

ACT No. 3

2016 Second Extraordinary Session

HOUSE BILL NO. 27

BY REPRESENTATIVE BROADWATER

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AN ACT

To amend and reenact R.S. 47:301(introductory paragraph) and (10)(c)(i)(aa), relative to sales and use taxes; to provide with respect to the taxability of sales of certain materials for further processing; to authorize credits under certain circumstances; to provide for definitions; to provide for legislative intent; to provide for effectiveness and applicability; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(introductory paragraph) and (10)(c)(i)(aa) are hereby amended and reenacted to read as follows:

§301. Definitions

As used in this Chapter the following words, terms, and phrases have the ~~meaning~~ meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

* * *

(10)

* * *

1 (c)(i)(aa) The term "sale at retail" does not include sale of materials for
 2 further processing into articles of tangible personal property for sale at retail when
 3 all of the criteria in Subsubitem (I) of this Subitem are met.

4 (I)(aaa) The raw materials become a recognizable and identifiable
 5 component of the end product.

6 (bbb) The raw materials are beneficial to the end product.

7 (ccc) The raw materials are material for further processing, and as such, are
 8 purchased for the purpose of inclusion into the end product.

9 (II) For purposes of this Subitem, the term "sale at retail" shall not include
 10 the purchase of raw materials for the production of raw or processed agricultural,
 11 silvicultural, or aquacultural products.

12 (III)(aaa) If the materials are further processed into a byproduct for sale,
 13 such purchases of materials shall not be deemed to be sales for further processing
 14 and shall be taxable. For purposes of this Subitem, the term "byproduct" shall mean
 15 any incidental product that is sold for a sales price less than the cost of the materials.

16 (bbb) In the event a byproduct is sold at retail in this state for which a sales
 17 and use tax has been paid by the seller on the cost of the materials, which materials
 18 are used partially or fully in the manufacturing of the byproduct, a credit against the
 19 tax paid by the seller shall be allowed in an amount equal to the sales tax collected
 20 and remitted by the seller on the taxable retail sale of the byproduct.

21 * * *

22 Section 2. This Act is intended to clarify and be interpretative of the original intent
 23 and application of R.S. 47:301(10)(c)(i)(aa). Therefore, the provisions of this Act shall be
 24 retroactive and applicable to all refund claims submitted or assessments of additional taxes
 25 due which are filed on or after the effective date of this Act. Notwithstanding the foregoing,
 26 the provisions of this Act shall not be applicable to any existing claim for refund filed or
 27 assessment of additional taxes due issued prior to the effective date of this Act for any tax
 28 period prior to July 1, 2016, which is not barred by prescription.

29 Section 3. This Act shall become effective upon signature by the governor or, if not
 30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____