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Administrative

Act 125 (SB 153) enacts Civil Code Article 258 to provide for electronic filing and recording of written documents. Effective June 22, 2005.

Act 182 (HB 887) enacts R.S. 47:8051–8059, the Healthcare Affordability Act, which establishes the Louisiana Healthcare Affordability Trust Fund and imposes a fee on certain hospitals of 1½ percent of patient revenue. The Department of Revenue is responsible for responding to complaints about hospitals passing the fee down to patients. Effective June 28, 2005.

Act 383 (HB 718) amends R.S. 47:1508(B)(9), to allow furnishing of severance tax information to the State Department of Natural Resources and updates the agency name. Enacts R.S. 47:1508(B)(21) and (22) to share excise tax information with the State Department of Public Safety and the State Department of Agriculture in an effort to reduce the duplication of work by the agencies. Effective June 30, 2005.

Alcohol and Tobacco Control

Act 508 (HB 338) provides for an alternative measurement of the 300-foot limitation from a church, synagogue, public library, school, or full time day care for the sale of alcoholic beverages. The Act also requires distribution of alcoholic beverages through wholesalers with an exception for native wineries that have producer’s permits. Effective July 13, 2005.

SCR 26 urges and requests the appropriate state agencies to take action to implement and enforce the law on delivery sales of cigarettes.

Collection

Act 295 (SB 138) amends R.S. 47:296.2(C), 296.3(C), and 1516.1(G)(2), and enacts R.S. 47:1584 to extend the innocent spouse relief to taxes other than individual income taxes. Effective for any tax, interest, penalty, or other amount remaining uncollected on June 29, 2005.

Act 435 (HB 562) amends R.S. 36:704(B) and (D) and R.S. 49:257 to provide that pursuant to state constitutional and statutory law, and upon the written request of an agency of the state, the attorney general may collect debts owed to the state. The term “agency” or “state” means the state, its departments, agencies, boards, and commissions. The provisions, however, do not apply to authorities of the attorney general and collection activities provided for under R.S., 47:1516.1. Effective July 11, 2005.

Act 454 (HB 721) amends R.S. 47:1601(A) to provide that interest shall be computed through the 15th day after the issue date of the notice. If payment is received on or before the 15th day, no refund of interest shall be issued. If payment is received after the 15th day but on or before the 30th day, no additional interest will be assessed. If payment is not received on or before the 30th day, interest will continue to accrue as provided for in R.S. 47:1601(A)(1) or (2). This reduces the issuance of small interest refunds and billings when the payment is not on the interest date. It also authorizes the Secretary to abate all or any part of interest assessed that is attributable to unreasonable errors and delays by the Department and to promulgate rules and regulations that provide a means for the compromise of the amount of interest to be added to the tax due. Any such compromises shall be open to public inspection and published in the Department’s annual report. Effective August 1, 2005.

Excise Taxes

Act 252 (HB 599) moves the point of collection for tax on motor fuels to the terminal rack. Clear diesel fuel, as newly defined, will be subject to tax when the product leaves the terminal via the rack so that subsequent sales of the product should be of taxed fuel and any clear diesel ultimately used for a nontaxable purpose could be eligible for the refund of the fuel tax paid. The discounts allowed to dealers and marketers are also changed. Current law gives gasoline dealers three percent of the first 1¢ of tax; gasoline jobbers three percent of the first 4¢ of tax; and special fuel suppliers three percent of net taxable gallons. Suppliers (refiners) are allowed to keep 1.5 percent of the tax if they timely file and remit the taxes and pass on one percent of the tax to the distributors (marketers). Effective July 1, 2006.

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Act 375 (HB 634) amends R.S. 47:715.1(A) to increase the special fuels tax refund for contract school bus drivers of privately-owned school buses transporting Louisiana public or private school students from one half of the tax to three fourths of the gasoline and special fuels tax. Effective July 1, 2005.

Income Tax

Act 156 (SB 322) enacts R.S. 47:6021, the Brownfields Investor Tax Credit, to allow a state income tax credit for the investment made in a voluntary remedial investigation or action at a state-certified brownfields site. Voluntary remedial investigation or action applications must be submitted to Department of Economic Development and the Department of Environmental Quality and must include a statement of the projected economic development benefits to the community in which the proposed project is located. To claim the credit, a certification of completion must be remitted with the tax return. The Act is effective July 1, 2005, for taxable years beginning on or after January 1, 2005.

Act 268 (HB 817) repeals R.S. 47:287.34 enacts R.S. 47:1675, relative to income and corporation franchise tax credits, to provide general rules governing tax credits that would apply unless the specific language of the tax credit provides differently. This Act provides a legal codification for the application of credits that the department would use as default procedures. Effective August 15, 2005, for income tax years beginning after December 31, 2004 and franchise tax years beginning after December 31, 2005.

Act 277 (SB 26) enacts R.S. 47:297(N) to provide a credit against individual income taxes of up to \$10,000 per organ donation for expenses paid by a taxpayer if related to the taxpayer's travel or absence from work related to the taxpayer's or the taxpayer's spouse's living organ donation. Effective July 1, 2005, for tax years beginning on or after January 1, 2005.

Act 285 (SB 61) amends R.S. 47:287.752 and enacts R.S. 47:297(O) relative to the tax credit for employment by corporations of first time drug offenders who are less than 25 years of age to include all first time "nonviolent offenders" of any age and expands the exemption to individual income tax. The credit is \$200 per taxable year per eligible employee for a maximum of two years per employee. The credit cannot exceed the liability of the individual. Effective June 29, 2005, for taxable years beginning after December 31, 2004.

Act 292 (SB 129) amends R.S. 17:3095(A)(1)(b) and (c) and enacts R.S. 47:293(6)(a)(viii) and R.S. 47:1205(D), relative to enhancements to the Louisiana Student Tuition Assistance and Revenue Trust Program, to increase the taxable state income exclusion for married couples and to allow certain deposits over five years to be excluded from the state gift tax provisions to conform with the federal gift tax provisions. Effective August 15, 2005.

Act 346 (SB 341) enacts R.S. 47:6022, the Digital Interactive Media Producer Tax Credit, to provide a transferable credit against state income tax for investing in a state certified digital interactive media production in Louisiana. The tax credit is a percentage of investment in the production expended in the state. For multi-year productions the credit percentage decreases over time and after the sixth year is no longer available. The Digital Interactive Media Producer Tax Credit may be carried forward for up to 10 years and also has a one-year carryback. The provisions expire January 1, 2010. Effective June 30, 2005.

Act 351 (HB 130) enacts R.S. 47:287.702, relative to electing out of partnership treatment for income tax purposes to continue to allow electing partnerships to piggy-back the federal income tax treatment for state corporation income tax purposes for the electing partnerships. For federal income tax purposes, certain partnerships can elect to not be treated as partnerships. Each partner is treated as having directly earned income rather than having received income from an investment in a partnership. Electing partners will be treated as having directly earned the income for state purposes also. Effective August 15, 2005, for all taxable periods after December 31, 2004.

Act 355 (HB 156) amends R. S. 47.605.1(A), relative to the corporation franchise tax; to specify the amount of excess related party debt to be included in capital stock and surplus and undivided profits. Provides that when debt to related parties exceeds the corporation's capital stock and surplus and undivided profits, 50 percent of the excess must be included in the corporation's capital stock and surplus and undivided profits. Effective January 1, 2006, for tax years after December 31, 2005.

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Act 363 (HB 303) amends R.S. 47:6006(A) to provide a credit for inventory (ad valorem) tax paid to political subdivisions on natural gas held, used, or consumed in providing natural gas storage services or facilities. Effective August 15, 2005.

Act 370 (HB 474) enacts R.S. 47:120.81 to provide a check off so individuals can donate all or part of their refunds to the Community-based Primary Health Care Fund. Effective August 15, 2005, for tax years beginning after December 31, 2004.

Act 396 (HB 888) amends R.S. 47:287.736, relative to the corporation income tax, to require certain tests in order for a real estate investment trust (REIT) to be allowed a deduction for dividends paid to its owners. This Act provides that it must be a publicly traded REIT or be one where less than 50 percent ownership is by a single entity that is a corporation subject to federal income tax and is not a REIT itself. Effective August 15, 2005, for tax periods beginning after December 31, 2005.

Act 400 (HB 627) enacts R.S. 47:6020 through 6020.4 to create the Angel Investor Tax Credit Program. Investments must be at risk and not secured or guaranteed and not raised from other incentive programs, pooled funds, organized through capital placement agreements, or the result of illegal activity. An angel investor cannot be the principal owner, spouse or relative within the third degree of blood or marriage from the owner. The Louisiana Entrepreneurial Business must be located in Louisiana, received approval by the Department of Economic Development, demonstrate that it will have more than 50 percent of its sales from outside Louisiana, and is not a business engaged primarily in retail sales, real estate, professional services, gaming or gambling, natural resource extraction or exploration, or financial services including venture capital funds. Expires December 31, 2009. Effective August 15, 2005, for tax years beginning on or after January 1, 2005.

Act 401 (HB 679) amends R.S. 47:287.92(B), 287.93(A), 287.95(F)(2), 287.738(A) and 606(A)(3); enacts R.S. 47:287.94(H) and 287.738(F); and repeals R.S.47:287.71(A)(1) and (2), 287.73(C)(1), 287.95(E), and 287.750, to create the *Louisiana Headquarters and Growth Act*. For corporation income tax purposes, this Act provides for an exemption for interest and dividends, a single factor apportionment formula for certain businesses, and the apportionment of profits or losses from sales or exchanges not made in the regular course of business. For corporation franchise tax purposes, this Act provides for a single factor allocation of the franchise tax base for certain businesses. Effective August 15, 2005, for income tax periods beginning after December 31, 2005, and franchise tax periods beginning after December 31, 2006.

Act 402 (HB 684) amends R.S. 47:6015(B), (C)(1) and (2), (D), (F)(3) and (4), (G), and (H)(1); and enacts R.S. 47:6015(C)(5)(a)(iv), (F)(4), and (I) relative to the research and development tax credit. This Act eliminates the remaining phase-in of these credits over three years making them fully available immediately. For the research and tax credit provision, it increases the amount of the credit from 8 percent to 20 percent for an entity that employs fewer than 500 Louisiana residents. For the credits for federal Small Business Innovation Research Grants provision, this Act removes the stipulation that the credit is a one-time credit and increases the credit amount from 8 percent to 20 percent, allows sharing of information with the Department of Revenue, and provides a sunset date of December 31, 2009. For both tax credit provisions, this Act provides that the Department of Economic Development must approve sales of the credits. Both tax credit provisions are effective for income tax years beginning in 2005 and franchise tax years beginning in 2006. This Act provides that an application including both tax credits must be filed with the Department of Economic Development including a fee of \$250. Effective July 1, 2005.

Act 405 (SB 73) allows taxpayers to take a credit of up to \$1,000 against income or corporate franchise taxes for qualified donations made to qualified playgrounds under R.S. 47:6008 for certain tax years between 1992 and 2001, if taken on an amended return by December 31, 2008. Effective July 11, 2005.

Act 424 (HB 356) amends R.S. 47:6016(B)(4) and enacts R.S. 47:6016(H) relative to new market credits to remove the limitations on qualified equity investments and qualified low-income community investments made by Community Development Entities (CDEs) and extend the credit to August 31, 2013. Effective July 11, 2005.

Act 439 (HB 602) amends R.S. 47:6019(A)(1), (2), and (3)(a) and (b)(i) and (B) to extend the income and franchise tax credit for rehabilitation of historic structures located in a downtown development district. The limitations of \$250,000 per structure and one credit per structure have been removed and no taxpayer may

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receive more than \$5 million of credit within a particular downtown development district. Effective July 11, 2005, and expires January 1, 2009.

Act 466 (HB 862) enacts R.S. 51:1801 through 1808 to create the Urban Revitalization Tax Incentive Program. This Act requires the Department of Economic Development (DED) to designate approximately 25 percent of the U.S. census divisions in the state as urban revitalization zones. The revitalization zones are limited to parishes with populations in excess of 75,000 persons. DED may contract for up to 10 years with businesses in the zones for exemption from income and franchise taxes. DED may also contract for refundable tax credits of \$5,000 per net new employee as determined by the company's average annual employment reported under the Louisiana Employment Security Law. The tax credits under this program are in lieu of any tax reductions under the Enterprise Zone Program. The tax credits may be applied to any state income tax liability or any state franchise tax liability and are to be used in the taxable year in which the average annual increase occurred. Any excess tax credit may be refunded to the taxpayer. This Act provides that city and parish governing authorities of a revitalization zone may issue revenue bonds and use the proceeds to make loans to any new or expanding business or industry in the revitalization zone. Effective July 1, 2005.

Act 479 (HB 420) enacts R.S. 47:297.6, to provide a credit against individual income tax for a percentage of eligible expenses rehabilitating an owner occupied residential or mixed-use property located in a historic district or eligible for listing on the National Register. The credit is limited to \$25,000 per structure and the percent of expenses allowed for the credit varies by income level. Taxpayers whose adjusted gross income exceeds \$100,000 are only eligible for the credit for the rehabilitation of vacant and blighted property. Effective January 1, 2006, and expires December 31, 2009.

Act 485 (HB 631) enacts R.S. 47:6023, to grant a refundable sound recording investor tax credit against all state income taxes. The aggregate amount of all sound recording investor credits issues during any year cannot exceed \$3 million. Effective July 12, 2005, for tax years beginning January 1, 2006.

Act 491 (HB 786) enacts R.S. 51:3075 through 3088 to create the *Louisiana Community Development Financial Institutions Act*. A Louisiana Community Development Financial Institution (LCDFI) is any legal entity whose primary business activity is the investment of cash to acquire equity in or provide financing assistance as a licensed business and industrial development corporation to qualified Louisiana businesses in low-income communities. This Act provides for an income and franchise tax credit for individuals and businesses that invest in LCDFIs. It provides that the LCDFI corporations themselves will be exempt from corporation income and franchise taxes for five consecutive taxable periods. The investment credit is to be calculated as 75 percent of the investment. These credits are transferable and can be carried forward indefinitely. The total amount that can reduce tax revenues in fiscal years 2006 through 2007 is \$5 million. Any unused allocation of credits from a previous year may be carried forward and granted in the next year. The program terminates on July 1, 2007, but provisions relevant to any granted tax credits continue to apply until July 1, 2010. Effective July 12, 2005.

Act 495 (SB 59) amends R.S. 47:297.4, which provides an individual income tax credit for employment related child-care expenses. For taxpayers whose federal adjusted gross income is \$25,000 or less, the state credit is refundable and will be a percentage of the federal child-care credit before it is adjusted by the amount of the individual's federal income tax. For taxpayers whose income is greater than \$25,000, the state credit is not refundable and is based on a percentage of the child-care credit taken on the taxpayer's federal income tax return. Effective July 12, 2005, for tax years beginning on or after January 1, 2006.

Act 504 (SB 351) enacts R.S. 47:287.759 to grant a tax credit for employee and dependent health insurance coverage when any contractor or subcontractor with a contract for the construction of a public work offers health insurance coverage and pays at least 75 percent of the total premium for the health insurance coverage for each full-time employee who elects to participate and pays at least 50 percent of total premium for each dependent of the full-time employee who elects to participate. Contractors who participate are eligible for a five percent income tax credit on 40 percent of the amount of the contract received in a tax year. The credit is allowed against the income tax for the period in which the credit is earned. Effective July 12, 2005, for tax years beginning on and after January 1, 2005, but before January 1, 2008.

HCR 134 and **SCR 62** direct the secretary of the Department of Revenue to accept amended income tax returns for tax years 2002 through 2004 and to make appropriate refunds to couples filing joint returns who were both

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65 years of age or older, to allow the married taxpayers to deduct \$12,000 in retirement income regardless of whether one or both spouses received the retirement income. SCR 62 further provides that 2002 tax year amended returns will be accepted in 2006, 2003 tax year amended returns will be accepted in 2007, and 2004 tax year amended returns will be accepted in 2008.

Multiple Taxes

Act 151 (SB 216) enacts R.S. 46:120–122 to create the Louisiana Military Family Assistance Fund and enacts R.S. 47:120.31, 297.5, and 306.3 to allow taxpayers to make income and sales tax refund check-off donations to the fund for tax years beginning on or after January 1, 2005. Money in the fund shall be used solely for need-based claims of family members of activated military personnel as authorized by the La. Military Family Assistance Board. Effective June 28, 2005.

Act 403 (HB 795) amends R.S. 47:3201–3205 and 4301–4306 to expand the Tax Equalization Program to allow existing manufacturing industries, headquarters, and warehousing and distribution establishments contemplating relocating outside of Louisiana to be eligible for tax exemption and allows contracts of exemption for which the initial five-year renewal period ended after December 2002 but before February 2003 to be renewed for up to two additional five-year periods provided that total number of years of exemption does not exceed 20 years. The Act also expands the Industry Assistance Program to permit investments in and modernization of facilities to qualify for a tax reduction contract, removes the limitation to manufacturing establishments, permits businesses listed as Vision 2020 businesses to participate in the program, deletes prohibition that total amount of tax exemptions granted to manufacturing establishments for any fiscal year cannot exceed four percent of the corporate franchise, income, sales and use taxes collected during fiscal year preceding the fiscal year for which the exemptions are granted, and extends the maximum length of contract from 10 years to 15 years. Effective August 15, 2005.

Act 456 (HB 731) amends R.S. 47:1124, 1125.1(A), and 6007(A), (B), (C)(1), (3)(b), and (4)(a) and (b), and (D) and to enact R.S. 47:1123(10), 1125.1(F), and 6007(C)(4)(f) and (6), pertaining to the motion picture incentive program, to provide that the sales tax exemption and employment tax credit will sunset January 1, 2006, limits the motion picture investor credit to production expenses actually expended in the state, increases the credit percentages, and allows for credits to be sold to the state. Effective July 1, 2005, for tax years beginning after December 31, 2005.

Sales Tax

Act 126 (SB 173) enacts R.S. 47:306.2 and R.S. 47:337.20.1 relative to the reporting of purchases and importations of tangible personal property by certain interstate and foreign transportation dealers. These statutes provide that “Louisiana mileage” shall not include mileage in Louisiana that is a segment or part of a stream of trade, traffic, transportation, or movement of passengers or property between a point in this state and a point located offshore beyond the territorial limits of any state. They also provide that a unit of transportation measurement other than mileage may be used if appropriate based on industry custom and type of transportation. Those transportation dealers registered under R.S. 47:306.1 on June 22, 2005, and who provide transportation between points in Louisiana and points offshore outside the territorial limits of any state during the sales and use tax period immediately preceding June 22, 2005 are deemed to have elected to report under these statutes and shall begin reporting in accordance with them in lieu of R.S. 47:306.1 and R.S. 47:337.20, unless the taxpayer notifies the secretary to the contrary. Effective June 22, 2005.

Act 243 (HB 513) repeals R.S. 47:301(16)(i)(iv), to remove a qualifying standard that was previously mandated in order for radio broadcasters to qualify for sales tax exclusion on their first purchases of digital radio conversion equipment. The repealed paragraph provided that holders of radio broadcast licenses could not qualify for the sales tax exclusion on purchases of digital radio conversion equipment until such time as the conversion to digital radio broadcast equipment was mandated by the Federal Communications Commission. With the repeal, radio broadcasters will qualify for the sales tax exclusion on their purchases after the effective date of Act 243 of digital radio conversion equipment, even though the Federal Communications Commission does not mandate radio broadcasters’ conversion to the digital equipment.

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“Digital radio conversion equipment” is defined by R.S. 47:301(16)(i)(ii) to include IBOC transmitters, IBOC main channel and IBOC combiners, IBOC compatible antennas, towers, IBOC coaxial bypass switchers, digital STLs, STL heliax transmission lines, STL antennas, digital consoles, EAS insertions, AES EBU conversion equipment, IBOL transmission testing and monitoring equipment, and digital processors. A licensed radio broadcaster is authorized to claim the sales tax exclusion on only one purchase of each of these items. Effective June 29, 2005.

Act 278 (SB 27) enacts R.S. 47:305.53 and R.S. 47:337.9(D)(27) to provide a state and local sales tax exemption for nonprofit organizations that were established prior to 1975 conducting comprehensive programs on sickle cell disease. The organizations are required to obtain exemption certificates from the Department of Revenue. Effective July 1, 2005.

Act 293 (SB 131) enacts R.S. 47:301(10)(aa) and (18)(m) to grant an exclusion from state and local sales tax for nonprofit organizations that donate toys to children. The organizations are required to obtain exemption certificates from the Department of Revenue or the tax collector of the political subdivision. Effective July 1, 2005.

Act 301 (SB 196) amends Civil Code Article 466 to clarify and re-confirm the interpretation of this Article, including the “societal expectations” analysis that prevailed prior to the decision in *Willis-Knighton Medical Center v. Caddo Shreveport Sales* __So. 2d__, 2005 WL 737481 (La.) 2004-0473 (La. 4/1/05). This Article now provides with respect to component parts of “immovables,” and no longer refers to component parts of buildings or other constructions. The Article provides that things such as plumbing, heating, cooling, electrical, or other installations are component parts of an immovable as a matter of law, and that other things are considered to be permanently attached to an immovable if they cannot be removed without substantial damage to themselves or to the immovable or if, according to prevailing notions in society, they are considered to be component parts of an immovable. Effective June 30, 2005.

Act 345 (SB 337) enacts R.S. 47:301(7)(j), 47:301(10)(y), and 47:301(18)(k) to exclude from the definitions of the terms “lease or rental,” “sale at retail,” and “use” manufacturing machinery and equipment that is used to manufacture, produce, or extract unblended biodiesel. The Act provides definitions of the terms “manufacturing machinery and equipment” and “unblended biodiesel.” This portion of the Act is effective July 1, 2005.

The Act also enacts R.S. 47:301(10)(z) and 47:301(18)(k) to provide sales tax exclusions from the definitions of “sale at retail” and “use” for alternative substances used as fuels by certain manufacturers. Alternative substances are defined as any substance other than oil and natural gas and any product of oil or natural gas, specifically including petroleum coke, landfill gas, reclaimed or waste oil, unblended biodiesel, and tire-derived fuel, and specifically excluding coal, lignite, refinery gas, nuclear fuel, and electricity. Manufacturers who are eligible to claim these exclusions are those who are assigned by the Louisiana Department of Labor codes within the North American Industrial Classification System (NAICS) in the agricultural, forestry, fishing, or hunting sector 11 or manufacturing sectors 31 to 33, as they existed in 2002. This portion of the Act is effective July 1, 2006, and becomes null and void on June 30, 2012.

The Act also repeals R.S. 47:305.31, which provided a sales tax exemption on manufacturer-purchased “energy conservation property” during an eight-year period ending in 1989.

Act 352 (HB 131) repeals R.S. 47:305.5, which provided a state and local sales tax exemption on materials, supplies, and products used in the original construction of the Toledo Bend Dam project on the Sabine River. Effective June 30, 2005.

Act 357 (HB 212) amends Section 2 of Acts 1996, No. 15 (later amended by Acts 1998, No. 47, Acts 2000, No. 33, and Acts 2003, No. 141) to extend the termination date regarding the exclusion from state and local sales tax of certain transactions involving certain private and parochial elementary and secondary schools from July 1, 2005, to July 1, 2009. These exclusions from the term “lease or rental” at R.S. 47:301(7)(f), from the term “sale at retail” at R.S. 47:301(10)(q), and from the term “use” at R.S. 47:301(18)(d), apply to books, workbooks, computers, computer software, films, videos, and audiotapes. R.S. 47:301(10)(q)(i) further provides sales tax exclusion on sales of tangible personal property by approved parochial and private elementary and secondary schools and students, administrators, teachers, or other employees of the

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schools, if the proceeds of the sales, less reasonable and necessary expenses, are used solely to support the school or its curricula. Effective June 30, 2005.

Act 362 (HB 301) enacts R.S. 47:301(7)(k) to provide that for purposes of the sales, use, and lease taxes, the term “lease or rental” shall not include the lease or rental of a crane and related equipment with an operator. Additionally, these sections provide that cranes leased or rented with an operator are subject to the provisions of the sales and use tax law upon first use in Louisiana. Effective July 1, 2005.

Act 364 (HB 304) enacts R.S. 47:301(10)(bb) to provide a state sales and use tax exclusion for purchases of natural gas to be held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities. Effective June 30, 2005.

Act 377 (HB 639) amends R.S. 33:4574.1(A)(1)(b) to provide that the term “hotel” shall not include camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided the net revenue derived from the organization’s property is devoted wholly to the nonprofit organization’s purposes. This change deletes the requirement that there be religious purposes involved. This Act also amends R.S. 47:301(6)(b) to provide the same, and additionally provides that the term “hotel” shall include camp and retreat facilities that sell rooms or other accommodations to transient guests who are not attending a function of the nonprofit organization that owns and operates the camp and retreat facilities or a function of another nonprofit organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code. R.S. 47:301(14)(b)(iv) is also amended to remove the requirement of religious purposes and provides the same nonprofit language as the above two sections. Effective June 30, 2005.

Act 384 (HB 719) repeals R.S. 47:303(B)(6), which provided for the collection by automobile rental dealers of a fee on each automobile rental contract to enable their recovery of the local sales or use tax that they paid on the acquisition of automobiles for lease or rental. Since dealers’ acquisition automobiles for lease or rental are no longer subject to local sales or use tax, this statute was no longer necessary. Effective June 30, 2005.

Act 393 (HB 832) enacts R.S. 47:301(8)(f) to provide an exclusion from state sales and use tax for purchases by nonprofit entities that sell donated goods and spend 75 percent or more of revenues on directly employing or training persons with disabilities or workplace disadvantages. Nonprofit entities must apply for an exclusion certificate annually with each exclusion certificate effective for a one-year period. Effective July 1, 2005.

Act 394 (HB 867) enacts R.S. 47:303(A)(3)(b) and 47:337.86(A)(2) to provide that an applicant for registration in Louisiana of a vehicle that has been previously registered in another state shall be given credit against the Louisiana state and local use tax for the rate of sales or use taxes paid on the vehicle in that other state. In order for the credit to be allowed, the other state must similarly allow credit against its use tax for sales or use taxes paid in Louisiana. The applicant for vehicle registration in Louisiana must be able to document the amount of the tax payment in the other state. Effective July 1, 2005.

Act 397 (HB 78) amends R.S. 47:305.50(B)(1) to provide a state and local sales and use tax exemption for rail rolling stock sold or leased in Louisiana. Previously, this exemption was limited to rail rolling stock manufactured in the state for use in interstate commerce. The Act also adds R.S. 47:305.50(B)(2) to provide a state and local sales tax exemption for parts or services used in the fabrication, modification, or repair of rail rolling stock. Political subdivisions are authorized to provide by ordinance that the sales or use tax exemption provided by R.S. 47:305.50(B)(2) will not apply within their jurisdictions and that their sales or use taxes will be due on parts or services used in the fabrication, modification, or repair of rail rolling stock. Effective July 1, 2005.

Act 410 (HB 90) amends R.S. 47:301(13) to provide that the term “sales price” does not include the price of specialty items sold to members for fund-raising purposes by nonprofit carnival organizations domiciled within Louisiana and participating in a parade sponsored by a carnival organization. It also amends R.S. 47:305.40, which is currently suspended, to provide that the sales and use taxes do not apply to sales of specialty items for use in connection with Mardi Gras activities by specified organizations. Effective August 15, 2005.

Act 413 (HB 132) repeals R.S. 47:305.22 and 47:339.9(D), which provided a state and local sales tax exemption on certain mobile, motorized equipment withdrawn from their inventories by retail equipment dealers for rental

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as a method of promoting the sale of the equipment. Since property acquired and used exclusively for lease or rental as tangible personal property is no longer subject to the state and local sales or use tax, this statute was no longer necessary. Effective July 11, 2005.

Act 443 (HB 655) amends R.S. 51:1787(B)(6), relative to sales tax rebates for construction in an enterprise zone, to provide up to a two-year extension for compliance with the requirements for the creation of new jobs. When the business is a nonprofit organization organized to finance the development and construction of buildings and infrastructure to serve a public institution of higher education, the new permanent jobs may be jobs created by the public institution of higher education. Applies to all contracts entered into under the provisions of R.S. 51:1787(A) after January 1, 2002. Effective July 11, 2005.

Act 457 (HB 741) amends R.S. 47:305.10(F) to eliminate the conflict with R.S. 47:305(I), which provides a sales tax exemption for labor, materials, services, and supplies used for repairing, renovating, or converting drilling rigs, or machinery and equipment that are component parts thereof and used exclusively for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelf waters. The Act also enacts R.S. 47:301(10)(cc) and 47:301(18)(n) to exclude from the terms “retail sale” or “sale at retail” and “use” the purchase, importation, storage, distribution, or exportation of, or exercise of any right or power over, textbooks and course-related software by a private postsecondary academic degree granting institution, accredited by a national or regional commission that is recognized by the United States Department of Education, is licensed by the Board of Regents, has its main location within this state, and offers only online instruction. These exclusions apply if the textbooks and course-related software are physically outside of this state when purchased from a vendor outside of this state and then imported into this state, the first student use of the textbooks and course-related software occurs outside of this state, and the textbooks and course-related software are provided to the student free of charge. Effective July 11, 2005.

Act 458 (HB 747) amends R.S. 47:301(13)(d) and (18)(d)(ii) and (iii) to eliminate the special treatment of sales of other petroleum byproducts, except feedstock, for both state and local purposes. These sales are now treated as any other sale of tangible personal property. Also revises the special rule regarding the definition of “sales price” for sales of refinery gas. The “sales price” for sales of refinery gas is now the same as the “cost price” for use tax purposes. Effective July 11, 2005.

Act 471 (HB 128) amends R.S. 47:301(3)(i)(ii)(bb) to include in the definition of “manufacturer” for purposes of the sales tax exclusions for manufacturing and agricultural machinery and equipment those who would be assigned a NAICS code within Sector 11 (agricultural, forestry, fishing, and hunting) or 31-33 (manufacturing), but are not required to register with the Department of Labor for unemployment insurance and therefore do not receive such assignment. This allows farmers and manufacturers with no employees to be eligible for the exclusions and is in accord with the intent of Acts 2004 1st Ex. Sess., No. 1. Also enacts R.S. 47:301(3)(i)(ii)(aa)(I)(ddd) to provide that machinery and equipment used by an industrial manufacturing plant to generate electric power for self consumption or cogeneration is included in the definition of “machinery and equipment” for purposes of the sales tax exclusions for manufacturing and agricultural machinery and equipment. Effective July 12, 2005.

Severance Tax

Act 446 (HB 672) amends R.S. 47:635(A), 640(A) and (B), and 1520(A)(3), relative to the severance tax on oil and gas, to extend the tax return and payment due dates; to provide for a one-time payment of the oil and gas severance tax; to repeal the electronic funds transfer requirements; and to require oil or gas severance tax reports to be filed electronically. Oil and gas severance tax returns previously due on the last day of the month following the month to which the tax applies or the 15th day of the second month following the month to which the tax applies are now due on the 25th day of the second month following the month to which the tax applies. Effective for tax periods beginning on or after October 1, 2005.

Act 492 (HB 835) amends R.S. 47:633(7)(c)(iv)(aa), regarding the tax suspension for inactive wells, to extend the time for taxpayers to apply for certification to qualify for the tax suspension from June 30, 2006, to June 30, 2010, and extend the suspension period from two to five years for any well granted inactive certification on or after January 1, 2005. Effective July 12, 2005.