

## 1996 Legislative Sessions Legislation Summary

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### Excise Taxes - Transportation & Communication Utilities Tax

**Act 18 (SB 42)** amends R.S. 47:1003(5) to redefine motor freight lines to mean motor carriers engaged in the business of transporting, for hire, household goods or waste. As a result of the new definition, intrastate transporters of property, except transporters of household goods and waste, will be exempted from the Transportation and Communications Utilities Tax. Effective July 1, 1997.

### Corporate Income and Franchise Tax

**Act 19 (SB 44)** amends R.S. 47:245(F) and R.S. 47:287.95(F) to provide for double-weighting of the sales factor for certain multi-state taxpayers whose net apportionment income is derived primarily from the business of manufacturing or merchandising and enacts R.S. 47:606(A)(3) to provide for the use of an additional ratio based on net sales for corporations engaged in the business of manufacturing. Business of manufacturing or merchandising and business of manufacturing include only taxpayers whose net apportionable income or net sales is derived primarily from the manufacture, production, or sale of tangible personal property. With regard to income tax, business of manufacturing or merchandising does not include taxpayers subject to the tobacco tax or any taxpayer whose income is primarily derived from the production or sale of unrefined oil and gas. With regard to franchise tax, the term business of manufacturing does not include certain integrated oil companies or taxpayers whose income is primarily derived from the production or sale of unrefined oil and gas or the manufacture, distribution, distillation, importation or sale of alcoholic beverages. Effective for taxable years beginning on or after January 1, 1997.

**Act 21 (SB 76)** amends and reenacts certain sections and subsections of R.S. 22:1068, R.S. 51:1923, 1927, 1928, 1929, and 1931, and enacts R.S. 51:1923(8), and (9), 1926(G) and (H), and 1933, and repeals R.S. 51:1924(D) and 1926(C), all relative to Certified Capital Companies-CAPCOs. This legislation makes revisions, relating to qualifications, length of program participation, etc. The income tax credit provisions enacted in the original 1983 legislation are not impacted by this legislation. Effective June 27, 1996.

**Act 26 (HB 69)** amends R.S. 47:6005(C)(1) to extend the time period from December 31, 1996 to December 31, 1998 during which purchases of qualified recycling equipment may be eligible for the credit against income and corporation franchise taxes.

**Act 40 (HB 211)** amends R.S. 47:1623(C) to specify that this section of the law also applies to refund claims that relate to net operating loss carry backs computed under the current corporate income tax law. This is a technical change that corrects an unintentional oversight. It clarifies that taxpayers are allowed the additional time to claim these refunds that pertain to net operating losses computed under the current law as well as those computed under the old law. Effective for taxable periods beginning on or after January 1, 1997.

**Act 42 (HB 230)** amends and reenacts R.S. 47:287.733 to piggyback federal law with respect to the recognition of certain gains between members of a consolidated group. The prior law recognized gain to the distributing corporation in the taxable year assets were transferred by such corporation to an affiliated corporation in a consolidated group. This legislation will defer recognition of such gain to the distributing corporation until such time conditions necessary for recognition of the gain for federal purposes are met. If the distributing corporation is merged with another corporation, reorganized, or ceases to be liable for corporation income tax for any

reason, the deferred gain will be restored to income and taxed. Effective for taxable periods beginning after December 31, 1996.

**Senate Concurrent Resolution 40** requests the Department of Economic Development to determine the economic impact of the Louisiana Capital Companies Tax Credit Program, to cite any problems and actions being taken to correct such problems, to establish a system to track and monitor the program, and to report the findings annually to the legislature.

## Individual and Corporation Income Tax

**Act 10 (HB 166)** enacts R.S. 47:6011 to provide a tax credit against corporate income or individual income tax for donations of historical property by any corporation, person, estate or trust to the Old State Capitol, the State Capitol Complex, or the State Archival, Historical, and Public Records Services. The credit allowed is computed at the rate of 50 percent of the property's value based on at least one appraisal from a qualified appraiser. The credit taken in any tax year is limited to 25 percent of the tax liability for corporations and 50 percent of the tax liability for other taxpayers. Any unused credit can be carried over to succeeding tax years until the full credit is taken. The credit is in lieu of any other deduction from gross income or other income tax credit provided for the donation. To qualify for the credit, the donation must be approved and accepted by the Governor and the Secretary of State. When a donation is valued at \$70,000 or more, it does not qualify for the credit unless it is approved by the Joint Legislative Committee on the Budget. Also, when credits given during a tax year total \$70,000 in the aggregate, no additional donations can be accepted for that year. Effective for donations made after August 1, 1996 with the credit provisions null and void on June 30, 1998.

**Act 23 (HB 58)** amends R.S. 47:6010(B) to provide that drug testing is not a qualified treatment expense for purposes of determining the tax credit for alcohol and other substance abuse treatment programs. This tax credit is limited to five percent of the qualified expenses incurred by the employer and the deduction for the expenses taken into account in determining the credit is disallowed. This change will allow taxpayers to take a deduction for drug testing expenses rather than receive the five percent tax credit. Effective June 27, 1996.

**House Concurrent Resolution 121** directs the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to meet jointly to study the income tax structure of the state, specifically the rates and brackets. The joint committee is to report its findings to the full legislature prior to the 1997 Regular Session and submit a written report to the legislature prior to the 1998 Regular Session. The resolution provides guidelines for appointing an advisory committee consisting of two persons recommended by Louisiana Association of Business and Industry and two persons recommended by the AFL-CIO. Senate Concurrent Resolution 32 clarifies that the legislature, in enacting R.S. 47:1580(B)(2) and (3) and R.S. 47:1623(E)(1) and (2), intended for prescription of income tax to be suspended solely for the purpose of incorporating federal changes that result from audits by the Internal Revenue Service. This Resolution is not intended to affect pending litigation and therefore only has prospective application.

## Fiduciary Income Tax

**Act 41 (HB 226)** enacts R.S. 47:300.1 through 300.5 and amends R.S. 47:293(7) to revise the state's fiduciary income tax to piggy-back the federal fiduciary income tax with regard to the determination of items of income and expense, subject to certain modifications. With this change, the federal income tax information becomes the starting point for the calculation of Louisiana taxable income. This legislation makes it easier for taxpayers to file fiduciary returns and for the Department to administer the tax. Effective for taxable periods beginning after

December 31, 1996.

## Individual Income Tax

**Act 11 (HB 200)** enacts R.S. 47:293(6)(a)(v) and R.S. 47:297.1 (to be renumbered) to provide a deduction from tax-table income equal to the amount deposited in a medical savings account plus any interest accrued on the deposit. Deposits to a medical savings account for a taxable year are limited to the allowable deduction for a qualified higher deductible health plan, which is \$2,500 for individual health coverage and \$3,500 for individual and dependent health coverage. The medical savings account is to be used to procure health insurance or to pay eligible medical expenses, which means expenses payable by a taxpayer for medical care as provided in Section 213(d) of the IRC. Any amount withdrawn for other purposes must be added back to tax-table income. Effective for taxable periods beginning after December 31, 1995 and ending on January 1, 1997.

**Act 27 (HB 84)** enacts R.S. 47:297.1 (to be renumbered) to provide a tax credit against individual income tax for taxpayers who maintain a household that includes one or more dependents who are physically or mentally incapable of caring for themselves. The credit allowed is equal to the applicable percentage of employment-related expenses allowable pursuant to Section 21 of the Internal Revenue Code, which allows a credit for 30 percent of employment-related expenses incurred by taxpayers with adjusted gross income of \$10,000 or less and the allowable percentage decreases by one percent for each additional \$2,000 of adjusted gross income to a minimum of 20 percent. For purposes of Section 21 of the Internal Revenue Code, employment-related expenses include expenses for household services and for the care of the qualifying dependent up to a maximum of \$2,400 for one qualifying dependent and \$4,800 for two qualifying dependents. The maximums are reduced by the amount excludable from gross income under the dependent care exclusion. This tax credit can be carried forward to the next succeeding tax year. Effective for taxable years beginning after December 31, 1996.

**Act 30 (HB 139)** enacts R.S. 47:292.2 to provide that the Secretary shall grant relief to military personnel for service in Bosnia equal to the relief granted by the federal law. Effective for taxable years beginning after December 31, 1994.

**House Concurrent Resolution 51** urges and requests the Department of Revenue and Taxation not to withhold income tax refunds in an attempt to remedy any cash flow shortages that the state may experience from time to time, but rather that the Department expedite the payment of income tax refunds.

## Miscellaneous

**Senate Concurrent Resolution 37** creates and provides for a joint legislative committee to develop a comprehensive process for the repeal and granting of tax exemptions, exclusions, deductions, and credits. The Secretary of the Department of Revenue and Taxation is designated to serve on an advisory panel to the joint committee. The joint legislative committee is directed to make a written report of findings to the legislature prior to March 1, 1997, including any specific legislative proposals. The Department of Revenue and Taxation is primarily responsible for production of the report.

**Senate Resolution 38** creates and provides for a special committee to develop a comprehensive process for the repeal and granting of tax exemptions, exclusions, deductions, and credits. The Secretary of Revenue and Taxation shall be a member of the committee, which shall make a written report of its findings to the legislature prior to February 28, 1997, together

with any specific proposals for legislation. The Department of Revenue and Taxation is primarily responsible for the production of this report.

## Sales Tax

**Act 5 (HB 196)** enacts the suspensions of exemptions from the three percent tax imposed under R.S. 47:302 and 331 for the period of July 1, 1996 through June 30, 1998, except those exemptions provided by R.S. 39:467 and 468, R.S. 47:305(A)(1), (B), (D)(1)(f), (j), (k), (l), (m), (s), and (t), and (G), 305.1, 305.2, 305.3, 305.8, 305.10, 305.14, 305.15, 305.20, 305.25(A)(1) and (2), 305.37, 305.38, 305.46, and 305.50, and R.S. 51:1787. By ordinance, the exemptions for The Louisiana Recovery District's one percent sales tax levy were also suspended. Effective July 1, 1996.

Act 5 also enacts a one percent general sales tax levy under R.S. 47:321 and suspends the same exemptions as those under R.S. 47:302 and 331. This suspension is only valid for the period of July 1, 1996 through June 30, 1997. This portion of the bill becomes valid only upon the expiration of the Louisiana Recovery District and the one percent tax levy under that District.

**Act 7 (HB 97)** amends R.S. 47:301(10)(a)(iii) and (iv), R.S. 47:301(18)(a)(iii)(iv) to provide an exclusion from the local sales tax on the purchase of automobiles for lease or rental. This legislation also amends R.S. 47:551(A) and enacts R.S. 47:551(D) to provide for a state tax of 2.5 percent on certain automobile rentals of 29 days or less and to impose a local tax of .5 percent on those rentals. This one-half percent local tax is to be collected by the Department, as an agent of the local taxing authorities, and distributed monthly to the central local sales and use tax collectors. This automobile rental excise is continued through June 30, 2000. Effective July 1, 1996.

**Act 8 (HB 113)** enacts a new exemption under R.S. 47:305.50 (to be renumbered) to allow the tax-free purchase of trucks, road trucks, tandem trucks, tractors, and truck-trailers with a gross weight of 26 thousand pounds or more and trailers and semitrailers as defined in R.S. 47:451 that are used at least 80 percent of the time in interstate commerce. This exemption applies to both state and local sales and use tax. Effective July 1, 1996 and null and void on July 1, 1998.

**Act 15 (SB 30)** enacts new exclusions under R.S. 47:301(7)(f), the definition of lease or rental, R.S. 47:301(10)(q), the definition of retail sale, and R.S. 47:301(18)(d), the definition of use, to exclude from the sales tax the lease or rental and the purchases of educational materials or equipment used for classroom instruction by approved parochial and private elementary and secondary schools. To qualify for the exclusion, the schools must comply with the court order from the Dodd Brumfield decision and section 501(c)(3) of the Internal Revenue Code. Educational materials and equipment are limited to books, workbooks, computers, computer software, films, videos, and audio tapes. The act also includes an exclusion for the purchase and ultimate sale of tangible personal property by these schools if the money from such sales is used solely and exclusively to support the school or its program or curricula. Effective July 1, 1997.

**Act 20 (SB 63)** enacts new exclusions under R.S. 47:301(7)(f), the definition of lease or rental, R.S. 47:301(10)(q), the definition of retail sale, and R.S. 47:301(18)(d), the definition of use, to allow Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. to lease or rent tangible personal property and purchase or use tangible personal property free of tax. This exclusion does not exclude the taxes due for sales of services under R.S. 47:301(14). Effective July 1, 1996.

**Act 24 (HB 94)** amends and reenacts R.S. 47:305.20(B) to allow a commercial fisherman acting on his own behalf to execute a signed statement before an authorized employee of the Department, in lieu of a notarized statement, to receive a certificate of exemption. Applicants, other than those acting on their own behalf, must continue to execute a notarized statement. Effective June 27, 1996.

**Act 28 (HB 104)** enacts an exclusion under R.S. 47:301(8)(d), the definition of person, to allow for the purchases of bibles, song books, or literature used for religious classes by churches or synagogues recognized by the U.S. Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. The Department is required to adopt a regulation for this statute. The church or synagogue must obtain an exemption certificate from the Department prior to authorizing any exempt purchase. Effective July 1, 1996.

**Act 29 (HB 116)** amends R.S. 47:305(D)(1)(h) to remove the valuation for refinery gas, when used by the producer or manufacturer, from that statute and place the valuation formula under R.S. 47:301(3)(f). This bill also enacts R.S. 47:301(13)(d) which provides that the taxable selling price for refinery gas, when not used but sold by the refinery shall be either the average monthly spot market price of one thousand cubic feet (MCF) of natural gas delivered into pipelines in Louisiana as reported by the Natural Gas Clearing House and as determined by the Department for natural gas severance tax purposes or the price for which the property is actually sold, whichever is greater.

Act 29 also enacts R.S. 47:301(18)(d) to provide an exclusion from the state and local sales and use tax for tangible personal property created or derived as a residue or byproduct from the processing of raw materials for resale. This residue or byproduct includes such items as catalyst cracker coke derived from crude oil, wood chips, bark and liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived from the processing of sugarcane. Effective July 1, 1996 until June 30, 1998.

**Act 33 (HB 160)** enacts new exclusions under R.S. 47:301(3)(f), the definition of cost price, and R.S. 47:301(13)(d), the definition of retail sale, to allow a sales tax exclusion for any amount that a manufacturer pays directly to a dealer of the manufacturer's product for the purpose of reducing the sales price of that product, and which actually results in an equivalent reduction in the sales price of that product. This does not include coupons that dealers accept from the purchaser as part payment of the sales price of the manufacturer's product. This exclusion applies to tobacco buydowns or similar buydowns by manufacturers in other industries. Effective July 2, 1996.

**Act 36 (HB 191)** enacts a new exemption under R.S. 47:305.50 (to be renumbered) to exempt rail rolling stock manufactured in this state for use in interstate commerce from state and local sales and use tax. This exemption is sheltered from the suspension of exemptions under Act 5 of the 1996 Regular Legislative Session. Effective July 1, 1996 and null and void on July 1, 1998.

**Act 43 (SB 55)** amends and reenacts an exclusion under R.S. 47:301(10)(p) to exclude free hospitals from the tax on sales of services. Free hospitals were already excluded from tax on purchases of sales and rentals. Effective July 2, 1996.

**Act 46 (SB 25)** proposes to amend Article VI, Section 29(D) of the Constitution of Louisiana relative to the application of exemptions and exclusions from sales tax. The amendment proposes exemptions and exclusions would be applied in one of three manners. The first would apply the exemption or exclusion to the taxes of all local and political subdivisions whose boundaries are not statewide. The second would apply the exemption or exclusion to taxes of

the state. The third would apply the exemption or exclusion uniformly to the taxes of all tax authorities in this state. This proposed amendment will be placed on the ballot for the congressional general election this year.

**House Concurrent Resolution 111** urges and requests the Department to review L.A.C. 61.I:4303.B concerning the taxability of leases and rentals as it applies to tangible personal property leased or rented and used outside Louisiana.

**House Resolution 65** urges and requests the Department to review its collection of taxes on farm irrigation equipment.

**Senate Resolution 16** urges and requests the Department to carry out the terms of the settlement agreement in the case of Lundin Roofing Company, Inc. and Lake Charles Harbor & Terminal District v. Louisiana Department of Revenue and Taxation. The agreement is confidential and cannot be discussed in a public document.

## Local Sales Tax

**Act 2 (HB 38)** authorizes Morehouse Parish, subject to voter approval, to levy an additional one percent sales and use tax. Effective May 31, 1996.

**Act 3 (HB 61)** authorizes Caldwell Parish School Board, subject to voter approval, to levy an additional one percent sales and use tax. Effective May 31, 1996.

**Act 4 (HB 163)** authorizes St. Bernard Parish School Board, subject to voter approval, to levy an additional one-half percent sales and use tax. Effective May 31, 1996.

**Act 12 (SB 48)** amends R.S. 47:301(10)(a)(i) and (ii) as well as R.S. 47:301(18)(a)(i) and (ii) to provide that motor vehicles purchased for lease in an arm's-length transaction shall be exempt from the local sales and use tax. Effective July 1, 1996 and null and void on July 1, 1998.

**Act 14 (SB 8)** authorizes the Franklin Parish School Board, subject to voter approval, to levy an additional one percent sales and use tax. This legislation also amends R.S. 47:305.25 to authorize the West Carroll Parish School Board to exempt certain farm equipment from the local sales tax, subject to voter approval. Effective June 24, 1996.

**Act 22 (HB 34)** authorizes the City of Minden, subject to voter approval, to levy an additional one-half percent sales and use tax. Effective June 27, 1996.

**Act 31 (HB 147)** amends R.S. 33:2718.2(C) and (D) to provide for the granting of a credit for local taxes paid in error to the a local taxing authority and to provide for the computation of such credit. The Department of Revenue and Taxation is required to adopt rules to provide for granting of such credits. Effective July 1, 1996.

**Act 32 (HB 149)** authorizes school boards of parishes with population levels between 125,000 and 135,000 to levy an additional one percent sales and use tax, subject to voter approval. Effective July 2, 1996.

## Severance Tax

**Act 16 (SB 32)** amends and reenacts 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 for an additional two years. Under this legislation, production from oil and gas wells begun before June 30, 1998 are exempt from severance tax for a period of five years when returned to service after being inactive for two or more years or having 30 days or less production for the past two years. A new discovery well, spudded after September 30, 1994 and completed before September 30, 1998, shall have all severance taxes suspended for a period of 24 months or until recovery of payout of well costs.