

**2004 First Extraordinary Legislative Session
Department of Revenue Legislative Summaries**

Income and Corporation Franchise Taxes

Act 2 (HB 3) amends R.S. 47:601(A), 602(A), (B), and (E)(1), 603(A), and 606(A) and (C); enacts R.S. 47:602(G) and 605.1, and repeals R.S. 47:601(D) and 603 to phase out the debt portion of the corporation franchise tax base. The portion of debt included in the taxable base for calendar year taxpayers will be:

2005 income/2006 franchise tax return—86 percent of total debt included,
2006 income/2007 franchise tax return—72 percent of total debt included,
2007 income/2008 franchise tax return—58 percent of total debt included,
2008 income/2009 franchise tax return—44 percent of total debt included,
2009 income/2010 franchise tax return—30 percent of total debt included,
2010 income/2011 franchise tax return—16 percent of total debt included,
2011 income/2012 franchise tax return and after—no debt included.

Fiscal year taxpayers will include the percent of debt indicated in the above chart for the calendar year in which their fiscal year begins.

Act 7 (HB 10) amends R.S. 47:6007, concerning the Louisiana motion picture investor tax credit as follows:

1. Removes the sunset date of the credit;
2. Limits the credit so that it will not exceed Louisiana expenditures of the production;
3. Specifies that the credit can only be applied to taxes for the tax period in which the credit is earned or carried forward for 10 years;
4. Removes the limitation on the number of transfers of credit permitted in any year;
5. Provides for the Department of Revenue to impose a fee, by regulation, of up to \$200 per transferee for transfers to credits; and
6. Provides administrative procedures for certifying productions and issuing credit certificates.

Effective March 25, 2004.

Act 12 (SB 9) extends the sunset date for earning the income and franchise tax credits for costs associated with the rehabilitation of certain historic structures provided by R.S. 47:6016. The credit may now be earned in taxable years ending prior to January 1, 2008.

Act 13 (SB 14) amends R.S. 51:2461(B) concerning the Louisiana Quality Jobs Program Act to extend by three years the sunset of the rebate. Applications for the rebate will now cease to be approved after December 31, 2007.

Sales Tax

Act 1(HB 2) enacts R.S. 47:301(3)(i), (13)(k), and (28) and 337.10(I) and amends R.S. 47:301(3)(i)(i), (13)(k)(i), and (28)(a), to provide phased-in exclusions from the state sales, use, lease, and rental tax for machinery and equipment used by eligible manufacturers in plant facilities predominantly and directly in the actual manufacturing for agricultural purposes or in the actual manufacturing of tangible personal property that is for sale to another. The exclusions

provided are from the definition of “cost price” for use tax purposes under R.S. 47:301(3), “sales price” for sales tax purposes under R.S. 47:301(13), and “gross proceeds” (from lease or rental), “monthly lease or rental price paid” and “monthly lease or rental price contracted or agreed to be paid” as used in R.S. 47:302(B), 321(B), and 331(B) imposing the tax on lease and rental transactions. The legislation authorizes political subdivisions of the state to provide these exclusions from local sales, use, lease, and rental taxes, but does not require that they do so.

Section 1 of Act 1 provides that the phase-in of these exclusions will begin July 1, 2005, with the first of seven reductions that will conclude with the full exclusion of manufacturing machinery and equipment from the state taxable base on July 1, 2011. Sections 2 and 3 provide for alternative phase-in periods that span over six years, but their implementation is contingent upon the increase of future forecasts by the Revenue Estimating Conference of state general fund revenues for the 2004-05 state fiscal year, as compared to the forecast of 2004-05 revenues that the Revenue Estimating Conference adopted on December 16, 2003.

The phase-in timetable provided by Section 1 of the Act will be used if future forecasted general fund 2004-05 revenues do not exceed the December 16, 2003, estimate by at least \$180 million. The phase-in timetable provided by Section 2 will be used if future forecasted 2004-05 general fund revenues exceed the December 16, 2003, estimate by at least \$180 million, but by less than \$235 million. The phase-in timetable provided by Section 3 will be used if a future forecast of 2004-05 revenues exceeds the December 16, 2003, estimate by \$235 million or more. The phase-in of the exclusions provided by Sections 2 and 3 will begin on the first day of the second month following the adoption by the Revenue Estimating Conference of a revised 2004-05 revenue estimate at the appropriate level.

Act 4 (HB 1) continues the suspension of most state sales tax exemptions through June 30, 2009, except for certain enumerated exemptions. The rate of sales tax to be collected on most suspended exemptions will be four percent. However, the rate of tax on sales of nonresidential electricity, water utility service, natural gas, and steam will be the same 3.8 percent rate that has been in effect since July 1, 2003. Effective July 1, 2004.

Act 5 (HB 8) enacts R.S. 47:302(R), 321(I), and 331(P) to provide that the exemption under R.S. 47:305.51 for purchases of utilities by steelworks and blast furnaces shall be in effect regardless of any legislation enacted during the First Extraordinary Legislative Session suspending exemptions, or any other law to the contrary. Effective July 1, 2004.

Act 6 (HB 9) amends R.S. 47:301(16)(l) to provide that the term “tangible personal property” shall not include “other constructions” permanently attached to the ground. Formerly, this exclusion from the definition of “tangible personal property” applied only to the sales and use taxes levied by political subdivisions of the state, as enacted by the Legislature in Act 61 of the 2003 Regular Legislative Session.

This exclusion in R.S. 47:301(16)(l) alters, for state and local sales and use tax administration purposes only, the Louisiana Civil Code classification of “other constructions” as movable property when there is no unity of ownership between the other constructions and the lands on which they are located. Thus “other constructions,” as that term is defined in Louisiana Civil Code Articles 462, *et seq.*, will be treated, for sales and use tax administration purposes, as immovable property when permanently attached to the land, regardless of the ownership of the land. Effective March 25, 2004.

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Act 8 (HB 15) enacts R.S. 47:301(10)(x) to provide an exclusion from the terms “retail sale” or “sale at retail” on purchases by consumers of any fuel or gas, including but not limited to butane and propane, for residential use by the consumer. Effective July 1, 2004.

Act 10 (HB 35) Removes the expiration date of the state and local sales tax exemptions provided by R.S. 47:305.50 for certain trucks, trailers, and contract carrier buses operating in interstate commerce. The exemptions were to have expired on June 30, 2004. The exemptions will now apply indefinitely. Effective June 30, 2004.