1998 Legislative Sessions Legislation Summary

Administrative

First Extraordinary Session

Act 91 (SB 123) amends R.S. 47:1565(C)(2) and 241 to update several statutes since the creation of the office of legal affairs by Act 283 of the 1997 Regular Legislative Session by changing "general counsel" to "assistant secretary of the office of legal affairs" in several sections of the law. Effective May 1, 1998.

Act 136 (SB 122) enacts R.S. 47:15, to provide for a Taxpayer's Bill of Rights. This act spells out in nontechnical terms the rights and obligations of the Department of Revenue, as well as Louisiana taxpayers. The act guarantees that the rights, privacy, and property of taxpayers are protected during tax assessment, collection, and enforcement processes administered by the Department under the tax laws of the state. Effective May 5, 1998.

Act 165 (HB 201) amends various provisions relating to the Tuition Opportunity Program for Students (TOPS) and R.S. 47:1508, in particular, to provide for the release of tax record information for the purpose of considering the eligibility of the taxpayer's dependent child for an award under TOPS. Effective 5/7/978.

Alcohol and Tobacco Control

Senate Concurrent Resolution 18 requests that the secretary of the Department of Revenue take any action necessary for his department to suspend or revoke any and all permits of any dealer of alcoholic beverages who fails to pay any sales taxes due to the state.

First Extraordinary Session

Act 84 (SB 55) enacts R.S. 26:911(B)(3) to define "tobacconist at large" and authorizes them to purchase tobacco products from any manufacturer, wholesale dealer, or other supplier. Effective May 1, 1998.

Collection

Act 31 (SB 78) amends R.S. 47:1561.1 to extend per sonal liability to managers of limited liability companies and members of limited partnerships for the failure to file returns or to remit taxes withheld or collected and not accounted for or remitted. Effective June 24, 1998.
Act 75 (SB 29) proposes to amend Article VII, Section 14(B) of the Constitution of Louisiana, to provide for certain tax deductions to owners of blighted properties and to authorize the waiver of tax liens and tax liabilities on blighted properties in certain circumstances. Item is to be included on the ballot for the congressional primary election in 1998.

First Extraordinary Session

Act 135 (SB 121) enacts the "Louisiana Tax Delin quency Amnesty Act," which will be conducted October 1, 1998, through December 31, 1998. The act authorizes the Department of Revenue to establish a tax amnesty program for taxpayers that have not already been contacted by the Department for taxes due for any tax period ending prior to July 1, 1997. Taxpayers who owe taxes of $500 or less per tax period for any period prior to July 1, 1997, and who have been previously notified by the Department in writing of a failure to file a timely return or of an existing tax liability are also eligible for amnesty.

Under the amnesty program, Act 135 provides that, upon the taxpayer's written application, the penalties will be waived and only the tax, one-half of the interest, and any fees will be collected. In addition, taxpayers granted amnesty will not be subject to civil or criminal prosecution for the periods for which amnesty is granted.

The act prohibits granting amnesty to taxpayers whose tax, excluding interest and penalties, is greater than $500 and who have been previously notified by the Department in writing of a failure to file a timely return or of an existing tax liability for the tax and tax period for which amnesty is sought. Also, taxpayers who are a party to a criminal investigation or to any civil or criminal litigation that is pending in any state or federal court for nonpayment, delinquency, or fraud in relation to any state tax imposed by state law are prohibited by the act from participating in the amnesty program.

Amnesty may be granted even if a lien exists against the taxpayer's property, if the Department has initiated proceedings under the assessment and distraint statutes, or if the Department has entered into an installment agreement with the taxpayer.

Excise

Act 64 (HB 286) amends R.S. 47:820.2(B) and (D) and 820.4 relative to the Transportation Infrastructure Model for Economic Development program. Included in this act were increases to the expenditure amounts on certain projects and the extension of the time for imposing the four cents per gallon tax on gasoline, motor fuels, and special fuels. Effective August 15, 1998.

Act 71 (HB 254) repealed R.S. 14:93.20 created by Act 728 of 1997 Regular Legislative session; amended R.S. 26:326, 341, 344, and 359: and enacted R.S. 26:341(B). Provisions require out-of-state manufacturers and retailers to obtain authorization and pay an annual tax prior to selling or shipping sparkling or still wine into Louisiana. The act also provides circumstances under which sales and shipments may be made directly to a Louisiana consumer. All applicable sales and excise taxes on the products shipped into Louisiana are required to be paid by the manufacturers or retailers. Violators of this statute shall be fined $25,000. Effective June 25, 1998.

Income and Corporation Franchise Tax

Act 2 (HB 43) enacts R.S.47:287.95(J), relative to the corporation income tax wage ratio used to determine the apportionment percentage, to address "common paymaster" situations among members of affiliated groups. A member of an affiliated group that serves as a “common paymaster” must eliminate from its wage ratio all payrolls that were paid on behalf of an affiliate, charged to the affiliate, and, which do not represent salary, wages, or other compensation of the common paymaster. In turn, these amounts must be included in the affiliated corporation’s numerator and denominator of its salary, wages, and other compensation apportionment ratio. Effective for taxable periods beginning after December 31, 1998.

Act 5 (HB 109) enacts R.S.47:606(F), relative to corporation franchise tax, to provide that when a corporation merges, the property and the net sales and other revenues of the merging corporation must be included in the general allocation formula factors of the surviving corporation. Effective for taxable periods beginning after December 31, 1999.

Act 8 (HB 8) amends R.S. 47:6005(C)(1) to extend the time period allowed for purchases of qualified recycling equipment eligible for income and corporation franchise taxes credit from December 31, 1998, to December 31, 2000. Effective August 15, 1998.

Act 16 (HB 145) extends the time allowed for taking the income tax credit allowed by R.S. 47:6011 for donations to the Old State Capitol, the State Capitol Complex, and the division of archives, records management, and history, from June 30,1998, to June 30, 2000. Effective on June 29, 1998.

Act 20 (HB 200) enacts R.S.47:297(L), to provide for an individual income tax credit for the purchase of a bulletproof vest by qualified law enforcement officers and certain employees of the Department of Public Safety and Corrections. The credit allowed is for the price paid by the individual or $100, whichever is less. Effective for taxable periods beginning after December 31, 1997.

Act 26 (SB 54) amends R.S. 47:287.95(C) and enacts R.S. 47:601.1, relative to corporate income and franchise taxes for certain transportation companies, to provide a minimal nexus standard for certain trucking companies before their income is apportioned to Louisiana for income tax purposes or the corporation franchise tax is imposed. The act provides that a trucking company is not required to apportion its income and pay income or franchise tax if the company’s Louisiana income is derived solely from the business of transportation by truck and during the course of the income tax year it does not own or rent any real or personal property in the state, except mobile property; makes no pickups or deliveries within the state; and makes no more than 12 trips into the state. “Trucking company” is defined as a motor common carrier, or an express carrier that primarily transports the tangible personal property of others by motor vehicle for compensation. Effective June 24, 1998.

Act 30 (SB 76) enacts R.S. 47:6012 to establish a credit for income and corporation franchise taxes for donations of materials, equipment, advisors, or instructors made to training providers, vocational/technical schools, apprenticeship programs registered with the Louisiana Department of Labor, or community colleges within the state. The credit is for one-half the value of the materials, equipment, or services donated by the advisor or instructor and is to be taken in the taxable period in which the donation was made. The tax credit, when combined with all other applicable tax credits, shall not exceed 20 percent of the employer’s tax liability for any taxable year. If the entire credit cannot be used in the year earned, the remainder may be applied against the income or corporation franchise tax liability for the succeeding two tax years or until the entire credit is used, whichever occurs first. Effective June 24, 1998.

Act 36 (SB 112) amends R.S. 51:2461(B), pertaining to the Louisiana Quality Jobs Program, to extend the date allowed to approve new applications from January 1, 1999, to January 1, 2001; and R.S. 51:2771(K), pertaining to the Louisiana Capital Investment Tax Credit, to extend the termination date from June 30, 1998, to June 30, 2000. Effective June 29, 1998.

Act 42 (HB 56) amends R.S.47:287.11(A) to provide that any entity taxed as a corporation for federal income tax purposes will also be taxed as a corporation for state income tax purposes. Effective for taxable periods beginning after December 31, 1997.

Act 51 (HB 129) enacts R.S.47:6012 to provide for a tax credit against corporation income and franchise taxes for qualified donations made to public elementary or secondary schools. The credit allowed is for 40 percent of the appraised value of the donation and not to exceed the taxpayer's total tax liability for the year. "Qualified donation" means a donation of immovable property purchased or otherwise acquired by a corporation and donated to a public school immediately adjacent or contiguous to the property. Effective July 1, 1998.

Act 53 (HB 169) amends R.S. 47:33(A) to allow resident individuals a credit against their personal income taxes for income taxes imposed by and paid to another state on income derived from property located in the other state if the other state also provides a similar credit to its resident individuals for Louisiana income taxes paid on income derived from property located in Louisiana. The credit is allowed for the taxable year that the taxes were paid to the other state or in the succeeding taxable year. Effective August 15,1998 through July 1, 2000.

Act 55 (HB 186) amends R.S.47:1123 and enacts R.S. 47:1125.1 to provide a tax credit against income and corporation franchise taxes for qualified motion picture production companies for employment of Louisiana residents in the production of a qualified motion picture. The credit allowed is 10 percent of the total payroll for residents employed in the production if the total qualified payroll is $300,000 or more during the taxable year or 20 percent if the total qualified payroll is $1 million or more during the taxable year. Effective July 1, 1998.

Act 61 (HB 259) amends the fiduciary and personal income tax statutes, R.S. 47:300.2, 300.6(B)(1)(a), 300.7, and 300.10 and repeals R.S. 47:300.5, 300.6(B)(1)(c), and 300.8, to continue taxing nonresident individual's income from estates and trusts rather than tax the estate or trust, which allows the nonresident taxpayer to take credit on their resident state tax return for taxes paid to other states; and to make other technical and substantive changes from the amendments enacted by Act 41 of the 1996 Regular Legislative Session. Effective for taxable periods beginning after December 31, 1997. For taxable periods beginning prior to January 1, 1998, the tax shall be as required by law in effect prior to the effective date of Act 41 of 1996.

Act 68 (HB 302) extends the deadline for employers who provide alcohol and substance abuse treatment programs for employees to receive a tax credit against their state income tax, as provided by R.S. 47:6010(B), from June 30, 1998, to June 30, 2000. Effective June 24, 1998.

Miscellaneous

Act 4 (HB 226) repeals R.S. 47:7, R.S. 47:85-89, 284, 305(C)(1), 305.12, 305.21, 305.24, 305.27, 305.29, 305.34, 305.35, 317, 614, 615, 633.1(A), (B), and (D), 644, 648.11, 868(A), 906, 1009, 1039, and R.S. 47:1301-1351, relative to certain tax dedications, exemptions, credits, and special severance tax rates; for which an exclusion has been enacted or which are no longer effective because of their terms.

> R.S. 47:7 provided a tax credit to municipalities operating a manufacturing establishment or an

electric generating plant based on the amount of natural gas consumed in these operations. Act 5 of the First Extraordinary Session of 1988 abolished the funding for this program and the provi sions related to funding were repealed in 1992 by Act 984.

> R.S. 47:85-89 provided an income tax credit for tuition paid for elementary and secondary education, which was held unconstitutional in Seegers v. Traigle, La. Tax Ct. Rep. (CCH) 200-471 (M.D. La. Dec. 27, 1973).

> R.S. 47:284, 317, 614, 644, 868(A), 906, 1009, and 1039, which are antiquated dedications to the Department of Revenue of small amounts of various taxes to offset the costs of collection. R.S. 47:615 dedicated portions of the corporation franchise tax collections to The Board of Administrators of Charity Hospital of Louisiana at New Orleans, to the governor for the pursuit of fugitives, and to L.S.U. These dedications have been superseded by the 1974 Constitution, Art. VII, Section 9, which provides that "...All money received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the state treasury,..." Additionally, R.S. 49:308.3, enacted in 1988 and entitled "Special funds and dedication of money," provides that "...all special funds in the state treasury are abolished and any and all laws of the state which dedicate or otherwise provide for the use of money...are superseded on the effective date of this Section."

> R.S. 47:305(C)(1) provided a sales tax exemption for articles traded in on tangible personal property, which has been superseded by the exclusion under R.S. 47:301(13)(a) enacted in 1989 by Act 14 of the Second Extraordinary Session.

> R.S. 47:305.12. provided a sales tax exemption for bona fide volunteer fire departments, which has been superseded by the exclusion under R.S. 47:301(10)(o) enacted in 1992 by Act 926.

> R.S. 47:305.21 provided a sales tax exemption for Louisiana domiciled commuter airlines, which has been superseded by the exclusions under R.S. 47:301(7)(d) and (10)(k) enacted in 1991 by Act 772.

> R.S. 47:305.24 provided a sales tax exemption for monetized bullion, which has been superseded by the exclusion under R.S. 47:301(16)(b)(iii) enacted in 1991 by Act 292.

> R.S. 47:305.27, 305.29, 305.34, and 305.35 pro vided sales tax exemptions for governmental units, which have been superseded by the exclusion under R.S. 47:301(8)(c) enacted in 1991 by Act 1029.

> R.S. 47:633.1(A),(B), and (D), allowed taxpayers that sold natural gas under certain contracts prior to May 1972 to bear only 50 percent of the severance tax increase enacted in 1974. The statute was enacted in 1974 when the natural gas tax rate rose from 3.3¢ to 7¢ per MCF to provide a tax reduction for companies with long-term gas contracts at unfavorable prices. The qualifying contracts have all been renegotiated or have expired.

> R.S. 47:648.11 provided for the Severance Tax Exemption Program (STEP), which expired July 15, 1990.

> R.S. 47:1301-1307 and R.S. 47:1351, provided for the First Use Tax, which was held unconstitutional by the U.S. Supreme Court in Maryland v. Louisiana, U.S., 1981, 191 S. Ct. 2114, 451 U.S. 725, 68 L. Ed. 2d 576.

Effective June 4, 1998.

Act 32 (SB 82) amends R.S. 47:3202 (C) and 4304 (C), relative to tax exemption contracts granted by the Board of Commerce and Industry for tax equalization and to encourage establishment of new manufacturing industries, to require that in awarding contracts or in doing business with another business, each entity applying for an exemption must agree to give a right of first refusal to businesses domiciled in Louisiana provided the Louisiana business can perform the contract or business activity under similar terms and conditions and at no additional cost to the entity granted the exemption. Effective August 15, 1998.

Act 60 (HB 258) amends R.S. 47:3202(E), 3203(B), and 3204, relative to tax exemption contracts granted by the Board of Commerce and Industry for tax equalization, to replace the 10 percent set-aside provisions for minority businesses with provisions relating to economically disadvantaged businesses, to change the priority of the state tax exemptions, and to change the provisions relating to application submission and contract review. The Board of Tax Appeals' responsibilities regarding application review and arbitration of disputes has been deleted giving the Board of Commerce and Industry responsibility for receiving objections, holding hearings, and making recommendations on granting of exemptions. Effective August 15, 1998.

Act 72 (HB 33) amends R.S. 47:3204(C), relative to tax exemption contracts granted by the Board of Commerce and Industry for tax equalization, to provide that a manufacturing establishment that has entered into a tax exemption contract with the Board of Commerce and Industry and elects to move its company headquarters to Louisiana between July 1, 1998, and June 30, 2000, and retain its plant in Louisiana, shall, after location of the company headquarters in Louisiana, be entitled to apply for a new exemption contract for an additional 10-year period covering both the headquarters and the existing manufacturing establishment. After moving their headquarters to Louisiana and entering into a new contract, 90 percent of the establishment's employees must reside in Louisiana and 90 percent of the company's officers and managers must have their primary office in Louisiana. Effective July 2, 1998.

Senate Concurrent Resolution No. 34 directs the House Ways and Means Committee and the Senate Committee on Revenue and Fiscal Affairs to study the entire tax system in order to make recommendations in the areas of tax exemptions, exclusions, deductions, refunds, and credits; to jointly devise a comprehensive process for the repeal and granting of such benefits; and to examine the feasibility of creating a tax institute, similar in composition, authority, and responsibility to the Louisiana State Law Institute. The resolution establishes an advisory committee, which is required to meet with the legislative committees prior to September 15, 1998 and each month thereafter until the written report is submitted to the legislature prior to January 1, 2000.

Sales Tax

Act 1 (HB 126) continues through June 30, 2000, the suspension of most state sales tax exemption at the 3 percent rate, which has been in effect since July 1, 1997. Exemptions for items such as drugs, ships and vessels, offshore, etc. that are sheltered from the suspension will remain fully exempt. Effective July 1, 1998.

Act 18 (HB 195) amends R.S. 47:321(C) and 322 to provide that the state sales tax rate on intrastate telecommunication service will be 3 percent and the 1 percent tax levied by R.S. 47:321(C) will not apply. The Legislature declared this Act to be remedial and retroactive to October 1, 1996, the date that R.S. 47:321(C) was enacted by Act 5 of the 1996 Regular Session. Effective June 22, 1998.

Act 21 (HB 229) amends Section 2 of Act 29 of the 1996 Regular Legislative Session to extend the effective date of the exemption provided by R.S. 47:305(D)(1)(h) for "all energy sources when used for boiler fuel except refinery gas" until June 30, 2000. Because Act 1 of the 1998 Regular Session partially suspended most state sales tax exemptions, including this one, until June 30, 2000, the tax rate on the sale or use of energy sources for boiler fuels, except refinery gas, will be 3 percent. Refinery gas will remain taxable at 4 percent. Effective June 29, 1998.

Act 22 (SB 8) amends R.S. 47:301(18)(i) and (ii) to ex clude both the state and parish use tax on the donation of food items to food banks, as defined by R.S. 9:2799(B). R.S. 47:301(10)(j), enacted by Act 514 of 1992, already excluded sales of tangible personal property to qualified food banks from the definition of taxable “sale at retail.” This act will allow use tax-free donation of food and the 1992 statute will continue to allow the tax-free sale of property to food banks. Effective July 1, 1998.

Act 24 (SB 41) enacts R.S. 47:306(B)(10) to make an exception to the collection of the advance tax in certain cases when drop-shipment sales are made. Currently, when a Louisiana manufacturer sells property to an out-of-state buyer but delivers the property to the buyer’s customer in Louisiana, the manufacturer is required to collect the advance tax from the out-of-state buyer, who then must register and file a return to claim the advance tax credit.

This act, which applies to building material dealers only, will allow manufacturers to sell to an out-of-state wholesale dealer that is not registered for Louisiana sales tax and to drop-ship the materials to a registered Louisiana building material dealer who holds a Louisiana wholesale sales tax registration (“W” number) without collection of the advance tax. Effective June 24, 1998.

Act 28 (SB 64)

- amends R.S. 47:305.41 to exempt from the sales and use tax, sales, purchases, leases, and rentals of property or services by the Bass Life organiza tion. Previously, this Section applied only to Ducks Unlimited.
- amends R.S. 47:305.43, which exempts fund- raising sales by an organization dedicated to migratory waterfowl wetland habitat, to add an exemption for organizations dedicated to the conservation of fish.
- enacts of R.S. 47:305.51 to exempt the state and local sales and use tax on utilities used by steelworks and blast furnaces, including coke ovens and rolling mills, which are classified as SIC 3312 by the Standard Industrial Classification Code. This exemption does not apply to coke production or the use of coke in oil refineries and other chemical processes. This exemption will be effective when two or more entities classified under SIC 3312 locate in Louisiana.

Because these exemptions are partially suspended, a 3 percent tax will be due through June 30, 2000. Effective July 1, 1998.

Act 37 (SB 115)

- amends R.S. 47:301(10)(o) to exclude from the definition of taxable “sale at retail” fire fighting equipment purchased by public fire departments. These purchases were already exempt from the sales tax by the exclusion of governmental agencies from the definition of “person” under R.S. 47:301(8)(C).
- enacts R.S. 47:305(D)(1)(u) to exempt adaptive driving equipment and motor vehicle modifications prescribed for personal use by a physician, licensed chiropractor, or licensed driver rehabilitation specialist. Because Act 1 of the 1998 Regular Session of the Legislature partially suspended most state sales tax exemptions until June 30, 2000, the tax rate on these items will be 3 percent.

Effective June 24, 1998.

Act 38 (SB 119) amends R.S. 47:305(D)(1)(s), relative to the state sales and use tax exemption for medical devices, to provide an exemption for 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.

Effective June 24, 1998.

Act 40 (HB 16)

> amends the definition of "hotel" in R.S. 47:301(6) and R.S. 33:4574.1(A)(1)(b) to exclude camp and retreat facilities owned and operated for religious purposes by nonprofit religious organizations, including domestic nonprofit corporations organized for religious purposes, as long as all of their net revenues are devoted to religious purposes. The exclusion will apply only to room receipts from guests who participate in the camps' or retreat facilities' religious activities.

> amends R.S. 47:301(14)(b)(4) to exclude such camp and retreat facilities from the definition of "places of amusement."

> enacts R.S. 47:301(8)(e) to exclude the Society of the Little Sisters of the Poor from the definition of "person" for sales tax purposes, which allows the Society to be excluded from the payment of state or local sales or use tax on purchases or rentals of tangible personal property or services.

Effective August 15, 1998.

Act 41 (HB 25) amends R.S. 47:305.50(A) to

> extend from July 1, 1998, to July 1, 2000, the expiration date of the exemption for trucks and trailers of 26,000 pounds or more that are used at least 80 percent of the time in interstate commerce.

> limit the availability of the exemption to only those trucks and trailers whose activities are subject to the jurisdiction of the U.S. Department of Transportation.

> add a similar exemption for contract carrier buses used at least 80 percent in interstate commerce. A qualifying bus is defined to mean a commercial vehicle with a minimum passenger capacity of 35 persons, and with a gross vehicle weight of 26,000 pounds or more. The exemption for contract carrier buses is also slated to expire on June 30, 2000.

and amends R.S. 47:305.50(B) to

> extend the sales tax exemption for manufacturing rolling stock in Louisiana from June 30, 1998, to June 30, 2000.

Effective June 30, 1998.

Act 46 (HB 97) enacts R.S. 47:301(16)(d) to exclude from the definition of "tangible personal property," certain work products created by professionals licensed under Title 37 in the normal course of their professional business. Excluded work products include items such as the preparation of legal documents by lawyers, the production of architectural drawings by architects, and the production of financial reports by certified public accountants. The exclusion does not apply to work products that are duplicated without modification for sale to multiple purchasers or to work products that consist of the creation, modification, updating or licensing of computer software by licensed professionals or others. Sales of software remain taxable under all circumstances. Effective June 24, 1998.

Act 47 (HB 99) extends the expiration date from July 1, 1998, to July 1, 2000, for the sales tax exclusions for schools provided by for Act 15 of 1996. Act 15 enacted R.S. 47:301(7)(f), (10)(q), and (18)(d) to exclude qualifying parochial and private schools from paying the sales tax on rentals, purchases, or use of books, workbooks, computers, software, film, videos, and tapes and exempt these schools from collecting sales tax on certain sales made for the purpose of supporting their programs. Effective July 1, 1998.

Act 49 (HB 114) enacts R.S. 47:301(7)(h) to exclude from the definition of taxable "lease or rental," motor vehicles furnished by licensed motor vehicle dealers and manufacturers to their customers at no charge in the performance of warranty agreement obligations or, if the warranty has expired, as long as the motor vehicle is furnished at no charge. Effective August 1, 1998.

Act 50 (HB 125) extends the termination date of the Louisiana Tax Free Shopping Program from July 1, 1999, to July 1, 2001. Effective June 24, 1998.

Act 58 (HB 233) provides that sales of prepaid tele phone cards and prepaid telephone authorization numbers are to be considered sales of tangible personal property rather than as sales of telecommunication services. Sellers will be required to collect the 3 percent state sales tax levied by R.S. 47:302(A) and 331(A), but not the additional 1 percent tax levied by R.S. 47:321(A). For the purposes of collecting the sales tax, sales that do not occur at a vendor's place of business, shall be presumed to have occurred at the customer's shipping address. Sales should be reported on the "Other transactions subject to 3 percent tax" line (currently line 22) of the sales tax return. These sales are not subject to the local sales and use tax levies.

Previously, these sales were not taxed when sold, but were subject to the 3 percent telecommunication sales tax when the cards were used for Louisiana intrastate calls. Under the new provisions, telecommunication service providers will discontinue reporting the intrastate redemption on their sales tax returns. Effective July 1, 1998.

Act 62 (HB 260) enacts R.S. 47:306(B)(10)(a) to allow the Department to issue advance sales tax exemption "W" numbers to dealers who have been registered and timely filing sales tax returns and remitting the taxes due for at least one year and whose sales were at least $3 million for a 12-month period. Exemptions issued under these provisions will be effective for a two-year period but can be revoked whenever a business no longer meets the required standards. Dealers whose sales tax filing records indicate that they are eligible for this exemption will be contacted by the Department. Effective January 1, 1999.

Senate Resolution 40 and House Resolution 60 request that the Department of Revenue review its policies and practices regarding use taxation of natural gas produced from a Louisiana well and used to power equipment at the well. The Department's current policy, in accordance with Technical Advisory Memorandum No. 97-001, is to only exempt the well- use natural gas when the operator of the well is a working-interest owner. The resolutions require the Department to present reports to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs before the 1999 Regular Legislative Session.

First Extraordinary Session

Act 33 (HB 67) amends and reenacts R.S. 47:322.11 and 332.30 to dedicate 1.97% of the hotel room rental tax in Calcasieu Parish. In Ward 3, the tax is dedicated to the Lake Charles Civic Center Fund. In Wards 4, 5, 6, and 7, the tax is dedicated to the West Calcasieu Community Center Fund. In Wards 1, 2, and 8, the tax is dedicated to the Calcasieu Visitor Enterprise Fund. This legislation corrects a problem in dedicating a portion of the taxes in Wards 4, 5, 6,

and 7. Effective April 24, 1998.
Act 50 (HB 194) amends R.S. 47:306(A)(3)(a)(I) and (B)(4)(a) and 318 to continue the vendor's compensation rate of 1.1 percent until June 30, 2001 and to provide for the use of the monies derived by retaining the 1.1 percent rate. Previously the rate was scheduled to return to the 1.5 percent on July 1, 1998. Effective July 1, 1998.

Act 61 (HB 38) amends and reenacts R.S. 47:302.4 and 322.18 to dedicate 3% of the hotel room rental tax in Madison Parish to the Madison Parish Visitor Enterprise Fund and 3% of the hotel room rental tax in Richland Parish to the Richland Parish Visitor Enterprise Fund. The statutes previously consolidated the collection from the two parishes into a single fund. The legislation further splits the moneys already credited to the original fund to the newly created funds. Effective May 1, 1998.

Act 62 (HB 39) enacts R.S. 47:332.44 to dedicate .97% of the hotel room rental tax in Madison Parish to the Madison Parish Visitor Enterprise Fund and .97% of the hotel room rental tax in Richland Parish to the Richland Parish Visitor Enterprise Fund. Effective July 1, 1998.

Act 154 (HB 24) amends and reenacts R.S. 47:302.10, 322.13, and 332.5 to dedicate 3.97% of the hotel room rental tax in Natchitoches Parish. This money is currently dedicated, but the funds receiving the dedications have been changed. The Natchitoches Parish Visitor Enterprise Fund will receive 1% and the newly created Natchitoches Historic District Development Fund will receive the remaining 2.97%. The existing Natchitoches Convention Facility Fund is abolished and all monies in that fund will be credited to the Natchitoches Historic District Development Fund. Effective July 1, 1998.

Act 166 (HB 202) amends and reenacts R.S. 47:302.23 provides for the use of the 2% dedication of hotel room rental tax in Vermillion Parish in the Vermillion Parish Visitor Enterprise Fund. Effective July 1, 1998.

Local Sales Tax

Act 10 (HB 75) extends the expiration date of Act 12 of 1996, which excludes the purchase of motor vehicles for lease or rental in an arm's length transaction from the taxes levied by local taxing authorities, from July 1, 1998, to July 1, 2000. Dealers with a valid state Lease (L) number will continue to be excluded from both state and local taxes on rental fleet purchases. Effective June 30, 1998.

Act 23 (SB 40) amends R.S. 33:2716 to exclude purchases of property and services and property rentals made by construction contractors for use in projects outside the parish from the local sales and use tax. Effective July 1, 1998.

Act 35 (SB 109) amends R.S. 47:305.37 to exempt purchases of diesel fuel, butane, propane, and other liquefied petroleum gases used for farm purposes from the local sales and use taxes. Effective July 1, 1998.

Senate Resolution 42 expresses the Legislature's intent in enacting R.S. 33:2711(A)(2) to mean that municipalities may levy a sales tax up to a rate of two and one-half percent, but only if the combined parish total rate does not exceed four percent (exclusive of state and law enforcement district taxes). The only permitted exception is where the Legislature has made a special enactment authorizing the excess over four percent.

Severance Tax

Act 3 (HB 44) amends R.S. 47:1031, which levies a tax on corporations engaged in the business of transporting natural gas by pipeline in the state, to eliminate the language which imposes the tax on the "privilege of" exercising or continuing natural gas franchises or charters and instead levies the tax upon the actual exercising or continuing of natural gas franchises or charters. Effective June 4, 1998.

Act 7 (HB 7) amends R.S. 47:633(7)(c)(iv)(aa) and 648.2(1)(c) to extend the period for severance tax suspensions for inactive and new discovery wells from 1998 to 2000. Effective June 22, 1998.

Act 25 (SB 53) enacts R.S. 47:643.1 to provide that the severance tax shall be the only tax on standing timber or the right to cut and remove or use timber, regardless of the ownership or classification as a separate immovable under the provisions of Article 464 of the Civil Code of Louisiana. Previously, the severance tax was in addition to the payment of all state, parochial, municipal, district, and special taxes levied on real estate and other corporeal property. Effective June 24, 1998.

Act 27 (SB 59) repeals the reforestation tax imposed by R.S. 47:651, the gas gathering tax imposed by R.S. 47:671 et seq., and the royalty gas excise tax imposed by R.S. 47:691 et seq. The reforestation tax only applied to production associated with certain contracts for products sold from reforested lands. The contracts, which dated back to 1926, have all expired. The gas gathering tax was ruled unconstitutional by the Louisiana Supreme Court in Bel Oil Corp. v. Fontenot, 1960, 238 La. 1002, 117 So. 2d 571, because it was a tax in addition to the severance tax, which violated the state constitution, Article VII, Section 4. The royalty gas excise tax was levied on the difference between either the price received by the producer for the royalty owner's interest and the price actually paid to the royalty owner, or, if used by the producer, the difference between the reasonable market value of the royalty owner's interest less the actual plant cost of manufacture and the price paid the royalty owner. The Department has collected no royalty gas excise tax for the last 25 years. Effective June 24, 1998.

Act 43 (HB 62) amends R.S. 47:633(7)(b) and (c)(I), relative to the severance tax exemption, to authorize the Department of Revenue, rather than the Department of Natural Resources, to certify incapable and stripper oil wells and to provide that the same value used as a basis to impose the severance tax, under R.S. 47:633(7)(a), be used to determine the exemption for certified stripper production. Effective June 24, 1998.

Act 67 (HB 298) amends R.S. 47:633.5(B), relative to the severance tax on oil and gas, to provide that the severance tax rate established for wells using produced water to enhance oil and gas recovery is not limited to wells using water from the same reservoir and field. Effective for periods beginning after June 30, 1998, and ending after July 1, 2000.

Unclaimed Property

First Extraordinary Session
Act 97 (HB 37) amends various provisions relating to the Harbor Police Retirement system and, in particular, R.S. 11:3690.2, to provide that unclaimed employee contributions, other funds,

checks, or any other property held by the system that could be claimed by an member or prior member, the member‘s beneficiary, heirs, or estate shall never be presumed abandoned. Effective May 5, 1998.