4) The tax levied under this Subsection shall be paid in lieu of any sales or use tax which would otherwise be levied and collected by a local political jurisdiction of this state.

(5) The tax levied under this Subsection shall be levied and collected only from vendors who qualify as a “dealer” in this state solely by virtue of engaging in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio, or television media, including but not limited to television shopping channels, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.

(6) The taxes levied under this Subsection shall be collected by the Department of Revenue, advised by a sales and use tax commission consisting of seven members appointed as follows: two members appointed by the Louisiana Municipal Association; two members appointed by the Louisiana School Boards Association; two members appointed by the Police Jury Association of Louisiana; and one member appointed by the Louisiana Association of Tax Administrators. The secretary shall assess a collection fee, not to exceed one percent of the proceeds of the tax, as reimbursement for the actual cost of collection of the tax. The department shall keep the commission informed on a regular basis of the collection and distribution of the taxes collected.

(7) Pursuant to an appropriation by the legislature, the secretary shall distribute the proceeds of the tax to the central local sales and use tax collector or, if none, the parish governing authority according to population. The central local sales and use tax collector or the parish governing authority shall at no charge distribute the tax proceeds received from the secretary to each political subdivision within the parish which levies a sales and use tax or receives a portion of the proceeds of a parishwide sales and use tax levy, in accordance with each such political subdivision’s pro rata share of local sales and use tax receipts collected on all other transactions subject to local sales and use taxes during the most recent state fiscal year for which data is available within thirty days of receipt of the proceeds.

L. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1994 through June 30, 1996, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, and 305.46, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

M. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1996 through June 30, 1998, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

N. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1998 through June 30, 2000, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

O. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 2000 through June 30, 2002, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

P. Notwithstanding any other provision of law to the contrary and specifically notwithstanding any provision enacted during the 2002 Regular Session which makes any sales and use tax exemption inapplicable, inoperable, and of no effect, the

exemption provided in R.S. 47:305.51 shall be applicable, operable, and effective for the period April 1, 2001 through June 30, 2004.

Q. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 2002 through June 30, 2004, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

NOTE: Section 5 of Acts 2001, No. 1175, provides that “The intent of this Act is to amend Louisiana law so that it conforms to the federal Mobile Telecommunications Sourcing Act, P.L. 106-252, codified at 4 U.S.C., Sections 116 through 126. If it is determined by the legislative oversight committees of the Department of Revenue, which are set forth in R.S. 49:968, that a court of competent jurisdiction has entered a final judgment on the merits that (1) is based on federal or state law; (2) is no longer subject to appeal; and (3) substantially limits or impairs the essential elements of Section 1 or 2 of this Act, then the provisions enacted by such Sections shall be repealed, and Sections 3 and 4 of this Act shall be effective, all as of the date of entry of such judgment.”

Source: Acts 1948, No. 9, § 2. Amended by Acts 1962, No. 172, § 1; Acts 1968, Ex.Sess., No. 5, § 1; Acts 1978, No. 205, § 2, eff. June 29, 1978; Acts 1987, No. 869, § 1; Acts 1988, No. 842, § 1, eff. Aug. 1, 1988; Acts 1988, 2nd Ex.Sess., No. 11, § 1, eff. Oct. 27, 1988; Acts 1990, No. 155, § 1, eff. July 1, 1990; Acts 1990, No. 386, § 1, eff. July 10, 1990; Acts 1991, 1st Ex.Sess., No. 4, § 1, eff. July 1, 1991; Acts 1992, No. 563, § 1, eff. July 1, 1992; Acts 1992, No. 926, § 1, eff. July 1, 1992; Acts 1994, No. 18, § 1; Acts 1994, No. 20, § 1, eff. July 1, 1994; Acts 1996, No. 5, § 1, eff. July 1, 1996; Acts 1998, No. 1, § 1, eff. July 1, 1998; Acts 2000, 1st Ex.Sess., No. 18, § 1, eff. July 1, 2000; Acts 2000, No. 22, § 5, eff. April 1, 2016; Acts 2001, 1st Ex.Sess., No. 5, § 1, eff. Mar. 27, 2001; Acts 2001, No. 1175, § 1, eff. Aug. 2, 2002, and § 3, eff. on date of final judgment substantially limiting or impairing essential elements of §§ 1 or 2; Acts

2002, No. 22, § 1, eff. July 1, 2002; Acts 2002, No. 49, § 1, eff. July 1, 2002.

LAC 61:I.4303. Imposition of Tax

A.1. R.S. 47:302(A) imposes a tax at the rate of 2 percent upon the sale at retail or the use, consumption, distribution or storage for use or consumption in this state of each article of tangible personal property, as each of those terms are defined in R.S. 47:301. R.S. 47:321(A) and R.S. 47:331(A) each impose an additional one percent tax on the same basis, making the combined state sales tax rate 4 percent. If Louisiana sales tax has been paid upon the transfer of title to tangible personal property, then there will be no tax on the use, consumption, distribution, or storage for use or consumption of the item in this state by the purchaser, since R.S. 47:302 provides that there shall be no duplication of the tax.

2. Each and every item of tangible personal property sold at retail in this state is subject to the tax imposed by this Chapter unless a specific exemption is set forth in the statute. The tax is computed on gross sales and must include each and every retail sale. When tangible personal property is used, consumed, distributed, or stored for use or consumption in this state on which, for any reason whatsoever, no Louisiana sales tax has been paid, then the tax will be imposed on such use, consumption, distribution or storage. The tax paid under this provision is commonly referred to as use tax as distinguished from sales tax. R.S. 47:302(A)(2) provides that the use tax will be 2 percent of the cost price of each item or article of tangible personal property subject to the use tax, and R.S. 47:321(A) and R.S. 47:331(A) provide for an additional 2 percent. It is important that R.S. 47:301(3) and the regulation issued under LAC 61:I.4301.C.Cost Price be thoroughly analyzed prior to arriving at the basis upon which the use tax will be computed.

B. Tax on Lease or Rentals

1. General Rule

a. Revised Statute 47:302(B) provides that the Louisiana lease tax shall be paid on leases “within this state” and R.S. 47:301(7) defines lease or rental as “the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter, for consideration, without transfer of the title of such property.” Therefore, the

Louisiana lease tax is due when a lessee possesses or uses leased tangible personal property within Louisiana, regardless of where the lessor and lessee entered into the lease contract or where the lessor transferred possession of the leased property to the lessee.

b. Lease also means rental for the purposes of this Subsection.

c. Lease payments on leases within Louisiana are subject to the tax rate provided in Title 47 of the Revised Statutes. The tax rate must be applied to each payment, whether made monthly or according to some other schedule.

d. A lessor of leased property, as a dealer and agent for the Department of Revenue (department), shall collect the lease tax from the lessee of the leased property. The lessor must report lease payments on a cash-receipt basis, as provided in R.S. 47:306(A)(2).

e. Gross proceeds derived from the lease of tangible personal property within Louisiana are subject to the lease tax whether the leasing of tangible personal property is the established business of the taxpayer or is only incidental to the taxpayer's established business. Operating expenses and maintenance costs for keeping leased property in repair cannot be deducted from gross proceeds in arriving at the taxable base.

2. Exceptions to the General Rule

a. Revised Statute 47:305(E)(1) provides that:

"nor is it the intention of this Chapter [Chapter 2 of Title 47 of the Revised Statutes] to levy a tax on bona fide interstate commerce."

The lease tax imposed under R.S. 47:302(B) is a tax levied under Chapter 2 of Title 47 of the Revised Statutes. Therefore, the lease tax is not due on the lease of tangible personal property for those periods of time that it is used in bona fide interstate commerce, whether the use in bona fide interstate commerce is in Louisiana or outside of Louisiana.

b. If the lessee used the leased tangible personal property both in bona fide interstate commerce (whether within or without Louisiana) and in intrastate commerce in Louisiana, the lease tax is due only on the portion of the lease payments attributable to operational usage in Louisiana in intrastate commerce. What constitutes operational usage shall be based on industry custom and the type of

property at issue (e.g., flight time, vehicle miles). If average operational usage in Louisiana intrastate commerce is equal to or less than 10 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used exclusively in interstate commerce, and no lease tax shall be due for that period. Average operational usage in Louisiana intrastate commerce shall be determined by a ratio, the numerator of which is total Louisiana intrastate operational use, and the denominator of which is total operational use (both intrastate and interstate). If average operational usage in Louisiana intrastate commerce is equal to or greater than 90 percent of total operational usage during a lease payment billing period, the leased property shall be deemed to be used in Louisiana intrastate commerce, and lease tax shall be due on the entire lease payment for that period. Average operational usage in bona fide interstate commerce shall be determined by a ratio, the numerator of which is total bona fide interstate operational use, and the denominator of which is total operational use (both intrastate and interstate). Nothing in this Subparagraph shall be construed to prohibit the department from imposing a lease tax on leased property stored in Louisiana for use in intrastate commerce in Louisiana.

c. The lease tax is not due if the leased property is leased for use and actually used in an offshore area beyond the territorial limit of Louisiana. In order for this exclusion to apply, the leased property may not be used within Louisiana and the lessee must complete an LGST-9B sales tax exemption certificate stating that the leased property will be used in a specific offshore area. The definition of use, for the purposes of Paragraph 2, is found in R.S. 47:301(4)(d)(ii).

d. The department shall authorize lessees, who are registered with the department on a form to be provided by the department, and who used leased property in whole or in part outside Louisiana and/or in whole or in part in bona fide interstate commerce (whether within or without Louisiana), to issue exemption certificates to the lessors of the leased property for such use. A lessor receiving such an exemption certificate shall not be required to collect the lease tax for such leases, and lessees issuing such exemption certificates shall be responsible for reporting lease payments and paying the lease tax to the department for leases in accordance with the provisions of this regulation.

C. R.S. 47:302(C) imposes a tax of 2 percent of the total amount paid or charged for furnishing of the selected services set forth in R.S. 47:301(14). In

addition to the 2 percent tax levied under the provisions of R.S. 47:302(C), an additional 2 percent tax is levied under the provisions of R.S. 47:321(C) and R.S. 47:331(C). Only those services defined as sales of services under the provisions of R.S. 47:301(14) are subject to the tax. In the case of all three tax imposition sections, only those services which are performed within the state of Louisiana are subject to the tax. Services performed outside the limits of the state, whether in another state or in a disputed zone offshore which is ultimately held to be outside the boundary of the state of Louisiana even though the normal base of operations may be within the state of Louisiana, are not subject to the tax.

D. The taxes imposed by R.S. 47:302 and by R.S. 47:321 and R.S. 47:331 are in addition to all other taxes, whether levied in the form of an excise tax, a license tax, a privilege tax, or a gross receipts tax, and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of Title 47 which is the Louisiana occupational license tax law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 13:107 (February 1987), amended LR 19:1033 (August 1993), amended by the Department of Revenue, Sales Tax Division, LR 23:1703 (December 1997).

R.S. 47:302.1. Exemptions from lease or rental tax, helicopters

A. Whenever a helicopter used in the exploration for or the extraction or production of oil, gas, and other minerals or for providing services to those engaged in such extraction, production, or exploration is acquired or used through a transaction entitled lease, rental, lease-purchase, or any similar name which for purposes other than sales taxation might be considered a conditional sale contract or a transaction in lieu of sale, such acquisition or use shall be deemed to be a sale for state and local sales tax purposes.

B. The tax due on such transactions shall be payable in equal monthly installments over the term of the lease, rental, or lease-purchase contract.

Added by Acts 1984, No. 353, § 1, eff. July 2, 1984.

LAC 61:I.4402. Exemption from Lease or Rental Tax, Helicopters

A. This Section [R.S. 47:302.1] provides for special treatment of the state and local sales taxes on rental transactions involving helicopters used directly in the exploration for, or the extraction or production of, oil, gas, and other minerals, or helicopters used in providing services to other businesses which are engaged in such activities. It provides that any helicopter which is to be used primarily for the aforementioned uses may be acquired through a lease transaction, and the entire transaction will be treated as a sale. The transaction may be entitled a rental, lease, lease purchase, sale and lease-back, or any other similar term. In any case, the lessor or rentor shall not incur a sales or use tax liability on the acquisition of the helicopter for lease, nor on the withdrawal of a helicopter from resale inventory to be placed in rental service, when the lessee is engaged in the exploration or production of oil, gas, or other minerals, or related service industries. Unlike rental transactions involving other tangible personal property, the lease contracts involving such helicopters will not be required to contain language which guarantees any rights of title to the lessee, nor will it need any obligations to maintain the lease for its full term.

B. The sales taxes due on such transactions shall be payable in equal monthly installments over the entire term of the lease, rather than at the inception of the lease agreement, as with rental transactions involving other tangible personal property. In addition, unlike conventional lease transactions, the tax is due and payable by the dealer/lessor for the period the receipts are invoiced to the buyer/lessee, and not for the period in which active collection is made.

C. These transactions shall be taxed as sales under R.S. 47:302(A), and not as leases under R.S. 47:302(B). Thus, the location of intended use of the helicopters will not determine taxability under this Chapter, as it would in a rental transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:302.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

NOTE: Sections 47:302.2 through 302.53 relate to the dedication of portions of the sales taxes collected on hotel room occupancy in certain parishes to local purposes within those parishes. Since these sections do not affect the amount of tax to be collected and remitted, the sections are not printed in this volume.

R.S. 47:303. Collection

A. Collection from dealer.

(1) The tax imposed under R.S. 47:302 shall be collectible from all persons, as hereinafter defined, engaged as dealers, as hereinafter defined.

(2) On all tangible personal property imported, or caused to be imported, from other states or foreign countries, and used by him, the “dealer”, as hereinafter defined, shall pay the tax imposed by this Chapter on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in this state. For the purposes of this Chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(3) A credit against the use tax imposed by this Chapter shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another state. The credit provided herein shall be granted only in the case where the state to which a similar tax has been paid grants a similar credit as provided herein, provided that members of the armed forces who are citizens of this state and whose orders or enlistment contracts stipulate a period of active duty of two years or more and who purchase automobiles outside of the state of Louisiana while on such tour of active duty shall be granted such credit in connection with the

purchase of such automobiles whether or not the state to which such tax thereon has been paid grants a similar credit as herein provided. The amount of the credit shall be calculated by multiplying the rate of the similar tax paid in the other state by the cost price which is subject to Louisiana use tax at the time of the importation of the tangible personal property. The proof of payment of a similar tax to another state shall be made according to rules and regulations promulgated by the secretary. In no event shall the credit be greater than the tax imposed by Louisiana upon the particular tangible personal property which is the subject of the Louisiana use tax.

B. Collection of tax on vehicles. The tax imposed by R.S. 47:302(A) on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax shall be collected as provided in this Subsection.

(1) The tax levied by R.S. 47:302A on any such vehicle shall be paid to the vehicle commissioner as the agent of the collector of revenue at the time of application for a certificate of title or vehicle registration license and such tax shall be administered and collected by the vehicle commissioner in compliance with rules and regulations issued by the collector of revenue and in compliance with the law as construed by the collector of revenue. No certificate of title or vehicle registration license shall be issued until this tax has been paid. The collector of revenue shall be the only proper party to defend or to institute any legal action involving the tax imposed by R.S. 47:302A on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer or any other vehicle subject to the vehicle registration license tax. (R.S. 47:451 et seq.).

(a) The tax levied by R.S. 47:302(A)(1) on the sale of any such vehicle shall be due at the time of registration or any transfer of registration as required by the Vehicle Registration License Tax Law (R.S. 47:451 et seq.). However, the vehicle commissioner shall waive penalties or interest on sales tax on timely filed applications for registration rejected due to office of motor vehicles error.

(b) The tax levied by R.S. 47:302(A)(2) on the use of any such vehicle in this state shall be due at the time first registration in this state is required by the Vehicle Registration License Tax Law (R.S. 47:451 et seq.). However, the vehicle commis-

sioner shall waive penalties or interest on use tax on timely filed applications for registration rejected due to office of motor vehicles error.

(2) Every vendor of such a vehicle shall furnish to the purchaser at the time of sale a notarized statement showing the serial number, motor number, type, year, and model of the vehicle sold, the total sales price, any allowance for and a description of any vehicle taken in trade, and the total cash difference paid or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as the collector of revenue may by regulation require. All labor parts, accessories, and other equipment which are attached to the vehicle at the time of sale and which are included in the sale price are to be considered a part of the vehicle.

(3)(a) It is not the intention of this Subsection to grant an exemption from the sales and use tax levied in this Title to any sale, use, items, or transaction which has heretofore been taxable, and this Subsection is not to be construed as so doing. It is the intent of this Subsection to transfer the collection of state and political subdivision sales and use taxes on vehicles from the vendor to the vehicle commissioner as agent for the secretary of the Department of Revenue and for the collectors of such political subdivision taxes and to provide a method of collection of the tax directly from the vendee or user by the vehicle commissioner as agent of the secretary and such collectors.

(b)(i) The vehicle commissioner and the governing body of any political subdivision as defined in Article VI, Section 44(2) of the Constitution of Louisiana, in which a sales or use tax has been imposed by such political subdivision on the sale or use of motor vehicles, shall enter into an agreement by which the vehicle commissioner shall collect such tax on behalf of the political subdivision. Except as provided in Paragraph (5) of this Subsection, no certificate of title or vehicle registration license shall be issued until such local tax is paid.

(ii) The tax imposed by the political subdivisions on the sale or use of vehicles subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be collected by the vehicle commissioner and distributed to the political subdivisions as provided for in R.S. 47:301(10)(f) and (18)(b). The vehicle commissioner shall withhold from any such taxes collected for the political subdivisions

one percent of the proceeds of the tax so collected, which shall be used by the commissioner to pay the cost of collecting and remitting the tax to the political subdivisions.

(iii) The vehicle commissioner shall cause to be conducted annually, by the legislative auditor, an audit or examination of the books and accounts of sales and use taxes collected by the vehicle commissioner for each political subdivision. The scope of the audit shall be sufficient to determine whether or not sales and use taxes collected for each political subdivision have been properly and correctly distributed in accordance with law during the period under audit. The cost of such audit shall be prorated to all local political subdivisions for whom the vehicle commissioner collects sales and use taxes on the basis of total tax dollars distributed to each local political subdivision, and the vehicle commissioner shall withhold the cost of such audit from taxes collected. In the event the audit determines that adjustments to tax distributions are required, the vehicle commissioner shall adjust future tax distributions to applicable tax recipient bodies. The prescriptive period for adjustments under this Section shall be three years from the thirty-first day of December of the year in which such taxes became due.

(iv) All such agreements now existing between any political subdivision and the secretary are hereby declared valid and the functions of the secretary thereunder are hereby transferred to the director of public safety as vehicle commissioner.

(4) The provision contained in R.S. 47:301(10) in the second unnumbered paragraph which excludes isolated or occasional sales from the definition of a sale at retail is not to apply to the sale of vehicles which are the subject of this subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

(5) Notwithstanding the provisions of this Section, a certificate of title or vehicle registration license may be issued to a purchaser by the secretary of the Department of Public Safety if he is so authorized in writing by the secretary of the Department of Revenue. The secretary of the Department of Revenue shall grant such authorization upon written application by the purchaser to said secretary showing that:

(a) all state and local taxes and fees due by the purchaser were paid in good faith at the time of purchase to a motor vehicle dealer,

(b) the motor vehicle dealer has not remitted the taxes and fees to the secretary of the Department of Public Safety,

(c) the motor vehicle dealer has refused or is unable to answer a written demand by the purchaser that the taxes and fees be paid to the secretary of the Department of Public Safety, and

(d) the certificate of title or vehicle registration license has not been issued within six months after the date of sale.

A refusal by the secretary of the Department of Revenue to authorize the issuance of a certificate of title or a vehicle registration license may be appealed to the Board of Tax Appeals within sixty days from the date the application for a certificate of title is denied by the secretary of the Department of Revenue.

(6) Those lessors or renters subject to the tax levied by R.S. 47:551 may directly transfer the cost of any local sales and use taxes paid on any automobile purchased for lease or rental by allocating such taxes to each automobile rental contract. Such allocation shall be determined by a schedule promulgated by the secretary of the Department of Revenue and shall be collected by such lessors or renters. The schedule shall be based on automobile purchases in the year prior to the particular allocation assessed. The secretary shall promulgate such other rules as he deems necessary to ensure that the allocation provided in this Paragraph is equitable and is not in excess of the actual local sales taxes paid by such lessors and renters.

(7) Whenever a licensed dealer in motor vehicles sells, assigns, or otherwise transfers an agreement for the lease of a motor vehicle to a licensed lessor of motor vehicles for whom the licensed dealer has prepared the agreement, the transfer shall include all unremitted taxes collected by the licensed dealer, and the licensed lessor shall have the sole responsibility for remitting such taxes to the proper taxing authorities.

C. Auctioneers. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in this state. Such auctioneers or the company which they represent shall be responsible for the collection of all local and state taxes on articles sold by them and shall report and remit to the collector as provided in this Chapter.

D. Collection of tax on motorboats and vessels. The secretary of the Louisiana Department of Wildlife and Fisheries shall not register or issue a certificate of registration on any new boat or vessel purchased in this state until satisfactory proof has been presented to him that all sales taxes provided by this Part, and all municipal, school board and/or parish sales taxes, have been paid; nor shall he register or issue a certificate of registration on any boat or vessel brought into this state until satisfactory proof has been presented to him that all use taxes required by this Part, and all municipal, school board and/or parish use taxes, have been paid.

E. Collection of tax on off-road vehicles. (1) The vehicle commissioner shall not issue a title or a certificate of registration on any off-road vehicle purchased in this state or brought into this state from another state until satisfactory proof has been presented to him that all sales taxes required by law have been paid. The purchaser of an off-road vehicle from a seller who is not registered with the Department of Public Safety and Corrections shall pay the sales tax at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section.

(2) After payment of the taxes due, the commissioner shall issue a decal, in a form prescribed, said decal to be affixed to the vehicle, as directed, by the commissioner, which shall be conclusive proof of registration and payment of the required taxes. All 1987 and later model off-road vehicles sold as new and subsequently sold as used shall be required to display this decal, commencing September 1, 1986. The decal shall be a two-year renewal type and the fees for issuance of new, renewal, transfer, lost, or illegible decals shall be the same amount as those fees charged for the registration stickers of other motor vehicles. Failure to have this decal affixed to the off-road vehicle within thirty days of purchase will result in a fine, not to exceed fifty dollars, or the impounding of the vehicle, or both, and the payment of all taxes due, if any. All peace officers, including the Department of Wildlife and Fisheries, may require proof of registration and shall have concurrent jurisdiction to enforce the provisions of this Section.

F. Collection of tax on membership in health and physical fitness clubs. The sales tax due under the provisions of this Chapter on contracts for membership in a health and physical fitness club shall be assessed and shall be due and payable on

a monthly basis computed on the amount paid each month less any actual or imputed interest or collection fees or unpaid reserve amounts not received by the health and fitness club, provided that no sales or use tax of the state or any of its political subdivisions not collected by such clubs shall be due or payable on amounts collected on such contracts prior to the effective date of the Act originally enacting this Subsection.

G. Direct Payment Numbers. Notwithstanding any provision of law to the contrary, a Louisiana taxpayer who obtains a DP Number as provided in R.S. 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible personal property and taxable services directly to the state and local taxing bodies to whom the sales and use taxes are due, and shall not be liable to remit the tax to the vendor or lessor of the tangible personal property and taxable services, as provided in R.S. 47:303.1.

Source: Acts 1948, No. 9, § 3. Amended by Acts 1962, No. 182; Acts 1964, No. 171, § 1; Acts 1964, No. 519, § 1; Acts 1964, Ex.Sess., No. 7, § 1; Acts 1965, No. 122, § 1; Acts 1966, No. 271, § 1; Acts 1970, No. 656, § 1; Acts 1972, No. 96, § 3, eff. Jan. 1, 1973; Acts 1975, No. 197, § 1; Acts 1978, No. 377, § 1; Acts 1978, No. 584, § 1, eff. July 12, 1978; Acts 1980, No. 137, § 2; Acts 1982, No. 699, § 2, eff. Aug. 2, 1982; Acts 1985, No. 661, § 1; Acts 1986, No. 1067, § 1; Acts 1987, No. 379, § 1, eff. July 7, 1987; Acts 1987, No. 682, § 1, eff. Sept. 1, 1987; Acts 1989, No. 264, § 1, eff. Aug. 1, 1989; Acts 1990, No. 427, § 1; Acts 1991, No. 198, § 1, eff. July 2, 1991; Acts 1992, No. 796, § 1; Acts 1993, No. 569, § 2, eff. July 1, 1993; Acts 1993, No. 688, § 1; Acts 1995, No. 476, § 1, eff. June 17, 1995; Acts 1999, No. 553, § 1; Acts 2001, No. 13, § 1; Acts 2001, No. 1032, § 15.

LAC 61:I.4307. Collection

A. Collection from Dealers

1. All of the taxes imposed under R.S. 47:302, and those imposed under R.S. 47:321 and R.S. 47:331 are governed by these provisions. Every person engaged as a dealer, which R.S. 47:301 defines to be either party to a transaction creating a tax liability under this Chapter, is made liable for collection of the tax. Dealer includes both the seller and the purchaser of tangible personal property, the person who uses, consumes, distributes or stores tangible personal property in this state to be

used or consumed here if a Louisiana sales tax has not previously been paid thereon, the lessor or lessee, the rentor or rentee of tangible personal property rented or leased within this state, and the person who performs or furnishes any of the services covered by R.S. 47:301(14) or the person for whose benefit the services are furnished.

2. The importation of tangible personal property from other states or from foreign countries to be used, consumed, distributed, or stored to be used or consumed in this state is treated the same as if the articles had been sold at retail for any of those purposes within the state, and such articles are thereby taxable to the person who causes them to be imported. This tax levies immediately, and can be collected immediately. There shall be no tax on the importer, however, if a Louisiana sales tax has been previously paid. This Section [R.S. 47:303] clearly provides that there shall be no duplication of the tax.

3. If a tax similar to that imposed by this Chapter is imposed by the state from which property is imported and if the state from which imported allows a credit to persons who import tangible personal property into that state for any sales or use tax which might have previously been paid to the state of Louisiana, a credit will be allowed against the Louisiana sales or use taxes for the tax paid to the other state. In order for the credit to be operative, both of the qualifying conditions must be met. The importer must have paid a similar tax upon either the sale or use of the same identical property in another state and the other state must allow a credit similar to this credit. The only exception to the double qualification standard is in the case of military personnel who are enlisted for two years or more who purchase automobiles outside the state of Louisiana while on their tour of active duty. In this instance, the credit will be allowed for the taxes paid the other state, whether or not that state allows a similar credit for Louisiana taxes paid.

4. The use tax imposed by this Chapter is based on either the cost of the tangible personal property being imported or its fair market value at the point at which it comes to rest in the state of Louisiana, whichever is the lesser of the two. Most frequently, the value upon which the Louisiana use tax is based will be less than original cost on which the taxpayer paid tax in the state of purchase. In those instances, credit will be allowed against the Louisiana use tax only in an amount equal to the tax rate paid to the other state, as distinguished from local government in the other state, applied to the

value being taxed under the Louisiana law. No credit will be allowed against the Louisiana use tax for taxes paid to political subdivisions in another state or to foreign countries. In no event will a credit greater than the tax imposed by Louisiana on any particular piece of tangible personal property be allowed.

5. In any case in which a taxpayer claims credit for a tax paid to another state, he must be in a position to prove payment of the tax before the credit will be allowed. The precise proof required will vary with the nature of the property and the circumstances surrounding its importation into the state.

B. Collection of Tax on Vehicles

1. In view of the regulatory function performed by the vehicle commissioner in issuing license plates for the registration of vehicles and in issuing certificates of title to vehicles, this Subsection provides that all taxes levied by this Chapter on the sale or use of vehicles shall be paid to the vehicle commissioner as the agent of the secretary before a certificate of title or vehicle registration can be issued. The vehicle commissioner serves as agent for the secretary only with respect to those vehicles required to be registered and/or titled with the vehicle commissioner. Generally, this covers all vehicles which have been found to be safe for highway use and can pass safety inspection. While this subsection makes the vehicle commissioner the agent of the secretary for purposes of collecting the taxes, the secretary is the only proper party to defend or institute any legal action involving the tax imposed by this Chapter with respect to any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semitrailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration or title requirements. Conversely, the secretary has no authority or jurisdiction whatever in the issuance of vehicle registration licenses or vehicle titles. This is the absolute domain of the vehicle commissioner.

2. The sales tax levied by R.S. 47:302(A)(1) and by R.S. 47:321 and R.S. 47:331 is due at the time of registration or transfer of registration as required by the vehicle registration license tax law. The use tax levied by R.S. 47:302(A)(2) and R.S. 47:321 and R.S. 47:331 on the use of a vehicle in this state is due at the time first registration in this state is required by the vehicle registration license tax law. That law basically requires that a vehicle purchased in Louisiana be registered immediately upon purchase. Consequently, the sales tax is due at the time of the purchase transaction. The vehicle

registration license tax law basically provides that the vehicle shall be registered in this state immediately upon its importation for use in Louisiana. The use tax, therefore, becomes due when the vehicle has entered the state for use.

3. For purposes of the sales tax, every vendor in this state is required to furnish to a purchaser at the time of a sale, a sworn statement fully describing the vehicle including the serial number, the motor number, the type, year, and model of the vehicle, the total sales price, the amount of any allowance, and a full description of any vehicle taken in trade, the net difference being paid by the purchaser between the vehicle purchased and the one traded in, and the amount of sales or use tax to be paid. Every component of the vehicle attached thereto at the time of the sale and which is included in the sales price, including any labor, parts, accessories, or other equipment, are considered to be a part of the vehicle and not a separate item of tangible personal property. The vehicle commissioner has the right to examine the statement furnished to the purchaser at the time of the sale and in any case in which he determines that the total sales price or the allowance for the vehicle traded in do not reflect reasonable values, he may adjust either to reflect the fair market value of the vehicle involved. Generally, this will be done by reference to current values published by the National Automobile Dealers Association. This revaluation is solely for the purpose of determining the proper amount of sales or use tax due and in no way influences the prices agreed upon between the buyer and the seller. The vehicle commissioner also has the authority to require affidavits from either the vendor or the purchaser, or both, to support a contention that some unusual condition adversely affected the cited sales price. In any event, the minimum tax due shall be computed on the consideration cited as the difference paid by the purchaser between the vehicle purchased and the vehicle traded in.

4. In order for a transaction involving motor vehicles to qualify for trade-in treatment for sales/use tax purposes, the following additional conditions must be met:

a. Ownership of the trade-in vehicle must be transferred to the seller of the new vehicle simultaneously with or prior to the taking of delivery by the purchaser of the new vehicle from the seller.

b. In those cases where special equipment must be installed on the new vehicle or where delivery of the trade-in vehicle cannot be made, an additional

period of time will be allowed for the installation of the special equipment or delivery of the trade-in vehicle provided the new vehicle and the trade-in vehicle cannot be in the purchaser's service at the same time.

c. The actual trade-in value of the trade-in vehicle must be established by the purchaser and the seller at or prior to the time of the transfer of ownership of same to the seller, provided such value must be established within 10 days after delivery.

d. The certificate of title to the trade-in vehicle must be in the name of the purchaser of the new vehicle.

e. In the event the new vehicle is not delivered to the purchaser at the time the trade-in vehicle is delivered to the seller, there must be an obligation on the part of the purchaser to take delivery from the seller of the new vehicle.

f. The records of both the seller and the purchaser must reflect a complete description of the transaction.

g. At the time of transfer of ownership of the new vehicle, the invoice from the seller must reflect not only the sales price of the new vehicle but also a complete description of the trade-in vehicle, including the amount of the actual trade-in value.

h. The sales or use tax due the state of Louisiana shall be computed on gross sales price of the new vehicle in the case of a sale, or on the cost price of the new vehicle in the case of a transaction subject to the use tax, less the previously established actual trade-in value of the trade-in vehicle.

i. In order to constitute a trade-in to be used as a method of reducing the sales or use tax, there must be a transfer of ownership and the value of the trade-in vehicle must represent a part of the purchase price of the new vehicle. A payment in cash, check or in any other form in lieu of a reduction in or a part of the purchase price of a new vehicle does not constitute a trade-in. The accounting principles used in arriving at the value of any given vehicle for sales or use tax purposes and for trade-in purposes must be consistent.

ii. In any case in which a governing body of any parish or municipality, or the school board of any parish or municipality, has imposed a sales or use tax on the sale or use of motor vehicles, the vehicle commissioner is authorized to enter into an agreement with the governing body by which the vehicle

commissioner will collect the tax on behalf of the said parish, municipality, or school board. The vehicle commissioner is authorized to withhold 1 percent of all such taxes collected for parishes, municipalities, or school boards to be used by the commissioner to pay the cost of collecting and remitting the balance of the tax to the respective parishes, municipalities, and school boards. Such local taxes shall be paid to the vehicle commissioner in the same manner as the state sales or use taxes and no title or vehicle registration shall be issued until the taxes have been paid.

(a). (i). Every dealer who is registered for, collects, and remits the Automobile Rental Excise Tax levied by R.S. 47:551 to the secretary of Revenue and Taxation is permitted, under the provisions of this Section, to recover the local sales taxes paid on purchases of automobiles held for rental periods of 29 days or less. In accordance with R.S. 47:303(B)(6), only those lessors or renters subject to the 3 percent excise tax may directly transfer the cost of local sales and use taxes paid on any such automobiles by allocating a portion to each individual rental contract. Lessors or renters whose lease or rental contracts exceed 29 days and whose lease or rental receipts are not subject to the 3 percent excise tax are not eligible for this recovery provision.

(ii). This provision merely makes this recovery option available to any qualified automobile rental dealer. It is not mandatory, and rental dealers who do not wish to employ this recovery method are not required to comply with this regulation.

(iii). Any and all sales or use taxes levied by political subdivisions of Louisiana under the provisions of Title 33, Chapter 6, Part I, Subpart D, and paid to the Office of Motor Vehicles on purchases of automobiles whose rental receipts are subject to the 3 percent tax levied under R.S. 47:551 are recoverable under this provision. Sales taxes levied by the state of Louisiana, any other state, or by political subdivisions of any other state are not recoverable. Local sales and use taxes paid on any type of vehicles other than automobiles, vehicle registration taxes, title and service fees, occupational license taxes, privilege taxes, or ad valorem taxes are not eligible for recovery under this Section.

(b). In order to accomplish and facilitate collection of local sales taxes due, an amount equal to the Local Sales Tax Recovery Surcharge (LSTRS) of \$2 per rental day shall be collected and retained by the owner/lessor of the vehicle from the person/

lessee renting the vehicle. Rental transactions having a duration of less than 24 hours shall be considered a rental day for purposes of collecting the LSTRS. The vehicle owner/lessor must collect the LSTRS as a line item on the customer invoice, which is separate from the state and local sales and use tax and the Automobile Rental Excise Tax. The vehicle owner/lessor must not represent the LSTRS to his lessees as a charge that is mandated by the State of Louisiana or by any political subdivision of the state.

(c). The owner/lessor shall remit the sums for local sales taxes due to the vehicle commissioner in the usual and customary manner as provided by law.

(d).(i). To provide for an orderly transition to the local sales tax recovery system established in R.S. 47:303(B)(6), each automobile owner/lessor shall, before adding the LSTRS to any rental contract, determine the total amount of local sales and use tax that he paid in the prior calendar year on automobiles held for rental periods of 29 days or less. The automobile owner/lessor must cease the collection of the LSTRS from lessees at the time that total collections from the LSTRS during the current calendar year equal the amount of local sales and use taxes paid on eligible vehicles during the preceding calendar year.

(ii). If, notwithstanding the provisions of §4307.B.4.h.iii.(d).(i), actual collections of the LSTRS during a calendar year exceed the amount needed to reimburse the lessor for recoverable local taxes paid during the preceding calendar year, any such excess must be remitted to the Department of Revenue and Taxation as "excess tax" on the lessor's monthly return for the Automobile Rental Excise Tax.

iii. The exemption set forth in R.S. 47:301(10) whereby isolated or occasional sales of tangible personal property are not subject to the taxes imposed by this Chapter if made by a person not engaged in such business does not apply to sales of motor vehicles covered by this Subsection. Isolated or occasional sales, also commonly referred to as casual sales of vehicles are specifically defined to be sales at retail and subject to the tax imposed by this Chapter.

iv. The vehicle commissioner may require any dealer engaged in the business of selling motor vehicles, automobiles, motorcycles, trucks, truck-trailers, trailers, semi-trailers, motor buses, house trailers, or any other vehicle subject to the vehicle registration license tax law or the title registration

law to furnish information relative to their sales on any periodic basis designated by the vehicle commissioner. Such statements shall set forth the serial number, motor number, type, year, model of the vehicle sold, the total sales price, any allowance for trade-in, a description of the trade-in, the total cash difference to be paid by the purchaser, and any sales or use taxes to be paid. The vehicle commissioner is also authorized to secure whatever other additional information is necessary for proper administration of this Subsection.

v. For credits allowed against a tax imposed by this Chapter for taxes paid to another state, see the third paragraph of R.S. 47:303(A) and the regulations issued thereunder.

vi. Generally, a certificate of title or vehicle registration shall not be issued to any purchaser for any vehicle on which the taxes levied by this Chapter have not been paid. However, R.S. 47:303(B)(5) provides an exception to this rule for the benefit of purchasers who have paid the proper taxes due to the vehicle dealer at the time of sale of the vehicle, and whereby the taxes thus paid were not remitted to the vehicle commissioner. Under this provision, a motor vehicle purchaser who has not been issued a certificate of title or vehicle registration license within six months after the date of the sale, may submit a written request to the secretary providing the following information:

(a). all state and local sales taxes and fees due by the purchaser were paid in good faith to the motor vehicle dealer at the time of purchase;

(b). the motor vehicle dealer has not yet remitted the taxes and fees to the vehicle commissioner;

(c). the motor vehicle dealer has refused or is unable to respond to a written demand by the purchaser for payment of the taxes and fees to the vehicle commissioner;

(d). the certificate of title or vehicle registration license has not been issued within the six months elapsed since the sale.

If the purchaser's request appears reasonable, and the facts represented are found to be accurate, the secretary shall authorize the vehicle commissioner to issue a certificate of title or a vehicle registration license. If for any reason the purchaser's request is denied by the secretary, such a denial will be in writing, and the purchaser may file an appeal with the Board of Tax Appeals

within 60 days after the date of denial by the secretary.

C. Collection of Tax from Auctioneers

1. Generally, the sales tax law contemplates a situation in which the owner of property, or a person having title to property, sells tangible personal property to another person, thereby creating a taxable transaction. In this instance, the sales tax law places a liability upon the seller to collect the Louisiana sales tax from the purchaser and remit the tax to the secretary. Because of this basic concept, a special provision has been included R.S. 47:303(C) to cover sales which do not fall within that general method of doing business. In the case of auctioneers, the actual owner of the property turns it over to the auctioneer who conducts the sale and consummates the final transfer of title, as a third party, from the owner to the purchaser. He may well represent a number of property owners at one auction sale.

2. In view of the unique position occupied by auctioneers with relationship to the owner of the property being sold, this Subsection requires that all auctioneers shall register as dealers and must display their registration certificate to the public as a condition of doing business in this state. The auctioneer is then held responsible for collecting all state and local taxes on articles sold by him and is responsible for properly reporting and remitting the amount collected.

D. Collection of Tax on Motorboats and Vessels

1. This Subsection provides that the secretary of the Department of Wildlife and Fisheries shall not issue a certificate of registration on any boat or vessel which is purchased in, or imported into, Louisiana until satisfactory proof is presented showing that all state and local sales taxes have been paid. This will be in the form of a "tax payment certification for boat registration", which is available through the boat dealer or at any office of the Department of Revenue and Taxation.

2. In the case of a boat or vessel purchased from a Louisiana dealer, the certificate will be completed and signed by both the purchaser and the dealer, and will include the dealer's sales tax registration number.

3. In the case of a boat or vessel brought in from another state, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and Taxation, and

also by a tax collecting agent of the local government where the purchaser resides. The proper state and local use taxes will be due, subject to credit for sales taxes paid in another state, as provided by Subsection A.

4. In the case of a boat or vessel purchased from an individual owner who is not engaged in the business of selling boats or vessels, the certificate must be completed and signed by the purchaser and a revenue deputy of the Department of Revenue and Taxation, and by a tax collecting agent of the local government where the purchaser resides. Sales of boats and vessels by individual owners will be regarded as isolated or occasional sales, and not subject to the taxes levied by this Chapter. The purchaser, however, must provide sufficient documentation to support such a basis for exemption, such as a canceled check and a notarized bill of sale, or the prior owner's certificate of registration showing his or her transfer of ownership to the purchaser.

5. The completed "tax payment certification" form will then be presented to an office of the Department of Wildlife and Fisheries to obtain a registration certificate.

E. Collection of Tax on Off-road Vehicles

1. R.S. 47:303(E) points out clearly that off-road vehicles are subject to the taxes imposed under this Chapter, and require that a certificate of title be obtained from the vehicle commissioner in the same manner as with other motor vehicles. The exclusion of motor vehicles from the isolated or occasional provision which appears in R.S. 47:303(B)(4) applies equally to off-road vehicles as it does to cars and trucks. Thus, a purchaser of an off-road vehicle from a person who is not registered with the Department of Revenue and Taxation to collect and remit sales taxes shall pay the proper sales taxes at the time the vehicle is titled.

2. Beginning September 1, 1986, all off-road vehicles which are of 1987 model or later manufacture must bear evidence of tax payment by displaying a decal issued by the vehicle commissioner. The decal will be required whether the off-road vehicle is sold as new or used, and must be renewed every two years. The fee for such decals shall be the same as that charged for license fees of other motor vehicles, whether the decal is for new issue, renewal, transfer of ownership, or replacement of a lost or illegible decal.

F. Collection of Tax on Memberships in Health and Physical Fitness Clubs. R.S. 47:303(F) concerns the collection and remittance of sales taxes for memberships in health and physical fitness clubs due under R.S. 47:301(14)(b). Generally, the taxes imposed under this Chapter are to be reported and remitted for the period in which the sale of tangible personal property or the sale of taxable services occurred, regardless of whether or not the vendor has collected the proceeds or taxes from the customer. This Subsection, however, provides that operators of health and physical fitness clubs may report and remit the taxes due on memberships for the period in which the proceeds are actually collected, for those sales of memberships which are payable over an extended period of time, on a monthly basis. Such extended payment plans typically include actual or imputed interest charges in each monthly payment. The provisions of this Subsection provide that only the membership dues are subject to the tax, so that the club operator may report as sales of services, and remit taxes on, only that portion of the proceeds which represents membership dues, according to the terms of the contract. It further provides that if the club operator uses a collection agency to collect the amounts due, the collection fees withheld from the proceeds are subtracted from the reported sales of services. When membership contractual payment plans are resold to a financial institution, only the net proceeds received by the club operator will be the amount reported as sales of services for that reporting period. The discount withheld by the financial institution will be regarded as interest, and will not be included in the taxable base.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:303.

HISTORICAL NOTE: Promulgated by Department of Revenue and Taxation, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR20:316 (March 1994).

R.S. 47:303.1. Direct Payment Numbers

A. Notwithstanding any other law to the contrary except for the provisions of R.S. 47:303(B) and (E), the state and local sales and use tax due on the purchase, importation, or lease of tangible personal property or taxable services by taxpayers who have obtained a Direct Payment Number, hereinafter referred to as a “DP Number,” shall be remitted directly to the state and appropriate

political subdivision by such taxpayer, as provided in this Section. The vendor or lessor of tangible personal property or taxable services shall not be responsible for collecting sales and use tax on such sales or leases, and shall not be liable for such tax as provided in R.S. 47:304(C), upon presentation to him of a valid DP Number by such purchaser or lessee, provided that the vendor or lessor notes the DP Number on the untaxed contract or invoice submitted to such purchaser and lessee.

B. A DP Number shall be issued to and shall be continued to be held by a taxpayer who obtains the required approvals and who meets all of the qualifications provided for in this Section and the following qualifications:

(1) The taxpayer’s primary business in the state is that of a manufacturer of tangible personal property for resale where such manufacturing occurs at a manufacturing establishment or facility within the state.

(2) The taxpayer has reported and paid timely substantially all of the taxes which the taxpayer believes are legally due to the state and its political subdivisions.

(3) The taxpayer has an annual average of fifteen million dollars of taxable purchases or leases of tangible personal property and taxable services for three calendar years prior to the year of application by the taxpayer, and has such an average for each subsequent three-year period.

(4) The taxpayer maintains adequate procedures and practices, records and reports for accrual and timely reporting and paying the state and political subdivision sales and use taxes due.

C. Upon application by a taxpayer to the department for a DP Number, the department shall notify by certified mail the local agency or agencies charged with collection of the sales and use tax imposed by the political subdivisions in the parish or parishes in which the taxpayer has a manufacturing establishment or facility. The department and the local collection agency or agencies shall review the application and shall audit the taxpayer to determine that the taxpayer meets the qualifications provided in Subsection B of this Section, if the department or local collection agency or agencies consider such audit necessary.

D. If the taxpayer meets the qualifications of Subsection B and obtains written approval from the local agency or agencies charged with the collection of sales and use tax imposed by the political subdivisions in the parish or parishes in which the taxpayer has a manufacturing establishment or facility, the department shall issue the DP Number to the taxpayer. If the taxpayer meets the qualifications of Subsection B but written approval is denied or withheld by the local agency or agencies charged with the collection of sales and use tax imposed by the political subdivisions in the parish or parishes in which the taxpayer has a manufacturing establishment or facility, the department shall issue a DP Number to the taxpayer which shall be applicable only for the purposes of state sales and use tax.

E. The department shall review the procedures and practices, records and reports of the taxpayer at least once in every three calendar years after the year in which the application for the DP Number is granted, and the department shall audit the books and records of such taxpayer unless the department decides, in its discretion, that such an audit is not necessary.

F. The DP Number issued by the department under this Section may be revoked by the secretary at any time if the taxpayer fails to meet the qualifications provided in this Section, or if the department receives written notice of the revocation of approval for issuance of the DP Number from all of the local tax collection agencies which had previously given their approval pursuant to Subsection D of this Section.

G. The taxpayer may appeal the secretary's denial or revocation of a DP Number to the board of tax appeals.

H. The department shall promulgate rules and regulations necessary for the implementation of this Section.

Added by Acts 1987, No. 682, § 1, eff. Sept. 1, 1987. Amended by Acts 1988, No. 512, § 1; Acts 1993, No. 895, § 1.

R.S. 47:304. Treatment of tax by dealer

A. The tax levied in this Chapter shall be collected by the dealer from the purchaser or consumer,

except as provided for the collection of tax on motor vehicles in R.S. 47:303 and the collection of tax on property leased or rented for use offshore in R.S. 47:301(4)(d)(ii). The dealer shall collect the sales tax on off-road vehicles and remit them directly to the Department of Public Safety and Corrections upon application for certificate of title and registration as required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section. The dealer shall collect the sales taxes on off-road vehicles from out-of-state residents who purchase off-road vehicles in this state and remit the sales taxes due directly to the Department of Revenue.

B. Every dealer located outside the state making sales of tangible personal property for distribution, storage, use, or other consumption, in this state, shall at the time of making sales collect the tax imposed by this Chapter from the purchaser.

C. Dealers shall, as far as practicable, add the amount of the tax imposed under this chapter in conformity with the schedule or schedules to be prescribed by the collector pursuant to authority conferred herein, to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who neglects, fails or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

D. Where the tax collected for any period is in excess of the tax rate provided by this Title, the total tax collected must be paid over to the secretary, less the compensation to be allowed the dealer as hereinafter set forth. This provision shall be construed with other provisions of this Chapter and given effect so as to result in the payment to the secretary of the total tax collected if in excess of the tax rate provided.

E. Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars, or imprisoned for not more than three months, or both.

F.(1) No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax unless:

(a) The dealer includes in the advertisement that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer.

(b) The dealer furnishes the purchaser with written evidence that the dealer will be liable for and pay any tax the purchaser was relieved from paying under this Paragraph himself.

(2) If a dealer advertises that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer, the purchaser shall not be liable for the payment of that portion of the tax.

(3) Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars nor more than two hundred fifty dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.

G. The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

H. The use of tokens is forbidden. The collector shall by regulations prescribe the method and the schedule of the amounts to be collected from the purchasers, lessees or consumers in respect to any receipt upon which a tax is imposed by this chapter or by any political subdivision of the state of Louisiana. The amount of tax to be collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided.

I. The sums of money collected by the dealer for payment of sales and use taxes imposed by the state of Louisiana, or any such taxes imposed by any parish, municipality, or political subdivision within the state, shall be and remain the property of the taxing authority and deemed held in trust for the taxing authority.

Source: Acts 1948, No. 9, § 4. Amended by Acts 1962, No. 182, § 2; Acts 1974, No. 184, § 1; Acts 1980, No. 137, § 1; Acts 1988, No. 2, § 1, eff. July 1, 1988; Acts 1991, No. 613, § 1, eff. July 17, 1991; Acts 1993, No. 688, § 1; Acts 1993, No. 894, § 1, eff. June 23, 1993; Acts 1994, No. 8, § 1, eff. June 7, 1994; Acts 1997, No. 658, § 2; Acts 2001, No. 245, § 1, eff. July 1, 2001.

LAC 61:I.4311. Treatment of Tax by Dealer

A. R.S. 47:304 places the primary burden for operation of the sales tax system upon the seller of merchandise, the performer of taxable services, and the rentor or lessor of property, and requires that he collect the tax from the purchaser, user or consumer. If a dealer fails or refuses to collect the tax, he not only becomes liable for payment of the tax, but also subjects himself to the possibility of being fined a maximum of \$100 or imprisoned for a period of time not to exceed three months, or both.

B. This primary burden of collecting and remitting sales tax does not apply to the taxes on motor vehicles subject to the vehicle registration license tax, the collection of which is described in § 303(B) (LAC 61:I.4307.B). However, dealers of off-road motor vehicles are charged with the responsibility for collecting and remitting the tax on sales of all such off-road vehicles, notwithstanding that they are also dealers of motor vehicles subject to registration and licensing by the motor vehicle commissioner. Dealers of off-road vehicles shall, in addition to collecting and remitting the tax to the secretary provide the purchaser with a notarized bill of sale, or other documentation, sufficient to prove that the proper taxes have been paid by the purchaser, and to enable the purchaser to obtain a certificate of title from the office of the motor vehicle commissioner.

C. The seller is required so far as is practical to add the tax to the selling price or charge. The law provides that the tax shall be a debt from the purchaser or consumer to the dealer, recoverable at law in the same manner as any other debt. A seller is specifically prohibited from advertising or holding out to the public in any way, directly or indirectly, that he will absorb all or any part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. The seller who violates this provision shall be fined not less than \$25 nor more than \$250 or imprisoned for not more than three months, or both. For second or subsequent offenses, the penalty is doubled. In support of this provision, the law requires that the dealer or seller must state and collect the tax separately from the price paid by the purchaser for the merchandise or service.

D. All of the above provisions apply equally well to the dealer who is located outside of the state who makes sales of tangible personal property into this

state for distribution, use, storage, or consumption here. The out-of-state dealer is required to collect the tax at the time of the sale.

E. Certificates of exemption from the taxes imposed by this Chapter are obtainable from the secretary by persons making purchases which may be exempt in whole or in part at the time of purchase or upon which the tax may be deferred until some later event which dictates taxability of the transaction. While primary responsibility for collection of the taxes imposed herein rests upon the seller, the purchaser who furnishes the seller an exemption certificate will be held liable for any taxes subsequently found to be due.

F. In cases where the total amount of Louisiana sales or use taxes collected under this Chapter exceeds the percentage applicable to the particular type of merchandise or service, any such excess must be remitted to the secretary.

G. For provisions relating to the amount of taxes collected by a dealer which may be withheld by him as compensation for collecting, accounting for, and remitting the tax to the secretary, see R.S. 47:306.

H. R.S. 47:304 prohibits the use of tokens in the operation of the sales tax law and provides that the secretary shall prescribe schedules of the amounts to be collected from purchasers, lessees, or consumers with respect to each sale. Such schedules integrate the collection of the state and local sales taxes, and their use is mandatory with respect to both dealers and political subdivisions who impose a sales or use tax. The mandatory tables required by this Section will be prepared by the Department of Revenue and Taxation at the request of any local taxing jurisdiction, to reflect any aggregate state and local sales tax rate. Any dealer, as well, may obtain these prepared tax rate schedules from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:304.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305. Exclusions and exemptions from the tax

A.(1) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this Chapter, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products are made to consumers by any person other than the producer, they are not exempted from the tax imposed by this Chapter.

(2) The gross proceeds derived from the sale in this state of livestock at public sales sponsored by breeders' or registry associations or livestock auction markets are exempted from the tax levied by this Chapter. When public sales of livestock are made to consumers by any person other than through a public sale sponsored by a breeders' or registry association or a livestock auction market, they are not exempted from the tax imposed by this Chapter. This Section shall be construed as exempting race horses entered in races and claimed at any racing meet held in Louisiana, whether the horse claimed was owned by the original breeder or not.

(3) Every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of this Chapter, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted. For the purposes of this Section, "agricultural commodity" means horticultural, viticultural, poultry, farm and range products, and livestock and livestock products.

(4)(a) The purchase of feed and feed additives for the purpose of sustaining animals which are held primarily for commercial, business, or agricultural use shall be exempted from the taxes levied by this Chapter.

(b) For purposes of this Subsection:

(i) "Commercial use" means the purchasing, producing, or maintaining of animals, including breeding stock, for resale;

(ii) "Business use" means the keeping and maintaining of animals which are used in performing services in conjunction with a business enterprise, such as sentry dogs and rental horses;

(iii) "Agricultural use" means the maintaining of work animals and beasts of burden which are utilized in the activity of producing crops or animals for market, in the production of food for human consumption, in the production of animal hides or other animal products for market, or in the maintaining of breeding stock for the propagation of such agricultural use animals.

(c) This exemption shall not apply to the purchase of feed or feed additives for animals kept primarily for personal, sporting, or other purposes, including but not limited to purchases for pets of any kind or hunting dogs.

(5) The tax imposed by this Chapter shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of crawfish. The person who purchases the exempt items shall claim the exemption by executing a certificate at the time of purchase. The Department of Revenue shall provide the certificates to retail merchants. Any merchant who in good faith, and after examination of the applicability of the certificate to that purchase with due care, neglects or fails to collect the tax herein provided, due to the presentation by the purchaser of a tax exemption certificate issued by the Department of Revenue, including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment of the tax.

(6) The tax imposed by this Chapter shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of catfish. The person who purchases the exempt items shall claim the exemption by executing a certificate at the time of purchase. The Department of Revenue shall provide the certificates to retail merchants. Any merchant who in good faith, and after examination of the applicability of the certificate to that purchase with due care, neglects or fails to collect the tax herein provided, due to the presentation by the purchaser of a tax exemption certificate issued by the Department of

Revenue and Taxation, shall not be liable for the payment of the tax.

B. The "use tax," as defined herein, shall not apply to livestock and livestock products, to poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

C.(1) Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

(2) Where a part of the cost price of a motor vehicle is represented by a motor vehicle returned to the dealer's inventory, the use tax is payable on the total cost price less the wholesale value of the article returned.

D.(1) The sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following tangible personal property is hereby specifically exempted from the tax imposed by this Chapter:

NOTE: By Article VII, Section 27 of the Constitution of Louisiana, purchases of gasoline, diesel fuel, or special fuels which are subject to excise tax under Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes shall be exempt from the state sales tax and any sales tax levied by a political subdivision as define by Article VI, Section 44(2).

(a) Gasoline.

(b) Steam.

NOTE: By Article VII, Section 2.2 of the Constitution of Louisiana, sales of natural gas, electricity, and water sold directly to the consumer for residential use shall not be taxed for state sales and use tax at more than two percent effective January 1, 2003, and shall be exempt from state sales and use tax effective July 1, 2003.

(c) Water (not including mineral water or carbonated water or any water put in bottles, jugs, or containers, all of which are not exempted).

(d) Electric power or energy and any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial

manufacturing plant for self-consumption or co-generation.

(e) Newspapers.

(f) Fertilizer and containers used for farm products when sold directly to the farmer.

NOTE: By Article VII, Section 2.2 of the Constitution of Louisiana, sales of natural gas, electricity, and water sold directly to the consumer for residential use shall not be taxed for state sales and use tax at more than two percent effective January 1, 2003, and shall be exempt from state sales and use tax effective July 1, 2003.

(g) Natural gas.

(h) All energy sources when used for boiler fuel except refinery gas.

(i) New trucks, new automobiles, and new aircraft withdrawn from stock by factory authorized new truck, new automobile, and new aircraft dealers, and used trucks and used automobiles withdrawn from stock by new or used motor vehicle dealers for use as demonstrators.

NOTE: By Article VII, Section 2.2 of the Constitution of Louisiana, prescription drugs shall not be taxed for state sales and use tax at more than two percent effective January 1, 2003, and shall be exempt from state sales and use tax effective July 1, 2003.

(j) Drugs prescribed by a physician or dentists.

(k) Orthotic and prosthetic devices and wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors for personal consumption or use.

(l) The sale or purchase of any ostomy, ileostomy or colostomy device or any other appliance including catheters or any related item which is required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste.

(m) Patient aids prescribed by a physician or a licensed chiropractor for home use.

NOTE: By Article VII, Section 2.2 of the Constitution of Louisiana, food for home consumption shall not be taxed for state sales and use tax at more than two percent effective January 1, 2003, and shall be exempt from state sales and use tax effective July 1, 2003.

(n) Food sold for preparation and consumption in the home including by way of extension and not of limitation bakery products.

(o) Dairy products.

(p) Soft drinks.

(q) Fresh fruits and vegetables.

(r) Package foods requiring further preparation by the purchaser.

NOTE: Section 2. It is not the intention of this Act to, nor shall the enactment of this Act be interpreted so as to, affect any issue relative to the application of R.S. 47:305(D)(1)(s) to the sales and use taxes levied by local political subdivisions.
Acts 1998, No. 38, eff. June 24, 1998.

(s) Any and all medical devices used exclusively by the patient in the medical treatment of various diseases or administered exclusively to the patient by a physician, nurse, or other health care professional or health care facility in the medical treatment of various diseases under the supervision of and prescribed by a licensed physician.

NOTE: See R.S. 47:302(J) and 331(I) for the effective period for R.S. 47:305(D)(1)(t).

(t) Orthotic devices, prosthetic devices, prostheses and restorative materials utilized by or prescribed by dentists in connection with health care treatment or for personal consumption or use and any and all dental devices used exclusively by the patient or administered exclusively to the patient by a dentist or dental hygienist in connection with dental or health care treatment. Notwithstanding any other provision of law to the contrary, the exemptions from the state sales and use tax provided in this Subparagraph shall be applicable to any sales and use tax levied by any local governmental subdivision or school board.

(u) Adaptive driving equipment and motor vehicle modifications prescribed for personal use by a physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the state.

(2) Sales of meals furnished to: the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates, and patients of mental institutions; and boarders of rooming houses, and occasional meals furnished in connection with or by educational, religious, or medical organizations, are exempt from the taxes imposed by the Chapter if the meals are consumed on the premises where purchased. However, sales by any of the above in facilities open to outsiders or to the general public are not exempt from the taxes imposed by this Chapter.

(3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales made by an establishment not specifically exempted elsewhere who furnish facilities for the consumption of the food on the premises are not exempt from the taxes imposed by this Chapter.

(4) The exemption for food, drugs, orthotic and prosthetic devices, and wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors for personal consumption or use; for patient aids prescribed by a physician or licensed chiropractor for home use; and ostomy, ileostomy or colostomy devices, or other appliances including catheters or related items required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste applies only to sales taxes imposed by the state of Louisiana and does not apply to such taxes authorized and imposed by any school board, municipality, or other local taxing authority notwithstanding any other provisions of law to the contrary, and specifically, but not exclusively, R.S. 33:2716.1, except that sales taxes authorized and imposed by any school board, municipality or other local taxing authority shall not apply to the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in his medical treatment when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

(5)(a) However sales taxes authorized and imposed by any school board, municipality, or other

local taxing authority shall not apply to the sale of prescription drugs under the pharmaceutical vendor program for Title XIX of the Social Security Act as administered by the Department of Health and Hospitals of the state of Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such drugs under Title XXI of the Social Security Act as administered by such department.

(b) The administration of prescription drugs used exclusively by the patient in the medical treatment of various diseases or injuries when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more shall be a professional service.

(c) For the time after July 1, 1999, school boards, municipalities, and other local taxing authorities may by ordinance or resolution provide for the following:

(i) An exemption for the sale of prescription drugs administered as provided for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and administration of chemotherapy drugs used exclusively by the patient in his medical treatment if administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

(ii) An amnesty for any person who may have been responsible to impose, collect, and/or remit the tax previously imposed on the transactions provided for in Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or amnesty is granted according to such reasonable terms and conditions as the respective school boards, municipalities and other local taxing authorities may adopt.

NOTE: The effective date of Acts 1978, No. 205 is June 29, 1978.

(6) The exemptions from the state sales and use tax provided in this Subsection in existence as of the effective date of Act 205 of 1978 shall be applicable to any sales and use tax levied by any local governmental subdivision or school board except as otherwise specifically provided in this Subsection. Without determining the validity of

any exemptions placed in this Subsection subsequent to the effective date of Act 205 of 1978, all Acts after the 1991 Regular Session placing an exemption in this Subsection which is applicable to a political subdivision must, to be effective, specifically provide in the title and body of the bill that it is applicable to a political subdivision. The exemptions provided in R.S. 47:305(D)(1)(t) are hereby deemed to specifically comply with Act 205 of 1978.

E.(1) It is not the intention of this Chapter to levy a tax upon articles of property imported into this state, or produced or manufactured in this state, for export; nor is it the intention of this Chapter to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent the collection of the taxes due on sales of tangible personal property into this state which are promoted through the use of catalogs and other means of sales promotion and for which federal legislation or federal jurisprudence enables the enforcement of this Chapter upon the conduct of such business. It is, however, the intention of this Chapter to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state, of tangible personal property after it has come to rest in this state and has become a part of the mass of property in this state. At such time as federal legislation or federal jurisprudence as to sales in interstate commerce promoted through the use of catalogs and other means of sales promotions enables the enforcement of this Chapter against vendors that have no other nexus with this state, the following provisions shall apply to such sales on which sales and use tax would not otherwise be collected.

(2) to (5) Repealed by Acts 1994, No. 18, § 2.

F. The sales, use and lease taxes imposed by this Chapter shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means supplied by licensors thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensors or distributors thereof.

G. The sales, use, and lease taxes imposed by Chapter 2 and Chapter 2A of this Title shall not apply to the purchase or rental by private individuals of machines, parts therefor, and materials and supplies which a physician has prescribed for home renal dialysis.

H. "Demonstrators" as used in Subsection D of this Section shall mean new and used trucks and automobiles for which dealer inventory plates may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name for use as demonstrators which are kept primarily on the dealer's premises during normal business hours and which are available for demonstration purposes; however, the occasional use of such demonstrator by authorized personnel of the dealer shall not disqualify such demonstrator from the exemption herein designated.

I. The sales and use taxes imposed by the state of Louisiana or any of its political subdivisions shall not apply to the labor, or sale of materials, services, and supplies, used for repairing, renovating or converting of any drilling rig, or machinery and equipment which are component parts thereof, which is used exclusively for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelf waters. For the purposes of this Subsection, "drilling rig" means any unit or structure, along with its component parts, which is used primarily for drilling, workover, intervention or remediation of wells used for exploration or development of minerals. For purposes of this Subsection, "component parts" means any machinery or equipment necessary for a drilling rig to perform its exclusive function of exploration or development of minerals.

Source: Acts, No. 9, § 5. Amended by Acts 1962, No. 182, § 3; Acts 1972, No. 234, § 1; Acts 1973, Ex.Sess., No. 13, § 1, eff. Jan. 1, 1974; Acts 1974, No. 186, § 1; Acts 1974, No. 627, § 1; Acts 1975, No. 200, § 1; Acts 1975, No. 372, § 1; Acts 1976, No. 662, § 1; Acts 1977, No. 516, § 1; Acts 1978, No. 652, § 1, eff. Jan. 1, 1979; Acts 1979, No. 145, § 1; Acts 1979, No. 796, § 1; Acts 1980, No. 159, § 1; Acts 1980, No. 710, § 1, eff. July 24, 1980; Acts 1983, No. 673, § 1, eff. July 1, 1984; Acts 1984, No. 183, § 1, eff. July 1, 1984; Acts 1985, No. 258, § 1, eff. June 6, 1985; Acts 1985, No. 530, § 1; Acts 1985, No. 901, § 1, eff. Sept. 1, 1985; Acts 1986, No. 677, § 1; Acts 1987, No. 156, § 1, eff. Sept. 1, 1987; Acts 1987, No. 364, § 1, eff. Sept. 1, 1987; Acts 1987, No. 847, § 1, eff. July 20, 1987; Acts 1988, No. 948, § 1, eff. Sept. 1, 1988; Acts 1990, No. 155, § 1, eff. July 1, 1990; Acts 1990, No. 476, § 1, eff. July 18, 1990; Acts 1991, No. 495, § 1, eff. July 15, 1991; Acts 1991, No. 1065, § 1, eff. Aug. 1, 1991; Acts 1996, No. 29, § 1, eff. July 2, 1996; Acts 1998, No. 37, § 1, eff. June 24, 1998; Acts 1998, No. 38, § 1, eff. June 24, 1998; Acts 2002, No. 31, § 1, eff. July 1, 2002;

Acts 2002, No. 37, § 1, eff. June 25, 2002; Acts 2002, No. 42, § 1, eff. July 1, 2002; Acts 2002, No. 62, § 1, eff. June 25, 2002; Acts 2002, No. 72, § 1, eff. June 25, 2002. Subject to H.C.R. No. 55 of 1986.

LAC 61.I:4401. Various Exemptions from the Tax

A. While the sales tax law imposed by R.S. 47:302, supra, is classified as a general sales tax law indicating that it applies broadly across all sales, use, consumption, or lease of tangible personal property as well as to some selected services, the law does provide many exemptions from the taxes imposed by this Chapter.

B. R.S. 47:305(A) and (B) deal primarily with agricultural commodities, and the tax liabilities associated therewith, as they apply to all phases from production to final consumption or disposition. The broadest exemptions apply to the producer of agricultural commodities. Any sale of livestock, poultry, or other farm products made directly from the farm and directly by the producer regardless of the purpose to which it will be put when sold is exempt from the tax. The producer is also exempt from use tax on any farm products consumed by him or his family. This exemption extends to livestock and livestock products, to poultry and poultry products, to farm, range or agricultural products so long as they are produced by the farmer and used by him and members of his family.

1. In addition to the exemption from sales tax for sales made directly from the farm, R.S. 47:305(A) further provides a sales tax exemption for three types of off-the-farm-premises sales:

a. livestock sold at a public sale which is sponsored by a breeder's association or a registry association;

b. livestock sold at a commercial livestock auction market which holds regularly scheduled auction sales, not limited to any certain producer or producers;

c. race horses sold through entry in a claiming race, whereby the horse was claimed, at any racing meet held in Louisiana.

2. Exemptions afforded other persons in connection with agricultural commodities are limited de-

pending upon the purpose for which they are sold. The only exemption in the law for any farm products sold directly to the consumer as a finished product, other than food sold under circumstances described in R.S. 47:305(D), is for sales made by the farmer directly from the farm. There is, however, a very broad exemption from the taxes imposed by this Chapter for all agricultural commodities sold by any person other than a producer as raw materials for use or for sale in preparing, finishing or manufacturing the commodities into merchandise intended for ultimate retail sale. This exemption applies to all horticultural, viticultural, poultry, farm and range products, livestock and livestock products. The exemption applies to the tax imposed on the sale, storage, use, transfer or any other utilization or handling of those products except when they are sold as a finished product to the final consumer. The law further provides that in no case shall there be more than one tax applied with respect to agricultural commodities.

3. R.S. 47:305(A)(4) provides an exemption for feed and feed additives for animals which are held primarily for commercial, business, or agricultural uses. It also establishes certain criteria which characterize these three categories of use for purposes of this Subsection.

a. Commercial Use—the purchasing, producing, or maintaining of animals for resale. Examples of such use are: cattle, poultry, and hog farms which produce animals for market, pet animal breeders, and thoroughbred farms. Breeding stock, although not normally held for sale, is included in the category of commercial use.

b. Business Use—the keeping and maintaining of animals to perform specific functions and services in conjunction with a business. Examples of this category are dogs used in providing security services and horses used in a rental business or carnival rides.

c. Agricultural Use—broadly defined to include the maintaining of work animals for producing: crops or animals for market, food for human consumption, or animal hides or other animal products for market. Examples of these agricultural uses would include draft horses used to pull cargo, quarter horses used to work cattle, dogs used to herd sheep, and dairy cattle used for milk production. Breeding stock which is held for the propagation of these animals is also included in the definition.

d. Specifically excluded from the exemption in this Subsection is feed for animals held primarily for other purposes, even though they might be used in one or more exempt categories of use at times. For example, a registered breed pet which is occasionally bred for the purpose of selling the offspring is not considered held for commercial use.

C. R.S. 47:305(C)(1) provides that the market value of an article traded in on a purchase may be deducted from total sales price in computing the sales tax liability. This provision applies to a trade-in but does not apply to the value of unlike property being used as part payment on the purchase. As an example, the value of an old refrigerator traded in on the purchase of a new refrigerator could be deducted from the total sales price of the new unit in computing the sales tax liability. This would constitute a trade-in and as such would be exempt from the tax. However, if 10 bushels of corn were given to the appliance dealer as part payment for the new refrigerator, this would not constitute a trade-in as contemplated by the law and the total selling price of the refrigerator would be subject to tax.

1. R.S. 47:305(C)(2) provides for the use tax cost basis of motor vehicle dealers' service vehicles which are withdrawn from resale inventory for use, such as towing trucks, parts trucks, delivery vehicles, etc. It provides that in determining the cost basis for use tax, a reduction is allowed if a used and previously taxed vehicle is simultaneously returned to resale inventory. That reduction in the cost basis of the newly withdrawn vehicle will be the wholesale value of the returned vehicle according to the current value published by the National Automobile Dealers Association.

D. In addition to exemptions granted for broad categories of property or transactions, R.S. 47:305(D) grants exemption for a limited number of specific items of property. The sale at retail, use, consumption, distribution or the storage to be used or consumed, of gasoline, steam, electric power or energy, newspapers, natural gas, or fertilizer and containers used for farm products if they are sold directly to the farmer are specifically exempted by this Subsection.

1. In addition to the exemption for electric power or energy in R.S. 47:305(D)(l)(d), the sale and purchase of all materials and energy sources used to fuel the generation of electric power for resale by utility companies, and the sale and purchase of materials and energy sources for use by an indus-

trial manufacturing plant to produce electric power for self-consumption or cogeneration are exempted from the tax imposed by this Chapter.

2. Other fuels and specific applications of energy sources are exempted from the tax under this Paragraph. R.S. 47:305(D)(l)(h) exempts all energy sources used for boiler fuel except refinery gas. A boiler, for purposes of this Paragraph, means a pressure-regulated vessel into which water is placed and converted to steam by the application of heat, after which the steam is sold, used for heating purposes, electrical generation, or any other industrial use. This Paragraph, together with R.S. 47:305(D)(l)(g), also provides a limited exemption for refinery gas. The language in these two paragraphs exempt refinery gas from both state and local sales taxes, except when it is used as boiler fuel. Refinery gas, for sales tax purposes, is defined as a "by-product" gas or "waste" gas which is produced in the process of distilling crude petroleum into its refined marketable products. R.S. 47:305(D)(l)(h) also provides the formula by which the cost basis shall be computed annually for use taxation purposes. For the period of July 1, 1985 through December 31, 1985, the value shall be \$0.52 per 1,000 cubic feet, or MCF. For each succeeding calendar year thereafter, the cost basis shall be adjusted by multiplying \$0.52 by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year, and the denominator of which shall be \$29. Each annual cost basis, as computed by the Department of Revenue and Taxation, shall be the maximum value placed upon refinery gas by any local governmental taxing authority.

3. A newspaper is defined as an unbound publication appearing at regular intervals, having a second class mailing privilege, having a bona fide paid circulation to actual subscribers, publishing a substantial part of its content as news matter, and containing reports of happenings of recent occurrence of a varied character, such as political, social, moral and religious subjects and designed for the information of the general reader. This exemption for newspapers includes all printed matter that goes into the making-up of a newspaper if such printed matter is distributed with and as a part of the newspaper, including inserts. This definition does not include magazines and does not include any other printed matter, regardless by whom printed, that is not a part of and is not distributed with a newspaper. Thus, printed matter that goes into a newspaper and is distributed with it is exempt from sales tax while the same

printed matter that does not go into a newspaper or is not distributed with it is not exempt.

4. Water (but not including mineral water or carbonated water) is also exempt provided it is not placed in a container such as a jug, bottle, or carton.

E. R.S. 47:305(D) provides, in part, an exemption from state sales and use taxes upon the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state for orthotic and prosthetic devices and patient aids prescribed by physicians or licensed chiropractors for personal consumption or use. Orthotic, by definition, means a branch of mechanical and medical science that deals with the support and bracing of weak or ineffective joints or muscles, and such things as orthopedic shoes, braces, crutches, wheelchairs, surgical supports, and traction equipment are exempt from taxation, while such items as prescription eyeglasses and hearing aids are not covered by the exemption. Prosthesis, by definition, means the replacement of a missing part of the body, as a limb, eye, or tooth by an artificial substitute, and such things as artificial eyes, legs, or arms and the replacement and restoration in whole or in part of the teeth are exempt from taxation. Such dental prosthesis include but are not limited to, full dentures, fixed and removable dental prosthesis and all parts thereof, and in addition all other items associated with replacement and restoration of the teeth which by law also necessitate a prescription from the attending dentist for fabrication, while such items as toupees, braces for teeth or eyeglasses or corrective lenses are not covered by the exemption. Patient aids mean such equipment as sickroom supplies and other tangible personal property used for the convenience and comfort of the patient. In all instances, the orthotic and prosthetic devices and patient aids must be prescribed by a physician or a licensed chiropractor for personal use or consumption in order for the sale to be exempt for sales tax purposes. Further, the rental tax and sales tax for repairs to orthotic and prosthetic devices and patient aids are not exempted under R.S. 47:305(D).

F. R.S. 47:305(D) provides an exemption from state sales tax upon the sale at retail of food sold for preparation and consumption in the home as well as for some other expressed types of food sales. For this purpose, meat, fish, milk, butter, eggs, flour, sugar, bread, vegetables, fruit and their juices, canned goods, oleo, salt, spices, coffee and its substitutes, soft drinks, tea, cocoa and prod-

ucts of these items, bakery products, candy, condiments, relishes, spreads, shortening and flavoring are all considered food items. These items of food are not all inclusive, but by way of illustration and not of limitation. Alcoholic beverages, malt beverages and beer; distilled water and water in bottles and carbonated water are not considered to be food and are taxable. Ice and "dry ice" are taxable. Any of the above items which are considered to be food purchased at a grocery store for preparation and consumption in the home are exempt from taxation. Items of food sold by a grocery store in identical form and in identical eating condition as items sold from menus of restaurants, drive-ins, or other similar eating places are taxable.

1. Food sales by restaurants, snack bars and drive-ins are not covered by the exemption even though such sales are not intended for immediate consumption on the premises where sold. Sales of food items by department stores, variety stores, drug stores, etc., not prepared for immediate consumption on the premises where sold, but which is available in large quantities or pre-wrapped boxes or containers are not taxable, including by way of illustration and not limitation such items as boxes of candy, gift boxes containing only food items, fruit cakes, and various kinds of cheese or other delicacies. Sales of food items not prepared for immediate consumption on the premises where sold, but which is available in small quantities are taxable, including by way of illustration and not limitation such items as a box of popcorn, loose candy, mints, nuts and chewing gum.

2. Sales of meals furnished to the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates and patients of mental institutions; boarders of rooming houses; and occasional meals furnished in connection with or by educational, religious or medical organizations are exempt from the taxes imposed by this Chapter, provided the meals are consumed on the premises where purchased. Sales of food by any of these institutions or organizations in facilities open to outsiders or to the general public are not exempt from the taxes imposed by this Chapter, and tax should be charged on the entire gross receipts, rather than just the receipts from the outsiders or the general public.

3. Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales made by any establishment not specifically exempted elsewhere, who furnish facilities for the consumption of the food on the premises, are not exempt from the taxes imposed by this Chapter.

Facilities for the consumption of the food on the premises include not only inside facilities but outside facilities as well, including parking facilities.

4. Purchases of food items by stores, institutions and organizations mentioned previously can be purchased without payment of the advance sales tax provided the ultimate retail sale or consumption of the food is exempt from taxes imposed by this Chapter. Regardless of the type of purchaser, if a majority of the food purchased and disposed is taxable under the established rules, advance sales tax must be paid by the purchaser.

G. Drugs prescribed by a physician, dentist or other persons authorized to issue medical prescriptions for personal consumption or use are exempt for sales tax purposes. For a definition of "drugs", refer to R.S. 47:301(20). Retail establishments are authorized to allow this exemption for any retail sale thereof which is sold due to the presentation of a medical prescription authorizing such sale. Persons selling drugs, medicine or ingredients thereof to drug stores which cannot be sold at retail without the authorization of a medical prescription are deemed to be making exempt sales, and as such, the advance state sales tax should not be charged. Since hospitals and sanitariums are primarily engaged in the business of selling services supervised and directed by medical doctors, persons selling drugs, medicine or ingredients thereof to such institutions are deemed to be making exempt sales, and as such, state sales taxes should not be charged. If a hospital or sanitarium operates any divisions that sell tangible personal property to the public, such as a prescription department, then the hospital or sanitarium becomes liable for the tax upon the gross receipts or gross proceeds derived from such sales, except for drugs sold on prescriptions which are specifically exempt from taxation. For sales tax exemptions pertaining to insulin, see R.S. 47:305.2.

1. In addition to drugs, R.S. 47:305(D) provides an exemption for any and all medical devices, but only when they are used personally and exclusively by the patient, and only when the medical device is purchased by the patient on the written authority of a registered physician for use in the medical treatment of a disease. Purchases of identical medical devices by hospitals and other medical institutions, for use in administering the medical treatment to a patient would not qualify for exemption under R.S. 47:305(D)(1)(s).

2. All of the exemptions provided by R.S. 47:305(D), except for the exemptions on food and drugs,

orthotic and prosthetic devices and patient aids prescribed by physicians, dentists, or licensed chiropractors for personal consumption or use apply to the taxes imposed by both the state and its political subdivisions. The exemptions for food and drugs, orthotic and prosthetic devices and patient aids prescribed by physicians, dentists, or licensed chiropractors apply only to the sales taxes imposed by the state of Louisiana and do not apply to taxes imposed by any political subdivision.

H. R.S. 47:305(D)(1)(i) provides, in part, an exemption from sales and use taxes for new automobiles and new aircraft withdrawn from stock by factory authorized new automobile and new aircraft dealers, with the approval of the secretary and titled in the dealers' name for use as demonstrators. There are several restrictions involved in this particular exemption: first, the dealer must be a factory authorized new automobile or aircraft dealer; second, the car or plane withdrawn from stock must be a new automobile or aircraft; and third, the car or plane must be titled in the dealer's name for use solely as a demonstrator. In order to qualify as a demonstrator, the units can be driven or flown only by personnel attached to the respective dealership or by a prospective customer accompanied or supervised by personnel from the respective dealership. The car or plane cannot be used by members of the family of dealership personnel nor can the units be used to run errands or for pleasure purposes. The term demonstrators will be construed in its narrowest sense and is limited to use of the property for display of its qualities to prospective customers. Only a very limited use by authorized dealer personnel is permissible in accordance with the provisions of R.S. 47:305(H). Approval of the secretary is required in titling the car as a demonstrator. Writing of the word demonstrator across the face of the license application will be accepted as sufficient request for approval and issuance of the license by the secretary on an application bearing such notation will constitute full approval by the secretary. Since new aircraft are titled in the name of the dealership upon purchase, a request for and approval of the unit as a demonstrator will be granted provided the dealership dates and signs the bill of sale and retains it in his possession for verification by Department of Revenue and Taxation personnel. If any misuse of the demonstrator is detected subsequent to approval of the unit as a demonstrator, the transaction immediately becomes taxable, and the dealer will be held responsible for the tax due thereon.

I. R.S. 47:305(E) makes it clear that the taxes imposed under this Chapter do not apply to tan-

gible personal property manufactured or produced in this state or imported in this state for export outside the state. The exemption applies solely to the property for export and does not apply to tangible personal property used, consumed, or expended in the manufacturing process, unless the conditions for exemption set forth in R.S. 47:301(10) are met. Neither does this Chapter levy a tax on bona fide interstate commerce. Interstate commerce is construed to mean trading or commerce between a point in one state to a point in another state and does not include commerce between a point in Louisiana and a point offshore in the Gulf of Mexico which is not within another state even though the point is not within the state of Louisiana. In addition, it has been provided that when property comes to rest in this state and has become a part of the mass of the property in this state, it is no longer involved in interstate commerce and its sale, use, consumption, distribution or storage for use here will be taxable. Specific pieces of property which have been clearly labeled for trans-shipment outside the state of Louisiana at the time of its manufacture or importation into the state would meet the exemption requirements even though it may be stored for an indefinite period of time. Any disposition of the property for a purpose contrary to that originally intended would immediately subject the property to the tax.

J. R.S. 47:305(F) exempts materials and the use of film, video or audio tapes, records, and any other means of exhibition or broadcast, supplied by licensors to radio and television broadcasters from the taxes imposed by this Chapter. The exemption applies to amounts paid for the right to exhibit or broadcast copyrighted material and to the use of other materials supplied by licensors but does not apply to film, tapes, or records purchased outright by the broadcaster and retained in his private library. The exemption from the sales and use tax is further extended to apply to licensors or distributors of such material. This exemption, however, does not apply to the lease tax which might be due by licensors or distributors in cases where they lease the material from the owner or producer thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.1. Exclusions and exemptions; ships and ships' supplies

A. The tax imposed by R.S. 47:302(A)(1), 321(A)(1), and 331(A)(1) shall not apply to 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 nor to the gross proceeds from the sale of such ships, vessels, or barges when sold by the builder thereof.

B. The taxes imposed by R.S. 47:302 and R.S. 47:321 shall not apply to materials and supplies purchased by the 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; nor to repair services performed upon ships 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 or vessels; nor to 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.

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 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, as defined in this Subsection.

(2) The term “foreign or interstate coastwise commerce” shall not include intrastate commerce, which, for purposes of this Section, shall mean 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” as defined in this Section.

(3) For purposes of this Section, the term “component part” or “component parts” shall mean and include 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 (collectively referred to in this Section as “vessel” or “vessels”) during either (i) the construction of such vessel in the case of the exemption provided in Subsection A of this Section, or (ii) the repair of such vessel in the case of the exemption provided for in Subsection B of this Section;

(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.

(4) For purposes of this Section and except with respect to any gaming equipment, as defined in R.S. 27:44(12), 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.

(5) The provisions of Paragraph (3) of this Subsection shall not apply to any gaming equipment as defined in R.S. 27:44(12).

D. The exemption from the state sales tax provided in this Section shall be applicable to any sales tax levied by a local governmental subdivision or school board.

Added by Acts 1959, No. 51, § 1. Amended by Acts 1976, No. 554, § 1, eff. Jan. 1, 1977; Acts 1982, No. 56, § 1, eff. July 10, 1982; Acts 1985, No. 762, § 1, eff. Sept. 1, 1985; Acts 2002, No. 40, § 1, eff. June 25, 2002; Acts 2002, No. 41, § 1, eff. June 25, 2002. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4403. Ships and Ships' Supplies

A. R.S. 47:305.1 specifically provides for an exemption from the sales tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) to the following transactions:

1. the sales, by a builder thereof, of a ship, vessel or barge, including commercial fishing vessels, drilling ships, and drilling barges, of 50 tons load displacement and over if built in Louisiana;

2. the sale of materials, equipment and machinery which enter into and become component parts of the ship, vessels or barges described above provided the seller thereof obtains an exemption certificate, Form LGST 51-A, as hereinafter provided for. This provision applies to materials, equipment and machinery which are incorporated into the initial construction of the ship, vessel or barge; or are incorporated into the reconstruction of a ship, vessel or barge to:

a. modify the craft's function, such as conversion of a deck barge to a crane barge; or

b. restore the craft to seaworthiness following its destruction caused by either sinking, collision, or fire. Materials, machinery and equipment sold to the owner of a ship, vessel or barge to repair or replace worn components are not exempt under this Subsection A.

B. The various taxes imposed by this Chapter shall not apply to the following transactions provided an

exemption certificate, Form LGST 51-B, is obtained as hereinafter provided for:

1. the sale of materials and supplies to the owner or operator of a ship or vessel operating exclusively in foreign or interstate coastwise commerce where such materials or supplies are loaded upon the ship or vessel for use or consumption in the maintenance or operation thereof. In order for the exemption to be recognized, actual delivery of the merchandise to dockside will be sufficient indication to the vendor that the merchandise will be loaded upon the ship or vessel;

2. repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce, and the sale of materials and supplies used in such repairs if the materials and supplies enter into and become component parts of such ships and vessels. The exemption will still apply in instances where it is necessary to perform the repair services away from the ship or vessel;

3. laundry services performed for the owner or operator of ships or vessels operating exclusively in foreign or interstate coastwise commerce where the laundered articles are to be used in the course of operation of such ships or vessels;

4. persons claiming exemption under this regulation shall secure certificates of exemption from their purchasers and shall retain them on file together with a copy of the sales invoice which shall be exhibited to the secretary upon request;

5. since not all shipping companies maintain an office in the state of Louisiana nor do all the owners of vessels reside in the state of Louisiana, the secretary will recognize an exemption certificate signed by an authorized agent purchasing tangible personal property for use or consumption in the operation of the vessel;

6. ships and vessels operating exclusively in foreign or interstate coastwise commerce, arriving in Louisiana without an authorized agent in this state may make purchases of tangible personal property for use and maintenance in the operation of the vessel without having to pay the Louisiana sales tax upon the presentation of an exemption certificate by the master of the vessel. The certificate must show the name of the vessel, the home port, and be signed by the master.

C. For the purposes of this regulation the following words, terms and phrases shall have the meaning ascribed to them in this Section.

Commerce—the transporting of goods or persons by ship or vessel.

Exclusive Use in Foreign or Interstate Coastwise Commerce—the sole and unbroken operation of a ship, vessel or barge including commercial fishing vessels, in foreign or interstate coastwise commerce for the period of a calendar month.

Fifty Tons Load Displacement—the weight of the volume of water displaced by a ship or vessel when fully loaded.

Foreign Commerce—commerce as defined herein from a point in a state to a point in a foreign state.

Interstate Coastwise Commerce—commerce as defined herein from a point in one state to a point in another state. Commerce from a point in the state of Louisiana to an offshore area is not considered to be interstate commerce within the meaning of these regulations.

Owner or Operator—any person who has title to or possession of or control over the operation of any ship or vessel as defined herein.

Ship, Barge, or Vessel—any craft used primarily in transporting persons or property by water, or any craft designed or altered to perform specialized marine-related services, such as dredging, fleet-ing, geological surveying, cargo transferring, and which possesses all of the following characteristics:

a. the craft performs its services in navigable waters; and

b. the craft is capable of being moved by floatation from one location to another in navigable waters; and

c. the craft is eligible for registration as a vessel with the United States Coast Guard, or is in fact registered as such.

Ships' Supplies and Materials—all tangible personal property purchased for the maintenance and operation of the ship or vessel and its crew.

D. Any dealer, manufacturer or fabricator who fraudulently or negligently fails to comply strictly with the rules and regulations herein set forth, shall lose the exemption provided under this Section, and shall be liable for the taxes involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.2. Exclusions and exemptions; insulin, prescription and nonprescription

The tax imposed by R.S. 47:302(A) and R.S. 47:321 shall not apply to the sale at retail, the use, the consumption, the distribution, and the storage of insulin, both prescription and nonprescription to be used or consumed in this state, for personal use or consumption; provided, however, that this exemption shall apply only to sales taxes imposed by the State of Louisiana and shall not apply to such taxes authorized and imposed by any school board, municipality, or other local taxing authority notwithstanding any other provision of law to the contrary, specifically but not exclusively R.S. 33:2716.1.1.

Added by Acts 1974, No. 183, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.3. Exclusions and exemptions; seeds used in planting of crops

The tax imposed by R.S. 47:302(A)(1) shall not apply to the sale at retail of seeds for use in the planting of any kind of crops. The collector shall promulgate rules and regulations designed to carry out the provisions of this Section, and any transaction not strictly in compliance with such rules and regulations shall lose the exemption herein provided.

Added by Acts 1960, No. 427, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4404. Seeds Used in Planting of Crops

A. The sale at retail of seeds for use in the planting of any kind of crops is specifically exempt from the taxes imposed by this Chapter. Crops are construed to mean the planting of a sufficient quantity of seed to result in a harvest of recognizable commercial value depending upon the product being planted. It is not intended to cover the plant-

ing of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the planter is engaged in the business of harvesting those plants and selling them in the commercial market. As an example, seeds used in planting grasses which will be harvested and sold would constitute seeds used in the planting of crops. Seeds such as alligator grass or millet planted in ponds used for the production of crawfish would also come within this exemption because the planted crop will be consumed or harvested by the crawfish which will be sold commercially by the farm operator. To the contrary, various grass seeds used to plant ponds to provide food and promote the growth of fish contained in the pond primarily for recreational purposes would not come within this exemption. If the pond is converted to the commercial production of fish, any seeds used for the promotion or health of the commercial fish crop would come within the exemption.

B. It is not necessary that the farm operation result in a net profit or that a given acreage of any particular crop be planted. The only requirement is that the planting be of sufficient quantity to be construed as a crop.

C. Any dealer selling seeds at retail for use in the planting of crops must be able to identify the customer to whom the seeds were sold and must know of his own personal knowledge that the purchaser was engaged in an activity which would make the seeds exempt under these provisions or in the alternative, he must have a signed statement from the purchaser to that effect. If the dealer is unable to identify the purchaser and cannot support the fact that the seeds were sold for the planting of crops as intended herein, he will be held liable for the tax on the sales.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.3.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.4. Repealed by Acts 1985, No. 631, § 2, eff. July 16, 1985.

R.S. 47:305.5. Exclusions and exemptions; materials and supplies used in the construction of the Toledo Bend Dam Project

The sales and use taxes imposed by the state of Louisiana or any such taxes imposed by any parish or municipality within the state shall not apply to or be collected on any materials, supplies or products for use in connection with any phase of the construction of the Toledo Bend Dam Project on the Sabine River. The collector of revenue shall promulgate rules and regulations designed to carry out the provisions of this Section, and any transactions not strictly in compliance with such rules and regulations shall lose the exemption herein provided.

Added by Acts 1962, No. 156, §1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4405. Materials and Supplies Used in the Construction of the Toledo Bend Dam Project

This Section [R.S. 47:305.5] specifically exempts from the sales and use taxes imposed by the state of Louisiana under this Chapter, and any such taxes imposed by any parish or municipality, any materials, supplies, or products to be used in connection with any phase of construction of the Toledo Bend Dam project. Prior to commencement of construction on the Toledo Bend Dam project, it was necessary to secure approval of the Federal Power Commission for the entire project. Pursuant to that requirement, the Louisiana Department of Public Works submitted to the Federal Power Commission a complete plan including all phases of the project. This plan included not only the reservoir and the dam itself but also recreational areas and access roads thereto. This Section grants exemption from the sales and use tax for any materials, supplies, or products used in the Toledo Bend Dam project, but is limited to those phases of construction which are clearly a part of the plan submitted to and approved by the Federal Power Commission. Any vendor or user claiming the exemption under this Section must be able to support his contention that the materials were used in construction under the approved plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.5.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.6. Exclusions and exemptions; Little Theater tickets

The sales tax imposed by R.S. 47:302 shall not apply to the sale of admission tickets by Little Theater organizations.

Added by Acts 1962, No. 226, §1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4406. Little Theater Tickets

A. The exemption provided by R.S. 47:305.6 excludes from imposition of the taxes imposed by this Chapter the sale of admission tickets by little theater organizations. This exemption has been construed to cover the sale of tickets by any non-profit organization whose sole purpose is the presentation of stage productions by nonprofessional actors and the advancement of amateur acting. The exemption extends to all such organizations whether they are officially known by the name little theater or by some other appropriate designation.

B. In order to meet this exemption, the sale of tickets must be made by the organization conducting the presentation. The exemption does not extend to the sale of tickets by promoters who are expected to profit from the endeavor, even though the performance may be staged by personnel associated with a little theater organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.6.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.7. Exclusions and exemptions; tickets to musical performances of nonprofit musical organizations

The sales tax imposed by R.S. 47:302 shall not apply to the sale of admission tickets by domestic

nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances; provided that this Section shall not apply to performances given by out-of-state or nonresident symphony companies, nor shall this Section apply to any performance intended to yield a profit to the promoters thereof.

Added by Acts 1963, No. 124, §1. Amended by Acts 1964, No. 198, § 1; Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4407. Tickets to Musical Performances of Nonprofit Musical Organizations

A. R.S. 47:305.7 specifically exempts the sale of admission tickets by Louisiana nonprofit corporations or organizations engaged in the presentation of musical performances, or who are known as symphony organizations, from the taxes imposed by this Chapter. The exemption covers only sales of tickets made by corporations or organizations established within Louisiana and does not apply to the sales of tickets within this state which might be made by similar organizations or companies from outside of the state. The exemption does not apply to the sales of tickets by a domestic corporation or organization if the performance will be presented by a symphony group from outside of the state.

B. The exemption provided by this Section does not apply to performances intended to yield a profit to the promoters of the event regardless of the domicile of the performers. Neither does this exemption apply to the sales of tickets by domestic nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances if the event being staged is not directly related to the primary purpose of those organizations. As an example, tickets sold by symphony organizations to an athletic event would not qualify for the exemption provided by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.7.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.8. Exclusions and exemptions; pesticides used for agricultural purposes

The tax imposed by R.S. 47:302(A) shall not apply to sale at retail of pesticides used for agricultural purposes, including particularly but not by way of limitation, insecticides, herbicides and fungicides.

Added by Acts 1964, No. 79, §1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4408. Pesticides Used for Agricultural Purposes

A. General. R.S. 47:305.8 provides an exemption from the taxes imposed by this Chapter for the sale at retail of pesticides used for agricultural purposes, including particularly, but not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. Definitions

Agricultural Purposes—any purpose directly connected with the operation of any farm, including poultry, fish, and crawfish farms, ranch, orchard or any other operation by which products are grown on the land in sufficient quantity to constitute a commercial operation. The exemption is not intended to cover the sale of pesticides for use in private family vegetable gardens or in protecting ornamental plants used for landscape purposes.

Pesticides—include any preparation useful in the control of insects, plant life, fungus, or any other pests detrimental to agricultural crops, including the control of animal pests that meets the definition of a pesticide in accordance with the Department of Agriculture and Forestry of the state of Louisiana under R.S. 3:3202. Qualifying pesticides must be registered with the U.S. Environmental Protection Agency (EPA) and the Louisiana Department of Agriculture and Forestry or any other appropriate governmental agency and must carry a valid EPA FIFRA (Federal Insecticide, Fungicide, and Rodenticide Act) number issued by the U.S. Environmental Protection Agency or a special label number assigned by the Louisiana Department of Agriculture and Forestry. The exemption also includes any solution mixed with a qualifying pesticide to allow for the proper distribution and application of the pesticide, including but not limited to crop oils,

surfactants, adjuvants, emulsions, soaps, and drift agents.

C. Dealer Requirements. The dealer who fails to collect sales tax on the sale of pesticides covered by this Section must be able to show that they were used for legitimate commercial agricultural purposes as defined herein. The dealer must also be able to fully identify any purchaser from whom the tax was not collected. In the absence of this information, the dealer will be liable for the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995).

R.S. 47:305.9. Exclusions and exemptions; motion picture film rental

The sales and use taxes imposed by the State of Louisiana or any such taxes imposed by any parish or municipality within the state shall not apply to the amount paid by the operator of a motion picture theatre to a distributing agency for use of films of photoplay.

Added by Acts 1964, No. 27, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4409. Motion Picture Film Rental

A. R.S. 47:305.9 provides a very limited exemption to the operators of motion picture theaters wherein the amount paid by operators to distributing agencies for the use of film are specifically exempted from the sales and use taxes imposed by this Chapter. Note that film is the only item covered by the exemption. Distributing agencies and suppliers for motion picture theaters are required to collect taxes on any other supplies or materials furnished to operators. Theaters are required to collect the tax on admissions.

B. Any distributing agent who fails to collect the tax imposed by this Chapter because of the exemption provided in this Section must be able to identify the motion picture theater operators to whom films

were furnished. Failure of the distribution agency to maintain a complete record of transactions for which no taxes were collected can result in the dealer being held responsible for the tax.

C. In some cases, agreements between film distributors and theater operators may not be leases or rentals. Section 4301 defines lease or rental and provides exceptions to the definition of lease or rental.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.9.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996).

R.S. 47:305.10. Exclusions and exemptions; property purchase for first use outside the state

A. There shall be no sales or use tax due upon the sale at retail or use of tangible personal property, including diesel fuel, purchased within or imported into Louisiana for first use exclusively beyond the territorial limits of Louisiana as specifically provided hereinafter in this Section.

B. If the first use of tangible personal property purchased within or imported into Louisiana for first use beyond the territorial limits of the state occurs in a state which imposes a sales or use tax, the exemption provided herein shall apply only if:

- (1) The purchaser is properly registered for sales and use tax purposes in the state of use and regularly reports and pays sales and use tax in such other state; and
- (2) The state in which the first use occurs grants on a reciprocal basis a similar exemption on purchases within that state for use in Louisiana; and
- (3) The purchaser obtains from the secretary of the Department of Revenue a certificate authorizing him to make the nontaxable purchases authorized under this Subsection; or
- (4) The property is subject to registration as a motor boat subject to registration by the state of

Louisiana and such property is not registered for use in this state.

C. If the first use of tangible personal property purchased within or imported into Louisiana occurs offshore beyond the territorial limits of any state, the exemption provided herein shall apply only if:

(1) The purchaser or importer has determined the location of the first use of the tangible personal property at the time of its purchase and has notified the vendor of that location; or

(2) The purchaser or importer has not determined the intended offshore location of first use at the time of purchase or importation, but has obtained from the secretary of the Department of Revenue an “offshore registration number” authorizing him to claim the exemption under the conditions provided in this Paragraph:

(a) Said offshore registration number shall be issued only if the purchaser or importer has shown, to the satisfaction of the secretary, that records, reports, and business practices are sufficient to permit verification that tangible personal property purchased or imported tax-free under this Subsection is, in fact, being purchased or imported for use offshore beyond the territorial limits of any state. In cases of purchases of fungible goods, including vessel fuel and lubricants, the required records shall include purchase invoices, vessel logs, fuel usage records, fuel transfer records and other reports and records that will enable the secretary to determine the amount of fungible goods consumed within Louisiana so as to be subject to the sales and use tax, and the amount of fungible goods delivered to or consumed at offshore locations beyond the territorial limits of the state, so as not to be subject to the sales and use tax. For the purpose of the Section, the term “fungible goods” means goods of which any unit is unidentifiable and is, from its nature or by mercantile custom, treated as the equivalent of any other unit and shall include crude petroleum and its refined products.

(b) The offshore registration number issued by the secretary under this Subsection may be revoked by the secretary at any time if the purchaser or importer fails to meet the conditions set herein, or if the secretary finds that the purchaser or importer is consistently using the certificate to purchase or import tax-free tangible personal property for first use in state.

(c) If the offshore registration number is revoked, all tangible personal property purchased or imported tax-free under this Paragraph and in the possession of the purchaser or importer within this state shall be deemed taxable unless otherwise exempt under the provisions of Paragraph (1) of this Subsection. If the provisions of Paragraph (1) of this Subsection are not complied with, any subsequent purchase or import of tangible personal property will be taxable, whether for in-state or offshore use, until the certificate and offshore number are reissued.

(d) Whenever there is a conflict between a purchaser or importer and the secretary as to whether an offshore registration number shall be issued, reissued, or revoked, it shall be the responsibility of the purchaser or importer to show that he meets the conditions and requirements set herein for having and retaining said certificate and offshore registration number.

(3) Except for purchases or importation of tangible personal property in accordance with Paragraphs (1) and (2) of this Subsection, any purchase or importation of property is taxable at the time of purchase or import unless otherwise exempt.

D. If tangible personal property purchased or imported tax-free under the provisions of this Section is subsequently used for any taxable purpose within the state, use tax shall be paid by the purchaser or importer as of the time of its use in this state. Storage of property purchased or imported tax-free under this Section which is ultimately used in another state will be considered a “subsequent use for a taxable purpose”.

E. If tangible personal property purchased within or imported into the state tax-free under the provisions of this Section is later returned to Louisiana for use for a taxable purpose, the property shall be subject to the Louisiana use tax as of the time it is brought into the state, subject to the credit provided in R.S. 47:303(A).

F. “Use for a taxable purpose” shall not include, for purposes of this Section, transportation beyond the territorial limits of the state; transportation back into the state; and repairing, modifying, further fabrication, and storing for first use offshore beyond the territorial limits of any state. Storage and withdrawal from storage for first use offshore beyond the territorial limits of any state is not a taxable use for purposes of this Section. Charges for repairs in Louisiana to tangible per-

sonal property for use in offshore areas are taxable.

G. If fungible goods are purchased or imported tax-free for use or consumption at locations both within Louisiana and offshore beyond the territorial limits of any state, under the exemption certificate and offshore registration number provided for in this Section, only that portion of the fungible goods delivered to a location offshore beyond the territorial limits of any state and used or consumed at that location shall be exempt. For the purpose of this Section, the term “fungible goods” means goods of which any unit is unidentifiable and is, from its nature or by mercantile custom, treated as the equivalent of any other unit and shall include crude petroleum and its refined products.

H. The secretary of the Department of Revenue shall promulgate rules and regulations necessary for the implementation of this Section.

I. The exemptions from the state sales and use tax provided in this Section shall be applicable to any sales and use tax levied by a local political subdivision or school board.

Added by Acts 1964, No. 172, § 1. Amended by Acts 1985, No. 631, § 1, eff. July 16, 1985; Acts 1997, No. 658, § 2. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4410. Property Purchased for First Use Outside the State

A. R.S. 47:305.10 provides an exemption from the taxes levied under this Chapter by the state or any political subdivision of the state, or any school board, for the purchase or importation of tangible personal property in Louisiana for first use beyond the territorial taxing jurisdiction of this state. This Section provides an exemption for purchases and importations in two categories of first use: first use in another state; and first use in the offshore area beyond the borders of Louisiana or any other state.

B. Purchases or importations of tangible personal property for first use in another state for which an exemption is claimed under the provisions of this Section may be accomplished by the use of an exemption certificate LGST 9-D, entitled “Foreign Purchasers.” The transaction must meet the following requirements before the exemption will be allowed:

1. the purchaser is properly registered for sales and use tax in the state of use and regularly reports and remits the taxes due in such state; and

2. the state in which first use occurs grants on a reciprocal basis a similar exemption on purchases within that state for first use in Louisiana; and

3. either §4410.B.3.a or b must be met in addition to requirements §4410.B.1 and 2:

a. the purchaser obtains a written authorization from the secretary of the Department of Revenue and Taxation to make the tax-exempt purchase; or

b. the property being purchased is a craft which would ordinarily be subject to registration by the state of Louisiana as a motor boat, but is not in fact registered for use in Louisiana.

C. Foreign nations and the territorial waters of foreign nations are not considered to be another state for purposes of this Section.

D. Tangible personal property imported for use outside the state of Louisiana may still be imported tax-free under R.S. 47:305(E) if the requirements specified in §4401 are met. Under that provision, specific pieces of property which have been clearly labeled for trans-shipment outside the state of Louisiana at the time of their importation into the state are exempt without the necessity for meeting the above guidelines.

E. Purchases or importations of tangible personal property for use in the offshore area of Louisiana or that of any other state, for which an exemption is claimed under the provisions of this Section, may be accomplished by use of either one of two exemption certificates, LGST 9-D or LGST 9-O/S, depending on the following conditions:

1. if the exact location (area name, block number, lease number) of first use of the property is known at the time of purchase, the purchaser must claim exemption to the vendor by properly completing an exemption certificate LGST 9-D;

2. if the exact location of first use of the property is not known at the time of purchase, and the purchaser has been assigned an “offshore registration number” by the secretary of Revenue and Taxation, then the purchaser may claim the exemption by completing an exemption certificate LGST 9-O/S and presenting it to the vendor. All accounting records of importations and purchases made through the use of this certificate will be

maintained in such a manner so as to accurately account for tax-free and tax-paid inventories until they are withdrawn for use. Physical segregation of tax-free inventory is not required. In the case of fungible goods, such as diesel fuel, where usage occurs continuously in travel in and out of the offshore area, exemption certificate LGST 9 O/S may be used to make tax-free purchases of such goods in their entirety. At the end of each reporting period, the purchaser will determine that portion of the fungible goods which was actually consumed within any taxing jurisdiction and make the necessary accrual entries to record the proper tax due;

3. the LGST 9-O/S certificate may only be used by purchasers who have been granted the "offshore registration number", and unauthorized use of the certificate is forbidden. An "offshore registration number" will be evidenced by the word "OFFSHORE" appearing above the account number on the purchaser's registration certificate, and the purchaser will be required to enter this complete registration number on the LGST 9-O/S when making tax-free purchases for first use offshore. Vendors should exercise tenable judgement in accepting the LGST 9-O/S exemption certificate in lieu of the sales tax. Vendors should also ensure that all required information appears on the face of the certificate;

4. an offshore registration number will be issued only to dealers who have demonstrated to the secretary of Revenue and Taxation that the nature of their business is such that consumption of tangible personal property occurs in the offshore area beyond the territorial limits of Louisiana, or that of other states or foreign nations. It must also be shown to the satisfaction of the secretary that the records maintained by the purchaser are adequate to facilitate an examination and that they document the location of first use of all tangible personal property purchased tax-free under the provisions of this Section. In the case of fungible goods, such as diesel fuel, which are purchased tax-free, the purchaser must retain, and make available for examination, all purchase invoices, vessel logs, fuel usage records, fuel transfer records, and all other pertinent information which will determine the portion which has been consumed in and/or delivered to, offshore locations, and the portion which has been consumed in, and/or delivered to, locations within the taxing jurisdiction of any state or foreign nation. Timely returns must be filed, along with the proper remittance, to report the taxes due on all withdrawals from nontax-paid inventory for taxable uses. The following shall be taxable uses:

a. withdrawal from nontax-paid inventory for first use within the territorial limits of Louisiana or that of any other state. The use tax cost basis shall be original acquisition cost;

b. withdrawal from nontax-paid inventory for first use in a foreign nation or its territorial waters. The use tax cost basis shall be the original acquisition cost;

c. withdrawal from nontax-paid inventory for sale, exchange, trade, or barter under any circumstances. The sale will be regarded as a casual sale under the provisions of R.S. 47:301(10), and a use tax will be due at the time of such withdrawal on one of the following bases:

i. in the case of property never previously used, the use tax basis will be original acquisition cost;

ii. in the case of property which has previously been used in the offshore area and subsequently returned to storage in the offshore inventory, the use tax basis will be the lesser of original acquisition cost or reasonable market value at the time of the withdrawal;

d. the subsequent return of property, following its first use in the offshore area, to a location within the territorial limits of Louisiana for a taxable use at that location. Such a use would subject the property to a use tax based on the lesser of acquisition cost or reasonable market value at the time of its return to the location of use within Louisiana. The return of property into the state for the purpose of repairing, modifying, further fabrication, or for return to the offshore inventory will not be regarded as taxable uses. Property returning from offshore locations for repairs retains its exempt status for use tax purposes, but the repair charges are taxable in accordance with R.S. 47:301(14)(g);

e. the use of that portion of fungible goods that is determined to have been consumed within the territorial limits of Louisiana or that of any other state or any foreign nation.

F. R.S. 47:305.10 makes it clear that the aforementioned records shall be maintained by the purchaser or importer, and shall be made available for examination by agents of the secretary. It also provides that the offshore registration number issued under the provisions of this Section may be revoked by the secretary at any time, if the purchaser misuses the exemption to make tax-exempt purchases of property for first use in the state, or if he fails to maintain adequate records, or fails to

report and remit any tax which becomes due under this Section. In case of such a revocation, all tangible personal property which is stored in an offshore inventory site will immediately become taxable, unless the purchaser is able to identify the exact location (area name, block number, lease number) of first use of the property. Thereafter, and until the offshore registration status is reinstated, tax-free purchases may be made only in instances when the exact location of first use is known at the time of purchase, and a certificate form LGST 9-D is presented to the vendor. The offshore registration number may be reinstated at the discretion of the secretary of Revenue and Taxation, upon being provided with sufficient proof that the conditions and requirements of this Section will be adhered to by the purchaser. The burden for supplying proof of eligibility shall rest with the purchaser/importer at all times, whether the request is for initial registration or for reinstatement of a revoked registration.

G. This Section provides an exemption from the sales and use tax on tangible personal property purchased in or imported into Louisiana under the circumstances described. All other purchases and importations of property shall be subject to the taxes levied by the state and its political subdivisions in accordance with R.S. 47:302(A), 47:321(A), and 47:331(A), at the time of such purchase or importation, unless otherwise exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.10.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:108 (February 1987).

R.S. 47:305.11. Exclusions and exemptions; contracts prior to and within ninety days of tax levy

A. No new or additional sales or use tax shall be applicable to sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of the statute or ordinance levying same or to sales or services involved in such contracts entered into and reduced to writing within ninety days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales taxes at the

rates effective and existing prior to such effective date.

B. This section shall apply to sales and use taxes now or hereafter levied by the State of Louisiana or by any parish, municipality or other political subdivision thereof, whether such levy is under authority of general or special laws of the state or under powers granted in local charters or under any other authority or grant of the power to levy and collect sales or use taxes.

Added by Acts 1970, No. 7, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4411. Contracts Prior to and Within 90 Days of Tax Levy

A. R.S. 47:305.11 relieves a party to a construction contract from the burden of added sales or use tax imposed by either the state of Louisiana, any parish, municipality, or other political subdivision thereof on the sales of materials or services involved in either lump-sum or unit price contracts after the contractor has made himself liable for performance and completion of a contract which did not provide for new or additional taxes. The exemption from new taxes applies only to lump-sum or unit price contracts and does not apply to contracts entered into on a cost plus or fixed fee basis. It is also required that the contracts must have been entered into prior to the effective date of the statute or ordinance levying the new tax. The exemption does apply to sales and services involved in a contract reduced to writing within 90 days after the effective date of a statute levying a new tax, but only if the contractor had a contractual obligation entered into prior to the effective date. The 90-day period is intended to cover a situation where a contractor has computed and bid a contract on the basis of existing taxes prior to the effective date of the new tax but where awarding of the contract and formal signing thereof did not take place prior to the effective date, but within 90 days after the effective date of the new tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.11.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.12. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

LAC 61:I.4412. Fire Fighting Equipment Purchased by Bona Fide Organized Public Volunteer Fire Departments

A. R.S. 47:305.12 grants an exemption from the taxes imposed by this Chapter and from any similar taxes imposed by any political subdivision of the state of Louisiana for any equipment used by bona fide organized public volunteer fire departments in fire fighting. This exemption has been interpreted to apply not only to the implements actually used in fighting fire but also to all necessary firehouse equipment and special apparel used in fighting fires. By way of illustration, communications equipment, rubber suits, boots, and helmets worn by volunteers, axes, ladders, and buckets, and the furnishings of a firehouse necessary for its operation, including bedding and cooking facilities, meet the exemption provided by this Section. Items intended solely for the entertainment or recreation of volunteer firemen are not exempted by this Section. Neither are foods or services furnished to a firehouse exempted.

B. Any dealer failing to collect sales tax because of exemptions granted by this Section must be able to identify the specific equipment and the organization to whom sold.

C. Note that sales of fire fighting equipment to established municipal fire departments are not covered by this exemption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.12.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.13. Exclusions and exemptions; admissions to entertainments furnished by certain domestic nonprofit corporations

The sales tax imposed by R.S. 47:302 shall not apply to the sale of admissions to entertainment events furnished by recognized domestic non-

profit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.

Added by Acts 1971, No. 125, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4413. Admissions to Entertainment Furnished by Certain Domestic Nonprofit Corporations

A. This Section [R.S. 47:305.13] grants a limited exemption to organizations created under the laws of the state of Louisiana as nonprofit, charitable, educational, or religious organizations from the taxes imposed by this Chapter on the sale of admissions to entertainment events. Such sales of admissions are exempt only when the entire proceeds, with the exception of necessary expenses connected with the event, are used for the purpose for which the organization was formed. The requirement that the entire proceeds from the sales of tickets, except for necessary expenses, must be used for the purpose for which the organization was formed eliminates from exempt status any event where payment has been made to a promoter or promotional firm for engaging the services of persons not directly connected with the sponsoring organization.

B. Only sales of admissions made by recognized domestic nonprofit, charitable, educational, or religious organizations are exempt under this Section. In order to meet the nonprofit requirement, an organization or corporation must have no provision for making of dividends or payments of any profits to any organizers or stockholders and none of the income may inure to the benefit of any private shareholder or individual. In order to qualify as a charitable organization, it must freely and voluntarily minister to the physical needs of those unable to help themselves, or promote the welfare of mankind at large, or of a community, or of some class from a part of a community, or be one which would not deny assistance to persons unable to pay even though it may charge for assistance to those who are able to pay. An educational institution is construed to mean a school, seminary, college, or other institution having an instructional staff and a curriculum designed to cultivate the mental, moral, religious, or physical facilities of those whom it seeks to educate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.13.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption; limitations; qualification; newspapers; determination of tax exempt status

A.(1) The sales and use taxes imposed by R.S. 47:302 and 331 shall not apply to sales of tangible personal property at, or admission charges for, outside gate admissions to, or parking fees associated with, events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expense connected therewith, are used for educational, charitable, religious, or historical restoration purposes, including the furtherance of the civic, educational, historical, charitable, fraternal, or religious purpose of the organization. In addition, newspapers published in this state by religious organizations shall also be exempt from such taxes, provided that the price paid for the newspaper or a subscription to the newspaper does not exceed the cost to publish such newspaper.

(2) The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event.

(3) This Section shall not be construed to exempt any organization or activity from the payment of sales or use taxes otherwise required by law to be made on purchases made by these organizations.

(4) This Section shall not be construed to exempt regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets, and similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants. However, the exemption provided in this Section shall apply to thrift shops located on military installations, the operation of which is deemed to be an "event" for purposes of this exemption.

(5) Notwithstanding any other provision of law to the contrary, for purposes of state and political subdivision sales and use tax, "sales and use" shall not mean the purchase of tangible personal property or taxable services, by nonprofit literacy organizations in compliance with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, limited to books, workbooks, computers, computer software, films, videos and audio tapes.

B. This sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsorship will not be genuine in any case in which exemption from taxation is a major consideration leading to such sponsorship.

C. An exemption certificate must be obtained from the collector of revenue, under such regulations as he shall prescribe, in order for nonprofit organizations to qualify for the exemption provided in this section.

In the event the collector of revenue denies tax exempt status under this section, the organization may appeal such ruling to the Louisiana Board of Tax Appeals, which may overrule the collector of revenue and grant tax exempt status if the Louisiana Board of Tax Appeals determines that the denial of tax exempt status by the collector of revenue was arbitrary, capricious or unreasonable. Provided however, that any organization which endorses any candidate for political office or otherwise is involved in political activities shall not be eligible for the exemption herein provided.

D. Notwithstanding any other provision of law to the contrary, the proper venue in any proceeding to determine the tax exempt status under the provisions of this Section shall be the parish in which the activity for which the tax exempt status is claimed took place, or any parish in which the taxpayer has a corporate presence, to be determined at the discretion of the taxpayer.

Added by Acts 1973, No. 89, § 1. Amended by Acts 1974, No. 710, § 1; Acts 1991, No. 533, § 1, eff. July 15, 1991; Acts 1991, No. 930, § 1, eff. July 1, 1991; Acts 1994, No. 22, § 1, eff. June 7, 1994; Acts 1994, No. 39, § 1; Acts 1997, No. 627, § 1, eff. July 3, 1997; Acts 2002, No. 27, § 1, eff. July 1, 2002.

LAC 61:I.4418. Nonprofit Organizations; Nature of Exemption; Limitations; Qualifications

A. General. Events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit are exempt from the sales or use tax for these events, on the condition that the proceeds from these events, less applicable expenses, are used for the furtherance of the purpose for which the organization was formed.

1. This exemption applies to sales of tangible personal property, admission charges, outside gate admission charges, and parking fees.

2. The organization must apply for the exemption for each event and the application must be genuine. The application is form R-1048.

3. If the exemption is approved, the secretary will provide a certificate of exemption for the specific event.

4. If the secretary denies the exemption, the organization may appeal to the Louisiana Board of Tax Appeals.

5. An event, as referred to in the statute, means an occurrence of relatively short duration with a scheduled beginning and ending date and/or time.

6. The purchase of items to be sold at these events is not exempt from the advance sales tax. In order to receive a credit for the tax paid on items to be sold at one of these exempt events, the organization would register with the department as an irregular filer and then file a sales tax return taking a credit for the sales tax paid on the purchases for resale.

B. Exceptions. The statute is very specific as to the type of organizations and events that qualify for the exemptions. There are some exceptions that are referred to in the law.

1. If the event is intended to yield a profit to the promoter or to any individual contracted to provide services, or equipment, or both, for the event, the exemption shall not apply.

2. Nonprofit organizations are not exempt from sales or use taxes under this exemption, only from

the collection of sales tax at certain events held by these organizations.

3. The statute does not offer an exemption from the sales and use taxes for regular commercial ventures such as, bookstores, restaurants, gift shops, commercial flea markets, and similar ventures that are operated by nonprofit organizations. The exemption applies to events that are not open on an ongoing basis.

4. Any organization which endorses any candidate for political office or is involved in political activities will not be eligible for the exemption.

5. The secretary may, at his discretion, recognize ongoing activities, e.g. concession sales at schools, and allow the organization to file an annual exemption application for such activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.14.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 22:854 (September 1996).

R.S. 47:305.15. Exclusions and exemptions; sales or purchases by blind persons

A. The sales and use taxes levied and the collection, reporting, and remittance thereof required by this Chapter shall not apply to sales or purchases made by blind persons in the conduct of a business which is exempt from license taxes by R.S. 46:371 through 373.

B. In addition, the sales and use taxes imposed by the state or by any political subdivision thereof shall not apply to any nonprofit organization which utilizes public funds for not less than seventy-five percent of its operational funding and which primarily operates to provide funding for and training to blind persons.

Added by Acts 1973, No. 61, § 1. Amended by Acts 1994, No. 26, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.16. Exclusions and exemptions; cable television installation and repair

The sales and use taxes imposed by the state or by any political subdivision thereof shall not apply to necessary fees incurred in connection with the installation and service of cable television. Such exemption shall not apply to purchases made by any cable television system, but shall only apply to funds collected from the subscriber for regular service, installation and repairs.

Added by Acts 1974, No. 593, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4414. Cable Television Installation and Repair

A. R.S. 47:305.16 provides an exemption for sales and use taxes imposed by the state or by any political subdivision thereof on necessary fees incurred in connection with the installation and service of cable television. Such exemption shall not apply to purchases made by any cable television system, but shall apply only to funds collected from the subscriber for regular service, installation and repairs.

B. Contractors and sub-contractors engaged in the business of installing and servicing the cable television system, whether on a lump-sum or a cost-plus basis, are deemed to be purchasers and consumers of the materials used by them. Vendors of such materials are required to collect the sales tax thereon and to remit same to the appropriate taxing authority.

C. Charges for repairs to television sets or other tangible personal property that is not considered a part of the cable television system are taxable as sales of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.16.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.17. Exclusions and exemptions; income from coin-operated washing and drying machines in a commercial laundromat

State sales taxes imposed by R.S. 47:302 and R.S. 47:321, as well as any sales taxes imposed by any parish, municipality, school board, or other political subdivision, within the state, shall not apply to or be imposed upon the income on receipts from any coin-operated washing or drying machine in a commercial laundromat. A commercial laundromat, for purposes of this Section, is defined to be any establishment engaged solely in the business of furnishing washing or drying laundry services by means of coin-operated machines.

Added by Acts 1975, No. 423, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.18. Exclusions and exemptions; fairs, festivals, and expositions sponsored by nonprofit organizations; nature of exemption; limitations; qualifications

A. The sales and use tax imposed by the state of Louisiana under R.S. 47:302(C) and R.S. 47:321 shall not apply to all outside gate admissions to grounds and parking fees at fairs and festivals sponsored by recognized nonprofit organizations chartered under the state of Louisiana.

The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event.

This Section shall not be construed to exempt any organization or activity from the payment of sales or use taxes otherwise required by law to be made on purchases made by these organizations.

This Section shall not be construed to exempt regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets and similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants.

B. This sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsorship will not be genuine in any case in which exemption from taxation is a major consideration leading to such sponsorship.

C. An exemption certificate must be obtained from the collector of revenue, under such regulations as he shall prescribe, in order for nonprofit organizations to qualify for the exemption provided in this section.

In the event the collector of revenue denies tax exempt status under this Section, the organization may appeal such ruling to the Board of Tax Appeals, which may overrule the collector of revenue and grant tax exempt status if the Board of Tax Appeals determines that the denial of tax exempt status by the collector of revenue was arbitrary, capricious or unreasonable. Provided however, that any organization which endorses any candidate for political office or otherwise is involved in political activities shall not be eligible for the exemption herein provided.

D. This exemption applies only to sales and use tax imposed by the state of Louisiana and does not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority notwithstanding any other provision of law to the contrary, specifically but not exclusively R.S. 27:2716.1.

Added by Acts 1975, No. 824, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.19. Exclusions and exemptions; leased vessels used in the production of minerals

The taxes imposed by R.S. 47:302(B) and R.S. 47:321(B) shall not apply to those vessels which are leased for use offshore beyond the territorial limits of this state for the production of oil, gas, sulphur, and other minerals or for the providing of services to those engaged in such production.

Added by Acts 1975, No. 818, § 1. Amended by Acts 1976, No. 553, § 1, eff. Jan. 1, 1977. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.20. Exclusions and exemptions; Louisiana commercial fishermen

A. A Louisiana resident, domiciled in Louisiana, who possesses such valid Louisiana commercial fishing license(s) as may be necessary for commercial fishing ventures, and who is an owner-operator of a vessel operated primarily for the conduct of commercial fishing as a trade or business and which the Louisiana Department of Wildlife and Fisheries determines will be predominantly and principally used for commercial fishing ventures and whose catch is for human consumption shall be exempt from state sales, use, lease, and services taxes as set forth in Subsection C of this Section. Possession of a commercial license issued by the Department of Wildlife and Fisheries shall not be used as the sole determination that a vessel will be used predominantly and principally for commercial fishing ventures. This exemption shall also apply to facilities which process the catch from owner-operators of commercial fishing vessels for which this exemption is granted when such vessels are owned by, or leased or contracted exclusively to, the seafood processing facility.

B.(1) The Department of Revenue, after consulting with the Department of Wildlife and Fisheries, shall immediately issue rules and regulations for the enforcement of these provisions. Through its agents, it shall issue a certificate of exemption to those who have demonstrated their qualification under the provisions of this Section. Except as provided in Paragraph (2) of this Subsection, no such certificate shall be issued to any person who does not present to the department a notarized statement that he derives or intends to derive his primary source of income, which means not less than fifty percent, from commercial fishing.

(2) In lieu of a notarized statement, a person acting on his own behalf, with sufficient personal identification and documentation, may execute a signed statement before an authorized employee of the Department of Revenue.

(3) A separate certificate of exemption shall be issued for each vessel which the applicant has demonstrated, to the satisfaction of the department, will be used principally and predominantly for commercial fishing ventures. The certificate shall identify the vessel to which the exemption

shall be applicable. This certificate shall be made available without charge to qualified applicants. Such certificates are not transferable and shall be presented in order to obtain the exemption.

C. An owner-operator who has obtained a certificate of exemption shall, with respect to the vessel identified in the certificate for the harvesting or production of fish and other aquatic life, including shrimp, oysters, and clams, and certain seafood processing facilities described in Subsection A, be exempt from the taxes described in Subsection A, as follows:

(1) Taxes applied to the materials and supplies necessary for repairs to the vessel or facility if they are purchased by the owner-operator and later become a component part of the vessel or facility.

(2) Taxes applied to materials and supplies purchased by the owner-operator of the vessel or facility where such materials and supplies are loaded upon the vessel or delivered to the facility for use or consumption in the maintenance and operation thereof for commercial fishing and processing ventures. For purposes of this Paragraph, it shall make no difference whether the vessel is engaged in interstate, foreign, or intrastate commerce.

(3) Taxes applied to repair services performed upon the vessel or facility. For the purposes of this Paragraph, it shall make no difference whether the vessel is engaged in intrastate, interstate, or foreign commerce.

(4) Taxes applied to the purchase of gasoline, diesel fuel, and lubricants for the vessel and to sources of energy and fuels for the facility.

D. Any person who would otherwise be entitled to a certificate of exemption, shall be exempt from all taxes applied to the purchase of any vessel which the Department of Revenue determines, under its rules and regulations, will be used principally and predominantly for commercial fishing ventures. This determination may be made prior to the sale by the department at which time it shall issue to the applicant a certificate of exemption. Where application is made prior to the purchase, the burden shall be on the applicant to demonstrate that the vessel will be used principally and predominantly for commercial fishing ventures. If application for a certificate of exemption is made after purchase, a certificate of exemption shall issue and the Department of Revenue shall give a rebate, out of funds made available therefor, for

all taxes paid; but this shall take place only where the applicant has demonstrated his and the vessel's qualifications under this Section. This Subsection shall be made applicable only to purchases made subsequent to September 12, 1975.

E. When a commercial fisherman objects to a refusal of the Department of Revenue to issue a certificate under this Section, he may appeal such ruling to the Board of Tax Appeals, which may overrule the secretary and grant tax exempt status if there is a determination that the denial was arbitrary, capricious, or unreasonable.

F. Any person who knowingly uses his certificate for a purpose other than that authorized in this Section, and any person who knowingly participates in the obtaining of or the misusing of the certificate, whether present or absent and whether they directly commit the act constituting this offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime, shall be subject to a fine of not less than one hundred dollars per offense nor more than one thousand dollars per offense, and imprisonment without hard labor for not less than one day nor more than three months.

G. This exemption applies only to sales and use tax imposed by the state of Louisiana and does not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority notwithstanding any other provision of law to the contrary, specifically but not exclusively R.S. 33:2716.1.

Added by Acts 1975, No. 811, § 1. Amended by Acts 1982, No. 820, § 1, eff. Jan. 1, 1983; Acts 1982, No. 873, § 1, eff. Jan. 1, 1983; Acts 1984, No. 866, § 1; Acts 1984, No. 687, § 1 Acts 1988, No. 239, § 2; Acts 1990, No. 162, § 1; Acts 1991, No. 896, § 1; Acts 1996, No. 24, § 1, eff. June 27, 1996; Acts 1997, No. 658, § 2. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.21. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:305.22. Exclusions and exemptions; certain self-propelled vehicles removed from inventory

A Louisiana retail dealer who ordinarily purchases for resale equipment of a type not subject to titling under Louisiana Revised Statutes Title 32, such equipment having a dealer's cost of not less than three thousand dollars per unit, and such equipment being: (1) mobile, motorized self-propelled farm equipment and attachments thereto; (2) mobile, motorized self-propelled earth moving equipment and attachments thereto; and/or (3) mobile, motorized self-propelled construction equipment and attachments thereto; and who withdraws an item of such equipment from inventory, for rental, as a method for promoting sales, shall be exempt from the payment of a sales or use tax on the purchase price of the property when withdrawn from inventory for such rental. Such retail dealer shall be liable for the tax levied on the rental income, and a sales tax upon any ultimate sale of said item. This exemption shall apply: (1) to the taxes levied by the Louisiana Revised Statutes 47:302, (2) to the taxes levied by the Louisiana Revised Statutes 47:321, and (3) to the taxes levied pursuant to Subpart D of Part I of Chapter 6 of Title 33 of the Louisiana Revised Statutes by any taxing authority other than the state, including but not limited to parishes, municipalities, and school boards.

Added by Acts 1977, No. 510, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4415. Certain Self-propelled Vehicles Removed from Inventory

A. In determination of whether or not a sales or use tax is due upon items of equipment described in R.S. 47:305.22, the following criteria shall be used:

1. First Test. Any company which derives from rentals more than 25 percent of its gross income in any calendar or fiscal year would be deemed (for the calendar or fiscal year) to be in the true "leasing business", and not leasing for the purpose of promoting sales. The result would be that such a company would have to pay a use tax on all of the leased equipment owned by that company, regardless of the length (or the shortness) of the leases. Income produced from rentals of equipment

where the lessee has the option to purchase shall be included in the "sales" factor for the purpose of this computation. In the event the option is not exercised, the income so produced shall revert to the "lease" factor.

a. Note that a company which meets this first test would have to pay a use tax on all leased equipment, regardless of the term of the leases (however short), and regardless of the number of successive leases of any particular item of equipment.

b. Of course, where such a company made an outright sale, where there was no preceding lease there would be no use tax on the equipment thus sold.

2. Second Test. Even if a company does not meet the first test, it still must pay the use tax on any item of equipment that is held in inventory and leased out (and not actually sold) for a period of 30 months or more. And such an item would be subject to the use tax regardless of the intent of the lessor, and regardless of the number of lessees.

3. Third Test—An Exception. As an exception to all of the foregoing, in each case where a lease of an item of equipment exists, and where the lessee has from the beginning of this contract an option to purchase, and where the lessee in fact has exercised such option, the transaction would be regarded as a sale from the beginning, so that there would be only one 4 percent tax due on the entire purchase price, under this Chapter. Any rental tax moneys paid during the lease would be credited against the single 4 percent tax on the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.22.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.23. Repealed by Acts 1982, No. 415, § 3.

R.S. 47:305.24. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:305.25. Exclusions and exemptions; farm equipment

A. The tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) with respect to the sale and use of farm equipment shall apply only to that portion of the sale price in excess of fifty thousand dollars for each item of farm equipment. For the purpose of this Section, "farm equipment" includes the following:

- (1) Rubber tired farm tractors, cane harvesters, cane loaders, cotton pickers, combines, haybalers, and attachments and sprayers.
- (2) Clippers, cultivators, discs, plows, and spreaders.
- (3) Irrigation wells, drives, motors, and equipment.
- (4) Other farm implements and equipment used for agricultural purposes in the production of food and fiber.
- (5) On the farm facilities used to dry or store grain or any materials used to construct such on the farm facilities.

B. This exemption applies only to sales and use taxes imposed by the state of Louisiana and does not apply to such taxes authorized and levied by any school board, municipality, or other local taxing authority, except that in the parish of West Carroll, the parish school board may exempt the equipment as provided in this Section from additional sales and use taxes after approval by a majority of the qualified electors of the parish and the police jury may exempt the equipment as provided in this Section from all sales and use taxes which it is presently levying and collecting and shall exempt such equipment from any additional sales and use tax or taxes which it may hereafter levy and collect.

C. Except as provided in Subsection B of this Section:

- (1) A city or parish school board may by resolution adopted by the board provide an exemption for farm equipment as defined in Subsection A of this Section from all of its sales and use taxes.
- (2) The governing authority of a municipality may by resolution or ordinance provide an exemption

for farm equipment as defined in Subsection A of this Section from all of its sales and use taxes.

(3) The governing authority of a parish may by resolution or ordinance provide an exemption for farm equipment as defined in Subsection A of this Section from all of its sales and use taxes and all sales and use taxes of political subdivisions levied solely within the territory of the parish, except municipal and school board taxes.

Added by Acts 1978, No. 638, § 1. Amended by Acts 1979, No. 787, § 1; Acts 1982, No. 167, § 1, eff. July 14, 1982; Acts 1985, No. 836, § 1, eff. Oct. 1, 1985; Acts 1996, 1st Ex.Sess., No. 38, § 1; Acts 1996, No. 14, § 2, eff. June 26, 1996; Acts 2002, No. 6, § 1, eff. June 7, 2002.

R.S. 47:305.26. Exclusions and exemptions; new vehicles furnished by dealers for driver education purposes

The sales or use tax shall not be due on vehicles furnished by a dealer in new vehicles when withdrawn from inventory and furnished to a secondary school, college or public school board on a free loan basis for exclusive use in a driver education program accredited by the Louisiana Department of Education.

Added by Acts 1978, No. 507, § 1, eff. Jan. 1, 1979. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.27. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.**R.S. 47:305.28. Exclusions and exemptions; gasohol**

A. The sales or use taxes imposed by the state of Louisiana or any such taxes imposed by any parish or municipality or other local entity within the state shall not apply to the sale at retail, the use, the consumption, the distribution, and the storage, to be used or consumed in this state, of any motor fuel known as gasohol, containing a blend of at least ten percent alcohol, if the alcohol therein has been produced, fermented, and distilled in Louisiana from agricultural commodities. Alcohol to be used in gasohol must have been rendered unsuitable for human consumption at

the time of its manufacture or immediately thereafter.

B. Gasohol, in order to qualify for this exemption must have been dyed a color which shall be different and distinct from other gasolines. The secretary of the Department of Revenue shall designate the color used and supplied by the dealer in the manufacture of gasohol.

Added by Acts 1979, No. 793, § 2. Amended by Acts 1985, No. 443, § 1; Acts 1997, No. 658, § 2. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.29. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:305.30. Exclusions and exemptions; Plaquemines Parish

A. Notwithstanding the provisions of any other law to the contrary, the governing authority of any political subdivision in the parish of Plaquemines may exclude and exempt from any sales and use tax levied by such governing authority any item excluded and exempted from the sales and use taxes imposed by the state of Louisiana under Chapter 2 and Chapter 2-A of Title 47 of the Louisiana Revised Statutes of 1950.

B. It is expressly provided that the provisions of this Section shall also be applicable to any sales and use taxes being imposed by such governing authority as of the date this Section becomes law; provided, that no bonds or other obligations payable from the proceeds of such taxes have been issued and are outstanding.

Added by Acts 1981, No. 127, § 1, eff. July 6, 1981.

R.S. 47:305.31. Exclusions and exemptions; equipment facilitating energy conservation, conversion to alternate fuels

A. As used in this Section, the following words and phrases have the meaning ascribed to them:

(1) "Energy conservation property" means tangible property used, or held for use, as an integral

part of a modification to, or replacement of, all or part of an existing electrical generation, manufacturing, production, or extraction facility, process, or item of equipment, but only if such modification or replacement either results in:

(a) the utilization by such facility, process, or item of equipment of less energy per unit of output, or

(b) the conversion of such facility, process, or item of equipment to permit the use of an alternate substance as a fuel or as a feedstock.

Property shall be considered to be an integral part of a modification or replacement otherwise described in this Paragraph only if such property either directly results in a utilization or conversion described in this Paragraph or is part of, physically attached to, or otherwise directly associated with such property. For purposes of this Paragraph, any property, the installation of which is reasonably necessary for the proper installation, operation, or maintenance of property which directly results in a utilization or conversion described in this Paragraph, shall be considered as directly associated with such property.

(2) "Existing", in applying Paragraph (1) of this Subsection, means:

(a) when used in connection with a facility, a facility which is in operation before the effective date of this Section;

(b) when used in connection with a process, a process which was carried on as of the effective date of this Section; and

(c) when used in connection with equipment, such equipment was placed in service before the effective date of this Section.

(3) "Alternate substance", in applying Subsection A(1)(b), means any substance other than:

(a) oil and natural gas, and

(b) any product of oil and natural gas.

Petroleum coke and waste gases from industrial operations shall be treated as alternate substances.

(4) "Computations per unit of output": The determinations required by Subsection A(1)(a) shall be made by comparing the BTU's of oil and natural gas, or energy, used by the facility, process, or

item of equipment per unit of output, prior to the modification or replacement, with the BTU's of oil and natural gas, or energy, used by such facility, process, or item of equipment per unit of output upon completion of the modification or replacement. In the case of determinations under Subsection A(1)(a) with respect to electricity, a heat rate of ten thousand BTU's per kilowatt hour shall be used.

B. The taxes levied under the provisions of this Chapter and Chapter 2-A shall not apply to the sale at retail, the use, the consumption, the distribution, the storage for use or consumption in this state, and the lease or the rental of any energy conservation property if such energy conservation property is used or consumed in this state by an existing manufacturing establishment or public utility.

C. The provisions of Subsection B shall not apply to any manufacturing establishment or public utility, and property defined in Subsection A(1)(a) shall not be energy conservation property, unless the total energy saved per year will be greater than thirty billion BTU's.

The total energy saved per year shall be determined by multiplying the units of output of such manufacturing establishment or public utility for the year preceding the year in which such property is acquired or the replacement or modification begins by the BTU's per unit of output which will be saved.

D. The Board of Commerce and Industry shall promulgate rules and regulations which define the term "manufacturing establishment" in conformance with the board's interpretation of that term for ad valorem tax exemption purposes, pursuant to Article VII, Section 21(F) of the Constitution of Louisiana. Upon application, in such form and manner as the board shall require, the board shall notify the Department of Revenue which shall issue a certificate of exemption with respect to any item of property certified by the applicant as property which may reasonably be expected to qualify as energy conservation property upon completion of a modification or replacement described in Subsection A(1). Not later than twelve months after completion of a modification or replacement described in Subsection A(1), the taxpayer shall submit to the board such evidence as the board, in consultation with the Department of Natural Resources, shall require to establish to the satisfaction of the board that property with respect to which a certificate has been issued

is energy conservation property. Upon failure to meet the requirements specified by this Subsection, the taxpayer shall remit any and all taxes that would have been imposed but for the issuance of a certificate pursuant to Subsection D.

E. This Section shall not apply to any sales, use, and lease taxes incurred by a manufacturing establishment or public utility after December 31, 1989.

Added by Acts 1981, No. 516, § 1, eff. July 18, 1981. Amended by Acts 1997, No. 658, §2. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.32. Repealed by Acts 1982, No. 44, § 1.

R.S. 47:305.33. Exclusions and exemptions; nonprofit retirement centers

The sales and use taxes imposed by the state of Louisiana shall not apply to purchases of materials for the construction of and supplies for the operation of any not-for-profit retirement center owned or operated by any public trust authority or duly incorporated not-for-profit corporation. A retirement center for purposes of this Section is defined as any multipurpose facility which houses as a permanent residence senior citizens who are sixty-two years of age or older, which provides housing for the elderly, and which provides intermediate health care.

Added by Acts 1981, No. 876, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.34. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:305.35. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:305.36. Exclusions and exemptions; motor vehicles

A. The tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall not apply to the sale at retail, the purchase, lease, or the importation of motor vehicles, trailers, or semitrailers as defined by R.S. 47:451 that will be stored, used, or consumed in this state exclusively for lease or rental, provided that the gross proceeds derived from the lease or rental of the property not previously taxed shall be at reasonable market rates. If the secretary of the Department of Revenue finds that any person who has purchased, used, or imported motor vehicles, trailers, or semitrailers tax free under this Subsection has subsequently leased or rented motor vehicles, trailers, or semitrailers in transactions not at arms length at below market rates, the secretary shall presume that the person was not entitled to claim the exemption provided herein, and the burden shall be on that person to prove otherwise.

B. A person who has acquired or used property under this Section without payment of the tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall be construed to be in the business of leasing, renting, or selling such property, whether or not the lessees have the right or obligation to purchase the tangible personal property or will otherwise acquire title to the property at termination of the lease. Therefore, a transaction entered into that is entitled lease, rental, lease-purchase, or similar name which for purposes other than state sales taxation might be considered a conditional sales contract or transaction in lieu of sale, shall be deemed for state sales tax purposes to be a taxable lease. The monthly or other periodic payments made under the agreement shall be subject to the tax imposed by R.S. 47:302(B), R.S. 47:321(B), and R.S. 47:331(B). These persons shall not be allowed to make an isolated or occasional non-retail sale of the property under R.S. 47:301(1) or R.S. 47:301(10).

C.(1) No person shall be entitled to purchase, use, or import motor vehicles, trailers, or semitrailers, under this Section without payment of the tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) before having received an exemption number or certificate from the secretary of the Department of Revenue authorizing him to

engage in the business of purchasing, using, or importing motor vehicles.

(2) The exemption provided by this Section shall be available only to dealers who have qualified with the Louisiana Motor Vehicle Commission and the Louisiana Used Motor Vehicle and Parts Commission.

D. The secretary of the Department of Revenue shall promulgate rules and regulations for carrying out the exemption provided by this Section. Any person not in compliance with those rules and regulations shall not be entitled to the exemption.

E.(1) A lessor who, before the effective date of this Section, entered into agreements for the lease or rental of new motor trucks and new motor tractors licensed and registered for twelve thousand pounds or more, or new trailers and semi-trailers licensed and registered for sixteen thousand pounds or more, and who, at the time the lease or rental agreements were entered into, notified the secretary that the sales tax on the lease or rental of the individual pieces of property would be reported as provided by R.S. 47:302(D) prior to its repeal in the 1982 Regular Session, may continue to retain the lease taxes collected on the leases and rentals of said property until the taxes paid at the time of registration of the individual items are recovered.

(2) The tax imposed by R.S. 47:302(B), R.S. 47:321(B), and R.S. 47:331(B) shall not be due as provided by R.S. 47:305.23 prior to its repeal in the 1982 Regular Session, on the lease or rental of automobiles and trucks for a period of six months or longer duration, but only if the Louisiana sales or use tax imposed on the sale price or cost price of the automobiles and trucks was paid at the time the vehicles were titled in and/or transferred into the state and the vehicles were placed in lease or rental service prior to the effective date of this Section.

Added by Acts 1982, No. 415, § 1. Amended by Acts 1984, No. 539, § 1, eff. Sept. 1, 1984; Acts 1985, No. 847, § 1, eff. July 23, 1985; Acts 1991, No. 495, § 1, eff. July 15, 1991; Acts 1997, No. 658, § 2. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.37. Exclusions and exemptions; diesel fuel, butane, propane, or other liquefied petroleum gases used for farm purposes

A. The state taxes imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall not apply to diesel fuel, butane, propane, or other liquefied petroleum gases used or consumed for farm purposes. The secretary of the Department of Revenue shall adopt and promulgate rules and regulations necessary to effectuate the exemptions granted by this Section.

B. In any parish having a population of more than one hundred twenty thousand persons but less than one hundred forty thousand persons based on the latest federal decennial census:

(1) The parish school board may by resolution adopted by the board provide an exemption from its sales and use tax as is provided for state sales tax in Subsection A of this Section.

(2) The governing authority of a municipality may by resolution or ordinance provide an exemption as is provided for state sales tax in Subsection A of this Section from its sales and use tax and all sales and use taxes of political subdivisions levied solely within the territory of the municipality, except school board taxes.

(3) The governing authority of a parish may by resolution or ordinance provide an exemption as is provided for state sales tax in Subsection A of this Section from its sales and use tax and all sales and use taxes of political subdivisions levied within the territory of the parish and all sales taxes levied both within and without the municipality, except school board taxes.

Added by Acts 1982, No. 820, § 1, eff. Jan. 1, 1983; Acts 1982, No. 873, § 1, eff. Jan. 1, 1983; Amended by Acts 1985, No. 511, § 1; Acts 1985, No. 621, § 1, eff. July 1, 1986; Acts 1998, No. 35, § 1, eff. July 1, 1998. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.38. Exclusions and exemptions; sheltered workshop for mentally retarded

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 by a sheltered workshop for the mentally retarded licensed by the Department of Social Services as a day developmental training center for the mentally retarded shall not be subject to the sales and use taxes levied by the state or by any political subdivision thereof.

Added by Acts 1982, No. 242, § 1. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.39. Exclusions and exemptions; butane, propane, or other liquefied petroleum gases purchased for private residential consumption

The taxes imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall not apply to direct consumer purchases of butane, propane, or other liquefied petroleum gases for the private residential purposes of cooking and heating.

Added by Acts 1983, No. 654, § 1, eff. July 1, 1984. Amended by Acts 1985, No. 622, § 1, eff. July 1, 1986. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.40. Exclusions and exemptions; purchases of Mardi Gras specialty items

A. The sales and use taxes imposed by R.S. 47:302, R.S. 47:321, and R.S. 47:331 shall not apply to the purchases of specialty items for use in connection with Mardi Gras activities by the following organizations:

(1) Carnival organizations.

(2) Nonprofit organizations domiciled within Louisiana and participating in a parade sponsored by a carnival organization.

B.(1) "Specialty items" for the purposes of this Section are defined as those items which are

specially designed for the carnival or nonprofit organization and bear the carnival or nonprofit organization's name or insignia, including but not limited to doubloons, necklaces, cups, and coasters.

(2) "Carnival organization" for the purposes of this Section is defined as an organization domiciled within Louisiana that plans to sponsor either a Mardi Gras ball or parade during the next Mardi Gras season.

Added by Acts 1985, No. 439, § 1. Subject to H.C.R. No. 55 of 1986.

LAC 61:I.4416. Purchases of Mardi Gras Specialty Items

A. R.S. 47:305.40 grants an exemption from the state sales and use taxes levied under this Chapter on purchases of specialty items for use in connection with Mardi Gras activities. The exemption is available to (1) carnival organizations domiciled within Louisiana that plan to sponsor either a Mardi Gras ball or parade during the next Mardi Gras season, and (2) nonprofit organizations domiciled within Louisiana that plan to participate in a parade sponsored by a carnival organization.

B. Each such eligible organization shall annually request and obtain from the Department of Revenue and Taxation a Certificate of Exemption that may be presented to vendors of specialty items in lieu of the tax at the time of purchase. The request may be either in the form of a letter or on forms supplied by the Department of Revenue and Taxation, and shall contain the following information:

- 1. name and address of the organization;*
- 2. type of organization, either:*
 - a. carnival organization sponsoring a parade or ball during next Mardi Gras season; or*
 - b. nonprofit organization participating in a carnival organization parade during next Mardi Gras season;*
- 3. event or events to be sponsored or participated in for which tax-free purchases are being made;*
- 4. type of specialty items to be purchased tax-free under the authority of the exemption certificate;*

5. name of the officer authorized to make purchases on behalf of the organization;

6. name and signature of the officer of the organization making the request.

C. Section 4416.B defines specialty items for purposes of the exemption as those items which are specially designed for the carnival or nonprofit organization and bear the organization's name or insignia. Examples of such items are doubloons, necklaces, beads, throws, cups, and coasters. Other types of specialty items may also qualify for the exemption if they are purchased for use in a Mardi Gras activity, bear the name or insignia of the organization, and are either for free distribution to the public or for use in conjunction with a Mardi Gras ball, such as flags, posters, invitations, programs, decorations, napkins, and tablecloths.

D. The resale of specialty items by the purchasing organization to its members shall be regarded as exempt sales under the provisions of this Section, but only when those items are used exclusively in conjunction with a Mardi Gras parade or ball. The sale of novelty items such as shirts and hats, on a continuing basis, which are not used exclusively in conjunction with a Mardi Gras parade or ball, shall be regarded as taxable sales under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.40.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:305.41. Exclusions and exemptions; Ducks Unlimited; Bass Life

The sales and use tax imposed by the state of Louisiana or any of its local governmental subdivisions or school boards shall not apply to either the sales of Ducks Unlimited or Bass Life or any of their chapters or any rental or purchase of property or services by Ducks Unlimited or Bass Life or any of their chapters.

Added by Acts 1985, No. 512, § 1, eff. July 12, 1985. Amended by Acts 1998, No. 28, § 1, eff. July 1, 1998. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.42. Exclusions and exemptions; tickets to ballet performances of nonprofit ballet organizations

The sales and use tax imposed by R.S. 47:302(A) and R.S. 47:321(A) shall not apply to the sale of admission tickets by any domestic nonprofit organization engaged in the preparation and presentation of any dance, drama, or any of the performing arts.

Added by Acts 1985, No. 513, § 1, eff. July 12, 1985. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.43. Exclusions and exemptions; nonprofit organizations dedicated to the conservation of fish or migratory waterfowl; nature of exemption; limitations; qualifications

A. The sales and use taxes imposed by R.S. 47:302, R.S. 47:321, and R.S. 47:331 shall not apply to any sales made by a nonprofit organization dedicated exclusively to the conservation of fish or the migratory waterfowl of the North American Continent and to the preservation and conservation of wetland habitat of such waterfowl, when the entire proceeds, except for the necessary expenses connected therewith, are used in furtherance of the organization's exempt purpose. The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event.

B. Purchases by any organization qualifying hereunder shall be exempt from the payment of any sales or use taxes imposed by the state and its political subdivisions.

C. This Section shall not be construed to exempt sales or purchases made in connection with regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets, or similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants.

D. Sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsorship shall not be genuine in any

case in which exemption from taxation is a major consideration leading to such sponsorship.

E. An exemption certificate must be obtained from the secretary of the Department of Revenue, under such regulations as he shall prescribe, in order for a nonprofit organization to qualify for the exemption provided in this Section.

Added by Acts 1985, No. 835, § 1. Amended by Acts 1998, No. 28, § 1, eff. July 1, 1998. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.44. Exclusions and exemptions; raw materials used in printing process

A. The sales and use taxes imposed by the state under R.S. 47:302, R.S. 47:321, and R.S. 47:331 and by any political subdivision shall not apply to purchases and sales of the following, including all chemical supplies necessary to produce such items whether manufactured by a printer or purchased from a subcontractor:

- (1) Artwork.
- (2) Blankets and bars.
- (3) Chemicals.
- (4) Color separations.
- (5) Dies.
- (6) Film, including negatives.
- (7) Offset plates.
- (8) Press proofs and photomechanical proofs.
- (9) Layouts.
- (10) Typesetting.
- (11) Rubber plates.
- (12) Paper.
- (13) Ink.

B. The exemption provided in Subsection A shall apply on and after the effective date of this Act.

Added by Acts 1985, No. 847, § 2, eff. July 23, 1985. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.45. Exclusions and exemptions; per diem or car hire on freight cars, piggy-back cars, and rolling stock

A. The sales, use, and lease tax imposed by the state of Louisiana under the provisions of R.S. 47:302(A) and (B), R.S. 47:321(A) and (B) and R.S. 47:331 shall not apply to:

(1) Hourly, daily, or periodic mileage or other charges referred to as “per diem or car hire” on freight cars and other rolling stock when such charges are paid by reason of the presence of freight cars and other rolling stock owned by another on the tracks of the taxpayer;

(2) Piggy-back trailers or containers when brought into or operated as piggy-back trailers or containers in this state; and

(3) Rolling stock, such as engines, switch engines, freight cars, and machinery owned, operated, or leased by a railroad or any other person, firm, or corporation.

B. The exemptions from the state sales, use, and lease tax provided in this Section shall be applicable to any sales, use, and lease tax levied by any local government subdivision or school board.

Added by Acts 1986, No. 476, § 1, eff. July 1, 1986. Subject to H.C.R. No. 55 of 1986.

R.S. 47:305.46. Exclusions and exemptions; purchases with United States Department of Agriculture Food Stamp Coupons and purchases made under the Women, Infants, and Children’s Program

A. The sales and use taxes imposed by the state of Louisiana or any political subdivision shall not apply to the purchase of the following items:

(1) Eligible food items, as defined by the United States Department of Agriculture regulations for the Food Stamp Program, when such food items are purchased with United States Food Stamp Coupons.

(2) Eligible food items authorized for purchase under the Women, Infants, and Children’s (WIC) Program as administered by the Louisiana Department of Social Services, when such items are purchased with WIC Program Vouchers.

B. The exemptions granted pursuant to this Section shall remain in effect as to each program only until applicable federal law, rules, or regulations permit the levy and collection of sales and use taxes on those exempted items without jeopardizing the contribution of funds by the federal government to such program.

Added by Acts 1986, No. 1028, § 1, eff. Oct. 1, 1987; Amended by Acts 1987, No. 4, § 1, eff. Oct. 1, 1987.

LAC 61:I.4417. Exclusions and Exemptions; Purchases made with United States Department of Agriculture Food Stamp Coupons and purchases made under the Women, Infants, and Children’s Program

A. This Section specifically exempts from the sales and use tax imposed by this Chapter, and any such tax imposed by any parish, board, or municipality, purchases of the following items:

1. eligible food items, as defined by the United States Department of Agriculture (USDA) regulations for the Food Stamp Program, when such food items are purchased with United States Department of Agriculture Food Stamp Coupons;

2. eligible food items authorized for purchase under the Women, Infants, and Children’s (WIC) Program as administered by the Louisiana Department of Health and Human Resources, when such items are purchased with WIC Program Vouchers.

B. Definitions

Eligible Food Items for Purchases Made with Food Stamps—as defined in the regulations of the Food Stamp Program of the United States Department of Agriculture.

Eligible Food Items—for Purchases Made with WIC Vouchers, the specific items authorized to be purchased with the WIC voucher used as the medium of exchange.

United States Department of Agriculture Food Stamp Coupons (Food Stamps)—*coupons issued by the USDA Food Stamp Program.*

WIC Program Vouchers (WIC Vouchers)—*payment vouchers issued by the Women, Infants, and Children's (WIC) Program.*

C. Limitations

1. The exemption for food items purchased with food stamps is limited to those items defined as eligible foods in the regulations of the USDA Food Stamp Program. As the definition of eligible foods changes, the food items eligible for this exemption will automatically qualify or become disqualified.

2. The exemption for eligible food items purchased with WIC vouchers is limited to those items specifically stated on the voucher which is used as the medium of exchange.

3. The exemptions for purchases utilizing food stamps and WIC vouchers are further limited to the amount of food stamps and WIC vouchers used in the transaction. Eligible food items purchased with mediums of exchange other than food stamps or WIC vouchers, such as cash, will be subject to applicable state and local sales and use taxes.

D. Purpose and Method

1. Federal regulations require that the exemption for food stamp purchases be administered so as to minimize the sales tax burden on any order of eligible foods. A special problem arises when a patron presents a combination of food stamps and cash in payment of eligible food consisting of food for preparation and consumption in the home (exempt from state sales taxes) and eligible food items such as ice, bottled water, loose candy, and seeds and plants for the production of food which except for this exemption would be taxable. Grocers are currently required to sort each order by separating the eligible food items from the entire order, either physically or through the use of electronic equipment. Since ice, bottled water, etc. are otherwise taxable items, the federal regulations would require a second sort to ensure that the food stamps are applied to those items first.

2. In order to comply with federal regulations that mandate food stamps be allocated first to taxable eligible food items, and to eliminate the need for double-sorting by dealers, purchases of eligible food items paid for with a combination of food stamps and cash will be given the following treat-

ment for state sales tax purposes. Once the food stamps have been applied to the purchase, the remaining portion of eligible items which is to be paid for with cash will be treated as food for home consumption, notwithstanding any restrictions by R.S. 47:305(D). Thus, of the remaining portion of the eligible food items to be paid for with cash, items such as ice, bottled water, and loose candy will be taxed at the same rate as milk or bread. This method does not in any way affect ice, bottled water, loose candy, and other such items which are purchased by a patron who does not present food stamps in payment.

E. Purchases of items not considered eligible food items by the USDA regulations, such as detergent, will not be affected by this regulation and will remain subject to applicable state and local sales and use taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.46.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:667 (November 1987).

R.S. 47:305.47. Exclusions and exemptions; pharmaceutical samples distributed without charge

The sales and use tax imposed by the state of Louisiana or any of its political subdivisions shall not apply to pharmaceutical samples approved by the United States Food and Drug Administration which are manufactured in the state or imported into the state for distribution without charge to physicians, dentists, clinics, or hospitals.

Added by Acts 1989, No. 383, § 1, eff. June 30, 1989.

R.S. 47:305.48. Exemption; automobiles owned by military personnel

Motor vehicles subject to the vehicle registration tax previously purchased in another state by active duty military personnel stationed in Louisiana, shall, at the time of transfer of registration, be exempt from the use tax imposed by this Chapter if a sales tax was imposed and collected upon the purchase of the motor vehicle by the state in which the vehicle was purchased and the

purchaser was a resident or stationed in the state where the taxes were paid. The motor vehicle shall continue to be exempt from the use tax as long as the registered owner remains on active duty in any branch of the armed forces of the United States and is stationed in Louisiana.

Added by Acts 1989, No. 435, § 1.

R.S. 47:305.49. Catalog distribution; exemption

Notwithstanding any provision of law to the contrary, no sales or use tax shall be imposed by the state or any political subdivision on the value of catalogs distributed, or intended for distribution in the state, without charge to the recipient.

Added by Acts 1989, No. 796, § 1.

R.S. 47:305.50. Exemption; vehicles used in interstate commerce; rail rolling stock manufactured in this state for use in interstate commerce

A.(1)(a)(i) Effective July 1, 1998 through June 30, 2004, the sales and use tax imposed by the state of Louisiana or any of its local political subdivisions shall not apply to trucks with a gross weight of twenty-six thousand pounds or more and to trailers if such truck and trailer are used at least eighty percent of the time in interstate commerce and whose activities are subject to the jurisdiction of the United States Department of Transportation.

(ii) Effective July 1, 1998 through June 30, 2004, the sales and use tax imposed by the state of Louisiana or any of its local political subdivisions shall not apply to contract carrier buses if such buses are used at least eighty percent of the time in interstate commerce.

(b)(i) For purposes of this Section, the terms “trucks” and “trailers” shall have the meanings ascribed to the terms truck, trailer, road tractor, semitrailer, tandem truck, tractor, and truck-tractor in R.S. 47:451.

(ii) For purposes of this Section, the term “bus” shall mean a commercial vehicle with a minimum passenger capacity of thirty-five persons and a

minimum gross vehicle weight of twenty-six thousand pounds.

(iii) For purposes of this Section, the term “contract carrier” shall mean any person transporting, other than as a common carrier, persons for hire, charge, or compensation, over any highway of this state, or however utilizing said public facilities for private gain to be realized chiefly out of such transportation service.

(2) The deputy secretary of public safety services of the Department of Public Safety and Corrections is hereby authorized to promulgate such forms and rules as may be necessary to implement the provisions of this Subsection.

NOTE: The exemption provided by R.S. 47:305.50(B), as enacted by Acts 1996, No. 36, eff. July 1, 1996, expired on July 1, 1998.

B. The sales and use tax imposed by the state of Louisiana or any of its local political subdivisions or statewide taxing authorities shall not apply to rail rolling stock manufactured in this state for use in interstate commerce.

Added by Acts 1996, No. 8, § 1, eff. July 1, 1996. Amended by Acts 1996, No. 36, § 1, eff. July 1, 1996; Acts 1998, No. 41, § 1, eff. June 30, 1998; Acts 2000, No. 27, § 1, eff. June 30, 2000; Acts 2002, No. 2, § 1, eff. June 30, 2002.

LAC 61:I.4420. Property Used In Interstate Commerce

A. Revised Statute 47:305.50(A) allows certain taxpayers to register trucks with a gross weight of 26,000 pounds or more, trailers to be used with such trucks, and contract carrier buses with the Office of Motor Vehicles of the Department of Public Safety and Corrections (OMV) without paying state or local sales or use tax. To qualify for the exemption, the taxpayer's activities must be subject to the jurisdiction of the United States Department of Transportation and the taxpayer must certify to the OMV that the property will be used at least 80 percent of its total mileage in interstate commerce. The Department of Revenue and the OMV provide forms on which to make these certifications.

B. Any taxpayer who claims the exemption provided for in R.S. 47:305.50(A) must maintain records

of the use of the property in order to document that the property is used for at least 80 percent of its total mileage in interstate commerce.

1. If the documentation indicates that the property was not used during the one year period following the date of its purchase for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will not qualify for the exemption and state and local sales or use tax will be due on the amount paid for the property at the rate that was applicable on the date the property was purchased, plus interest from the date the property was purchased to the date of the tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer fails to qualify for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

2. If, during any of the following one-year periods, the documentation indicates that the property was not used for the required 80 percent or more of its total mileage in interstate commerce, the taxpayer will no longer qualify for the exemption. If this occurs, state and local sales or use tax will be due on the lesser of the purchase price or fair market value of the property on the first day of the one-year period that it does not meet the 80 percent test. The tax will be calculated based on the rate in effect on the first day of the one-year period in which the taxpayer no longer qualifies for the exemption, plus interest from the date the tax is due to the date of tax payment. The state portion of the tax must be reported on a sales tax return provided by the Department of Revenue and paid to the Department of Revenue by the 20th day of the month following the end of the one-year period in which the taxpayer no longer qualifies for the exemption. The local portion of the tax must be reported and paid to the proper local taxing authority in accordance with their ordinances.

C. If the taxpayer fails to provide proper documentation, it will be presumed that the taxpayer does not qualify for the exemption and state and local sales or use tax will be due in accordance with subsection (B) above.

AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:305.50 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 29:188 (February 2003).

R.S. 47:305.51. Exemption; utilities used by steelworks and blast furnaces

The sales and use tax imposed by the state of Louisiana or any of its political subdivisions shall not apply to sales or purchases of utilities used by steelworks and blast furnaces with more than one hundred twenty-five full-time employees, including coke ovens and rolling mills, which are classified by the Louisiana Department of Labor as SIC 3312 of the Standard Industrial Classification Code. However, this exemption shall not apply to utilities used in and around the production of coke in oil refineries and the use of coke in oil refineries and other chemical processes.

Added by Acts 1998, No. 28, § 2; Amended by Acts 2001, 1st Ex.Sess., No. 5, § 1, eff. March 27, 2001.

R.S. 47:305.52. Exemption; custom computer software

A political subdivision may, by ordinance, provide for a sales and use tax exemption within the entire area of the political subdivision for sales of custom computer software.

Added by Acts 2002, 1st Ex.Sess., No. 7, eff. July 1, 2002.

R.S. 47:306. Returns and payment of tax; penalty for absorption

A. General provisions. (1)(a) Except as hereafter provided, the taxes levied hereunder shall be due and shall be payable monthly. For the purpose of ascertaining the amount of tax payable, all dealers shall transmit, on or before the twentieth day of the month following the month in which this tax becomes effective, to the secretary of revenue, upon forms prescribed, prepared, and furnished by him, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payments for services, as the case may be, arising from all taxable transactions during the preceding calen-

dar month. Thereafter, like returns shall be prepared and transmitted to the secretary by all dealers on or before the twentieth day of each month for the preceding calendar month. These returns shall show any further information the secretary may require to enable him to correctly compute and collect the tax levied. Every dealer, at the time of making the return required hereunder, shall compute and remit to the secretary the required tax due for the preceding calendar month, and failure to so remit such tax shall cause said tax to become delinquent.

(b) However, whenever the taxes due hereunder from a dealer average less than one hundred dollars per month, the taxes hereunder shall be due and payable quarterly by the dealer, and the return required from the dealer for the quarter shall be filed on or before the twentieth day of the first month of the next succeeding quarter. The secretary shall provide by regulation for the period and method of determining, under this proviso, the average taxes due from a dealer. Any dealer who is required to file his sales tax return on a quarterly basis, as provided above, may file his returns and pay the tax on a monthly basis after first having received written approval from the secretary to do so. Application to file monthly must be furnished to the secretary in writing and will set forth complete justification for the shorter reporting period.

(c) Whenever the taxes due to the state or any single tax collector are from the state acting as a dealer through any department, agency, board, commission, or other state entity, the taxes shall be due and payable annually, and the return shall be filed and tax paid on or before the twentieth day of the month following the end of the state's fiscal year. However, if the accumulated sales taxes due hereunder to the state or any single tax collector equal or exceed five hundred dollars by the last day of any calendar month prior to the close of the state's fiscal year, the taxes shall be due and payable and the return shall be filed and the tax paid on or before the twentieth day of the calendar month following the calendar month during which the five hundred dollar threshold is exceeded.

(d) In addition to the provisions of this Section requiring monthly or quarterly filing of returns, dealers liable for the sales and use taxes of political subdivisions may file letter returns and remit such political subdivision taxes pursuant to R.S. 33:2720.1.

(2)(a) Gross proceeds from rentals or leases shall be reported and the tax shall be paid with respect thereto, in accordance with rules and regulations for reporting as established by the collector following the month in which the payment for the lease or rental is actually collected by lessor.

(b) Notwithstanding any other provisions of law to the contrary, lessors of property to be used offshore as provided for in R.S. 47:301(4)(d)(ii) shall not be required to collect or otherwise pay rental taxes on the gross proceeds from such leases and rentals.

(3)(a) For the purpose of compensating the dealer in accounting for and remitting the tax levied by this Chapter, each dealer shall be allowed one and one-tenth percent of the amount of tax due and accounted for and remitted to the secretary in the form of a deduction in submitting his report and paying the amount due by him, provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder. This compensation shall be allowed only if the payment of the dealer is timely filed.

(b) Municipalities are hereby authorized to pay compensation to their sales tax dealers in any amounts designated by the governing body of the municipality.

(4) The collector, for good cause, may extend, for not to exceed thirty days, the time for making any returns required under the provisions of this Chapter.

(5) For the purpose of collecting and remitting to the state the tax imposed by this Chapter, the dealer is hereby declared to be the agent of the state.

B. Collection by wholesalers.

(1)(a) Notwithstanding the provisions of Subsection A or any other provision of this Chapter, every manufacturer, wholesaler, jobber, or supplier who sells to anyone for sale at retail any article of tangible personal property, the retail sale of which is taxable under this Chapter, shall collect as advance sales tax a per centum of the sales price of such article equal to the rate of the sales tax levied on such article by this Chapter.

(b) "Wholesale dealer" is one where fifty percent or more of his sales do not constitute retail sales as defined in this Chapter. Sales made in interstate

commerce or sales where delivery is made outside the territorial jurisdiction of the state of Louisiana are not to be considered retail sales for the purpose of determining whether a person qualifies as a wholesale dealer.

(c) The collection of the tax on motor vehicles shall be in accordance with the provisions of R.S. 47:303(B).

(d)(i) Notwithstanding any other provision of law to the contrary, the businesses categorized as lumber dealers, as farm implement dealers, and as mobile, motorized self-propelled earth moving and construction equipment dealers, which were issued in the calendar year 1965 an exemption identification number by the Department of Revenue or its predecessor exempting such business from the payment of advance sales taxes shall continue to be exempt from the payment of such advance sales taxes.

(ii) Notwithstanding any other law to the contrary, it shall be presumed that sales of menhaden bait in one-hundred pound lots to wholesalers or to retailers are sales for resale to commercial fishermen exempt pursuant to R.S. 47:305.20. Therefore, wholesalers or other dealers making such sales for resale shall be exempt from the collection or payment of advance sales tax on such sales.

(iii) Notwithstanding any other provision of law to the contrary, dealers of all-terrain vehicles, as defined in R.S. 32:771(1), or of marine products who are licensed by the Louisiana Used Motor Vehicle and Parts Commission shall be exempt from the collection or payment of advance sales tax.

(e) The secretary of the Department of Revenue shall promulgate such regulations as are necessary to carry into force and effect the purpose and intent of this Subsection.

(2) The amount paid by dealers to manufacturers, wholesalers, jobbers or suppliers shall be advance payment of the Louisiana sales tax which the dealer is required to collect upon the sale at retail, and the advance payment is required only as a means of facilitating collection of the sales tax.

Manufacturers, wholesalers, jobbers and suppliers who collect advance sales tax from their purchasers pursuant to the preceding provision shall remit the tax to the collector of revenue in the manner provided hereinabove for dealers and

in accordance with the rules and regulations prescribed by the collector.

(3) In making their returns to the collector, dealers who have paid advance sales tax shall deduct from the total tax collected by them upon the retail sale of the commodity the amount of tax paid by them to manufacturers, wholesalers, jobbers and suppliers during the period reported, provided tax paid invoices evidencing the payment are retained by the dealer claiming the refund or credit. If the amount so paid during any reporting period amounts to more than the tax collected by him for the period reported, the excess so paid shall be allowed as refund or credit against the tax collected by the dealer during the succeeding period or periods.

(4) Manufacturers, wholesalers, jobbers, and suppliers collecting advance sales taxes as hereinabove provided shall be allowed a one and one-tenth percent deduction from the amount so collected and remitted to the secretary as compensation for such collection. This compensation shall be allowed only if the payment of the manufacturer, wholesaler, jobber, or supplier is timely filed.

(5) Parishes, municipalities, school boards and other local governing bodies, except as hereinafter set forth, which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers or suppliers to collect such sales taxes in advance from dealers to whom they sell.

(6) Absorption of said tax as defined in this section by any retailer, wholesaler, manufacturer or other supplier shall constitute a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars or by imprisonment in the parish jail for not more than two years.

(7) The governing authority of each parish having a population in excess of two hundred thousand and municipalities, school boards and other local governing authorities within such parishes are hereby authorized to require manufacturers, wholesalers, jobbers and suppliers to collect taxes levied by them in advance from dealers to whom they sell, if said dealers and the wholesalers, manufacturers, jobbers and suppliers are domiciled in said parish. Such advance collections shall be subject to the same laws, rules and regulations as are applicable to advance collections of state sales taxes; provided, however, that

the taxes so collected shall be remitted to the parish, municipal, school board or other local governing authority imposing the tax.

(8) Any dealer, fifty percent or more of whose sales are made to industrial users and/or to contractors, shall be exempt from the payment of advance sales taxes and shall be issued an exemption identification number by the Department of Revenue. For purposes of this Paragraph an "industrial user" shall be a business engaged in the manufacture of tangible personal property for sale, whose sales are primarily to other dealers for resale, and a "contractor" shall be a business that by itself, or through others, constructs, alters, repairs, improves, or demolishes fixed structures. Such dealer shall collect the taxes due on the sales made by him and shall remit the taxes to the state as otherwise required by this Chapter.

(9) The provisions of this Subsection shall have no application to the sale of telecommunication services, as defined in R.S. 47:301(14)(i).

(10) Notwithstanding any other provision of law to the contrary, the sale of tangible personal property by a manufacturer to an out-of-state wholesale dealer in building materials who does not have an exemption identification number and delivered by drop shipment to Louisiana shall be exempt from advance sales tax if such out-of-state wholesale dealer subsequently transfers the property to a wholesale dealer in building materials with an exemption identification number. The manufacturer shall note the transitory nature of the sale and such wholesaler's exemption identification number on the invoice.

(11)(a) The secretary of the Department of Revenue is authorized to issue an exemption from the payment of advance sales taxes and an exemption identification number to any dealer in the sale of tangible personal property who has been registered with and filing sales tax returns with the Department of Revenue for a minimum of one year, whose sales of tangible personal property for a consecutive twelve-month period, exclusive of the tax due on purchases by the dealer, was three million dollars or more, and who timely filed his returns for the period and timely remitted the tax shown due on the returns. The secretary shall determine the base period for a dealer's eligibility. Any exemption identification number shall be effective for a period not to exceed five years as determined by the secretary, provided that the secretary can reissue exemption identification numbers to dealers who continue to meet the

qualifications under this Paragraph and can revoke the exemption identification numbers of dealers who no longer meet the qualifications. The secretary is authorized to refuse the issuance of an exemption number to or to revoke the exemption number of any dealer when, in the opinion of the secretary, the dealer's audit, filing, or payment histories indicate that a greater level of tax compliance could be achieved by the dealer's payment of the advance sales tax on purchases of tangible personal property for resale.

(b) Eligibility for the exemption identification numbers provided for in Subparagraph (a) shall be based on the sales of tangible personal property attributable to each sales location of the dealer applying to the secretary for an exemption identification number. However, the secretary, by rule, is authorized to provide standards, not inconsistent with these provisions, for the issuance of exemption numbers to multi-location consolidated sales tax filers, and to new business locations of dealers who have received exemption identification numbers under Subparagraph (a).

C. Advance collections. Notwithstanding any other provision of law to the contrary, and in accordance with the authority and procedures provided for under the provisions of Subsection B hereof, the parish, municipal, school board or other local governing bodies of the parish in which the state capitol is located and of Caddo Parish are hereby authorized to require manufacturers, wholesalers, jobbers and suppliers to collect sales taxes levied by them in advance from dealers to whom they sell; provided, however, that such advance collections shall be subject to the same laws, rules and regulations as are applicable to advance collections of state sales taxes, and provided further that dealers and the wholesalers, manufacturers, jobbers and suppliers are domiciled in the parish in which said state capitol is located and in the case of Caddo Parish that said dealers and the wholesalers, manufacturers, jobbers and suppliers are domiciled in the parish of Caddo.

D. Registration by nonresident prime contractor. (1) Prior to commencing work on any construction contract which in the aggregate exceeds three thousand dollars, any nonresident prime contractor, as defined in R.S. 47:9(A)(2), shall:

(a) Register the contract with the Department of Revenue in accordance with the provisions of R.S. 47:9(A)(1) and obtain a certificate in a form to be determined by the secretary, which certificate

shall identify the construction project registered and recite the total amount of the contract.

(b) File with the department a surety bond or a blanket surety bond for all contracts, sufficient to cover all taxes due on the contract or contracts, in accordance with the provisions of R.S. 47:9(B)(1).

(c) Register the contract with the central collection agency for local sales and use taxes of the parish in which the contract is to be performed. The central collection agency shall issue a certificate in a form determined by the secretary, following the requirements in Subparagraph (a) of this Paragraph, certifying that all requirements for surety bonds established by local ordinances applicable to the location of the project have been met.

(2)(a) No state entity, including but not limited to the office of the state fire marshal, code enforcement and building safety, or local governing authority charged with the responsibility of issuing any permit, license, or certificate necessary for the lawful commencement of any construction contract subject to the provisions of this Subsection, shall issue such permit, license, or certificate until sufficient proof of possession of the certificates obtained as provided in this Subsection for that project is shown by the applicant.

(b) Any person failing to execute any bond herein provided before beginning the performance of any contract shall be denied the right to perform such contract until he complies with such requirements. The secretary of the Department of Revenue shall have the right to enjoin the performance of the contract until a satisfactory bond is executed and filed, and the secretary may also impose a penalty for commencing of two hundred dollars or two percent of the construction contract, whichever is greater.

(3) Within thirty days of the completion and acceptance of the contract project, the prime contractor shall submit to the department, on a form provided or approved by the department, a complete and accurate accounting of all state sales and use taxes which became due as a result of the contract. In the event that there are additional taxes due, they shall be submitted with the accounting.

(4) The secretary of the Department of Revenue shall promulgate such rules and regulations and may have printed such forms as are necessary to effectuate the provisions of this Subsection.

(5) Nothing herein shall be construed so as to affect the licensing requirements of R.S. 47:341 et seq.

E. Payment of tax by a vehicle dealer. Notwithstanding any other provision of law to the contrary, including the provisions of Subsection A of this Section, every vehicle dealer who sells a vehicle at retail shall remit all taxes collected pursuant to R.S. 47:303(B) no later than forty days from the date of sale.

Source: Acts 1948, No. 9, § 7. Amended by Acts 1954, No. 491, § 1; Acts 1964, Ex.Sess., No. 9, §§ 1, 3; Acts 1965, No. 11, § 1; Acts 1968, Ex.Sess., No. 52, § 1; Acts 1970, No. 226, § 1; Acts 1970, No. 555, § 1; Acts 1971, No. 133, § 1; Acts 1972, No. 220, § 1; Acts 1975, No. 461, § 1; Acts 1977, No. 304, § 1; Acts 1981, No. 745, § 1; Acts 1982, No. 469, § 1; Acts 1985, No. 867, § 1, eff. July 23, 1985; Acts 1986, No. 389, § 1, eff. July 1, 1986; Acts 1986, No. 757, § 1, eff. Jan. 1, 1987; Acts 1986, No. 916, § 1, eff. July 1, 1986; Acts 1988, No. 2, § 1, eff. July 1, 1988; Acts 1990, No. 388, § 1, eff. Aug. 1, 1990; Acts 1991, No. 173, § 1, eff. July 2, 1991; Acts 1991, No. 709, § 1, eff. July 1, 1991; Acts 1993, No. 893, § 1, eff. July 1, 1993; Acts 1994, No. 8, § 1, eff. June 7, 1994; Acts 1995, No. 284, § 1, eff. July 1, 1995; Acts 1995, No. 1186, § 1; Acts 1996, 1st Ex.Sess., No. 32, § 1; Acts 1997, No. 787, § 1; Acts 1998, 1st Ex.Sess., No. 50, § 1, eff. July 1, 1998; Acts 1998, No. 24, § 1, eff. June 25, 1998; Acts 1998, No. 62, § 1, eff. Jan. 1, 1999; Acts 2001, No. 7, § 1, eff. July 1, 2001; Acts 2001, No. 68, § 1, eff. Jan. 1, 2001; Acts 2001, No. 215, § 1, eff. July 1, 2001; Acts 2002, 1st Ex.Sess., No. 98, § 1, eff. April 18, 2002; Acts 2002, 1st Ex.Sess., No. 99, § 1, eff. April 18, 2001.

LAC 61:I.4351. Returns and Payment of Tax, Penalty for Absorption of Tax

A. General. All persons and dealers who are subject to the tax under this Chapter are expected and required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due to the secretary. Forms will be provided by the secretary, and although the forms are usually mailed to each dealer, failure to receive same will not relieve the dealer of the necessity of filing and remitting the tax due currently. For the purpose of collecting and remitting to the state the tax imposed by this Chapter, the dealer is hereby declared to be the agent of the state.

1. After a dealer is properly registered for sales and use tax purposes, an identifying sales tax number is assigned to that dealer. The assignment of a regular sales tax number requires a dealer to file a monthly return and failure to do so will cause the secretary to send an estimated proposed assessment. For months when the dealer has no taxable sales or amounts to report, the return should be marked "no sales or taxable amounts," signed by the dealer and filed with the secretary. Monthly returns are required to be filed with the secretary on or before the twentieth day of the month following the month in which the tax becomes effective.

2. The secretary, for good cause, may extend, for a period not to exceed 30 days, the time for making any returns required under the provisions of this Chapter. Failure of the dealer to abide by the agreement and file returns and remittances as required will result in an immediate cancellation of the extension agreement by the secretary.

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 10-day demand assessment. Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

4. Gross proceeds from rentals or leases shall be reported on the appropriate line of the return, and the tax shall be paid with respect thereto, unless an exemption is specifically authorized and explained on the return. Rental and lease proceeds shall be reported on the twentieth day of the month following the monthly or quarterly reporting period in which the proceeds were actually collected by the dealer, regardless of the period in which the lease or rental occurred.

5. The dealer is compensated for accounting for and remitting the tax levied by this Chapter at the rate established by R.S. 47:306. The amount of compensation is computed by multiplying the rate by the amount of tax due and deducting that amount from the total tax accounted for and payable to the secretary, before taking credit for taxes already paid to a wholesaler.

6. As stated under the regulation pertaining to R.S. 47:304, the dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser, and the absorption

of said tax as defined in this section by any retailer, wholesaler, manufacturer, or other supplier shall be punished by a fine of not more than \$2,000 or by imprisonment in the parish jail for not more than two years.

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. Upon registration, all dealers are required to file monthly returns. After the dealer has operated for a few months, and it is determined that the amount of tax liability averages less than \$100 per month, the dealer will be notified and required to file quarterly returns. The secretary may offer the option of quarterly filing to other dealers whose liabilities average less than \$250 per month. Application to file quarterly is not necessary, as notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the twentieth day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the twentieth day of the month following the month in which the taxable transaction occurred. The returns should be prepared in a manner that will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

2. A dealer may file returns using alternate filing periods. The method for filing shall be approved by the secretary before the method is used to file a return. If an alternate period filing method is approved for use, the number of short periods during a year must be greater than or equal to the number of long periods during that same year. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the secretary a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account shall be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year under review shall be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns shall be filed on or before the twentieth day following the close of the alternate filing period. Failure to file on or before the due date, will

subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. Advance Sales Tax. The Louisiana sales tax law was amended in 1965, to require all manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property to collect an advance payment of sales taxes on sales of all tangible personal property, and such payment is required only as a means of facilitating collection of the sales tax. Previous to this amendment, such sales of tangible personal property were considered exempt for taxation since under the statute, wholesale sales were not taxable. Accordingly, these new dealers were required to register with the secretary in order to collect and remit an advance sales tax from the sale of all tangible personal property made to retail dealers who resell the property to final users and consumers. The advance payment of the Louisiana sales tax is required upon all sales of tangible personal property to other dealers unless, specifically exempted by statute, or Form LGST-9 is obtained and kept on file by the dealer making the sale. Exemption certificate LGST-9 will only be recognized if the dealer making the purchase of tangible personal property states that the purchases are for resale or further processing by wholesale dealers and manufacturers. Those businesses purchasing property for resale that qualify as "wholesale dealers" can be exempted from the payment of the advance tax.

1. A Wholesale Dealer is defined as one where 50 percent or more of his sales do not constitute retail sales as defined in the sales tax law. Sales made in interstate commerce (sales where property is delivered by the seller outside the state) do not constitute retail sales. R.S. 47:306 also provides exemptions for dealers in motor vehicles subject to license and title; lumber dealers; farm implement dealers; and mobile, motorized, self-propelled, earth moving and construction equipment dealers. Sales made to industrial users and/or to contractors are also added towards the 50 percent criteria for qualification as a wholesale dealer.

2. Manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property are required under this Section to report all sales made within the period of a calendar month or approved alternative filing period, and to remit the advance retail dealers' sales tax on their returns filed with the department. The department is not concerned with credit terms extended by manufacturers, wholesalers, jobbers, suppliers and brokers to their customers. The question of when the whole-

aler should collect the advance sales tax is dependent upon the policy of the seller.

3. All dealers who have paid advance sales tax to a manufacturer, wholesaler, jobber, or supplier shall deduct from the total tax collected by them upon the retail sale of the commodity, the amount of advance sales tax paid, provided tax paid invoices evidencing the payments are retained by the dealer claiming the refund or credit. If the advance tax so paid during any reporting period amounts to more than the tax collected by him for that period, the excess so paid shall be reported on the return as a credit. Each such credit return shall be accounted for independently by the Department of Revenue and Taxation, and a refund shall be issued to the dealer for each such credit return. In no case may the credit be applied against the taxes due for any other period, unless the credit is applied under the direction of the secretary.

4. Manufacturers, wholesalers, jobbers, and suppliers collecting advance sales taxes are entitled to vendor's compensation at the rate established by R.S. 47:306. The amount of compensation is computed as a percentage of the taxes so collected and remitted to the secretary, provided the return and payment are timely filed.

5. Parishes, municipalities, school boards, and other local governing bodies, except hereinafter set forth, which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers, or suppliers to collect such taxes in advance from dealers to whom they sell.

6. The parish, municipal, school board or other local governing bodies of the parish in which the state capitol is located, Caddo Parish or any other parish having a population in excess of 200,000 are authorized to require manufacturers, wholesalers, jobbers, and suppliers to collect the taxes levied by them in advance from dealers to whom they sell provided the dealers and wholesalers, manufacturers, jobbers, and suppliers are domiciled in said parish. Such advance collections shall be subject to the same laws, rules, and regulations as are applicable to advance collections of state sales taxes; provided, however, that the taxes so collected shall be remitted to the parish, municipal, school board, or other local governing authority imposing the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997).

LAC 61:I.4373. Nonresident Contractors

A. General. This Section provides the procedures that must be followed by nonresident contractors who do business in this state as required by R.S. 47:9 and R.S. 47:306(D). This Section also provides the procedures that must be followed by state and local agencies charged with the responsibility for granting permits and/or licenses for the lawful commencement of construction contracts in this state as required by R.S. 33:2847. This Section also provides the necessary definitions.

B. Definitions. For the purposes of this Section, the following terms are defined:

Contractor—any dealer, as defined in this Chapter, who enters into contracts for the construction, renovation, or repair of immovable properties, such as buildings, houses, roads, levees, pipelines, and industrial facilities. It also includes subcontractors who enter into similar agreements with a general or prime contractor. The term contractor shall not include businesses that fabricate or construct property that is sold to another person as tangible personal property, even though the property may be subsequently incorporated into the construction of an immovable. The term contractor shall include any project owner who obtains any permit, license, or certificate necessary for the lawful commencement of any construction contract.

Nonresident Contractor—any contractor who does not meet any of the following criteria for resident status.

a. For an individual proprietorship, resident status requires having maintained permanent domicile in Louisiana for at least one year prior to bidding on work.

b. For a corporation, resident status requires having operated a permanent business facility in Louisiana for at least one year prior to bidding on work; or having at least 50 percent of its outstanding and issued common stock owned by individuals who

have maintained their domicile in Louisiana for at least one year prior to bidding on work.

c. For partnerships and other legal entities, resident status requires at least 50 percent ownership by individuals or corporations who themselves qualify as residents.

Resident Contractor—all contractors that are not nonresident contractors.

C. Contracts to be Registered with Secretary and Central Collector

1. Prior to obtaining a building permit necessary for the lawful commencement of any contract in Louisiana, a nonresident contractor shall register each contract that exceeds \$3,000 in total price or compensation with the secretary of the Department of Revenue and Taxation and with the central sales and use tax collector for the parish in which the project is located. The secretary shall provide the necessary forms for the contractors to register each contract. The forms will require the nonresident contractor to give a complete description of each project, pertinent tax registration data, and a list of anticipated subcontractors. A fee of \$10 per contract shall be paid to the secretary at the time of registration. As required by the secretary, the contractor shall furnish a surety bond for each contract or a blanket surety bond for all contracts. The bond shall be for an amount equal to 5 percent of the total contract price, or \$1,000, whichever is greater, for each contract. Upon satisfactory completion of the registration and surety bond requirements, the secretary shall issue the contractor a certificate of compliance with which to obtain any building permits necessary for lawful commencement.

2. Following the satisfactory registration of contracts with the secretary, the contractor shall submit copies of all registration, tax, and surety bond information to the appropriate parish central sales and use tax collector, except in Cameron Parish. In Cameron Parish, the nonresident contractor is to submit the necessary information to the parish police jury. The collector or police jury may require the contractor to supply additional information necessary to ensure that the contractor and his subcontractors are registered for and remit any applicable sales/use and occupational license taxes. Upon satisfactory completion of this requirement, the collector or police jury will issue the contractor a certification of compliance with which to obtain any building permits necessary for lawful commencement.

3. Nonresident subcontractors will be held to the same requirements of registration, payment of a \$10 fee, and furnishing a surety bond, even though they may not need to secure any permits.

D. Payments to be withheld from subcontractors. R.S. 47:9(B)(3) makes each contractor subject to this provision responsible for all of its subcontractors' compliance with all state and local tax laws. A contractor shall inform each of its subcontractors of their tax registration, contract registration, and surety bond requirements, and shall withhold a sufficient amount from payments made under their contracts to ensure compliance. Upon discovering any unpaid tax liability by a subcontractor, the secretary will first attempt to collect the unpaid taxes from the subcontractor or his surety. However, if the secretary's efforts are unsuccessful, the contractor and his surety have ultimate responsibility for the payment of any subcontractor's unpaid tax liabilities.

E. Contract Completion; Cancellation of Surety Bond. Within 30 days after completion of each contract, the contractor shall submit to the secretary a completion report summarizing the costs incurred; the taxes paid to other states, to the state of Louisiana, and to local taxing authorities; and other such information that may be required by the secretary. After reviewing the report and verifying the tax payment amounts reported, the secretary shall refer the summary to the central sales and use tax collector for the parish in which the project is located to determine whether there are any unpaid local tax liabilities. If no unpaid state or local tax liabilities are discovered, the contractor's surety bond may be canceled for that contract. The surety bond will be held by the Department of Revenue and Taxation and used, if necessary, in the future if sales taxes are later found to be due on that contract.

F. Compliance by Permitting Agencies; Withheld Funds Authorization

1. R.S. 47:9(B)(4) and R.S. 47:306(D)(2)(a) place specific responsibilities with state or local agencies that issue permits, licenses, or certificates necessary for the lawful commencement of any construction contract. State agencies, including but not limited to the office of the state fire marshal, and agencies of local governing authorities, including but not limited to parish and municipal building inspectors, shall not issue any building permit, license, or certificate until the applicant has submitted documentation verifying that the contract

has been properly registered and the required surety bond has been posted. Proper documentation to be obtained from the secretary of the Department of Revenue and Taxation is as follows.

a. Resident contractors must obtain a certificate of resident status.

b. Nonresident contractors must obtain a certificate of compliance.

c. Individuals seeking a permit for work to be performed on their residence must submit an affidavit as documentation of residency.

2. The secretary is authorized by R.S. 33:2847(B) to evaluate and monitor parish and municipal permitting agencies to ensure compliance with these provisions.

a. When the secretary discovers that a parish or municipal permitting office has issued a permit to a nonresident contractor without verifying compliance with the provisions of this regulation, he shall notify that permitting office, the parish collector, and the governing authority of the parish of the violation by registered mail.

b. The affected parties will be allowed 60 days to respond to the department's notification. If the affected parties contact the department after receiving notification, the department will work with them to reconcile the situation. If the situation is resolved, no further action will be taken.

c. If an agreement cannot be reached or if the department does not receive a response after 60 days, the secretary will notify the state treasurer of the violation by registered mail. A copy of this notification will be sent to the permitting office, the parish collector, and the governing authority of the parish.

d. The state treasurer, within 90 days of notification, shall request a hearing on the suspected violation with the House Committee on Ways and Means. The date, time, and location of this meeting will be furnished by the state treasurer to the permitting office, the parish collector, the governing authority of the parish, and the secretary of the Department of Revenue and Taxation by registered mail. Following the hearing, the state treasurer shall take action as directed by the committee, including the withholding of state funds as authorized by R.S. 33:2847(C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:2847, R.S. 47:9, and R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 21:185 (February 1995).

R.S. 47:306.1. Collection from interstate and foreign transportation dealers

Persons, as defined in this Chapter, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft or other means, may, at their option under rules and regulations prescribed by the collector, register as dealers and pay the taxes imposed by R.S. 47:302 A on the basis of the formula hereinafter provided.

Such persons, when properly registered as dealers, may make purchases in this state or import property into this state without payment of the sales or use taxes imposed by R.S. 47:302 A at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the collector. Thereafter, on or before the 20th day of the month following the purchase or importation, the dealer shall transmit to the collector, on forms secured by him, returns showing gross purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the state. The amount of such purchases and importations shall be multiplied by a fraction, the numerator of which is Louisiana mileage operated by the taxpayer and the denominator of which is the total mileage, to obtain the taxable amount of tax basis. This amount shall be multiplied by the tax rate to disclose the tax due.

Each such dealer, at the time of making the return required hereunder, shall remit to the collector the tax due for the preceding calendar month as shown on the return.

Added by Acts 1956, No. 438, § 1. Amended by Acts 1958, No. 440, § 1.

LAC 61:I.4353. Collection from Interstate and Foreign Transportation Dealers

A. R.S. 47:306.1 specifically provides for an option by persons engaged in interstate or foreign commerce transporting passengers or property for hire to register as dealers and pay the taxes imposed by R. S. 47:302(A) on the basis of the formula hereinafter provided; however, since the intent is apparent, the option equally applies to the tax imposed by R.S. 47:321(A) and R.S. 47:331(A). All persons engaged in the business of transporting passengers or property for hire in interstate or foreign commerce can avail themselves of this option; however, only such purchases and importations, as hereinafter defined, used in the furtherance of the interstate or foreign commerce activity will come under this option. Specifically, a person engaged in activities and operations of another nature cannot apply the option to such purchases and importations, as hereinafter defined, and must pay the tax in the manner prescribed in R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A).

B. Carriers which do not elect to report and pay Louisiana sales and use taxes under the optional formula provided by R.S. 47:306.1 shall report and pay the Louisiana sales tax on all purchases made within the state of Louisiana, and shall report and pay the use tax on all tangible personal property imported into the state of Louisiana and becoming a part of the mass of the taxpayer's property located within the state.

C. Carriers which elect to report and pay Louisiana sales and use taxes under the optional formula provided by R.S. 47:306.1 shall be governed by the provisions set forth below.

D. For purposes of this regulation, gross purchases and importations means all tangible personal property purchased by the taxpayer, within or without the state of Louisiana, and all property imported into Louisiana subsequent to the effective date of this regulation, on which no Louisiana sales or use tax has been paid.

E. Carriers desiring to avail themselves of the provisions of this optional formula, which have not previously registered with the secretary for such purposes, shall apply to the secretary for an interstate or foreign carrier dealer's number, and submit satisfactory proof to the secretary that they are engaged in the transporting of passengers or prop-

erty for hire in interstate or foreign commerce. Proof that they are subject to appropriate federal regulatory agencies, such as the ICC, CAA, etc., shall normally be sufficient. The secretary shall then issue a registration number which may be used for the purpose of making purchases or importations into this state without payment of sales or use taxes at the time of purchase or importation.

F. Carriers currently registered with the secretary as an interstate or foreign carrier may continue to operate under the interstate or foreign carrier dealer's number which has been issued to them; however, carriers electing to report under this optional formula must expressly signify their election, in writing, at the time of filing their first sales tax return following the effective date of this regulation. All carriers who do not expressly so elect to report under the optional formula shall be presumed conclusively to have elected not to report under the formula.

G. An election either to report under the optional formula or not to report under the optional formula may not be withdrawn without written consent of the secretary for good cause shown.

H. Sellers of tangible personal property may recognize the claim of a buyer that the property concerned is to be used in the transporting of passengers or property for hire in interstate or foreign commerce only if the buyer is properly registered hereunder, and only if the buyer submits a blanket certificate, Form LGST 12, signed by and bearing the name, address and registration number of the buyer, to the effect that he is using the property purchased in the business of transporting persons or property or services purchased in the business of transporting persons or property for hire in foreign or interstate commerce and that he will pay the taxes owed directly to the secretary under the provisions of R.S. 47:306.1. Blank certificates may be obtained from the secretary. Sellers will be responsible for the collection of tax on all sales made to persons who have not secured the proper registration number. A dealer who fails to secure or keep for the secretary examination certificates signed by the buyer will be liable for and must pay the tax himself.

I. On or before the twentieth day of each month, the carrier shall transmit to the secretary on forms furnished by the secretary, returns showing the gross purchases and importations. The taxable base shall be determined by applying the mileage ratio (miles traveled in Louisiana divided by total miles traveled) to the gross amount referred to

above. The prevailing tax rate shall be applied to the taxable base to determine the amount of tax due.

J. R.S. 47:306.1 applies only to the tax imposed on sales and use of tangible personal property, as set forth in R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A). The tax imposed on the lease or rental of tangible personal property [R.S. 47:302(B), R.S. 47:321(B), and R.S. 47:331(B)] and the tax on sales of services [R.S. 47:302(C), R.S. 47:321(C), and R.S. 47:331(C)] may not be paid and reported under the optional method provided by R. S. 47:306.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:307. Collector's authority to determine the tax in certain cases

A. In the event any dealer fails to make a report and pay the tax as provided in this Chapter or in case the dealer makes a grossly incorrect report or a report that is false or fraudulent, the collector shall make an estimate of the retail sales of such dealer for the taxable period, of the gross proceeds from rentals or leases of tangible personal property by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state, and of the gross amounts paid or charged for services taxable; and it shall be the duty of the collector to assess and collect the tax together with any interest and penalty that may have accrued thereon, which assessment shall be considered prima facie correct and the burden to show the contrary shall rest upon the dealer.

B. In the event the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost, then the collector shall ascertain in any manner feasible the true cost price and shall assess and collect the tax, together with any interest and penalties that may have accrued, on the basis of the true cost as assessed by him. The assessment so made shall

be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

C. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgment of the collector, represent the true or actual consideration, then the collector is authorized to ascertain in any manner feasible the true or actual consideration and assess and collect the tax thereon together with any interest and penalties that may have accrued. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

D. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the collector shall add to the assessment the cost of such examination, together with any penalties accruing thereon. Such costs and penalties when collected shall be remitted to the State Treasurer in the same manner as the taxes are remitted to him by the collector.

Source: Acts 1948, No. 9, § 8.

LAC 61:I.4355. Secretary's Authority to Determine the Tax in Certain Cases

A. R.S. 47:307 imposes a direct burden and responsibility upon the secretary to determine that the taxable amount reported by any taxpayer is correct and further empowers the secretary to assess and collect any tax, penalties or interest which might be due based on correct figures. In the case of a dealer who makes a report that is grossly incorrect, false or fraudulent, the secretary is directed by the statute to make an estimate of the retail sales of the dealer, his gross proceeds from rentals or leases of tangible personal property, the cost of any articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the state, and the gross amount paid for taxable services. Upon having made the estimate, the secretary is further directed to assess all taxes, penalties and interest and the amount assessed is considered to be prima facie correct with the burden on the dealer to prove to the contrary.

B. Whenever the secretary has determined that the amount reported by a dealer is incorrect and is required to make an estimate or an assessment in

accordance with the provisions of this Section, if an examination of any books, records, or documents or an audit thereof is necessary in order to make such assessment, then the secretary shall add to the assessment of the tax, the cost of the examination together with penalties accruing on the cost. The cost and penalties assessed will be collected in the same manner in which the tax is collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:307.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:308. Termination or transfer of business

A. If any dealer liable for any tax, interest, or penalty levied hereunder sells his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such time as the former owner shall produce a receipt from the secretary showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods fails to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assigns.

B. In the case of a dealer who has quit a business, and who subsequently opens another similar business under the same ownership, whether that ownership is individual, partnership, corporation, or other, that dealer shall be liable for any tax, interest, or penalty owed by the original business.

Source: Acts 1948, No. 9, § 9. Amended by Acts 1991, No. 691, § 1, eff. July 18, 1991.

LAC 61:I.4357. Termination or Transfer of a Business

A. A special rule is provided for the filing of returns and payment of any taxes due in the case of any dealer who sells his business or his stock of goods or who quits a business. Under continuing operating conditions, a dealer is required to file his return and pay the amount due by the twentieth day following the close of the taxable period covered by the return. However, if a dealer discontinues business, he is required to file a final return and to make payment within 15 days after the date of selling or quitting business instead of the 20 days allowed a continuing business.

B. In order to insure that all taxes are paid by a discontinuing business, R.S. 47:308 requires that the successor, successors, or assigns, if there are any, must withhold a sufficient portion of the purchase price to cover any taxes, penalties and interest due and unpaid at the time of the purchase. These funds must be withheld by the purchaser until the former owner can produce a receipt from the secretary showing that the taxes have been paid or a certificate from the secretary stating that there are no taxes, interest, or penalties due. If the purchaser of the business or of the stocks of goods fails to withhold sufficient funds with which to pay any taxes, penalties, or interest found to be due, he shall be held personally liable for the payment of the amount due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:309. Dealers required to keep records

A.(1) Every dealer required to make a report and pay any tax under this Chapter shall keep and preserve suitable records of the sales, purchases, or leases taxable under this Chapter, and such other books of accounts as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the secretary; and each dealer shall secure, maintain and keep until the taxes to which they relate have prescribed, a complete record of tangible personal

property received, used, sold at retail, distributed, or stored, leased or rented, within this state by the said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the secretary for the reasonable administration of this Chapter, and a complete record of all sales or purchases of services taxable under this Chapter until the taxes to which they relate have prescribed.

(2) These records shall be open for inspection to the secretary at all reasonable hours.

(3) The secretary is authorized to require all dealers who take deductions on their sales tax returns for total sales under the minimum taxable bracket prescribed by him pursuant to R.S. 47:304 to support their deductions by keeping written or printed detailed records of said sales in addition to their usual books and accounts.

B. Any dealer subject to the provisions of this Chapter who violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than sixty days, or both, for any such offense.

Source: Acts 1948, No. 9, § 11. Amended by Acts 1983, No. 164, § 2, eff. June 24, 1983; Acts 1988, No. 45, § 1.

LAC 61:I.4359. Dealers Required to Keep Records

A. Every person required to collect or remit the tax imposed under this Chapter shall keep a permanent record of all transactions in sufficient detail to be of value in determining the correct tax liability under this Chapter. The records to be kept shall include all sales invoices, purchase orders, merchandise records, inventory records, credit memoranda, debit memoranda, bills of lading, shipping records, and all other records pertaining to any and all purchases, sales, or use of tangible personal property whether or not the person believes them to be taxable under this Chapter. Full detail must be kept of all property leased or rented from or to others and all services performed for or by others. They must also keep all summaries' recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns, and other documents listing, summarizing, or pertaining to such sales, purchases, inventories, shipments, or other

transactions dealing with tangible personal property.

B. Where such records are voluminous, they must be kept in chronological order or in some other systematic order compatible with the taxpayer's regular bookkeeping system which will enable the secretary to verify the accuracy of information contained in tax returns.

C.1. Records kept on punched cards, magnetic tape, magnetic (floppy) diskettes or other mechanical or electronic record keeping equipment are permissible provided the taxpayer makes available all necessary codes, program specifications, and equipment to enable the secretary to audit such records, or provides the secretary with written transcripts of these parts of the records which the secretary wishes to examine.

2. If it is mutually agreed, the dealer may furnish the secretary with data in a machine readable form, such as on floppy disk or magnetic tape, in addition to the source documents necessary to verify the data in order to facilitate the examination.

D. The books and records must contain complete information pertaining to both taxable and nontaxable items which are the subject of taxes imposed herein, and must be retained until the taxes to which they relate have prescribed according to R.S. 47:1579. If a notice of assessment has been issued by the secretary, the records for the period covered by the notice must be retained until such time as the issues involved in the assessment have been completely disposed of. Records required by this Section must be available at all times during the regular business hours of the day for inspection by the secretary or his duly authorized agents.

E. Any person who fails to keep records required herein or who refuses to make the records available for inspection by the secretary or who keeps records which are insufficient for use by the secretary in determining the correct tax liability makes himself liable for a fine of up to \$500 for each reporting period or imprisonment for up to 60 days, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:309.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 10:107 (February 1987), amended LR 15:274 (April 1989).

R.S. 47:309.1. Dealers required to furnish list of purchasers

A. Any dealer selling property or services, the aggregate value per sale of which exceeds two hundred fifty dollars, to residents of this state, where the property is delivered into this state or the beneficial use of such service occurs in this state, shall, upon request of the secretary, provide a list of such sales to the secretary of the Department of Revenue. The list shall include the names and addresses of the purchasers and the amount of the sale. The secretary shall pay to any dealer furnishing a list under this Section, an amount equal to the reasonable cost of reproducing the list.

B. Any dealer selling property or services to residents of this state, where the property is delivered into this state or the beneficial use of the service occurs in this state, is considered to have consented to the jurisdiction of the courts of this state for the exclusive purpose of enforcing this Section. Notwithstanding any other provision of law to the contrary, service of process upon dealers subject to this Section may be made by service outside this state in the same manner provided for service within this state with the same force and effect as though service had been made within this state.

Added by Acts 1986, No. 734, § 1, eff. July 8, 1986; Amended by Acts 1997, No. 658, § 2.

R.S. 47:310. Wholesalers and jobbers required to keep records

A. All wholesale dealers and jobbers in this state shall keep a record of all sales of tangible personal property made in this state whether such sales be for cash or on terms of credit. These records shall contain and include the name and address of the purchaser, the date of the purchase, the article purchased and the price at which the article is sold to the purchaser. These records shall be kept until the taxes to which they relate have prescribed and shall be open to the inspection of the secretary at all reasonable hours.

B. Whoever violates the provisions of this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or

both, for the first offense. For the second or each subsequent offense, the penalty shall be double.

Source: Acts 1948, No. 9, § 12. Amended by Acts 1983, No. 164, § 2, eff. June 24, 1983.

LAC 61:I.4361. Wholesalers and Jobbers Required to Keep Records

A. Wholesalers and jobbers are clearly within the definition of dealers set forth in R.S. 47:301(4) and as dealers, are required to maintain complete and accurate records pertaining to all sales of tangible personal property made within this state whether such sales are for cash or on terms of credit or whether they are taxable or exempt.

B. For a complete description of records which must be kept by all dealers, see R.S. 47:309 and the regulations issued under §4359.

C. In the case of wholesalers and jobbers, this Section provides that whoever violates this requirement shall be fined not less than \$50 nor more than \$200 or imprisoned for not less than 10 days nor more than 30 days, or both, for the first offense. For the second or each subsequent offense, the penalties double.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:310.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:311. Collector's authority to examine records of transportation companies

The collector is specifically authorized to examine at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in this state, whether they conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to the tax levied by this Chapter. When any such transportation company refuses to permit the examination of its records, as provided in this Section, the collector may proceed by rule against it, in term time or in vacation, in any court of competent jurisdiction in the parish where such

refusals occurred, to show cause why the collector should not be permitted to examine its books, records or other documents. This rule may be tried in open court or in chambers, and in case the rule is made absolute, the same shall be considered a judgment of the court, and every violation thereof shall be considered as a contempt of court and punished according to law.

Source: Acts 1948, No. 9, § 13. Amended by Acts 2001, No. 1032, § 15.

LAC 61:I.4363. Secretary's Authority to Examine Records of Transportation Companies

A. The secretary as defined in R.S. 47:301(2), is further expanded to include additional duly authorized representatives for purposes of this Section. Such representatives will have identification cards stating that they are authorized representatives of the secretary with the power and authority as provided in Chapter 18, Title 47, Louisiana Revised Statutes.

B. Under this Section, specific authorization is granted to the secretary to examine all pertinent books, records, and other documents of all transportation companies, agencies, or firms operating in this state in order to gather information necessary to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to the tax levied by this Chapter. The secretary or his assigned agents are expected to notify the transportation companies at a reasonable time in advance and to conduct the investigation during reasonable hours and with a minimum of difficulty to the transportation companies. The transportation companies, in turn, are expected to cooperate with the agents, furnishing all records required as well as reasonable working surroundings and conditions.

C. Failure to permit such an investigation will force the secretary to proceed by rule against the company, in term time or in vacation, in any court of competent jurisdiction in the parish where such refusals occurred to show cause why the secretary should not be permitted to examine books, records or other documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:311.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:312. Failure to pay tax on imported tangible personal property; grounds for attachment

The failure of any dealer to pay the tax and any interest, penalties, or costs due under the provisions of this Chapter on any tangible personal property imported from outside the state for use, consumption, distribution or storage to be used in this state, or imported for the purpose of leasing or renting the same, shall make the tax, interest, penalties, or costs ipso facto delinquent. This failure shall moreover be a sufficient ground for the attachment of the personal property imported wherever it may be found, whether the delinquent taxpayer is a resident or nonresident, and whether the property is in the possession of the delinquent taxpayer or in the possession of other persons.

It is the intention of this law to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this Chapter, together with interest, penalties and costs, and authority to attach is hereby specifically granted to the collector. The procedure prescribed by law in attachment proceedings shall be followed except that no bond shall be required of the State.

Source: Acts 1948, No. 9, § 17.

LAC 61:I.4365. Failure to Pay Tax on Imported Tangible Personal Property; Grounds for Attachment

A. The failure to pay any tax, interest, penalties or cost when due as provided in the Louisiana sales tax law and the regulations pertaining thereto automatically causes the tax, interest, penalties or costs to become immediately delinquent. Any tangible personal property, of which the sale at retail or the use, consumption, distribution and/or storage which gave rise to the incident of tax is subject to attachment irrespective of whether the delinquent taxpayer is in possession of the property or not, and irrespective of whether he is a resident of the state of Louisiana. The failure to pay the tax

when due constitutes grounds for the attachment. The procedure prescribed by law for attachment proceedings is to be followed except no bond is required of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:312.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:313. System of import permits; seizure and forfeiture of vehicles used in importing without permit

A. In order to prevent the illegal importation of tangible personal property which is subject to tax, and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this Chapter, the collector is hereby authorized to put into operation a system of permits whereby any person or dealer may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having the truck, automobile or other means of transportation seized and subjected to legal proceeding for its forfeiture. Such system of permits shall require the person or dealer who desires to import tangible personal property subject to tax imposed by this Chapter, to apply to the collector for a permit, stating the kind of vehicle to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the collector may deem proper or necessary. These permits shall be free of cost to the applicant and may be obtained at any of the branch offices of the department of revenue, including the branch offices located at Shreveport and Lake Charles.

B. The importation into this state of tangible personal property which is subject to tax, by truck, automobile, or other means of transportation other than a common carrier, without having first obtained a permit described above, (if the tax imposed by this Chapter has not been paid), is prohibited and shall be construed as an attempt to evade payment of the tax; and the truck, automobile, or means of transportation other than a common carrier, as well as the taxable property may be seized by the collector in order to

secure the same as evidence in a trial, and it shall be subject to forfeiture and sale in the manner provided for in this Chapter.

C. The collector is authorized in a summary proceeding, or by an action against the owner or operator of any truck, automobile or means of transportation other than a common carrier, used in the illegal importation and transportation of any article or articles of tangible personal property on which a tax is levied by this Chapter, and on which the tax has not been paid, to demand the forfeiture and sale of the truck, automobile or other means of transportation, together with the said taxable property, used in the illegal importation and in violation of this Chapter.

D. In all cases where it is made to appear by affidavit that the residence of the owner of the automobile, truck or other means of transportation is out of the state, or is unknown to the collector, the court having jurisdiction of the proceeding shall appoint an attorney at law to represent the absent owner against whom the proceeding shall be tried contradictorily within ten days after the filing of the same. The affidavit may be made by the collector or one of his assistants, or by the attorney representing the collector, if it is not convenient to obtain the affidavit of the collector or one of his assistants. The attorney appointed to represent the absent owner may waive service and citation of the petition or rule, but he shall not waive any legal defense. If, upon the trial of the proceeding, it is established that the automobile, truck, or other means of transportation, has been used to transport any article of tangible personal property upon which a tax is levied by this Chapter, and upon which the tax has not been paid, without first having obtained a permit from the collector as provided herein, then the court shall render judgment accordingly, declaring the forfeiture of the taxable property and of the automobile, truck, or other means of transportation and ordering the sale thereof after ten days' notice by advertisement in the official parish paper where the seizure is made, by the civil sheriff of the parish of Orleans, or by the sheriff of the parish in which the seizure is made; this sale shall be made at public auction at the court house, to the highest bidder, for cash, and without appraisalment. It is the intent and purpose of these proceedings to afford the owner of the automobile, truck or other means of transportation a fair opportunity for hearing in a court of competent jurisdiction. It is further the intent and purpose of these proceedings that the forfeiture and sale of the automobile,

truck or other means of transportation, and of the taxable property being transported therein, shall be and operate as a penalty for the violation of this Chapter by the illegal transportation and importation of tangible personal property subject to the tax; and the payment of the tax due on the article upon which a tax is levied by this Chapter, at the moment of seizure or thereafter, shall not operate to prevent, abate, discontinue or defeat the forfeiture and sale of the property. All funds collected from the seized and forfeited property shall be paid into the state treasury and credited in the same manner as provided for the tax herein levied. The court shall fix the fee of the attorney representing the owner when appointed by the court, at a nominal sum not to exceed ten per centum (10%) to be taxed as costs and to be paid out of the proceeds of the sale of the property.

Source: Acts 1948, No. 9, § 18.

R.S. 47:314. Failure to pay tax; rule to cease business

Failure to pay any tax due as provided in this Chapter shall ipso facto, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent, and the collector has the authority, on motion in a court of competent jurisdiction, to take a rule on the dealer, to show cause in not less than two or more than ten days, exclusive of holidays, why the dealer should not be ordered to cease from further pursuit of business as a dealer. This rule may be tried out of term and in chambers, and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the state, prohibiting the dealer from the further pursuit of said business until such time as he has paid the delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law. For the purpose of the enforcement of this Chapter and the collection of the tax levied hereunder, it is presumed that all tangible personal property imported or held in this state by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in this state, or leased or rented within this state, and is subject to the tax herein levied; this presumption shall be prima facie only, and subject to proof furnished to the collector.

Source: Acts 1948, No. 9, § 19.

LAC 61:I.4367. Failure to Pay Tax; Rule to Cease Business

A. The failure to pay any tax when due as provided in the Louisiana sales tax law and regulations pertaining thereto shall cause said tax, interest, penalty and cost to become immediately delinquent. The secretary has the authority to use summary process in any court of competent jurisdiction to require the dealer owing the tax to show cause why he should not be ordered to cease from further pursuit of his business. The rule to show cause shall be set for hearing at least two but not more than 10 days, exclusive of holidays, after it is filed. It may be tried out of turn, in chambers with preference and priority over all other proceedings. There is a prima facie presumption that all tangible personal property imported or held in this state by any dealer is subject to a sales or use tax. If the rule is absolute, said dealer shall be prohibited from further pursuit of his business until such time as the delinquent tax, interest, penalties and costs have been paid. Any violation shall be considered contempt of court and punished according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:314.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:315. Sales returned to dealer; credit or refund of tax

A. Whenever tangible personal property sold is returned to the dealer by the purchaser or consumer or in the event the amount paid or charged for services is refunded or credited to the purchaser or consumer after the tax imposed by this Chapter has been collected, or charged to the account of the purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the collector; and in case the tax has not been remitted by the dealer to the collector, the dealer may deduct the same in submitting his return. Upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by the signed statement, which period shall not be longer than ninety days, the collector shall issue to the dealer an official credit memorandum equal to the

net amount remitted by the dealer for the tax collected. This memorandum shall be accepted by the collector at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this Chapter. In cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the collector that the tax paid was not due.

B.(1) Whenever the unpaid balance of an account due to the dealer for the purchase of tangible personal property or the sale of services subject to sales taxation has been found to be bad in accordance with Section 166 of the United States Internal Revenue Code and has actually been charged off for federal income tax purposes, the dealer shall be entitled to reimbursement of the amount of tax previously paid by the dealer on such amounts.

(2) The prescription on such refund or credit shall begin to run from the date of signature on the federal income tax return charging off such debt.

(3) Whenever the balance of an account that had been determined to be worthless and sales tax refunded is recovered at a later date, the payment shall be reported as a new sale in the month recovered for sales tax purposes.

(4) This refund applies both to sales and use taxes imposed by the state of Louisiana and to such taxes authorized and levied by any school board, municipality, or other local taxing authority. All local taxing authorities shall grant such credit or refund as provided by Paragraph (B)(1) of this Section. The taxing authority shall provide for the granting of such refund either by ordinance or by local rule or regulation. Such credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with the provisions of Paragraph (B) (1) of this Section.

C. The provisions of Subsection B of this Section shall apply to debts that are incurred on or after January 1, 1976.

Source: Acts 1948, No. 9, § 20. Amended by Acts 1976, No. 153, § 1, eff. July 20, 1976; Acts 1983, No. 165, § 1; Acts 1985, No. 516, § 1, eff. July 1, 1985; Acts 1987, No. 770, § 1, eff. Oct. 1, 1987; Acts 1989, No. 379, § 1; Acts 1997, No. 658, § 2; Acts 2001, No. 1032, § 15.

LAC 61:I.4369. Sales Returned to Dealer; Credit or Refund of Tax

A. R.S. 47:315(A) provides special rules for the handling of taxes which have been charged to the account of a purchaser, consumer, or user in cases where the property sold has been returned to the dealer or where a refund is made of the charges for services upon which a tax was based. In either case, if the tax has been collected or charged to the account of the purchaser or consumer or user and has not yet been remitted to the secretary, and a refund or credit is made to the purchaser or consumer, the dealer may delete the sale and the tax due in submitting his return for the current tax period.

1. If the merchandise is returned to the dealer or if a refund is made to the customer for any charges for services after the tax collected or charged to the customer's account has been remitted to the secretary, the dealer may file an amended sales tax return for the period in which the tax so refunded was originally remitted. The blank return form must be obtained from the Department of Revenue and Taxation to ensure that it bears the correct taxpayer identification and account information and the proper marking of an "amended" return. The dealer must complete the amended return by reporting sales and deductions after making the proper adjustments to reflect the rescinded sale or sales. The credit balance which will result from the computation of total tax, penalty, and interest will be refunded to the dealer in the same manner as a credit return which is timely filed in accordance with §4351.

B. R.S. 47:315(B) provides a dealer with a method for claiming refunds for the recovery of taxes which have been remitted to the secretary, but are later written off as uncollectible accounts from credit customers. Dealers submitting refund claims should be aware of the following restrictions specifically provided in or authorized by R.S. 47:315(B):

1. The sales tax is refundable on debts incurred after January 1, 1976, that ultimately become worthless. The tax will not be refunded on worthless debts incurred prior to January 1, 1976.

2. Before the department can issue a sales tax refund on a bad debt, the debt must actually have been deducted on a federal income tax return in accordance with Section 166 of the United States Internal Revenue Code. Since the issuance of

refunds is tied to charge-offs on the annual federal return, the department will process one refund per year for each dealer.

3. If after a debt is charged off as worthless and a sales tax refund issued, all or some portion of the debt is collected, the gross amount collected shall be reported as a new sale for the period when the recovery is made.

4. The act applies to state sales taxes only and not to any local taxes.

5. The sales tax is refundable only on those bad debts that are the result of credit or deferred payment sales of tangible personal property and sales of services financed by the dealer making the sale. No refund is authorized on bad debts arising from leases or rentals, even though tax may have been charged on such transactions, or on sales financed by lending institutions or independent credit card plans, unless the lender has full recourse against the seller for any unpaid amounts. The sales tax is refundable on bad debts which arise because of the issuance of worthless checks only to the extent the check was in payment of taxable tangible personal property.

6. No refund will be issued in the case where a dealer has repossessed saleable merchandise and cancelled the customer's credit obligation.

7. Dealers may recover sales tax remitted on bad debts solely through the issuance of refunds by the Department of Revenue and Taxation. Dealers must continue to file sales tax returns reporting their total sales of merchandise during each taxable period, regardless of whether customer obligations have been collected. Deductions for bad debt losses may not be taken on sales tax returns.

C. Refund claims submitted to the department must be accompanied by schedules detailing the names of debtors whose obligations were charged off, the uncollectible amounts, the amount of debt written off which was incurred prior to January 1, 1976, nontaxable portion of debt written off, and tax claimed.

1. Refunds will not be issued based solely upon increases in bad debt reserve amounts. Dealers who maintain such reserve accounts must base their claims on the individual bad debts charged against the reserve.

2. Taxpayers who charge off more than 200 taxable accounts annually, and for whom the furnishing of

detailed information required above would be unreasonably burdensome, may apply for permission to submit the required data in some other form.

3. All refund claims filed with the Department of Revenue and Taxation are subject to office or field examination and verification, so dealers must maintain auditable records to support their claims. The records must be able to substantiate that the sales tax was charged and remitted to the department on the original sales and that the dealers made reasonable efforts to collect the debt amounts. Dealers must have good evidence that debts charged off are worthless and will remain so in the future. The debt must actually be charged off as worthless on a federal income tax return before a refund of sales taxes will be processed by the Department of Revenue and Taxation. In the absence of the required records, a dealer will not be entitled to refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:315.1. Sales tax refund

A. In the event tangible personal property, a part of and used in or about a person's home, apartment or homestead, in this state on which Louisiana sales tax has been paid by the owner of the property is destroyed by a natural disaster occurring in an area in Louisiana subsequently determined by the president of the United States to warrant assistance by the federal government, the owner thereof who was the purchaser who paid the Louisiana sales tax shall be entitled to reimbursement of the amount of the tax paid on such tangible personal property destroyed for which no reimbursement was received by insurance or otherwise. Upon receipt of a notarized statement of the owner as to the amount of the taxes paid under the provisions of this Chapter on tangible personal property destroyed as aforesaid, the collector shall make refund to said owner in the amount to which he is entitled.

B. No refund shall be made under the provisions of this section unless a claim for refund covering the amount to which an owner is entitled is filed on or before the end of the third calendar year

following the calendar year in which the property was destroyed.

C. The collector is authorized to prescribe the forms and regulations for use in carrying out the provisions of this Section.

Added by Acts 1970, No. 592, § 1. Amended by Acts 1972, No. 592, § 1; Acts 1973, No. 60, § 1; Acts 2001, No. 1032, § 15.

LAC 61:I.4371. Sales Tax Refund

A. Under certain circumstances, a sales tax refund is authorized for the destruction of tangible personal property destroyed in any natural disaster. The conditions and requirements are as follows:

1. The property destroyed must be classified as tangible personal property at the time of destruction rather than being classified as real or immovable property. For purposes of determination of the classification of such property, reference and guidance shall be to the rules of the Louisiana Civil Code. In Louisiana, property is classified as either movable or immovable rather than as personal or real. Under Louisiana law a corporeal movable is equivalent to tangible personal property at common law, and an immovable is equivalent to real property. Generally speaking a house or a building and all central heating or cooling systems, lighting fixtures, lavatories, etc. that are actually connected with or attached to the house or building by the owner are immovable by their nature. Such items as clothing, drugs, food, automobiles, boats, recreation equipment, appliances not permanently attached to a house or building where the removal thereof would not damage the movable or immovable, etc. would be classified as tangible personal property or movable property.

2. Such property destroyed must be a part of and used in or about a person's home, apartment or homestead, on which Louisiana sales tax has been paid by the owner of the property destroyed in an area subsequently determined by the president of the United States to warrant assistance by the federal government. Therefore, it is necessary that individuals suffer the loss, since R.S. 47:315.1 does not apply to partnerships or corporations. Further, it does not apply to business losses, even by individuals, since the law limits the losses to property that is part of and used in or about a person's home, apartment or homestead. Also, the area where the natural disaster occurred must be

designated as an area warranting assistance by the federal government in order to qualify under this Section.

3. The claimant suffering the loss of the tangible personal property must be the owner of such property that was destroyed in Louisiana, as well as being the one who purchased and paid the Louisiana sales tax on such property. Any refund claim filed shall be made in accordance with the rules and regulations prescribed by the secretary. Accordingly, any refund claim shall be filed on or before the end of the third calendar year following the year in which the property was destroyed, and the refund claim shall be limited to the tax paid on such tangible personal property destroyed for which no reimbursement was received by insurance or otherwise.

4. A refund claim packet can be obtained from the secretary, and when the claimant properly executes the required forms and prepares a sworn statement attesting to the facts, a refund will be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:315.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:315.2. Sales tax refund; new housing construction

A. Any person who restores, renovates, or rehabilitates an existing structure or builds or causes the building of a new house and associated improvements in an approved housing development area pursuant to the provisions of R.S. 40:582.1 through 582.7 shall be entitled to a refund of the amount of tax paid under the provisions of this Chapter and under the provisions of Chapter 2-A and Chapter 2-B of Sub-Title II of Title 47 of the Louisiana Revised Statutes of 1950 as a consequence of the purchase of materials used in the construction of such new house upon showing that he has complied with the provisions of R.S. 40:582.7.

B. The secretary of the Department of Revenue is authorized to prescribe the forms and regulations for use in carrying out the provisions of this Section.

Added by Acts 1984, No. 292, § 2; Acts 1997, No. 658, § 2.

R.S. 47:315.3. Sales tax refund; sales and rentals covered by Medicare

A. Any person who has paid sales and use taxes, levied by the state and any other taxing authorities in the state, upon the sale, lease, or rental of tangible personal property when such sale, lease, or rental is paid by or under the provisions of Medicare, shall be entitled to reimbursement of the amount of tax paid on such property. Upon receipt of a signed statement of such person as to the amount of taxes paid under the provisions of this Chapter on such tangible personal property and upon proof of payment by or under the provisions of Medicare, the secretary and the appropriate taxing authorities shall make a refund to such person in the amount to which he is entitled.

B. No refund shall be made under the provisions of this Section unless a claim for refund covering the amount to which a person is entitled is filed on or before the end of the third calendar year from the date of the sale, lease, or rental of the property.

C. The secretary is authorized to prescribe forms and regulations for use in carrying out the provisions of this Section.

NOTE: Acts 2000, 2nd Ex.Sess., No. 22, § 2 states, "Nothing in this Act shall be construed to impair the bonded indebtedness of the state of Louisiana or any other taxing authority of the state."

Added by Acts 1994, No. 25, § 1; Amended by Acts 2000, 2nd Ex.Sess., No. 22, § 1, eff. July 5, 2000; Acts 2001, No. 1032, § 15.

R.S. 47:315.4. Sales and use tax credit; waiver of homestead exemption

A taxpayer shall be entitled to a credit for the amount of ad valorem taxes paid on property to which the taxpayer is entitled to a homestead exemption but elects to waive that exemption as provided in R.S. 47:1711. This credit shall be

applicable to local sales and use taxes collected by the single tax collector for the parish in which the taxpayer filed the waiver required by R.S. 47:1711(B). The amount of the credit shall be equal to the lesser of the total amount of local sales and use taxes paid by the taxpayer or the total amount of ad valorem taxes that are paid as a result of the waiver of the taxpayer's homestead exemption. The single tax collector shall allocate the credit to each taxing authority in the parish in a proportion equal to the percentage of the total sales tax collections for each taxing authority for the previous calendar year compared to the total sales tax collections for the parish as a whole for the previous calendar year. However, no credit shall be allocated to any taxing authority which does not levy ad valorem taxes subject to the homestead exemption.

Added by Acts 1999, No. 1266, § 1, eff. July 12, 1999.

R.S. 47:316. Collector to provide forms

The collector shall design, prepare, print and furnish to all dealers, or make available to them, all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the taxes due; but failure of any dealer to secure these forms shall not relieve the dealer from the payment of the tax at the time in the manner herein provided.

Source: Acts 1948, No. 9, § 25.

R.S. 47:317. Repealed by Acts 1998, No. 4, § 1, eff. June 4, 1998.

R.S. 47:318. Disposition of collections

A. All monies collected under this Chapter shall be immediately paid into the state treasury, upon receipt, and first credited to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana; then an amount equal to thirty-seven percent of the deduction allowed in R.S. 47:306(A)(3)(a) and (B)(4) shall be used as provided in this Section.

B.(1) There is hereby established in the state treasury a special fund which shall be designated

the "Marketing Fund". Of the amount determined pursuant to Subsection A of this Section, two million dollars annually shall be deposited in and credited to the Marketing Fund. Monies in the fund shall be invested by the treasurer in the same manner as the monies in the state general fund, and all interest earned on the investment of such monies shall be deposited in the state general fund. All unencumbered and unexpended monies in the fund at the end of each fiscal year shall remain in the fund.

(2) Monies in the fund shall be subject to annual appropriation to the Department of Economic Development for the following purposes:

(a) One million dollars annually to be used for marketing education.

(b) One million dollars annually for advertising, marketing, and promotional activities.

(c) Repealed by Acts 2001, No. 7, § 2, eff. July 1, 2001.

C. Repealed by Acts 2001, No. 7, § 2, eff. July 1, 2001.

D. After satisfying the requirements of Subsection B of this Section, the remaining portion of the amount determined pursuant to Subsection A of this Section shall be deposited in the Louisiana Economic Development Fund created by R.S. 51:2315.

Source: Acts 1948, No. 9, § 27. Amended by Acts 1953, Ex.Sess., No. 3, § 1; Acts 1961, 2nd Ex.Sess., No. 10, § 1, Acts 1962, No. 148, § 1, Acts 1963, No. 27, § 1; Acts 1968, No. 36, § 1; Acts 1972, No. 96, § 4, eff. Jan. 1, 1973; Acts 1986, No. 389, § 1, eff. July 1, 1986; Acts 1986, No. 916, § 1, eff. July 1, 1986; Acts 1991, No. 709, § 1, eff. July 1, 1991; Acts 1993, No. 881, § 1, eff. July 1, 1993; Acts 1995, No. 1186, § 1; Acts 1996, 1st Ex.Sess., No. 32, § 1; Acts 1997, No. 1126, § 1, eff. July 1, 1997; Acts 1998, 1st Ex.Sess., No. 50, § 1, eff. July 1, 1998; Acts 2001, No. 7, §§ 1 and 2, eff. July 1, 2001.

R.S. 47:321. Imposition of tax

A. In addition to the tax levied by R.S. 47:302(A) and 331(A) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied an additional 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, as defined in Chapter 2 of Subtitle II of this Title. The levy of said tax shall be as follows:

(1) At the rate of one percent of the sales price of each item or article of tangible personal property when sold at retail in this state except for prepaid telephone calling cards and prepaid authorization numbers, the tax to be computed on gross sales for the purpose of remitting the amount of tax to the state, and to include each and every retail sale.

(2) At the rate of one percent of the cost price of each item or article of tangible personal property except for prepaid telephone calling cards and prepaid authorization numbers when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state, provided that there shall be no duplication of the tax.

B. In addition to the tax levied by R.S. 47:302(B) and 331(B) and collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, there is hereby levied a tax upon the lease or rental within this state of each item or article of tangible personal property, as defined by said Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax to be as follows:

(1) At the rate of one percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where the lease or rental of such property is in an established business, or part of an established business, or the same is incidental or germane to the business.

(2) At the rate of one percent of the monthly lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee to the owner of the tangible personal property.

C. In addition to the tax levied on sales of services by R.S. 47:302(C) and 331(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied a tax upon all sales of services, as defined by said Chapter 2 of Subtitle II of this Title, in this state, at the rate of one percent of the amounts paid or charged for such

services; however, the tax levied by this Section shall not apply to the furnishing of telecommunications services for compensation as provided in R.S. 47:301(14)(i).

D. The tax levied herein shall be collected from the dealer and/or wholesaler as provided for and as defined by Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; shall be paid at the time and in the manner provided by said Chapter; shall be in addition to all other taxes, whether levied in the form of sales, excise, license, or privilege taxes; and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

E. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period July 1, 1996 through June 30, 1997, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

F. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, for the period of July 1, 2000 through June 30, 2002, the exemptions to the tax levied pursuant to the provisions of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

G. Notwithstanding any other provision of law to the contrary and specifically notwithstanding any provision enacted during the 2002 Regular Session which makes any sales and use tax exemption inapplicable, inoperable, and of no effect, the exemption provided in R.S. 47:305.51 shall be applicable, operable, and effective for the period April 1, 2001 through June 30, 2004.

H. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Chapter, the exemptions to the tax levied pursuant to the provisions

of this Section, except for those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect from July 1, 2002.

NOTE: Section 7 of Acts 1996, No. 5, states, “The provisions of Section 2 of this Act which authorize the levy and collection of an additional one percent sales and use tax shall become effective on the day after the day the Louisiana Recovery District ceases to exist as provided in Article VI, Section 30.1(A) of the constitution and R.S. 39:2009.” The La. Recovery District ceased to exist on Sept. 30, 1996.

Added by Acts 1996, No. 5, § 2. Amended by Acts 1998, No. 18, § 1, eff. June 22, 1998; Acts 1998, No. 58, § 1, eff. July 1, 1998; Acts 2000, No. 33, § 3, eff. July 1, 2000; Acts 2001, 1st Ex.Sess., No. 5, § 1, eff. Mar. 27, 2001; Acts 2002, No. 22, § 1, eff. July 1, 2002; Acts 2002, No. 49, § 1, eff. July 1, 2002.

LAC 61:I.4305. Imposition of Tax

R.S. 47:321 adds an additional 1 percent tax to each of the taxes imposed by R.S. 47:302 with the exception that specific exemptions are provided for drugs, orthotic and prosthetic devices and patient aids prescribed by physicians or dentists for personal consumption or use and for food purchased under certain circumstances for personal consumption. This additional one percent tax is in addition to all other taxes levied on sales, excise, license, or privilege and in addition to the taxes levied under Chapter 3 of Subtitle 2 of Title 47 and shall be collected from the dealer and/or wholesaler as defined in Chapter 2 of Subtitle 2 of Title 47 as provided therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:321.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987).

R.S. 47:322. Collection of the tax

The provisions of Chapter 2 of Subtitle II of this Title shall be applicable to the additional one percent tax herein levied and shall be collected, under such rules and regulations as the secretary of the Department of Revenue shall promulgate and adopt, in the manner now or hereafter prescribed for collection of the sales tax levied and collected pursuant to the provisions of said Chapter 2 and shall be subject to the same definitions, exemptions, tax credits, penalties, and limitations now or hereafter prescribed in said Chapter 2; however, the tax levied by R.S. 47:321 shall not apply to the furnishing of telecommunications services for compensation as provided in R.S. 47:301(14)(i).

NOTE: Section 7 of Acts 1996, No. 5, provides: “The provisions of Section 2 of this Act which authorize the levy and collection of an additional one percent sales and use tax shall become effective on the day after the day the Louisiana Recovery District ceases to exist as provided in Article VI, Section 30.1(A) of the constitution and R.S. 39:2009.” The La. Recovery District ceased to exist on Sept. 30, 1996.

Added by Acts 1996, No. 5, § 2, eff. Oct. 1, 1996; Acts 1998, No. 18, § 1, eff. June 22, 1998.

LAC 61:I.4309. Collection of Tax

R.S. 47:322 provides that all definitions, exemptions, exclusions, tax credits, penalties, or limitations presently contained in or hereinafter added to Chapter 2 as well as all rules and regulations issued by the secretary or which may be adopted in the future, shall apply to the additional 1 percent tax levied by R.S. 47:321 in the same manner and to the same extent as provided elsewhere in Chapter 2 of Subtitle 2 of Title 47

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987).

R.S. 47:322.1 through 322.45 relate to the dedication of portions of the sales taxes collected on hotel room occupancy in certain parishes to local purposes within those parishes. Since these sections do not affect the amount of tax to be collected and remitted, the sections are not printed in this volume.

R.S. 47:323. Repealed by Acts 1986, No. 389, § 2, eff. July 2, 1986.

R.S. 47:324. Repealed by Acts 1988, No. 2, § 2, eff. July 1, 1988.

R.S. 47:325. Repealed by Acts 1988, No. 2, § 2, eff. July 1, 1988.

R.S. 47:331. Imposition of tax

A. In addition to the tax levied by R.S. 47:302(A) and collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, there is hereby levied an additional 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, as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax to be as follows:

(1) At the rate of ninety-seven one hundredths of one percentum of the sales price of each item or article of tangible personal property when sold at retail in this state, the tax to be computed on gross sales for the purpose of remitting the amount of tax to the state, and to include each and every retail sale.

(2) At the rate of ninety-seven one hundredths of one percentum of the cost price of each item or

article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state, provided that there shall be no duplication of the tax.

B. In addition to the tax levied by R.S. 47:302(B) and collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, there is hereby levied a tax upon the lease or rental within this state of each item or article of tangible personal property, as defined by said Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax to be as follows:

(1) At the rate of ninety-seven one hundredths of one percentum of the gross proceeds derived from the lease or rental of tangible personal property, as defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where the lease or rental of such property is in an established business, or part of an established business, or the same is incidental or germane to the business.

(2) At the rate of ninety-seven one hundredths of one percentum of the monthly lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee to the owner of the tangible personal property.

NOTE: The following text of R.S. 47:331(C) is effective from August 2, 2002 until April 1, 2004, unless repealed following a legislative or judicial determination as specified in Acts 2001, No. 1175, § 5.

C.(1) In addition to the tax levied on sales of services by R.S. 47:302(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied a tax upon all sales of services, as defined by said Chapter 2 of Subtitle II of this Title, in this state, at the rate of ninety-seven one hundredths of one percent of the amounts paid or charged for such services. In the case of amounts paid or charged for mobile telecommunications services as defined in R.S. 47:301(14)(i)(ii)(bb), such amounts shall be subject to the tax imposed by that Subitem if the customer's place of primary use is located in the state, and any disputes a customer may have concerning the amount of tax or place of primary use shall be governed by the provisions of R.S. 47:301(14)(i)(ii)(bb)(XI)(hhh) and (iii).

(2) Notwithstanding any provision of law to the contrary, effective from April 1, 2004 until April 1, 2016, as provided by Act 22 of the 2000 Regular Session, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff), which are reflected on bills submitted by telecommunication service providers to their customers which are dated during that time, regardless of when such services were provided.

NOTE: The following text of R.S. 47:331(C), as amended by Acts 2001, No. 1175, § 3, pursuant to Acts 2001, No. 1175, § 5, becomes effective following a judicial determination that substantially limits or impairs the essential elements of Sections 1 or 2 of Act 1175, until April 1, 2004.

C.(1) In addition to the tax levied on sales of services by R.S. 47:302(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied a tax upon all sales of services, as defined by said Chapter 2 of Subtitle II of this Title, in this state, at the rate of ninety-seven one hundredths of one percent of the amounts paid or charged for such services.

(2) Notwithstanding any provision of law to the contrary, effective from April 1, 2004 until April 1, 2016, as provided by Act 22 of the 2000 Regular Session, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff), which are reflected on bills submitted by telecommunication service providers to their customers which are dated during that time, regardless of when such services were provided.

NOTE: The following text of R.S. 47:331(C) is effective from April 1, 2004 to April 1, 2016.

C.(1) In addition to the tax levied on sales of services by R.S. 47:302(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied a tax upon all sales of services, as defined by said Chapter 2 of Subtitle II of this Title, in this state, at the rate of ninety-seven one hundredths of one percent of the amounts paid or charged for such services.

(2) Notwithstanding any provision of law to the contrary, the tax levied by this Section shall not apply to the furnishing of interstate telecommunication services, as defined in R.S. 47:301(14)(i)(iv)(ff).

NOTE: The following text of R.S. 47:331(C) becomes effective April 1, 2016.

C. In addition to the tax levied on sales of services by R.S. 47:302(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title, there is hereby levied a tax upon all sales of services, including the furnishing of interstate telecommunication services, as defined by said Chapter 2 of Subtitle II of this Title, in this state, at the rate of ninety-seven one hundredths of one percent of the amounts paid or charged for such services.

D. The tax levied herein shall be collected from the dealer, and/or wholesaler as provided for and as defined by Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; shall be paid at the time and in the manner provided by said Chapter; shall be in addition to all other taxes, whether levied in the form of sales, excise, license, or privilege taxes; and shall be in addition to taxes levied under the provisions of Chapter 3 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

E. Repealed by Acts 1994, No. 17, § 2; Acts 1994, 3rd Ex.Sess., No. 4, § 2, eff. Sept. 1, 1994.

F. Notwithstanding any other provision of law to the contrary, for the period July 10, 1990 through June 30, 1991, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperative, and of no effect.

G. Notwithstanding any other provision of law to the contrary, for the period July 1, 1991 through June 30, 1992, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperative, and of no effect.

H. Notwithstanding any other provision of law to the contrary, for the period July 1, 1992 through June 30, 1994, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

I. Notwithstanding any other provisions of law to the contrary, including the provisions of Subsection H of this Section as proposed by House Bill 568 of the 1992 Regular Session, the provisions of R.S. 47:305(D)(1)(t) shall remain in effect for the period beginning on July 1, 1992 and ending on June 30, 1994.

J. Notwithstanding any other provision of law to the contrary, for the period July 1, 1994 through June 30, 1996, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, and 305.46, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

K. Notwithstanding any other provision of law to the contrary, for the period July 1, 1996 through June 30, 1998, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

L. Notwithstanding any other provision of law to the contrary, for the period July 1, 1998 through June 30, 2000, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

M. Notwithstanding any other provision of law to the contrary, for the period July 1, 2000 through June 30, 2002, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B),

(D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

N. Notwithstanding any other provision of law to the contrary and specifically notwithstanding any provision enacted during the 2002 Regular Session which makes any sales and use tax exemption inapplicable, inoperable, and of no effect, the exemption provided in R.S. 47:305.51 shall be applicable, operable, and effective for the period April 1, 2001 through June 30, 2004.

O.(1) Notwithstanding any other provision of law to the contrary, for the period July 1, 2002 through June 30, 2004, the exemptions to the tax levied by this Section, except for the exemptions provided in R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787, shall be inapplicable, inoperable, and of no effect.

(2)(a) For the period July 1, 2002 through June 30, 2003, the sales and use tax levied by this Section on food for home consumption and on utilities shall be reduced by ten percent of the sales and use tax rate in effect in this Section on June 30, 2002.

(b) For the period July 1, 2003 through June 30, 2004, the sales and use tax levied by this Section on food for home consumption and on utilities shall be reduced by twenty percent of the sales and use tax rate in effect in this Section on June 30, 2002.

(c) For purposes of this Paragraph, the term "food for home consumption" shall mean that term as defined in R.S. 47:305(D)(1)(n) through (r) and the term "utilities" shall mean sales of steam, water, electric power, or energy and natural gas.

NOTE: Section 1 of Acts 1990, No. 1038 contained a provision (now R.S. 51:1286) authorizing the Louisiana Tourism Promotion District to impose, by ordinance, a sales and use tax.

Section 3 of Acts 1990, No. 1038 (§1 of which establishes the Louisiana Tourism Promotion District and §2 of which amends this section) provides in part: "...Section 2 of this Act shall

become effective on the same date as the ordinance imposing the sales and use tax authorized by this Act becomes effective.”

The relevant ordinance was adopted by the Louisiana Tourism Promotion District on September 28, 1990, which date, pursuant to §9 of the ordinance, is its effective date.

Acts 1990, No. 1038, contained a sunset provision to expire on July 1, 1995. This sunset provision was removed through Acts 1994, No. 17 and Acts 1994, 3rd Ex.Sess., No. 4.

Added by Acts 1984, 1st Ex.Sess., No. 13, § 1, eff. March 27, 1984. Amended by Acts 1990, No. 386, § 1, eff. July 10, 1990; Acts 1990, No. 1038, § 2, eff. Sept. 28, 1990; Acts 1991, 1st Ex.Sess., No. 4, § 1, eff. July 1, 1991; Acts 1992, No. 563, § 1, eff. July 1, 1992; Acts 1992, No. 926, § 1, eff. July 1, 1992; Acts 1994, No. 20, § 1, eff. July 1, 1994; Acts 1996, No. 5, § 3, eff. July 1, 1996; Acts 1998, No. 1, § 1, eff. July 1, 1998; Acts 2000, 1st Ex.Sess., No. 18, § 1, eff. July 1, 2000; Acts 2000, No. 22, §§ 3, 4, eff. as to § 3 on April 1, 2004, eff. as to § 4 on April 1, 2016; Acts 2001, 1st Ex.Sess., No. 5, § 1, eff. Mar. 27, 2001; Acts 2001, No. 1175, § 1, eff. Aug. 2, 2002, and § 3, eff. on date of final judgment substantially limiting or impairing essential elements of §§ 1 or 2; Acts 2002, No. 22, § 1, eff. July 1, 2002; Acts 2002, No. 49, § 1, eff. July 1, 2002.

R.S. 47:332. Collection of the tax

A. The provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable to the additional one percentum tax herein levied and shall be collected, under such rules and regulations as the secretary of the Department of Revenue shall promulgate and adopt, in the manner now or hereafter prescribed for collection of the sales tax levied and collected pursuant to the provisions of said Chapter 2 and shall be subject to the same definitions, exemptions, tax credits, penalties, and limitations now or hereafter prescribed in said Chapter 2.

B. Notwithstanding any other provision of law to the contrary, including but not limited to any contrary provisions of this Section, for the period January 1, 1987 through June 30, 1988, the tax exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 shall be inapplicable, inoperable and of no effect

on the tax imposed and levied pursuant to the provisions of R.S. 47:331.

C and D. Repealed by Acts 1986, 1st Ex.Sess., No. 20, § 2, eff. Jan. 1, 1987.

NOTE: See Acts 1984, 1st Ex.Sess., No. 13, § 2.

Added by Acts 1984, 1st Ex.Sess., No. 13, § 1, eff. March 27, 1984; Amended by Acts 1986, 1st Ex.Sess., No. 20, §§ 1 and 2, eff. Jan. 1, 1987; Acts 1997, No. 658, § 2.

NOTE: §§ 332.1 through 332.51 relate to the dedication of portions of the sales taxes collected on hotel room occupancy in certain parishes to local purposes within those parishes. Since these sections do not affect the amount of tax to be collected and remitted, the sections are not printed in this volume.

R.S. 47:333. Use tax on limestone aggregate

A. Effective July 1, 1984, a use tax is hereby levied upon the first use, in a commercial enterprise in this state, of limestone aggregate for which no Louisiana sales tax is paid. Any person or entity who engages in such first use shall pay to the Department of Revenue such tax of twenty-five cents per ton of limestone aggregate so used. Such use tax is levied in lieu of any other use tax levied in connection with state sales taxes.

B. Such tax shall be paid in accordance with the administrative and enforcement powers conferred upon the Department of Revenue by Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes insofar as the application of such provisions is practicable, or in accordance with applicable enforcement provisions of general laws, and in accordance with procedures required by the department.

NOTE: See Acts 1984, 1st Ex.Sess., No. 13, § 2.

R.S. 47:335.1

Added by Acts 1984, 1st Ex.Sess., No. 13, § 1, eff. March 27, 1984; Amended by Acts 1997, No. 658, § 2.

R.S. 47:335.1. Short Title

This Chapter shall be known as and referred to as the “Uniform Sales and Use Tax Administration Act.”

Added by Acts 2001, No. 72, § 1, eff. May 24, 2001.

R.S. 47:335.2. Definitions

As used in this Chapter:

(1) “Agreement” means the Streamlined Sales and Use Tax Agreement.

(2) “Certified automated system” means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(3) “Certified service provider” means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller’s sales tax functions.

(4) “Person” means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

(5) “Sales and use tax” means the taxes levied under R.S. 47:301 through 332 and the taxes that are levied by local governmental subdivisions and school boards under authority of Article VI, Section 29 of the Constitution of Louisiana.

(6) “Seller” means any person making sales, leases, or rentals of personal property or services.

(7) “State” means any state of the United States and the District of Columbia.

Added by Acts 2001, No. 72, § 2, eff. May 24, 2001.

R.S. 47:335.3. Policy

The Legislature of Louisiana finds that this state should enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

Added by Acts 2001, No. 72, § 3, eff. May 24, 2001.

R.S. 47:335.4. Multistate discussions; Streamlined Sales and Use Tax Agreement

A. For the purpose of reviewing, amending, and finalizing the agreement authorized by this Act, the state of Louisiana shall enter into multistate discussions. For purposes of such discussions, the state shall be represented by four delegates, one member to be appointed by the president of the Senate, one member to be appointed by the speaker of the House of Representatives, and two members to be appointed by the governor.

B. The Louisiana Department of Revenue is authorized and directed upon the consent of the legislature to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the agreement, the Louisiana Department of Revenue is authorized to act jointly with other states that are members of the agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

C. The Louisiana Department of Revenue is further authorized to take other actions reasonably required to implement the provisions set forth in this Act. Other actions authorized by this Section include but are not limited to the adoption of rules and regulations and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

D. The secretary of the Louisiana Department of Revenue or the secretary’s designee is authorized to represent this state before the other states that are signatories to the agreement.

Added by Acts 2001, No. 72, § 4, eff. May 24, 2001.

R.S. 47:335.5. Louisiana law unmodified

No provision of the agreement authorized by this Act in whole or part invalidates or amends any provision of the law of Louisiana. Adoption of the agreement by Louisiana does not amend or modify any law of Louisiana. Implementation of any condition of the agreement in this state, whether adopted before, at, or after membership of this state in the agreement, must be by the action of the Legislature of Louisiana.

Added by Acts 2001, No. 72, § 5, eff. May 24, 2001.

R.S. 47:335.6. Agreement pre-requisites

The Louisiana Department of Revenue shall not enter into the Streamlined Sales and Use Tax Agreement unless the agreement requires each state to abide by the following requirements:

A. Uniform State Rate. The agreement must set restrictions to achieve over time more uniform state rates through the following:

- (1) Limiting the number of state rates.
- (2) Limiting the application of maximums on the amount of state tax that is due on a transaction.
- (3) Limiting the application of thresholds on the application of state tax.

B. Uniform Standards. The agreement must establish uniform standards for the following:

- (1) The sourcing of transactions to taxing jurisdictions.
- (2) The administration of exempt sales.
- (3) The allowances a seller can take for bad debts.
- (4) Sales and use tax returns and remittances.

C. Uniform Definitions. The agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.

D. Central Registration. The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.

E. No Nexus Attribution. The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.

F. Local Sales and Use Taxes. The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

- (1) Restricting variances between the state and local tax bases.
- (2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.
- (3) Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.
- (4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.

G. Monetary Allowances. The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers.

H. State Compliance. The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.

I. Consumer Privacy. The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

J. Advisory Councils. The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory

R.S. 47:335.7

council of nonmember state representatives to consult with in the administration of the agreement.

Added by Acts 2001, No. 72, § 6, eff. May 24, 2001.

R.S. 47:335.7. Cooperating sovereigns

The agreement authorized by this Act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Added by Acts 2001, No. 72, § 7, eff. May 24, 2001.

R.S. 47:335.8. Agreement beneficiaries; standing

A. The agreement authorized by this Act binds and inures only to the benefit of the state of Louisiana and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of Louisiana and the other member states and not by the terms of the agreement.

B. Consistent with Subsection A, no person shall have any cause of action or defense under the agreement or by virtue of this state's approval of the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of Louisiana, or any political subdivision of Louisiana on the ground that the action or inaction is inconsistent with the agreement.

C. No law of Louisiana, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

Added by Acts 2001, No. 72, § 8, eff. May 24, 2001.

R.S. 47:335.9. Certified Service Provider

A.(1) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this Section.

(2) A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

B. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

C. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Added by Acts 2001, No. 72, § 9, eff. May 24, 2001.

***Legislative
Resolutions
and
Important
Acts***

Senate Concurrent Resolution 104

(1985 Regular Session)

A Concurrent Resolution

To express legislative intent with regard to sales and use taxation of refinery waste gas by the state, local governments, and school boards.

WHEREAS, the Legislature does hereby take cognizance of the dispute over the years as to whether refinery gas (often also called “oil refinery waste gas” or “oil refinery tail gas”) is subject to sales or use taxes; and

WHEREAS, the Legislature does hereby recognize the administrative resolution of that dispute arrived at by the Department of Revenue in 1972 and followed by the local taxing jurisdictions thereafter, which fixed the value of such refinery waste gas at four cents per thousand cubic feet; and

WHEREAS, the Legislature does hereby recognize that this agreement was modified effective January 1, 1985 to take into consideration the current value of such refinery gas and fixed the value of refinery waste gas at fifty-two cents per thousand cubic feet for sales and use tax purposes, subject to annual adjustment.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana declares the value of refinery waste gas to have been four cents per thousand cubic feet for the period from 1972 until January 1, 1985 and fifty-two cents per thousand cubic feet from that date forward, subject to heretofore agreed upon annual adjustments.

House Concurrent Resolution 55

(1986 Regular Session)

Suspension of exemptions. House Concurrent Resolution No. 55 of the 1986 Regular Session provides:

WHEREAS, whenever the condition of the State fisc would permit, the Legislature has attempted to afford tax relief to its citizenry in the form of various exemptions from the sales and use tax; and

WHEREAS, due to the unforeseen crisis in oil and gas production and prices and the resulting drop in state revenues, the financial condition of the state is now such that the monies lost due to these exemptions are critically needed to avoid cessation of vital services to those same citizens.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends the exemptions from the additional one percentum tax levied pursuant to R.S. 47:331 including but not limited to the exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 insofar as they are made applicable to the additional one percentum tax levied pursuant to R.S. 47:331 by virtue of the provisions of R.S. 47:332 and suspends R.S. 47:332(B), (C), and (D).

BE IT FURTHER RESOLVED that the collection of such tax by the dealer in accordance with the provisions of R.S. 47:303 shall not be impaired by any rule, regulation, or order of any public body, agency, or authority.

BE IT FURTHER RESOLVED that this suspension shall become effective on July 1, 1986, and shall extend through June 30, 1987.

House Concurrent Resolution 63

(1987 Regular Session)

A Concurrent Resolution

To urge and request the Department of Revenue and Taxation to take certain actions with regard to attempted collection of sales and use taxes on certain nontaxable services performed by advertising businesses for their clients and to urge and request the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means to study the matter.

WHEREAS, the sales and use tax is a tax on the sale, use, or lease of tangible personal property and not a tax on services except as specifically enumerated as a “taxable service” in R.S. 47:301(14); and

WHEREAS, providing advertising services to clients by advertising businesses is not enumerated as a “taxable service” in R.S. 47:301(14); and

WHEREAS, the advertising businesses within the state, including but not limited to advertising agencies, design firms, and print and broadcast media, furnish nontaxable services to their clients and as part of furnishing those services often provide their clients with tangible personal property such as film, video tapes, scripts, brochures, bumper stickers, and pamphlets; and

WHEREAS, it was not the intention of the Legislature in enacting the state's sales and use tax laws to levy a tax on such transactions; and

WHEREAS, the Department of Revenue and Taxation is currently attempting to assess and collect sales and use tax on these transactions; and

WHEREAS, the Department of Revenue and Taxation has not attempted to collect sales and use tax on such services in the past; and

WHEREAS, the current sales and use tax provisions contain certain ambiguities regarding the taxability of these transactions which need clarification and the Department of Revenue and Taxation has not promulgated any rule notifying taxpayers of its change in interpretation of this substantive law as required by the Administrative Procedure Act in R.S. 49:951(6), and the Department should desist from attempting to collect taxes in the face of such ambiguities.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Department of Revenue and Taxation to do all of the following:

(1) Cease attempting to collect sales and use tax on services rendered to clients of advertising businesses, including but not limited to advertising agencies, design firms, and print and broadcast media, whether or not such services also involve a transfer to the client of tangible personal property.

(2) To advise in writing all advertising businesses currently under assessment or audit that the department is withdrawing assessments or will exclude from audit assessments of sales and use tax on transactions which involve the transfer of advertising-related tangible personal property.

(3) Withdraw such assessments.

(4) Report in writing to the chairman of the Senate Revenue and Fiscal Affairs Committee and the House Committee on Ways and Means by June 15, 1987, on whether the actions requested by this Resolution have been completed, on the reasons for any failure to perform any or all of the actions requested by this Resolution, and on the basic form of the writing sent to advertising businesses advising them of the withdrawal of assessments pursuant to this Resolution.

(5) Prepare proposed regulations and send them along with the written report requested in Paragraph 4 of this Resolution to the chairman of the committees, which regulations shall provide for the policy of the Department regarding charges made by advertising businesses to their clients as nontaxable services, whether or not such services also involve the transfer to the client of tangible personal property.

(6) Initiate proceedings pursuant to the Administrative Procedure Act to promulgate such regulations after study of the regulations by the committees.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means to review the compliance by the Department with the request made by this Resolution; to review the regulations proposed by the Department; and to study the various problems in this area in order to recommend remedial legislation.

House Concurrent Resolution 163

**(1988 Regular Session)
A Concurrent Resolution**

To suspend from July 1, 1988, through June 30, 1989, the exemptions from the additional one percentum tax levied pursuant to R.S. 47:331, including but not limited to the exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, insofar as they are made applicable to the additional one percentum tax levied pursuant to R.S. 47:331 by virtue of the provi-

sions of R.S. 47:332(A) under certain conditions.

WHEREAS, whenever the condition of the state fisc would permit, the Legislature of Louisiana has attempted to afford tax relief to its citizenry in the form of various exemptions from the sales and use tax; and

WHEREAS, due to a recurring cash flow deficit and a substantial accumulated general fund deficit, the financial condition of the state is such that the monies lost due to these exemptions are critically needed to avoid cessation of vital services to those same citizens.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby suspend the exemptions from the additional one percentum tax levied pursuant to R.S. 47:331, including but not limited to the exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, insofar as they are made applicable to the additional one percentum tax levied pursuant to R.S. 47:331 by virtue of the provisions of R.S. 47:332(A), except for that exemption provided in R.S. 47:305.46, relative to purchases with United States Department of Agriculture Food Stamp Coupons and purchases made under the Women, Infants and Children's Program.

BE IT FURTHER RESOLVED that the collection of such tax by the dealer in accordance with the provisions of R.S. 47:303 shall not be impaired by any rule, regulation, or order of any public body, agency, or authority.

BE IT FURTHER RESOLVED that this suspension shall be effective on July 1, 1988, and shall extend through June 30, 1989, but if and only if the sales tax bonds authorized to be issued by the Louisiana Recovery District pursuant to Act 15 of the First Extraordinary Session of the Louisiana Legislature have been validated by a court decree which has become final on or before June 30, 1988, pursuant to the bond validation law in R.S. 13:5121 through 5130.

[Act 11, Second Extraordinary Session, 1988, excludes HCR 163 and Act No. 842 from the exemptions in R.S. 51:1787 and R.S. 39:467 and 468, retroactive to the effective dates of those instruments.]

House Concurrent Resolution 160

(1989 Regular Session)
A Concurrent Resolution

To suspend from July 1, 1989, through June 30, 1990, certain exemptions from the taxes levied pursuant to R.S. 47:302 and 331, including but not limited to the exemptions provided in those portions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 which provide for exemptions from the taxes imposed there-in, and to provide for the effective dates of the suspension.

WHEREAS, whenever the condition of the state fisc would permit, the Legislature of Louisiana has attempted to afford tax relief to its citizenry in the form of various exemptions from the sales and use tax; and

WHEREAS, the financial condition of the state is such that the monies lost due to these exemptions are critically needed to avoid cessation of vital services to those same citizens.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby suspend the following:

(1) All of the exemptions, except for the exemptions provided by R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.15, 305.20, 305.37, 305.38, 305.46, R.S. 39:467 and 468 and R.S. 51:1787, from the two percent tax levied pursuant to R.S. 47:302, including but not limited to those exemptions provided in those portions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 which provide for exemptions from the taxes imposed in that Chapter.

(2) All of the exemptions from the additional one percent tax levied pursuant to R.S. 47:331, including but not limited to the exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, insofar as they are made applicable to the additional one percent tax by the provisions of R.S. 47:332, except for those exemptions provided in R.S. 39:467 and 468, R.S. 47:305.10 and 305.46, and R.S. 51:1787.

BE IT FURTHER RESOLVED that the collection of such taxes upon previously exempt transactions by the dealer in accordance with the provisions of R.S. 47:303 shall not be impaired by any rule, regulation, or order of any public body, agency, or authority.

BE IT FURTHER RESOLVED that the suspension of the exemption of the two percent tax levied pursuant to R.S. 47:302 shall become effective on July 1, 1989, and shall extend through June 30, 1990.

BE IT FURTHER RESOLVED that the suspension of the exemption of the one percent tax levied pursuant to R.S. 47:331 shall become effective on July 1, 1989 and shall extend through December 31, 1989.

House Concurrent Resolution 1

(1989 Second Extraordinary Session)
A Concurrent Resolution

To suspend from July 1, 1989, through June 30, 1990, certain exemptions from the taxes levied pursuant to R.S. 47:302 and 331, including but not limited to the exemptions provided in those portions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 which provide for exemptions from the taxes imposed therein, and to provide for the effective dates of the suspension.

WHEREAS, whenever the condition of the state fisc would permit, the Legislature of Louisiana has attempted to afford tax relief to its citizenry in the form of various exemptions from the sales and use tax; and

WHEREAS, the financial condition of the state is such that the monies lost due to these exemptions are critically needed to avoid cessation of vital services to those same citizens.

THEREFORE, **BE IT RESOLVED** that the Legislature of Louisiana does hereby suspend the following:

(1) All of the exemptions, except for the exemptions provided by R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.15, 305.20, 305.37, 305.38, 305.46, R.S. 39:467 and 468 and R.S. 51:1787, from the two percent tax levied pur-

suant to R.S. 47:302, including but not limited to those exemptions provided in those portions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 which provide for exemptions from the taxes imposed in that Chapter.

(2) All of the exemptions from the additional one percent tax levied pursuant to R.S. 47:331, including but not limited to the exemptions provided in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, insofar as they are made applicable to the additional one percent tax by the provisions of R.S. 47:332, except for those exemptions provided in R.S. 39:467 and 468, R.S. 47:305.10 and 305.46, and R.S. 51:1787.

BE IT FURTHER RESOLVED that the collection of such taxes upon previously exempt transactions by the dealer in accordance with the provisions of R.S. 47:303 shall not be impaired by any rule, regulation, or order of any public body, agency, or authority.

BE IT FURTHER RESOLVED that the suspension of the exemption of the two percent tax levied pursuant to R.S. 47:302 shall become effective on July 1, 1989, and shall extend through June 30, 1990.

BE IT FURTHER RESOLVED that the suspension of the exemption of the one percent tax levied pursuant to R.S. 47:331 shall become effective on July 1, 1989 and shall extend through December 31, 1989.

ACT No. 386

(1990 Regular Legislative Session)

Acts 1990, No. 386, § 1, enacts R.S. 47:302(G) and 47:331(E), suspending certain sales and use tax exemptions for the period of July 10, 1990 through June 30, 1991. Sections 2 to 5 of Acts 1990, No. 386 provide as follows:

Section 2. Notwithstanding any provision of law to the contrary, the implementation of this Act shall be deemed an emergency for purposes of the Louisiana Procurement Code. All purchases, including but not limited to the procurement of printing and other services, necessary for the implementation of this Act

shall be made by the central purchasing agency pursuant to the emergency procurement procedures as provided in R.S. 39:1598 and applicable rules and regulations. The emergency conditions shall be deemed to have ceased on August 1, 1990, and further purchases of printing and other services shall no longer be made pursuant to the provisions of R.S. 39:1598.

Section 3. The collection of such taxes upon previously exempt transactions by the dealer in accordance with the provisions of R.S. 47:303 shall not be impaired by any rule, regulation, or order of any public body, agency or authority.

Section 4. Each merchant or dealer who shall incur a cost to reprogram cash registers, including computer programming, as a result of a change in the state sales and use tax rate or base shall be allowed a deduction against the tax due and accounted for and remitted to the secretary. The deduction for such costs shall not exceed twenty-five dollars per each cash register reprogrammed, and such costs must be invoiced and filed with the merchant's or dealer's tax return.

Section 5. The provisions of Sections 1 and 3 of this Act shall become effective on July 10, 1990; all other provisions of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature of the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. It is the intention of the legislature that the tax exemptions made inapplicable, inoperative, and of no effect for the period July 10, 1990 through June 30, 1991, by virtue of Section 1 of this Act shall resume, commence, and become effective on July 1, 1991.

ACT No. 88

(2002 Regular Legislative Session)
A JOINT RESOLUTION

This amendment is often referred to as the "Stelly Plan" named after the author.

Proposing to amend Article VII, Section 4(A) and to add Article VII, Section 2.2 of the Constitution of Louisiana, relative to the limitations on the power of taxation; to provide for

the limitation of the rates and brackets for the individual income tax; to prohibit the imposition of state sales and use tax on certain items; to provide for the submission of the proposed amendment to the electors; to provide for an effective date; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 4(A) and to add Article VII, Section 2.2 of the Constitution of Louisiana to read as follows:

§2.2. Power to Tax; Sales and Use Tax; Limitation Section 2.2.

(A) Effective January 1, 2003, the sales and use tax rate imposed by the state of Louisiana or by a political subdivision whose boundaries are coterminous with those of the state shall not exceed two percent of the price of the following items:

- (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r) on January 1, 2003.
- (2) Natural gas, electricity, and water sold directly to the consumer for residential use.
- (3) Prescription drugs.

(B) Effective July 1, 2003, the sales and use tax imposed by the state of Louisiana or by a political subdivision whose boundaries are coterminous with those of the state shall not apply to sales or purchases of the following items:

- (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r) on January 1, 2003.
- (2) Natural gas, electricity, and water sold directly to the consumer for residential use.
- (3) Prescription drugs.

(C) As used in this Section, the term "sold directly to the consumer for residential use" includes the furnishing of natural gas, electricity, or water to single private residences, including the separate private units of apart-

ment houses and other multiple dwellings, actually used for residential purposes, which residences are separately metered or measured, regardless of the fact that a person other than the resident is contractually bound to the supplier for the charges, actually pays the charges, or is billed for the charges. The use of electricity, natural gas, or water in hotel or motel units does not constitute residential use.

* * *

§4. Income Tax; Severance Tax; Political Subdivisions Section 4.(A) Income Tax. Equal and uniform taxes may be levied on net incomes, and these taxes may be graduated according to the amount of net income. However, the state individual and joint income tax schedule of rates and brackets shall never exceed the rates and brackets set forth in Title 47, Section 32 of the Louisiana Revised Statutes on January 1, 1974 2003. Federal income taxes paid shall be allowed as a deductible item in computing state income taxes for the same period.

* * *

Section 2. Be it further resolved that this proposed amendment shall be submitted to the electors of the state of Louisiana at the statewide election to be held on November 5, 2002.

Section 3. Be it further resolved that this proposed amendment shall become effective on January 1, 2003.

Section 4. Be it further resolved that on the official ballot to be used at said election there shall be printed a proposition, upon which the electors of the state shall be permitted to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall read as follows:

To retain the current limitation on individual income tax rates; to eliminate the current limitation on individual income tax brackets; to provide that the state individual and joint income tax schedule of rates and brackets shall never exceed the rates and brackets set forth in Title 47 of the Louisiana Revised Statutes on January 1, 2003, to provide that the state sales and use tax rate on food for home consumption, consumer purchases of natural gas, electricity, water, and prescription drugs shall be two percent for the period

January 1, 2003 through June 30, 2003, and to prohibit on July 1, 2003 the imposition of state sales and use tax on food for home consumption, consumer purchases of natural gas, electricity, water, and prescription drugs. (Amends Article VII, Section 4(A); Adds Article VII, Section 2.2)

NOTE: The above amendment was No. 2 on the ballots voted on throughout the State on November 5, 2002, and carried by the following vote:

FOR	534,985
AGAINST	506,938

***Louisiana
Tourism
Promotion
District
Ordinance***



Louisiana Tourism Promotion District Sales and Use Tax Ordinance

An ordinance levying within the Louisiana Tourism Promotion District (the boundaries of which are coterminous with the State of Louisiana) a tax of three one hundredths of one percent upon the sale at retail, the use, the lease or rental, the distribution, the consumption, and the storage for use or consumption of tangible personal property, and on sales of services in the District, as now or hereafter defined and provided by Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, subject to the exclusions, exemptions, and suspension of exemptions to the same extent that such exclusions, exemptions, and suspension of exemptions now or hereafter apply to the tax levied in La. R.S. 47:331; levying and providing for the assessment, collection, payment and dedication of such tax and the purposes for which the proceeds of such tax may be expended, such tax having been authorized by Act 1038 of the Regular Session of the Louisiana Legislature for the year 1990.

WHEREAS, the Louisiana Tourism Promotion District (the "District"), created by Act No. 1038 of the Regular Session of the Louisiana Legislature for the year 1990 (the "Act") as a special taxing district whose boundaries are coterminous with the State of Louisiana (the "State"), is a body politic and corporate and a political subdivision of the State, and is authorized to engage in cooperative endeavors with the State and to raise funds without a state guarantee or pledge of the full faith and credit of the State to assist the State in tourism promotion and development as a means of economic development, and

WHEREAS, pursuant to the Act, the Board of Directors of the District, acting as the governing authority of the District, is authorized to adopt an ordinance levying a three one hundredths of one percent sales and use tax effective on and after July 1, 1990 (the "Tax") and to provide with respect to the collection and enforcement of the Tax and the use and disposition of the proceeds of the Tax; and

WHEREAS, the Tax is levied upon the sale at retail, the use, the lease or rental, the distribution, the consumption, and the storage for use or consumption of tangible personal property, and on sales of services in the District, as now or hereafter defined and provided by Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, subject to the exclusions, ex-

emptions, and suspension of exemptions to the same extent that such exclusions, exemptions, and suspension of exemptions now or hereafter apply to the tax levied in La. R.S. 47:331; and

WHEREAS, the District desires to avail itself of the provisions of the Act and to levy the Tax for the purposes provided in the Act;

NOW, THEREFORE BE IT ORDAINED by the Board of Directors of the Louisiana Tourism Promotion District, acting as the governing authority of said District, that:

Section 1. Definitions.

In this ordinance, the following terms shall have the following meanings unless the context otherwise requires:

"Act" shall mean Act No. 1038 of the Regular Session of the Louisiana Legislature for the year 1990 and any amendments thereto.

"Collector" shall mean the Secretary of the Department of Revenue and/or any other department or agency of the State designated as agent of the District for the collection of the Tax levied herein.

"District" shall mean the Louisiana Tourism Promotion District, a special taxing district created pursuant to the Act, whose boundaries are coterminous with the State, and a body politic and corporate and a political subdivision of the State, and any successor thereto.

"Governing Authority" shall mean the Board of Directors of the District.

"Legislature" shall mean the Legislature of the State of Louisiana.

"Sales Tax Law" shall mean Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended.

"State" shall mean the State of Louisiana.

"Tax" shall mean the three one hundredths of one percent sales and use tax which the District is authorized to levy and collect pursuant to the Act and being imposed by this ordinance.

Section 2. Levy of Tax.

A. Pursuant to the Act, effective October 1, 1990, there is hereby levied within the District a tax upon the sale at retail, the use, the consumption,

Sales Tax Ordinance

and the storage for use or consumption of each item or article of tangible personal property, as now or hereafter defined in the Sales Tax Law, subject to the exclusions, exemptions, and suspension of exemptions to the same extent that such exclusions, exemptions, and suspension of exemptions now or hereafter apply to the tax levied in La. R.S. 47:331, as follows:

(1) At the rate of three one hundredths of one percent of the sales price of each item or article of tangible personal property when sold at retail in the District, the Tax to be computed on gross sales for the purpose of remitting the amount of Tax to the District, and to include each and every retail sale.

(2) At the rate of three one hundredths of one percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in the District, provided that there shall be no duplication of the Tax.

B. Pursuant to the Act, effective October 1, 1990, there is hereby levied within the District, a tax upon the lease or rental within the District of each item or article of tangible personal property, as now or hereafter defined in the Sales Tax Law, subject to the exclusions, exemptions, and suspension of exemptions to the same extent that such exclusions, exemptions, and suspension of exemptions now or hereafter apply to the tax levied in La. R.S. 47:331, as follows:

(1) At the rate of three one hundredths of one percent of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is in an established business, or part of an established business, or the same is incidental or germane to the business.

(2) At the rate of three one hundredths of one percent of the monthly lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

C. Pursuant to the Act, effective October 1, 1990, there is hereby levied within the District a tax upon all sales of services, as defined in the Sales Tax Law, subject to the exclusions, exemptions, and suspension of exemptions to the same extent that such exclusions, exemptions, and suspension of exemptions now or hereafter apply to the tax levied in La. R.S. 47:331, at the rate of three

one hundredths of one percent of the amounts paid or charged for such services.

D. The Tax shall be subject to the same exclusions, exemptions, suspension of exemptions, and credits to the same extent that such exclusions, exemptions, suspensions of exemptions, and credits now or hereafter apply to the State general sales tax which is levied in La. R.S. 47:331.

Section 3. Collection of Tax.

The Tax shall be collected on the basis of the applicable integrated bracket schedule prescribed by the Collector pursuant to La. R.S. 47:304(H). The dealers shall remit to the Collector, acting on behalf of the District, who shall collect the Tax for and on behalf of the District, as provided in Section 6 hereof, the proportionate part of the sales tax collected in accordance with the integrated bracket schedule.

Section 4. Tax Subject to Sales Tax Law.

The Tax shall be assessed, imposed, collected, paid and enforced in the manner provided in the Sales Tax Law and as provided in Chapters 17 and 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended. The provisions of the Sales Tax Law applicable to the assessment, imposition, collection, payment and enforcement of sales and use taxes by the State and the exemptions and exclusions provided for therein are incorporated herein by reference and shall apply to the assessment, collection, payment, and enforcement of the Tax as though all such provisions were set forth in full herein.

Section 5. Rights of Taxpayers and Dealers.

The obligations and rights of taxpayers and dealers in connection with the Tax shall be those provided to taxpayers and dealers by the provisions of the Sales Tax Law and as provided in Chapters 17 and 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, applicable to sales and use taxes levied by the State.

Section 6. Rules and Regulations as to the Collection of the Tax.

The Chairman or Vice Chairman and/or the Secretary and Treasurer of the Board of Directors of the District are hereby authorized, empowered and directed to carry into effect the provisions of this ordinance by contracting with the State, through the Collector, as permitted by Section 6(D) of the Act, for the collection of the Tax under

such terms and conditions as may be deemed appropriate, and to appoint deputies, assistants or agents to assist in the collection of the Tax, and in pursuance thereof to make and enforce such rules as may be deemed necessary, subject to the approval of the Board of Directors.

Section 7. Disposition of Tax Proceeds.

A. All taxes, revenues, funds, assessments, monies, penalties, fees or other income which may be collected or come in to the possession of the Collector as an agent of the District under any provision or provisions of this ordinance shall be promptly deposited by the Collector, after deduction of all reasonable and necessary costs and expenses of collecting the Tax, for the account of the District in the State Treasury, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to another account established by the Collector pending final determination of the protest or litigation.

B. The amount for the account of the District in the State Treasury shall be pledged and dedicated in such amounts as may be determined by the District for the purposes set forth in the Act. The funds pledged and dedicated shall be appropriated and expended for the purposes set forth in the Act.

Section 8. Severability.

If any one or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect the other provisions of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid, or legal, shall be deemed to apply to this ordinance.

Section 9. Publication Effective Date.

This ordinance shall be published in one issue of the official journal of the District, as soon as possible and shall be in full force and effect immediately upon its adoption.

***Table of Tax
Rates for
Exemptions
and
Exclusions***

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>				
4:168	Pari-mutuel race tracks.	0%	0%	0%	0%	0%	0%	0%	0%	0%				
4:227	Off-track betting facilities.	1%	1%	0%	0%	0%	0%	0%	0%	0%				
12:425	Nonprofit electrical co-ops.	4%	4%	4%	3%	3%	4%	4%	4%	4%				
22:1389	Purchases and rentals of tangible personal property and services by LIGGA (La. Insurance Guaranty Assoc.)	4%	4%	4%	4%	4%	4%	4%	4%	4%				
38:2212.3	Bulk purchases of materials, supplies, vehicles, and equipment by a public trust that is formed to give public entities cost-effective buying power.	1%	1%	0%	0%	0%	0%	0%	0%	0%				
39:467 39:468	Sales in and admissions to state-owned domed stadiums and similar facilities.	0%	0%	0%	0%	0%	0%	0%	0%	0%				
47:301(3)	(a) Separately stated installation charges. Also see R.S. 47:301(13)(a).	0%	0%	0%	0%	0%	0%	0%	0%	0%				
	(b) Separately stated labor charges on property repaired out-of-state.	0%	0%	0%	0%	0%	0%	0%	0%	0%				
	(c) Separately stated charges to install board roads for oil field operators.	0%	0%	0%	0%	0%	0%	0%	0%	0%				
	(e) Manufacturers rebates given on new vehicles.	1%	1%	0%	0%	0%	0%	0%	0%	0%				
	(g) Amounts paid by manufacturer directly to dealers of the manufacturer's products for the purpose of reducing the sales price of the product where such sales price is actually reduced.	1%	1%	0%	0%	0%	0%	0%	0%	0%				
47:301(6)(B)	Room rentals at camp and retreat facilities for religious purposes.	Subject to the full 4% state sales tax per preliminary injunction issued on March 23, 2002, by U.S. District Court for the Eastern District of LA. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.									0%/4%	4%	4%	4%
47:301(7)	(b) Rentals or leases of certain oilfield property for re-lease or re-rental.	0%	0%	0%	0%	0%	0%	0%	0%	0%				

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:301(7) continued	(c) Rentals or leases of property to be used in the performance of a contract with the U.S. Department of the Navy for the overhaul of a U.S. Navy vessel.	1%	1%	0%	0%	0%	0%	0%	0%	0%
	(d) Leases of airplanes and airplane equipment by commuter airlines domiciled in Louisiana.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(e) Leases of tangible personal property by hospitals that provide free care to all patients.	1%	0%	0%	0%	0%	0%	0%	0%	0%
	(f) Leases of educational materials and equipment used for classroom instruction by approved parochial and private elementary and secondary schools.	Subject to the full 4% state sales tax until 07/01/97. Subject to the full 4% state sales tax from 7/1/00 to 6/30/01.			0%	0%	4/0%	0%	0%	0%
	(g) Leases of tangible personal property by Boys State of Louisiana, Inc., and Girls State of Louisiana, Inc.	Subject to the full 4% state sales tax until 07/01/96	1%	0%	0%	0%	0%	0%	0%	0%
	(h) Leases of motor vehicles by a licensed motor vehicle dealer or manufacturer that are furnished at no charge to a customer under the terms of a warranty agreement.	Subject to the full 4% state sales tax until 08/01/98				4%/0%	0%	0%	0%	0%
47:301(8)	(b) Sales made to any regionally accredited independent institution of higher education that is a member of the Louisiana Association of Independent Colleges and Universities. This does not apply to sales made by the institutions that are normally subject to the sales tax.	1%	1%	1%	0%	0%	0%	0%	0%	0%
	(c) Purchases, leases, storage, or consumption of tangible personal property and services by the state or local agencies boards, commissions, instrumentalities, or other political subdivisions within Louisiana.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:301(8) continued	(d) Sales of bibles, songbooks, literature used for religious classes by churches and synagogues recognized under IRC 501(c)(3).	Subject to the full 4% state sales tax per preliminary injunction issued on March 23, 2002, by U.S. District Court for the Eastern District of L.A. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.	1%	0%	0%	0%	0%/4%	4%	4%	4%
	(e)(i) Purchases of tangible personal property and services and leases of tangible personal property by the Society of Little Sisters of the Poor.	Subject to the full 4% state sales tax per preliminary injunction issued on March 23, 2002, by U.S. District Court for the Eastern District of L.A. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.	4%/0%	0%/4%	4%	4%	4%	4%	4%	4%
47:301(10)	(a)(i) Sales or use of automobiles leased for 180 days or longer.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(iii) Sales or use of automobiles rented for less than 180 days.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(iii) Purchases of tangible personal property to be leased or rented.	1%	1%	0%	0%	0%	0%	0%	0%	0%
47:301	(10)(a)(v) Purchases of new research equipment by commercial biotechnology research companies	Effective 7/1/2002 through 6/30/2006	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(vi) Purchases by Motion Picture Production Companies	See R.S. 47:1121-1128	0%	0%	0%	0%	0%	0%	0%	0%
	(b) Sales of tangible personal property through vending machines.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(c)(i) Natural gas when used in the production of iron in the process known as the “direct reduced iron process.”	4%/1%	1%	0%	0%	0%	0%	0%	0%	0%
	(c)(ii) Isolated or occasional sales of tangible personal property.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Exemption Table

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:301(10) continued	(c)(ii) Sales of electricity for chlor-alkali manufacturing processes.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(d) Sales of any human tissue transplants, including human organs, bone, skin, cornea, blood, or blood products.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(e) Sale of raw agricultural commodities to be utilized in producing crops or animals for market.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(g) Sale of corporeal movable property to the U. S. government when title passes prior to incorporation into the final product.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(h) Sales of food products by Girl Scouts, Boy Scouts, Big Brother, and Big Sister organizations.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(i) Purchases by independent operators of new or used school buses, which are less than five years old and which will be used exclusively in a public school system.	1%	1%	0%	0%	0%	0%	0%	0%	0%
	(j) Purchases of food by food banks as defined by R.S. 9:2799.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(j) Purchases of tangible personal property by food banks as defined by R.S. 9:2799.*The 1% Louisiana Recovery District Tax does not apply to purchases of food. See exclusion above.	*1%	*1%	0%	0%	0%	0%	0%	0%	0%
	(k) Sales of airplanes and airplane equipment to commuter airlines domiciled in Louisiana.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(l) Purchases of certain pollution control equipment used to control industrial pollution.	1%	1%	0%	0%	0%	0%	0%	0%	0%
	(m) Sale of aircraft manufactured in Louisiana with seating capacity in excess of fifty persons.	1%	0%	0%	0%	0%	0%	0%	0%	0%
	(n) Purchases of "pelletized paper waste" as defined for certain specified uses.	1%	1%	0%	0%	0%	0%	0%	0%	0%
	(o) Purchases of fire-fighting equipment by volunteer fire departments or public fire departments.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Exemption Table

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>	
47:301(10) continued	(p) Purchases of tangible personal property by hospitals that provide free care to all patients. Also see R.S. 47:301(18)(c).	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(p) Sales of services to hospitals that provide free care to all patients	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(q) Sales of educational materials and equipment used for classroom instruction to approved parochial and private elementary, and secondary schools.			Subject to the full 4% state sales tax until 07/01/97. Subject to the full 4% state sales tax from 7/1/00 to 6/30/01.	0%	4/0%	0%	0%	0%	0%	
	(r) Tangible personal property purchased by Boys State of Louisiana, Inc., and Girls State of Louisiana, Inc.	Subject to the full 4% state sales tax until 07/01/96	1%	0%	0%	0%	0%	0%	0%	0%	
47:301(10)	(t) Acquisition and distribution of telephone directories distributed free of charge by advertising companies not affiliated with telephone service providers	Subject to full 4% state sales tax until 6/25/02									
47:301(10)	(v) Cellular phones or accessories given or sold to customers below cost in connection with the purchase of a service contract.	Preliminary injunction issued 7/24/02 by the Nineteenth Judicial District Court prohibits Louisiana from enforcing the provisions of Cellular Phone Exclusion.									
47:301(13)	(a) Market value of a like item traded in on a sale of tangible personal property.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(a) Separately stated finance charges, service charges, and cash discounts.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(a) Separately stated labor charges for installation of tangible personal property. Also see R.S. 47:301(3)(a).	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(b) Manufacturers rebates given on new vehicles.	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(c) First \$50,000 of the sales price of new farm equipment used in poultry production.	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(e) Amounts paid by manufacturers directly to dealers of the manufacturer's products for the purpose of reducing the sales price of the product where such sales price is actually reduced.	Subject to the full 4% state sales tax until 07/01/96	0%	0%	0%	0%	0%	0%	0%	0%	

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:301(14)	(b)(i) Admission charges to athletic events of schools, colleges, and universities.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(b)(i) Membership fees or dues of nonprofit, civic associations including the YMCA, CYO, and YWCA.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(b)(ii) Admissions to art, history, and scientific museums, aquariums, zoological parks, botanical gardens, arboretums, nature centers, planetariums, etc.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(b)(iv) Receipts from camp and retreat facilities owned and operated by nonprofit religious organizations organized for religious purposes. Room rental receipt are only excluded if the guests participate in the religious activity of the camp or retreat.	Subject to the full 4% state sales tax per preliminary injunction issued on March 23, 2002 by U.S. District Court for the Eastern District of LA. The Attorney General has challenged the preliminary injunction, however, religious entities must continue paying or collecting tax on these transactions while the case is on appeal.		4%/0%	0%/4%	4%	4%	4%	4%	
	(g) Repairs performed in Louisiana when the repaired property is delivered out of state.	0%	0%	0%	0%	0%	0%	0%	0%	
	(h) Sales of any service or action performed pursuant to a contract with the U.S. Department of the Navy for the construction or overhaul of a U.S. Navy vessel.	1%	1%	0%	0%	0%	0%	0%	0%	
	(i)(ii)(cc) Sales of interstate telecommunication services to any person for use in the operation of one or more call centers. Effective with imposition of 3% state sales tax on 04/01/01.	Effective 7/1/2003 call centers will be subject to the telecommunications tax for interstate communications services, with a limitation of \$25,000 per year for "direct pay" holders.		0%	0%	0%	0%	0%	0%	3%
47:301(16)	(b)(i) Stocks, bonds, notes, or other obligations and securities.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(b)(ii) Sales of monetized bullion having a total value of \$1000 or more.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(b)(ii) Sales of nonmonetized bullion having a total value of \$1000 or more.	1%	1%	0%	0%	0%	0%	0%	0%	0%
	(b)(iii) Proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(c) Repair of a vehicle by a licensed motor vehicle dealer subsequent to the lapse of a warranty when the repair is performed at no cost to the owner of the vehicle.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:301(16) continued	(e) Certain work products created by professionals licensed under Title 37 in the normal course of their professional business. Work products that are duplicated without modification for sale to multiple purchasers and sales of software are not included.		Subject to full 4% state sales tax until 06/24/98		4%/0%	0%	0%	0%	0%	0%
	(f) Pharmaceuticals administered to livestock used for agricultural purchases. Effective 07/01/00.						0%	0%	0%	0%
	(g) Used manufactured homes and 54% of price of new manufactured homes.			Subject to the full 4% state sales tax until 7/1/2001			4%/0%	0%	0%	0%
	(h) Certain Custom Computer Software			*The sales tax exclusion for custom computer software will be phased in at the rate of 25% per year, beginning 7/1/2002.	4%	4%	4%	*4%	*4%	*4%
	(i) Initial Purchase of specified digital television conversion equipment			A credit is available for qualifying purchases subsequent to 1/1/99, and prior to effective date of Acts 2002, No. 62. (June 26, 2002)				4%	4%	0%
	(j) Materials Used Directly in the Collection of Blood			Subject to full 4% state sales tax until 7/1/2002			0%	0%	0%	0%
	(k) Apheresis Kits and Leuko Reduction Filters			Subject to full 4% state sales tax until 6/25/02			0%	0%	0%	0%
47:301(18)	(a)(i) Sales or use of automobiles to be leased for 180 days or longer.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(i) Donations of food to qualified food banks by retail dealers. *Retroactively exempt prior to 7/1/98	*0%	*0%	*0%	*0%	0%	0%	0%	0%	0%
	(a)(i) Sale or donation to a Louisiana school that meets the definition in R.S. 17:236 or to a public or recognized independent institution of higher education of property originally purchased for resale.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(iii) Sales or use of automobiles to be rented for less than 180 days.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(a)(iii) Tangible personal property other than vehicles acquired for lease or rental.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(c) Supplies and equipment, which are reasonably necessary for the operation of a free hospital. Subject to the full 4% state sales tax until 07/01/94.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Exemption Table

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>	
47:301(18)	(d)(ii) Tangible personal property created or derived as a residue or byproduct from the processing of raw materials for resale when used by the manufacturer of such property. Does not include refinery gas.	Subject to full 4% state sales tax until 07/01/96	1%	0%	0%	0%	0%	0%	0%	0%	
	(e)(i) Tangible personal property sold by approved parochial and private elementary and secondary schools for support of the school.	Subject to the full 4% state sales tax until 07/01/97. Subject to the full 4% state sales tax from 7/1/00 to 6/30/01			0%	0%	4/0%	0%	0%	0%	
	(e)(ii) Purchases of educational materials and equipment used for classroom instruction by approved parochial and private elementary and secondary schools.	Subject to the full 4% state sales tax until 07/01/97. Subject to the full 4% state sales tax from 7/1/00 - 6/30/01			0%	0%	4%/0%	0%	0%	0%	
	(f) Tangible personal property purchased by Boys State of Louisiana, Inc., and Girls State of Louisiana, Inc.	Subject to full 4% state sales tax until 07/01/96		1%	0%	0%	0%	0%	0%	0%	
47:305(A)	(1) Sales of farm products direct from the farm by producers.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(2) Racehorses entered in races and claimed at any meet in Louisiana.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(4)(a) Sales of feed and feed additives for animals used for commercial or agricultural purposes.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(4)(b)(ii) Sales of feed and feed additives for animals used for business purposes.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(5) Sales of materials, supplies, equipment, fuel, bait, production and harvesting of crawfish.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(6) Sales of materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production and harvesting of catfish.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
47:305(B)	Farm products produced by farmers and used by the farmers and their families.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
47:305(C)	Articles traded in on new articles.	Repealed by Acts 1998, No. 4 §1, eff. June 4, 1998									
47:305(D)(1)	(a) Sales of gasoline. *Provided motor fuels tax has been paid. Otherwise, the suspended rate of tax applies.	*0%	*0%	*0%	*0%	*0%	*0%	*0%	*0%	0%	

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>	
47:305(D)(1) continued	(b) Sales of steam.	4%	4%	4%	3%	3%	4%	3.9%	3.9%	3.8%	
	(c) Sales of nonbottled water.	4%	4%	4%	3%	3%	4%	3.9%	3.9%	3.8%	
	(c) Sales of water sold directly to the consumer for residential use.	*Per article VII, Section 2.2 of the constitution of Louisiana									
	(d) Sales of electricity (except for use at chlor-alkali facilities).	4%	4%	4%	3%	3%	4%	3.9%	3.9%	3.8%	
	(d) Sales of electricity sold directly to the consumer for residential use.	*Per article VII, Section 2.2 of the constitution of Louisiana									
	(e) Sales of newspapers.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(f) Sales of fertilizers and containers to farmers.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(g) Sales of natural gas.	4%	4%	4%	3%	3%	4%	3.9%	3.9%	3.8%	
	(g) Sales of natural gas sold directly to the consumer for residential use.	*Per article VII, Section 2.2 of the constitution of Louisiana									
	(h) Materials and energy sources used for boiler fuel or to fuel the generation of electricity for resale. Does not include refinery gas.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(i) New automobiles, trucks, and aircraft removed from inventory for use as demonstrators.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
	(j) Drugs prescribed by physicians and dentists.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(k) Wheelchairs for personal use prescribed by physicians or licensed chiropractors.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(k) Wheelchair lifts prescribed by a physician.	1%	1%	1%	1%	0%	0%	0%	0%	0%	
	(k) Orthotic and prosthetic devices prescribed by physicians or licensed chiropractors.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(l) Oostomy, colostomy, ileostomy devices and equipment.	0%	0%	0%	0%	0%	0%	0%	0%	0%	

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
(m)	Patient aids for home use prescribed by a physician.	0%	0%	0%	0%	0%	0%	0%	0%	0%
(n) through (r)	Food for further preparation and consumption in the home.	4%	4%	4%	3%	3%	4%	3.9%	2%	0%
		*Per article VII, Section 2.2 of the Constitution of Louisiana								
(s)	Medical devices used by a patient in the treatment of any disease under the supervision of a physician or administered by a physician, nurse, or other health care professional.	0%	0%	0%	0%	0%	0%	0%	0%	0%
(t)	Restorative materials used by dentists.	0%	0%	0%	0%	0%	0%	0%	0%	0%
(u)	Adaptive driving equipment and motor vehicle modifications prescribed by a physician, or licensed chiropractor, or driver rehabilitation specialist licensed by the state.	Subject to full 4% state sales tax until 06/24/98			4%/3%	3%	4%	4%	4%	4%
47:305(D)(2)	Sales of meals by certain institutions.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305(F)	Amounts paid by radio and television broadcasters for the rights to broadcast film, video, and tape.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305(G)	Purchases or rentals of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.1	Sales and use of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in foreign and interstate coastwise commerce.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.2	Sales of insulin.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.3	Sales of seeds.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.5	Materials and supplies used in the construction of the Toledo Bend Dam Project. This project was completed in 1969. Therefore this exemption is obsolete.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.6	Sales of admission tickets by Little Theater organizations.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.7	Sales of tickets to musical performances of nonprofit musical organizations.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.8	Sales of pesticides to be used for agricultural purposes.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94-06/30/96</i>	<i>07/01/96-09/30/96</i>	<i>10/01/96-06/30/97</i>	<i>07/01/97-06/30/98</i>	<i>07/01/98-06/30/00</i>	<i>07/01/00-6/30/02</i>	<i>07/01/02-12/31/02</i>	<i>01/01/03-6/30/03</i>	<i>07/01/03-06/30/04</i>	
47:305.9	Rentals of motion picture film to commercial theaters.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
47:305.10	Property purchased for exclusive use outside the state (offshore).	0%	0%	0%	0%	0%	0%	0%	0%	0%	
47:305.11	Additional tax levy on property and services purchased for use in fulfilling lump sum construction contracts in existence at time additional tax is levied.	Generally affects only most recent tax levy in 1984 of 1%									
47:305.12	Purchases of fire fighting equipment by bona fide organized volunteer fire departments and public fire departments. *See R.S. 47:301(10)(o) for exclusion from tax effective 07/01/92.	*0%	*0%	*0%	*0%	*Repealed 6/4/98	0%				
47:305.13	Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations.	4%	4%	4%	3%	3%	4%	4%	4%	4%	
47:305.14	(A)(1) Admissions, parking fees, and sales of tangible personal property at certain fund-raising events sponsored by qualifying organizations.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(A)(1) Sales of newspapers by certain religious organizations.	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(A)(4) Sales by thrift shops located on military installations.	1%	1%	0%	0%	0%	0%	0%	0%	0%	
	(A)(5) Sales to Nonprofit Literacy Organizations.	Subject to the full 4% state sales tax until 7/1/2002.									
47:305(14)(1)	(A) Repairs and materials used on drilling rigs and equipment used exclusively for exploration and development of minerals outside the territorial limits of the state in Outer Continental Shelf waters.	Subject to the full 4% state sales tax until 7/1/2002.									
47:305.15	(A) Sales by blind persons who operate certain small businesses.	0%	0%	0%	0%	0%	0%	0%	0%	0%	
	(B) Sales and purchases by certain organizations that provide training for blind persons.	Subject to the full 4% state sales tax until 08/15/94									
47:305.16	Cable television installation and repair services.	0%	0%	0%	0%	0%	0%	0%	0%	0%	

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	07/01/94–06/30/96	07/01/96–09/30/96	10/01/96–06/30/97	07/01/97–06/30/98	07/01/98–06/30/00	07/01/00–6/30/02	07/01/02–12/31/02	01/01/03–6/30/03	07/01/03–06/30/04
47:305.17	Receipts from coin-operated washing and drying machines in commercial laundromat. <i>*See court decision in Frank A. Ferrar dba Spanish Splash v DORT, State of Louisiana, 96-CA-00806 (2nd Circuit Court of Appeals), effective 04/04/97.</i>	4%	4%	*4%/0%	*0%	*0%	*0%	0%	0%	0%
47:305.18	All outside gate admissions and parking fees at fairs and festivals sponsored by nonprofit organizations.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.19	Receipts from the lease or rental of vessels for use offshore in mineral production, or for providing services to those engaged in mineral production.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.20	(A) Purchases of fishing boats, supplies, fuel, lubricants, and repairs for the boats by licensed commercial fishermen.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(A) Purchases of repairs, parts, materials, and supplies used for the operation and maintenance of qualifying seafood processing plants.	1%	1%	0%	0%	0%	0%	0%	0%	0%
47:305.21	Purchases of airplanes, airplane equipment and parts by Louisiana-domiciled commuter airlines. <i>*See R.S. 47:301(10)(k) for an exclusion from tax.</i>	*0%	*0%	*0%	*0%	<i>*Repealed 6/4/98</i>				
47:305.22	Use tax on certain self-propelled earth-moving equipment removed from sales inventory for rental for the purpose of promoting the sale. <i>*See R.S. 47:301(10)(a)(iii) and 301(18)(a)(iii) for exclusion for property purchased for rental.</i>	*0%	*1%	*1%	*1%	*0%	*0%	*0%	*0%	0%
47:305.24	Sale of monetized bullion in excess of \$1000. <i>*See R.S. 47:301(16)(a)(iii) for an exclusion from the tax.</i>	*0%	*0%	*0%	*0%	<i>*Repealed 6/4/98</i>				
47:305.25(A)	(1-2) First \$50,000 of the sales price of certain rubber-tired farm equipment and attachments.	0%	0%	0%	0%	0%	0%	0%	0%	0%
	(3-5) First \$50,000 of the sales price of irrigation wells and related equipment, other farm implements, and on-the-farm facilities used to dry or store grain.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.26	New vehicles furnished by a vehicle dealer to a secondary school, college, or public school board for use in accredited driver education program.	4%	4%	4%	3%	3%	4%	4%	4%	4%

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:305.27	Mass-transit equipment purchased by the state and its political subdivisions. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
47:305.28	Gasohol, if the alcohol used in the manufacture has been distilled in Louisiana from agricultural commodities. *If motor fuels tax has been paid.	*0%	*0%	*0%	*0%	*0%	*0%	*0%	*0%	0%
47:305.29	Sales or leases to state agencies. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
	Sales or leases to parish and municipal libraries. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
	Sales or leases to school boards, parish and municipal governing authorities. *See R. S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
	Sales or leases to parish hospital service districts. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
	Sales or leases to law enforcement districts. *See R. S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
47:305.31	Materials used for the construction of approved energy conservation or energy conversion property purchased by Louisiana manufacturing establishments and public utilities. *Exemption expired 12/31/89.	*4%	*4%	*4%	*4%	*4%	*4%	*4%	*4%	4%
47:305.33	Sales of materials for the construction of and supplies for the operation of certain nonprofit multipurpose retirement centers.	4%	4%	4%	3%	3%	4%	*4%	*4%	*4%
47:305.34	Sales or leases to certain waterworks districts. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
47:305.35	Purchases by public housing authorities. *See R.S. 47:301(8)(c) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*Repealed 6/4/98				
47:305.36	(A) Sales of motor vehicles to be leased or rented by qualified lessors. *See R.S. 47:301(10)(a)(i), (10)(a)(iii) and (18)(a)(iii) for an exclusion from the tax.	*0%	*0%	*0%	*0%	*0%	*0%	*0%	*0%	0%

Exemption Table

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:305.37	(A) Leases of motor vehicles by qualified lessors for re-lease or re-rental.	3%	3%	3%	3%	3%	4%	4%	4%	4%
47:305.38	Sales of diesel fuel, butane, propane, or other liquefied petroleum gases to farmers.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.39	Sales or purchases by sheltered workshops for the mentally retarded licensed by the Louisiana Department of Health and Hospitals.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:305.40	Purchases of butane, propane and liquefied petroleum gases for private residential consumption.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.41	Specialty items purchased by carnival and non-profit organizations sponsoring a Mardi Gras parade or ball.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.42	Purchases, sales, and rentals of tangible personal property by Ducks Unlimited.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.43	Purchases, sales, and rentals of tangible personal property by Bass Life Associates.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.44	Tickets to dance or drama sponsored by domestic nonprofit organizations.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.45	(A) Purchases and sales made by nonprofit organizations dedicated exclusively to the conservation of migratory North American waterfowl and wetland habitat.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.46	(A) Purchases made by nonprofit organizations dedicated to the conservation of fish.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.47	Raw materials used in a printing process.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.48	Cars, piggy back trailers, and rolling stock owned, operated, or leased by a railroad.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.49	Purchases made with United States Department of Agriculture food stamp coupons and purchases made under the Women, Infants, and Children's Program.	0%	0%	0%	0%	0%	0%	0%	0%	0%

Exemption Table

Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94--06/30/96</i>	<i>07/01/96--09/30/96</i>	<i>10/01/96--06/30/97</i>	<i>07/01/97--06/30/98</i>	<i>07/01/98--06/30/00</i>	<i>07/01/00--6/30/02</i>	<i>07/01/02--12/31/02</i>	<i>01/01/03-6/30/03</i>	<i>07/01/03-06/30/04</i>
47:305.47	Pharmaceutical samples manufactured or imported into the state free of charge.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.48	Motor vehicles purchased in another state by military personnel stationed in Louisiana who are residents of the state where the vehicle was purchased and have paid that state's tax. *Credit is allowed for taxes paid to another state under R.S. 47:303(A).	*0%	*0%	*0%	*0%	*0%	*0%	*0%	*0%	0%
47:305.49	Catalogs distributed in the state free of charge.	4%	4%	4%	3%	3%	4%	4%	4%	4%
47:305.50	(A) Purchases of trucks, tandem trucks, tractors, and truck-trailers with a gross weight of 26,000 pounds or more and trailers and semi-trailers as defined in R.S. 47:451 that are used at least 80% of the time in interstate commerce.	Subject to the 4% state sales tax until 07/01/96. Taxed at 1% (LRD) until 10/01/96.	1%	0%	0%	0%	0%	0%	0%	0%
47:305.51	(A) Purchases of contract carrier buses used at least 80% in interstate commerce with a minimum passenger capacity of 35 persons and a gross vehicle weight of 26,000 pounds. Effective 06/30/98.	Subject to the full 4% state sales tax until 06/30/98	4%/0%	0%	0%	0%	0%	0%	0%	0%
47:315.1	Purchases of utilities by approved steelworks and blast furnaces under certain specified conditions. *4% tax applicable from 07/01/00 until 4/01/01.	Subject to full 4% state sales tax until 07/01/98	0%	0%	0%	0%	0%	0%	0%	0%
47:315.2	Refunds of sales/use taxes paid on property destroyed in a natural disaster in Louisiana when declared so by the United States president.	0%	0%	0%	0%	0%	0%	0%	0%	0%
40:582.1 through 47:151.5, 33:2718.3	Materials used in the restoration, renovation, or rehabilitation of existing structures or in new housing construction in certain designated areas.	4%	4%	4%	3%	3%	4%	4%	4%	4%

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Taxable rate of transactions for exemptions and exclusions

<i>Louisiana Revised Statute</i>	<i>Description</i>	<i>07/01/94–06/30/96</i>	<i>07/01/96–09/30/96</i>	<i>10/01/96–06/30/97</i>	<i>07/01/97–06/30/98</i>	<i>07/01/98–06/30/00</i>	<i>07/01/00–6/30/02</i>	<i>07/01/02–12/31/02</i>	<i>01/01/03–6/30/03</i>	<i>07/01/03–06/30/04</i>
47:315.3	Refunds of sales taxes paid on leases and purchases of corporeal movable property after property paid by or under the provisions of Medicare. *Effective 08/15/94. Transactions occurring before that date are eligible under this refund provision.	0%	0%	0%	0%	0%	0%	0%	0%	0%
47:1121-1128	Purchases made by qualifying motion picture production companies. Requires prior approval from the Department of Economic Development.	1%	1%	0%	0%	0%	0%	0%	0%	0%
47:6001	Antique airplanes held by private collectors, and not being used for commercial purposes.	4%	4%	4%	3%	3%	4%	4%	4%	4%

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