

LOUISIANA

DEPARTMENT *of* REVENUE

2016 Second Extraordinary Legislative Session Summary

Policy Services Division

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Louisiana Department of Revenue

Individual Income and Corporation Income and Franchise Taxes

Act 1 (HB 35) [R.S. 22:842, 270 (repealed)] established an annual tax on health maintenance organizations on the gross amount of their receipts from contracts and other evidences of coverage at a rate of \$550 for every \$10,000 of gross annual premiums collected.

Act 2 (HB 47) [R.S. 47:287.86] clarifies that the provisions of Act 123 of the 2015 Regular Session and Act 6 of the 2016 First Extraordinary Session which reduced the amount of the net operating loss deduction for corporate income taxes shall not apply to an amended return filed on or after July 1, 2015, provided that the amended return relates to a claim for a net operating loss deduction properly claimed on an original return filed prior to July 1, 2015. Effective June 22, 2016.

Act 4 (SB 6) [R.S. 47:6006(B)] provides that taxpayers whose ad valorem taxes are less than or equal to \$500,000 will be refunded all of the excess credit. Taxpayers whose ad valorem taxes are more than \$500,000, but less than or equal to \$1,000,000 will be refunded 75 percent of the excess credit, with the remaining 25 percent being carried forward as a credit against subsequent tax liability for up to five years. Taxpayers whose ad valorem taxes are more than \$1,000,000 will be refunded 75 percent of the first \$1,000,000 of the excess credit, with the remaining amount of the credit being carried forward as a credit against subsequent tax liability for up to five years. Effective June 28, 2016.

Act 5 (SB 10) [R.S. 47:2327 and 6006(B)(3) and (C)(3)] changed the definition of manufacturer for inventory tax credit purposes to create a specific subset of persons who meet the definition of manufacturer and have claimed the industrial ad valorem tax exemption. For this subset of manufacturers, if the amount of the inventory tax credit claimed on a tax return exceeds the amount of tax liability due on the return, the excess credit is not eligible for refund, but can be carried forward against subsequent Louisiana income or corporation franchise tax liability for up to five years. Effective June 28, 2016.

Act 7 (HB 24) [R.S. 22:832(A)(3), (C)(6), and (F)] exempts health maintenance organizations from the five percent reduction to the insurance premium tax credit made in Act No. 10 of the 2016 First Special Session. Effective June 24, 2016.

Act 8 (HB 20) [R.S. 47:287.95] amends the formulas used to calculate the Louisiana apportionment percent for multistate corporations which derive part of their income from Louisiana sources. Amends the apportionment formula for most industries to implement the single sales factor formula. Provides for sourcing rules for the purpose of attributing sales other than sales of tangible personal property. Provides for the exclusion of sales from the sales factor if the taxpayer is not taxable in a state to which a sale is sourced or if the state of assignment cannot be determined or reasonably approximated. Effective June 28, 2016. Applicable to all tax periods beginning on or after January 1, 2016.

Act 9 (HB 25) [R.S. 47:6025(A)(1)] changes the amount of the Louisiana Citizens Property Insurance Corporation tax credit from 72 percent to 25 percent of the Citizens Assessment paid. Effective June 28, 2016.

2016 Second Extraordinary Legislative Session Summary
Louisiana Department of Revenue

Act 10 (HB 29) [R.S. 47:115(A)(3) and (C) and 1624; R.S. 47:287.657, 617, and 1624.1 are repealed] provides that interest on refunds will begin ninety days after the due date of the return, the filing date of the return or claim for refund on which the overpayment is claimed, or the date the tax was paid, whichever is later. Effective for any refunds issued on or after September 1, 2016, notwithstanding the tax period to which the claim relates.

Act 11 (HB 50) [R.S. 47:293(9)(a)(xvii)] limits the individual income tax deduction for certain net capital gains. Limits the deduction to net capital gains resulting from the sale or exchange of an equity interest or assets held by the taxpayer for a minimum of five years immediately prior to the sale or exchange. Provides that the amount of the deduction is based on the number of years the entity was domiciled in Louisiana. Effective June 28, 2016. Applicable to sales or exchanges of equity interests or assets that occur on or after June 28, 2016.

Sales Tax

Act 3 (HB 27) [R.S. 47:301(c)(i)(aa)] provide that sale at retail does not include the sale of materials for further processing into articles of tangible personal property when all of the following criteria are met:

1. The raw materials become a recognizable and identifiable component of the end product.
2. The raw materials are beneficial to the end product.
3. The raw materials are materials or further processing and as such, are purchased for the purpose of inclusion into the end product.

The term “sale at retail” shall not include the purchase of raw materials for the production of raw or processed agricultural, silvicultural, or aquacultural products. If the materials are further processed into a byproduct for sale, such purchases shall not be deemed to be sales for further processing and shall be taxable. The term “byproduct” shall mean any incidental product that is sold for a sales price less than the cost of the materials. In the event, a byproduct is sold at retail in Louisiana for which a sales and use tax has been paid by the seller on the cost of the materials, which materials are used partially or fully in the manufacturing of the byproduct, a credit against the tax paid by the seller shall be allowed in an amount equal to the sales tax collected and remitted by the seller on the taxable retail sale of the by the byproduct. The Act is intended to clarify and be interpretative of the original intent of R.S. 47:301(10)(c)(i)(aa). The provisions of the Act are retroactive and applicable to all refund claims submitted or assessments of additional taxes due which are filed on or after the effective date of this Act. The Act is not applicable to any existing claim for refund filed or assessment of additional taxes due issued prior to the effective date of this Act for any tax period prior to July 1, 2016, which is not barred by prescription. Effective date is June 23, 2016.

Act 6 (SB 15) [R.S. 47:306.4] requires dealers to provide an annual reporting of the annual gross sales of tangible personal property and services, which are subject to a state sales tax exclusion or exemption for the sales of room rentals under R.S. 47:301(6)(b), room rentals by a homeless shelter under R.S. 47:301(6)(c); sales by a nonprofit entity which sells donated goods under R.S.

2016 Second Extraordinary Legislative Session Summary
Louisiana Department of Revenue

47:301(8)(f); sales by a youth organization chartered by Congress under R.S. 47:301(10)(h); sales by parochial or private elementary and secondary schools complying with the Dodd Brumfield court order and IRC Section 501(c)(3) under R.S. 47:301(18)(e); sales of admissions to athletic and entertainment events by elementary and secondary schools under R.S. 47:301(14)(b)(i); sales of meals by an educational or medical organization under R.S. 47:301(D)(2); sales of admissions to entertainment events by little theater organizations under R.S. 47:305.6; sales of admissions to musical performances by nonprofit organizations under R.S. 47:305.7; sales of admissions to entertainment events sponsored by a domestic nonprofit charitable or educational organization under R.S. 47:305.13; sales to admissions, parking fees charged at and tangible personal property sold at events sponsored by a nonprofit organization under R.S. 47:305.14(A)(1); and sales of admissions to and parking fees charged at fairs and festivals sponsored by a nonprofit organization under R.S. 47:305.18. This annual statement must be submitted electronically to the Department by September 30th. These annual reporting requirements do not apply to nonprofit entities and their affiliates which have been granted an exemption from federal income tax pursuant to 501(c)(3) of the Internal Revenue Code. Effective July 1, 2016.

Act 12 (HB 51) [R.S. 47:302(AA) and 321.1(F)(66)] provide for sales tax exemptions and exclusions to be operable and in effect for purposes of R.S. 47:302 and 321.1 beginning July 1, 2016. Under the provisions of R.S. 47:302(AA), the following sales tax exclusions and exemptions are now also effective:

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization as provided in R.S. 47:301(6)(b).
- (2) Sales of room rentals by a homeless shelter as provided in R.S. 47:301(6)(c).
- (3) Sales, leases, and rentals of tangible personal property and sales of services necessary to operate free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).
- (4) Sales, leases, or rentals of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as provided in R.S. 47:301(7)(g) and (10)(r).
- (5) Sales by nonprofit entities that sell donated goods as provided in R.S. 47:301(8)(f).
- (6) Isolated or occasional sales of tangible personal property by a person not engaged in such business as provided in R.S. 47:301(10)(c)(ii)(bb).
- (7) Sales of human tissue transplants as provided in R.S. 47:301(10)(d).
- (8) Sales of food items by a youth-serving organization chartered by the United States Congress as provided in R.S. 47:301(10)(h).
- (9) Sales and donations of tangible personal property by food banks as provided in R.S. 47:301(10)(j) and (18)(a)(i).
- (10) Sales or purchases of fire-fighting equipment by volunteer fire departments as provided in R.S. 47:301(10)(o).
- (11) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code as provided in R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii).

2016 Second Extraordinary Legislative Session Summary
Louisiana Department of Revenue

- (12) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code as provided in R.S. 47:301(10)(q)(i) and (18)(e)(i).
- (13) Sales, as provided in R.S. 47:301(14)(b)(i), but only of admissions to athletic and entertainment events held for or by an elementary or secondary school and membership fees or dues of nonprofit, civic associations.
- (14) Sales or use of materials used directly in the collection of blood as provided in R.S. 47:301(16)(j).
- (15) Sales or use of apheresis kits and leuko reduction filters as provided in R.S. 47:301(16)(k).
- (16) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors used exclusively by the patient for personal use as provided in R.S. 47:305(D)(1)(k).
- (17) Sales or use of ostomy, colostomy, and ileostomy devices and equipment as provided in R.S. 47:305(D)(1)(l).
- (18) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use as provided in R.S. 47:305(D)(1)(u).
- (19) Sales of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations as provided in R.S. 47:305(D)(2).
- (20) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription as provided in R.S. 47:305(G).
- (21) Sales of admissions to entertainment events by Little Theater organizations as provided in R.S. 47:305.6.
- (22) Sales of admissions to musical performances sponsored by nonprofit organizations as provided in R.S. 47:305.7.
- (23) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations as provided in R.S. 47:305.13.
- (24) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations as provided in R.S. 47:305.14(A)(1).
- (25) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations as provided in R.S. 47:305.18.
- (26) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen as provided in R.S. 47:305.20.
- (27) Sales of butane, propane, or other liquefied petroleum gases for private, residential consumption as provided in R.S. 47:305.39.
- (28) Sales and purchases by certain organizations that provide training for blind persons as provided in R.S. 47:305.15.

2016 Second Extraordinary Legislative Session Summary
Louisiana Department of Revenue

Beginning July 1, 2016, the provisions of R.S. 47:321.1(F)(66) state that the following exclusions and exemptions are applicable to the tax levied.

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization as provided in R.S. 47:301(6)(b).
- (2) Sales of room rentals by a homeless shelter as provided in R.S. 47:301(6)(c).
- (3) Sales, leases, or rentals of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as provided in R.S. 47:301(7)(g) and (10)(r).
- (4) Sales or purchases of fire-fighting equipment by volunteer fire departments as provided in R.S. 47:301(10)(o).
- (5) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code as provided in R.S.47:301(7)(f), (10)(q)(ii), and (18)(e)(ii).
- (6) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code as provided in R.S. 47:301(10)(q)(i) and (18)(e)(i).
- (7) Sales, as provided in R.S. 47:301(14)(b)(i), but only of admissions to athletic and entertainment events held for or by an elementary or secondary school and membership fees or dues of nonprofit, civic associations.
- (8) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors used exclusively by the patient for personal use as provided in R.S. 47:305(D)(1)(k).
- (9) Sales or use of ostomy, colostomy, and ileostomy devices and equipment as provided in R.S. 47:305(D)(1)(l).
- (10) Sales or use of ostomy, colostomy, and ileostomy devices and equipment as provided in R.S. 47:305(D)(1)(l).
- (11) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use as provided in R.S. 47:305(D)(1)(u).
- (12) Sales of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations as provided in R.S. 47:305(D)(2).
- (13) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription as provided in R.S. 47:305(G).
- (14) Sales of admissions to entertainment events by Little Theater organizations as provided in R.S. 47:305.6.
- (15) Sales of admissions to musical performances sponsored by nonprofit organizations as provided in R.S. 47:305.7.
- (16) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations as provided in R.S. 47:305.13.

2016 Second Extraordinary Legislative Session Summary
Louisiana Department of Revenue

- (17) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations as provided in R.S. 47:305.14(A)(1).
- (18) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations as provided in R.S. 47:305.18.
- (19) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen as provided in R.S. 47:305.20
- (20) Sales of butane, propane, or other liquefied petroleum gases for private, residential consumption as provided in R.S. 47:305.39.
- (21) Sales and purchases by certain organizations that provide training for blind persons as provided in R.S. 47:305.15.

Act 12 is effective June 28, 2016.

Act 13 (HB 53) [R.S. 39:467 and 468] exempts sales of certain items of tangible personal property and services at publicly owned domed stadium facilities or baseball facilities from sales tax. R.S. 39:468 has been amended to exempt sales of tangible personal property and certain services at certain publicly owned facilities from sales tax. This Act is effective September 1, 2016.