

Regular Session, 2013

HOUSE BILL NO. 653

BY REPRESENTATIVE ROBIDEAUX

TAX/SALES & USE: Changes the state sales and use tax rate and provides for the taxability of sale and services

1 AN ACT

2 To amend and reenact R.S. 4:168 and 227, R.S. 32:707(A), R.S. 47:301, 301.1(B)(2), (D)

3 and (E), 302(D), 303(E)(1), and (F), 304(A), 305, 305.6, 305.7, 305.9, 305.11,

4 305.16, 305.17, 305.19, 305.28, 305.41, 305.43(A), (B), and (E), 305.44(A) 305.49,

5 305.50(F), 305.57(A), 305.59, 305.61, 305.62(B)(1), 305.64(A)(1) and (B), 305.65,

6 305.68, 305.70, 306(A)(3), and 6001(A), to enact R.S. 47:306(A)(3) and (F), Chapter

7 2-E of Subtitle II of Title 47 of the Louisiana Revised statutes of 1950, to be

8 comprised of R.S. 47:339, and Chapter 2-F of Subtitle II of Title 47 of the Louisiana

9 Revised Statutes of 1950, to be comprised of R.S. 47:340, and to repeal R.S.

10 47:305.20(C), 305.26, 305.33, 305.40, 305.42, 305.54, 305.56, 305.58, 305.60,

11 305.64(C), 305.66, 315.2, 315.3, 315.5, 306.1, and Section 4 of Act No. 386 of the

12 1990 Regular Session of the Legislature, relative to state sales and use taxes; to

13 provide for tax rates; to provide for the taxability of certain sales and other

14 transactions involving certain tangible personal property and services; to provide

15 with respect to exclusions, exemptions and other special tax treatment; to provide

16 with respect to severability; to provide for effectiveness; and to provide for related

17 matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 4:168 and 227 are hereby amended and reenacted to read as follows:

1 §168. License fees, commissions, and taxes of this Part in lieu of all other such
2 taxes

3 The license fees, commissions, and taxes imposed in this Part are in lieu of
4 all other such licenses, sales, excise and occupational taxes ~~to the state~~ or to any
5 parish, city, town, or other political subdivision thereof.

6 * * *

7 §227. License fees, commissions, and taxes of this Part in lieu of all other such taxes

8 The license fees, commissions, and taxes imposed upon an off track wagering
9 facility in this Part are in lieu of all other such licenses, sales, excise, and
10 occupational taxes ~~to the state~~ or to any parish, city, town, municipality, or other
11 political subdivision thereof.

12 Section 2. R.S. 32:707(A) is hereby amended and reenacted to read as follows:

13 §707. Application for certificates of title; exception; salvage title; antique vehicles;
14 reconstructed title

15 A. Any purchaser of a vehicle, other than a mobile home, as defined by R.S.
16 9:1149.2(3), shall file an application for a new certificate of title within five days
17 after the delivery of a previously issued certificate of title for such vehicle, or within
18 five days of the delivery of the vehicle, if a certificate of title has not been previously
19 issued. However, dealers need not apply for certificates of title for any vehicle
20 acquired for stock purposes, if upon reselling such vehicle, the dealer complies with
21 the requirements of R.S. 32:705. ~~A purchaser of a mobile home, as defined by R.S.~~
22 ~~9:1149.2(3), shall apply for a new certificate of title on or before the twentieth day~~
23 ~~of the month following the month of delivery of the home.~~

24 * * *

25 Section 3. R.S. 47:301, 301.1(B)(2), (D) and (E), 302(D), 303(E)(1), and (F),
26 304(A), 305, 305.6, 305.7, 305.9, 305.11, 305.16, 305.17, 305.19, 305.28, 305.41,
27 305.43(A), (B), and (E), 305.44(A)(introductory paragraph), 305.49, 305.50(F),
28 305.57(A), 305.59, 305.61, 305.62(B)(1), 305.64(A)(1), (B), and (C), 305.65,

1 305.68, 305.70, 306(A)(3), 306.1, and 6001 are hereby amended and reenacted to
2 read as follows:

3 §301. Definitions

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

7 (1) "Business" includes any activity engaged in by any person or caused to
8 be engaged in by him with the object of gain, benefit, or advantage, either direct or
9 indirect. The term "business" shall not be construed to include the occasional and
10 isolated sales by a person who does not hold himself out as engaged in business.

11 (2) "Collector" shall mean and include (a) the secretary of the Department
12 of Revenue for the state of Louisiana and includes his duly authorized assistants,
13 when used in reference to a sales and use tax levied by the state, or (b) the individual
14 or entity designated as collector of the appropriate single sales and use tax collection
15 office, and his duly authorized assistants, of any political subdivision authorized
16 under the constitution and laws of the state of Louisiana to levy and collect a sales
17 and use tax, except a statewide political subdivision, when used in reference to a
18 sales and use tax levied by such political subdivision.

19 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
20 property without any deductions therefrom on account of the cost of materials used,
21 labor, or service cost, ~~except those service costs for installing the articles of tangible~~
22 ~~personal property if such cost is separately billed to the customer at the time of~~
23 ~~installation~~, transportation charges, or any other expenses whatsoever, or the
24 reasonable market value of the tangible personal property at the time it becomes
25 susceptible to the use tax, whichever is less.

26 (b) In the case of tangible personal property which has acquired a tax situs
27 in a taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for
28 repairs performed outside the taxing jurisdiction and is thereafter returned to the
29 taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts

1 and/or materials used in performing such repairs, if applicable labor charges are
2 separately stated on the invoice. If the applicable labor charges are not separately
3 stated on the invoice, it shall be presumed that the cost price is the total charge
4 reflected on the invoice.

5 (c) "Cost price" solely for purposes of sales and use tax imposed by a
6 political subdivision shall not include the supplying and installation of board roads
7 to oil field operators if the installation charges are separately billed to the customer
8 at the time of installation.

9 (d)(i) ~~In~~ Solely for purposes of sales and use tax imposed by a political
10 subdivision, in the case of interchangeable components located in Louisiana, a
11 taxpayer may elect to determine the cost price of such components as follows:

12 (aa) The taxpayer shall send to the ~~secretary~~ political subdivision a written
13 notice of the calendar month selected by the taxpayer as the first month for the
14 determination of cost price under this Paragraph (the "First Month"). The taxpayer
15 may select any month. The taxpayer shall send to the ~~secretary~~ political subdivision
16 notice of an election to designate a First Month on the first day of the designated
17 First Month, or ninety days from July 1, 1990, whichever is later.

18 (bb) For the First Month and each month thereafter, cost price shall be based
19 and use tax shall be paid only on one-sixtieth of the aggregate cost price of the
20 interchangeable components deployed and earning revenue within Louisiana during
21 the month, without regard to any credit or other consideration for Louisiana state,
22 political subdivision, or school board use tax previously paid on such
23 interchangeable components.

24 (cc) Any election made under this Paragraph shall be irrevocable for a period
25 of sixty consecutive months inclusive of the First Month. If at any time after the
26 sixty-month period the taxpayer revokes its election, no credit or other consideration
27 for use taxes paid pursuant thereto shall be applied to any use tax liability arising
28 after such revocation.

1 (ii)(aa) For purposes of this Paragraph, "interchangeable component" means
2 a component that is used or stored for use in measurement-while-drilling instruments
3 or systems manufactured or assembled by the taxpayer, which measurement-while-
4 drilling instruments or systems collectively generate eighty percent or more of their
5 annual revenue from their use outside of the state.

6 (bb) "Measurement-while-drilling instruments or systems" means
7 instruments or systems which measure information from a downhole location in a
8 borehole, transmit the information to the surface during the process of drilling the
9 borehole using a wireless technique, and receive and decode the information on the
10 surface.

11 (iii) The method for determining cost price of interchangeable components
12 provided for in this Paragraph shall apply to any use taxes imposed by a local
13 political subdivision ~~or school board~~. For purposes of that application, the words
14 "political subdivision" ~~or "school board" as the case may be~~, shall be substituted for
15 the words "Louisiana" or "State" in each instance where those words appear in this
16 Paragraph and an appropriate official of the local political subdivision or school
17 board shall be designated to receive the notices required by this Paragraph.

18 (e) "Cost price" shall not include any amount designated as a cash discount
19 or a rebate by a vendor or manufacturer of any new vehicle subject to the motor
20 vehicle license tax. For purposes of this Paragraph "rebate" means any amount
21 offered by the vendor or manufacturer as a deduction from the listed retail price of
22 the vehicle.

23 (f) The "cost price" of refinery gas shall be fifty-two cents per thousand
24 cubic feet multiplied by a fraction the numerator of which shall be the posted price
25 for a barrel of West Texas Intermediate Crude Oil on December first of the preceding
26 calendar year and the denominator of which shall be twenty-nine dollars, and
27 provided further that such cost price shall be the maximum value placed upon
28 refinery gas by the state and by any political subdivision under any authority or grant
29 of power to levy and collect use taxes.

1 (g) "Cost price", for purposes of the use tax imposed by the state and its
2 political subdivisions, shall exclude any amount that a manufacturer pays directly to
3 a dealer of the manufacturer's product for the purpose of reducing and that actually
4 results in an equivalent reduction in the retail "cost price" of that product. This
5 exclusion shall not apply to the value of the coupons that dealers accept from
6 purchasers as part payment of the "sales price" and that are redeemable by the
7 dealers through manufacturers or their agents. The value of such coupons is deemed
8 to be part of the "cost price" of the product purchased through the use of the coupons.

9 (h)(i) For purposes of a publishing business which distributes its news
10 publications at no cost to readers and pays unrelated third parties to print such news
11 publications, the term "cost price" shall mean only the lesser of the following costs:

12 (aa) The printing cost paid to unrelated third parties to print such news
13 publications, ~~less any itemized freight charges for shipping the news publications~~
14 ~~from the printer to the publishing business and any itemized charges for paper and~~
15 ~~ink.~~

16 (bb) Payments to a dealer or distributor as consideration for distribution of
17 the news publications.

18 (ii) The definition of "cost price" provided for in this Subparagraph shall be
19 applicable to taxes levied by all tax authorities in the state.

20 (i)(i) For purposes of the imposition of the use tax levied by the state and any
21 political subdivision whose boundaries are coterminous with those of the state, the
22 cost price of machinery and equipment used by a manufacturer in a plant facility
23 predominately and directly in the actual manufacturing for agricultural purposes or
24 the actual manufacturing process of an item of tangible personal property, which is
25 for ultimate sale to another and not for internal use, at one or more fixed locations
26 within Louisiana, shall be reduced as follows:

27 (aa) For the period ending on June 30, 2005, the cost price shall be reduced
28 by five percent.

1 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
2 cost price shall be reduced by nineteen percent.

3 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
4 cost price shall be reduced by thirty-five percent.

5 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
6 cost price shall be reduced by fifty-four percent.

7 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
8 cost price shall be reduced by sixty-eight percent.

9 (ff) For all periods beginning on or after July 1, 2009, the cost price shall be
10 reduced by one hundred percent.

11 (ii) For purposes of this Subparagraph, the following definitions shall apply:

12 (aa) "Machinery and equipment" means tangible personal property or other
13 property that is eligible for depreciation for federal income tax purposes and that is
14 used as an integral part in the manufacturing of tangible personal property for sale.

15 "Machinery and equipment" shall also mean tangible personal property or other
16 property that is eligible for depreciation for federal income tax purposes and that is
17 used as an integral part of the production, processing, and storing of food and fiber
18 or of timber.

19 (I) Machinery and equipment, for purposes of this Subparagraph, also
20 includes but is not limited to the following:

21 (aaa) Computers and software that are an integral part of the machinery and
22 equipment used directly in the manufacturing process.

23 (bbb) Machinery and equipment necessary to control pollution at a plant
24 facility where pollution is produced by the manufacturing operation.

25 (ccc) Machinery and equipment used to test or measure raw materials, the
26 property undergoing manufacturing or the finished product, when such test or
27 measurement is a necessary part of the manufacturing process.

28 (ddd) Machinery and equipment used by an industrial manufacturing plant
29 to generate electric power for self consumption or cogeneration.

1 (eee) Machinery and equipment used primarily to produce a news
2 publication whether it is ultimately sold at retail or for resale or at no cost. Such
3 machinery and equipment shall include but not be limited to all machinery and
4 equipment used primarily in composing, creating, and other prepress operations,
5 electronic transmission of pages from prepress to press, pressroom operations, and
6 mailroom operations and assembly activities. The term "news publication" shall
7 mean any publication issued daily or regularly at average intervals not exceeding
8 three months, which contains reports of varied character, such as political, social,
9 cultural, sports, moral, religious, or subjects of general public interest, and
10 advertising supplements and any other printed matter ultimately distributed with or
11 a part of such publications.

12 (II) Machinery and equipment, for purposes of this Subparagraph, does not
13 include any of the following:

14 (aaa) A building and its structural components, unless the building or
15 structural component is so closely related to the machinery and equipment that it
16 houses or supports that the building or structural component can be expected to be
17 replaced when the machinery and equipment are replaced.

18 (bbb) Heating, ventilation, and air-conditioning systems, unless their
19 installation is necessary to meet the requirements of the manufacturing process, even
20 though the system may provide incidental comfort to employees or serve, to an
21 insubstantial degree, nonproduction activities.

22 (ccc) Tangible personal property used to transport raw materials or
23 manufactured goods prior to the beginning of the manufacturing process or after the
24 manufacturing process is complete.

25 (ddd) Tangible personal property used to store raw materials or
26 manufactured goods prior to the beginning of the manufacturing process or after the
27 manufacturing process is complete.

28 (bb) "Manufacturer" means:

1 (I) A person whose principal activity is manufacturing, as defined in this
2 Subparagraph, and who is assigned by the Louisiana Workforce Commission a North
3 American Industrial Classification System code within the agricultural, forestry,
4 fishing, and hunting Sector 11, the manufacturing Sectors 31-33, the information
5 Sector 511110 as they existed in 2002, or industry code 423930 as a recyclable
6 material merchant wholesaler engaged in manufacturing activities, which must
7 include shredding facilities, as determined by the secretary of the Department of
8 Revenue.

9 (II) A person whose principal activity is manufacturing and who is not
10 required to register with the Louisiana Workforce Commission for purposes of
11 unemployment insurance, but who would be assigned a North American Industrial
12 Classification System code within the agricultural, forestry, fishing, and hunting
13 Sector 11, the manufacturing Sectors 31-33, the information Sector 511110 as they
14 existed in 2002, as determined by the Louisiana Department of Revenue from federal
15 income tax data, if he were required to register with the Louisiana Workforce
16 Commission for purposes of unemployment insurance.

17 (cc) "Manufacturing" means putting raw materials through a series of steps
18 that brings about a change in their composition or physical nature in order to make
19 a new and different item of tangible personal property that will be sold to another.
20 Manufacturing begins at the point at which raw materials reach the first machine or
21 piece of equipment involved in changing the form of the material and ends at the
22 point at which manufacturing has altered the material to its completed form. Placing
23 materials into containers, packages, or wrapping in which they are sold to the
24 ultimate consumer is part of this manufacturing process. Manufacturing, for
25 purposes of this Subparagraph, does not include any of the following:

26 (I) Repackaging or redistributing.

27 (II) The cooking or preparing of food products by a retailer in the regular
28 course of retail trade.

29 (III) The storage of tangible personal property.

1 (IV) The delivery of tangible personal property to or from the plant.

2 (V) The delivery of tangible personal property to or from storage within the
3 plant.

4 (VI) Actions such as sorting, packaging, or shrink wrapping the final material
5 for ease of transporting and shipping.

6 (dd) "Manufacturing for agricultural purposes" means the production,
7 processing, and storing of food and fiber and the production, processing, and storing
8 of timber.

9 (ee) "Plant facility" means a facility, at one or more locations, in which
10 manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial
11 Classification system as of 2002, of a product of tangible personal property takes
12 place.

13 (ff) "Used directly" means used in the actual process of manufacturing or
14 manufacturing for agricultural purposes.

15 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
16 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
17 and 331 before receiving a certificate of exclusion from the secretary of the
18 Department of Revenue certifying that he is a manufacturer as defined herein.

19 (iv) The secretary of the Department of Revenue is hereby authorized to adopt
20 rules and regulations in order to administer the exclusion provided for in this
21 Subparagraph.

22 (j) For the purpose of the sales and use taxes imposed by the state or any
23 political subdivision whose boundaries are coterminous with those of the state, the
24 "cost price" of electric power or energy, or natural gas for the period beginning July
25 1, 2007 and thereafter, purchased or used by paper or wood products manufacturing
26 facilities shall not include any of such cost.

27 (k)(i) For purposes of the imposition of the sales and use tax levied ~~by the~~
28 ~~state or~~ any political subdivision whose boundaries are coterminous with those of the
29 state, the tax on the cost price of tangible property consumed in the manufacturing

1 process, such as fuses, belts, felts, wires, conveyor belts, lubricants, and motor oils
2 and the tax on the cost price of repairs and maintenance of manufacturing machinery
3 and equipment shall be reduced as follows:

4 (aa) For the period beginning July 1, 2010, and ending on June 30, 2011, the
5 state sales and use tax on the cost price shall be reduced by twenty-five percent.

6 (bb) For the period beginning July 1, 2011, and ending June 30, 2012, the
7 state sales and use tax on the cost price shall be reduced by fifty percent.

8 (cc) For the period beginning July 1, 2012, and ending June 30, 2013, the
9 state sales and use tax on the cost price shall be reduced by seventy-five percent.

10 (dd) For all periods beginning on and after July 1, 2013, the state sales and
11 use tax on the cost price shall be reduced by one hundred percent.

12 (ii) For purposes of this Subparagraph, "manufacturer" means a person whose
13 principal activity is manufacturing and who is assigned an industry group designation
14 by the United States Census of 3211 through 3222 or 113310 pursuant to the North
15 American Industry Classification System of 2007.

16 (4) "Dealer" includes every person who manufactures or produces tangible
17 personal property for sale at retail, for use, or consumption, or distribution, or for
18 storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined to
19 mean:

20 (a) Every person who imports, or causes to be imported, tangible personal
21 property from any other state, foreign country, or other taxing jurisdiction for sale at
22 retail, for use, or consumption, or distribution, or for storage to be used or consumed
23 in a taxing jurisdiction.

24 (b) Every person who sells at retail, or who offers for sale at retail, or who has
25 in his possession for sale at retail, or for use, or consumption, or distribution, or
26 storage to be used or consumed in the taxing jurisdiction, tangible personal property
27 as defined herein.

28 (c) Any person who has sold at retail, or used, or consumed, or distributed,
29 or stored for use or consumption in the taxing jurisdiction, tangible personal property

1 and who cannot prove that the tax levied by this Chapter has been paid on the sale at
2 retail, the use, the consumption, the distribution, or the storage of said tangible
3 personal property.

4 (d)(i) Any person who leases or rents tangible personal property for a
5 consideration, permitting the use or possession of the said property without
6 transferring title thereto.

7 (ii) However, a person who leases or rents tangible personal property to
8 customers who provide information to such person that they will use the property only
9 offshore beyond the territorial limits of the state shall not be included in the term
10 "dealer" for purposes of the collection of the rental or lease tax of the state, statewide
11 political subdivisions, and other political subdivisions on such lease or rental
12 contracts. For purposes of this Item, "use" means the operational or functional use
13 of the property and not other uses related to its possession such as transportation,
14 maintenance, and repair. It is the intention of this Item that the customers of such
15 persons shall remit any tax due on the lease or rental of such property directly to the
16 state and local taxing bodies to whom they are due.

17 (e) Any person who is the lessee or rentee of tangible personal property and
18 who pays to the owner of such property a consideration for the use or possession of
19 such property without acquiring title thereto.

20 (f) Any person, who sells or furnishes any of the services subject to tax under
21 this Chapter.

22 (g) Any person, as used in this act, who purchases or receives any of the
23 services subject to tax under this Chapter.

24 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
25 business in the taxing jurisdiction" means and includes any of the following methods
26 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
27 office, distribution house, sales house, warehouse, or other place of business or by
28 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
29 the authority of the seller or its subsidiary irrespective of whether such place of

1 business, agent, salesman, or solicitor is located in such taxing jurisdiction
2 permanently or temporarily or whether such seller or subsidiary is qualified to do
3 business in such taxing jurisdiction, or any person who makes deliveries of tangible
4 personal property into the taxing jurisdiction other than by a common or contract
5 carrier.

6 (i) Any person who sells at retail any tangible personal property to a vending
7 machine operator for resale through coin-operated vending machines.

8 (j) Any person who makes deliveries of tangible personal property into the
9 taxing jurisdiction in a vehicle owned or operated by said person.

10 (k) The term "dealer" shall not include lessors of railroad rolling stock used
11 either for freight or passenger purposes. However, the term "dealer" shall include
12 lessees, other than a railway company or railroad corporation, of such property and
13 such lessees shall be responsible for the collection and payment of all state and local
14 sales and use taxes.

15 (l) Every person who engages in regular or systematic solicitation of a
16 consumer market in the taxing jurisdiction by the distribution of catalogs, periodicals,
17 advertising fliers, or other advertising, or by means of print, radio or television media,
18 by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other
19 communication system.

20 (5) "Gross sales" means the sum total of all retail sales of tangible personal
21 property, without any deduction whatsoever of any kind or character except as
22 provided in this Chapter.

23 (6)(a) "Hotel" means and includes any establishment engaged in the business
24 of furnishing sleeping rooms, cottages, or cabins to transient guests, where such
25 establishment consists of six or more sleeping rooms, cottages, or cabins at a single
26 business location.

27 (b) For purposes of the sales and use taxes of all tax authorities in this state,
28 the term "hotel" as defined herein shall not include camp and retreat facilities owned
29 and operated by nonprofit organizations exempt from federal income tax under

1 Section 501(a) of the Internal Revenue Code as an organization described in Section
2 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from
3 the organizations's property is devoted wholly to the nonprofit organization's
4 purposes. However, for purposes of this Paragraph, the term "hotel" shall include
5 camp and retreat facilities which shall sell rooms or other accommodations to
6 transient guests who are not attending a function of such nonprofit organization that
7 owns and operates the camp and retreat facilities or a function of another nonprofit
8 organization exempt from federal income tax under Section 501(a) of the Internal
9 Revenue Code as an organization described in Section 501(c)(3) of the Internal
10 Revenue Code. It is the intention of the legislature to tax the furnishing of rooms to
11 those who merely purchase lodging at such facilities.

12 (c) For Solely for purposes of ~~the sales and use taxes of all tax authorities in~~
13 ~~this state imposed by a political subdivision~~, the term "hotel", as defined herein, shall
14 not include a temporary lodging facility which is operated by a nonprofit organization
15 described in Section 501(c)(3) of the Internal Revenue Code, provided that the facility
16 is devoted exclusively to the temporary housing, for periods no longer than thirty
17 days' duration, of homeless transient persons whom the organization determines to be
18 financially incapable of engaging lodging at a facility defined by Subparagraph (a)
19 of this Paragraph, and further provided that the lodging charge to such persons is no
20 greater than twenty dollars per day.

21 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
22 property and the possession or use thereof by the lessee or renter, for a consideration,
23 without transfer of the title of such property. For the purpose of the leasing or renting
24 of automobiles, "lease" means the leasing of automobiles and the possession or use
25 thereof by the lessee, for a consideration, without the transfer of the title of such
26 property for a one hundred eighty-day period or more. "Rental" means the renting of
27 automobiles and the possession or use thereof by the renter, for a consideration,
28 without the transfer of the title of such property for a period less than one hundred
29 eighty days.

1 (b) ~~The~~ Solely for purposes of sales and use taxes imposed by a political
2 subdivision the term "lease or rental", however, as herein defined, shall not mean or
3 include the lease or rental made for the purposes of re-lease or re-rental of casing
4 tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other
5 drilling or related equipment used in connection with the operating, drilling,
6 completion, or reworking of oil, gas, sulphur, or other mineral wells.

7 (c) The term "lease or rental", as herein defined shall not mean or include a
8 lease or rental of property to be used in performance of a contract with the United
9 States Department of the Navy for construction or overhaul of U.S. Naval vessels.

10 (d) ~~The~~ Solely for purposes of sales and use taxes imposed by a political
11 subdivision the term "lease or rental", as herein defined, shall not mean the lease or
12 rental of airplanes or airplane equipment by a commuter airline domiciled in
13 Louisiana.

14 (e) ~~For purposes of state and political subdivision sales and use tax the~~ The
15 term "lease or rental", as herein defined, shall not mean the lease or rental of items,
16 including but not limited to supplies and equipment, which are reasonably necessary
17 for the operation of free hospitals.

18 (f) ~~For purposes of state and political subdivision sales and use tax,~~ Solely for
19 purposes of sales and use tax imposed by a political subdivision, the term "lease or
20 rental" shall not mean the lease or rental of educational materials or equipment used
21 for classroom instruction by approved parochial and private elementary and secondary
22 schools which comply with the court order from the Dodd Brumfield decision and
23 Section 501(c)(3) of the Internal Revenue Code, limited to books, workbooks,
24 computers, computer software, films, videos, and audio tapes.

25 (g) ~~For purposes of state and political subdivision sales and use tax,~~ Solely
26 for purposes of sales and use tax imposed by a political subdivision, the term "lease
27 or rental" shall not mean the lease or rental of tangible personal property to Boys State
28 of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such
29 organizations for their educational and public service programs for youth.

1 (h) ~~For purposes of state and political subdivision sales and use tax, Solely~~
2 for purposes of sales and use taxes imposed by a political subdivision, the term "lease
3 or rental" shall not mean or include the lease or rental of motor vehicles by licensed
4 motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle manufacturers, as
5 defined in R.S. 32:1252(11), for their use in furnishing such leased or rented motor
6 vehicles to their customers in performance of their obligations under warranty
7 agreements associated with the purchase of a motor vehicle or when the applicable
8 warranty has lapsed and the leased or rented motor vehicle is provided to the customer
9 at no charge.

10 (i) ~~For Solely for purposes of sales and use taxes levied and imposed by local~~
11 ~~governmental subdivisions, school boards, and other political subdivisions whose~~
12 ~~boundaries are not coterminous with those of the state~~ a political subdivision, "lease
13 or rental" by a person shall not mean or include the lease or rental of tangible personal
14 property if such lease or rental is made under the provisions of Medicare.

15 (j) ~~Solely for purposes of the sales and use tax levied by the state or any~~
16 ~~political subdivision whose boundaries are coterminous with those of the state~~ Solely
17 for purposes of sales and use taxes imposed by a political subdivision, the term "lease
18 or rental" shall not include the lease or rental in this state of manufacturing machinery
19 and equipment used or consumed in this state to manufacture, produce, or extract
20 unblended biodiesel.

21 (k)(i) ~~For Solely for purposes of any sales, use, or lease tax levied by the state~~
22 ~~or imposed by any political subdivision of the state~~, the term "lease or rental" shall
23 not include the lease or rental of a crane and related equipment with an operator.

24 (ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes
25 leased or rented with an operator are subject to the provisions of the sales and use tax
26 law upon first use in Louisiana.

27 (l)(i) ~~For purposes of the sales and use tax levied by all tax authorities in this~~
28 ~~state, the~~ The term "lease or rental" shall not apply to leases or rentals of pallets which
29 are used in packaging products produced by a manufacturer.

1 (ii) For purposes of this Subparagraph, the term "manufacturer" shall mean
2 a person whose primary activity is manufacturing and who is assigned by the
3 Louisiana Workforce Commission a North American Industrial Classification System
4 code within the manufacturing sectors 31-33 as they existed in 2002.

5 (8)(a) "Person", except as provided in Subparagraph (c), includes any
6 individual, firm, copartnership, joint adventure, association, corporation, estate, trust,
7 business trust, receiver, syndicate, this state, any parish, city and parish, municipality,
8 district or other political subdivision thereof or any board, agency, instrumentality,
9 or other group or combination acting as a unit, and the plural as well as the singular
10 number.

11 (b) ~~Solely for purposes of the payment of state sales or use tax on the lease~~
12 ~~or rental or the purchase of tangible personal property or services, "person" shall not~~
13 ~~include a regionally accredited independent institution of higher education which is~~
14 ~~a member of the Louisiana Association of Independent Colleges and Universities, if~~
15 ~~such lease or rental or purchase is directly related to the educational mission of such~~
16 ~~institution. However, the term "person" shall include such institution for purposes of~~
17 ~~the payment of tax on sales by such institution if the sales are not otherwise exempt.~~

18 (c)(i) ~~For purposes of the payment of the state sales and use tax and the sales~~
19 ~~and use tax levied by any political subdivision, The term "person" shall not include~~
20 this state, any parish, city and parish, municipality, district, or other political
21 subdivision thereof, or any agency, board, commission, or instrumentality of this state
22 or its political subdivisions.

23 (ii) Upon request by any political subdivision for an exemption identification
24 number, the Department of Revenue shall issue such number. The secretary may
25 promulgate rules and regulations in accordance with the Administrative Procedure
26 Act to carry out the provisions of this Item.

27 ~~(d)(c)~~(i) For purposes of the payment of ~~the state sales and use tax and the~~
28 sales and use tax levied by any political subdivision, the term "person" shall not
29 include a church or synagogue that is recognized by the United States Internal

1 Revenue Service as entitled to exemption under Section 501(c)(3) of the United States
2 Internal Revenue Code.

3 ~~(ii) The secretary of the Department of Revenue shall promulgate rules and~~
4 ~~regulations defining the terms "church" and "synagogue" for purposes of this~~
5 ~~exclusion. The definitions shall be consistent with the criteria established by the U.S.~~
6 ~~Internal Revenue Service in identifying organizations that qualify for church status~~
7 ~~for federal income tax purposes.~~

8 ~~(iii)~~ No church or synagogue shall claim exemption or exclusion from the
9 ~~state sales and use tax or the~~ sales and use tax levied by any political subdivision
10 before having obtained a certificate of authorization from the secretary of the
11 Department of Revenue. ~~The secretary shall develop applications for such~~
12 ~~certificates.~~ The certificates shall be issued without charge to the institutions that
13 qualify.

14 ~~(iv)~~(iii) The exclusion from the sales and use tax authorized by this
15 Subparagraph shall apply only to purchases of bibles, song books, or literature used
16 for religious instruction classes.

17 ~~(e)~~(d)(i) For purposes of the payment of the state sales and use tax and the
18 sales and use tax levied by any political subdivision, the term "person" shall not
19 include the Society of the Little Sisters of the Poor.

20 ~~(ii) The secretary of the Department of Revenue shall promulgate rules and~~
21 ~~regulations for purposes of this exclusion. The definitions shall be consistent with the~~
22 ~~criteria established by the U.S. Internal Revenue Service in identifying tax-exempt~~
23 ~~status for federal income tax purposes.~~

24 ~~(iii)~~ No member of the Society of the Little Sisters of the Poor shall claim
25 exemption or exclusion from ~~the state sales and use tax or the~~ sales and use tax levied
26 by any political subdivision before having obtained a certificate of authorization from
27 the secretary of the Department of Revenue. The secretary shall develop applications
28 for such certificates. The certificates shall be issued without charge to the entities
29 which qualify.

1 ~~(f)~~(e)(i) For purposes of the payment of sales and use tax levied by this state
2 and any political subdivision whose boundaries are coterminous with those of the
3 state, the term "person" shall not include a nonprofit entity which sells donated goods
4 and spends seventy-five percent or more of its revenues on directly employing or
5 training for employment persons with disabilities or workplace disadvantages.

6 (ii) The secretary shall promulgate rules and regulations for the use of
7 exclusion certificates for purposes of implementation of this Subparagraph. Each
8 nonprofit entity electing to utilize the exclusion provided for in this Subparagraph
9 shall apply for an exclusion certificate annually. Any exclusion certificate granted by
10 the Department of Revenue shall be effective for a one-year period.

11 (iii) The secretary shall provide forms for nonprofit entities to request an
12 exclusion certificate.

13 (9) "Purchaser" means and includes any person who acquires or receives any
14 tangible personal property, or the privilege of using any tangible personal property,
15 or receives any services pursuant to a transaction subject to tax under this Chapter.

16 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
17 tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person
18 for any purpose other than for resale as tangible personal property, or for the lease of
19 automobiles in an arm's length transaction, and shall mean and include all such
20 transactions as the secretary, upon investigation, finds to be in lieu of sales; provided
21 that sales for resale or for lease of automobiles in an arm's length transaction must be
22 made in strict compliance with the rules and regulations. Any dealer making a sale for
23 resale or for the lease of automobiles, which is not in strict compliance with the rules
24 and regulations, shall himself be liable for and pay the tax.

25 (ii) Solely for purposes of ~~the imposition of the~~ sales and use tax levied
26 imposed by a political subdivision ~~or school board~~, "retail sale" or "sale at retail" shall
27 mean a sale to a consumer or to any other person for any purpose other than for resale
28 in the form of tangible personal property, or resale of those services defined in
29 Paragraph (14) of this Section provided the retail sale of the service is subject to sales

1 tax in this state, and shall mean and include all such transactions as the collector, upon
2 investigation, finds to be in lieu of sales; provided that sales for resale be made in
3 strict compliance with the rules and regulations. Any dealer making a sale for resale,
4 which is not in strict compliance with the rules and regulations shall himself be liable
5 for and pay the tax. A local collector shall accept a resale certificate issued by the
6 Department of Revenue, provided the taxpayer includes the parish of its principal
7 place of business and local sales tax account number on the state certificate.
8 However, in the case of an intra-parish transaction from dealer to dealer, the collector
9 may require that the local exemption certificate be used in lieu of the state certificate.
10 The department shall accommodate the inclusion of such information on its resale
11 certificate for such purposes.

12 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
13 imposed by the state on transactions involving the sale for rental of automobiles
14 which take place on or after January 1, 1991, and by political subdivisions on such
15 transactions on or after July 1, 1996, and state sales and use taxes imposed on
16 transactions involving the lease or rental of tangible personal property other than
17 automobiles which take place on or after July 1, 1991, means a sale to a consumer or
18 to any other person for any purpose other than for resale as tangible personal property,
19 or for lease or rental in an arm's length transaction in the form of tangible personal
20 property, and shall mean and include all such transactions as the secretary, upon
21 investigation, finds to be in lieu of sales; provided that sales for resale or for lease or
22 rental in an arm's length transaction must be made in strict compliance with the rules
23 and regulations. Any dealer making a sale for resale or for lease or rental, which is
24 not in strict compliance with the rules and regulations, shall himself be liable for and
25 pay the tax. ~~For purposes of the imposition of the tax imposed by any political~~
26 ~~subdivision of the state, for the period beginning on July 1, 1999, and ending on June~~
27 ~~30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the~~
28 ~~sales price of any tangible personal property which is sold in order to be leased or~~
29 ~~rented in an arm's length transaction in the form of tangible personal property. For~~

1 purposes of the imposition of the tax imposed by any political subdivision of the state,
2 for the period beginning on July 1, 2000, and ending on June 30, 2001, the term "retail
3 sale" or "sale at retail" shall not include one-half of the sales price of any tangible
4 personal property which is sold in order to be leased or rented in an arm's length
5 transaction in the form of tangible personal property. For purposes of the imposition
6 of the tax imposed by any political subdivision of the state, for the period beginning
7 on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or "sale at retail"
8 shall not include three-fourths of the sales price of any tangible personal property
9 which is sold in order to be leased or rented in an arm's length transaction in the form
10 of tangible personal property. Beginning July 1, 2002, for the purposes of imposition
11 of the tax levied by any For purposes of sales and use taxes imposed by a political
12 subdivision of the state, the term "retail sale" or "sale at retail" shall not include the
13 sale of any tangible personal property which is sold in order to be leased or rented in
14 an arm's length transaction in the form of tangible personal property.

15 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
16 imposed by the state on transactions involving the sale for rental of automobiles
17 which take place prior to January 1, 1991, and by political subdivisions on such
18 transactions prior to July 1, 1996, and imposed on transactions involving the lease or
19 rental of tangible personal property other than autos which take place prior to July 1,
20 1991, and for purposes of local sales and use taxes levied by political subdivisions
21 except for transactions involving the sale for rental of automobiles on or after July 1,
22 1996, means a sale to a consumer or to any other person for any purpose other than
23 for resale in the form of tangible personal property, and shall mean and include all
24 such transactions as the secretary, upon investigation, finds to be in lieu of sales;
25 provided that sales for resale must be made in strict compliance with the rules and
26 regulations. Any dealer making a sale for resale, which is not in strict compliance
27 with the rules and regulations, shall himself be liable for and pay the tax. However,
28 contrary provisions of law notwithstanding, any political subdivision may, by

1 ordinance, adopt the definition of "retail sale" or "sale at retail" provided in Item (iii)
2 of this Subparagraph for purposes of the imposition of its sales and use tax.

3 (v) A "retail sale" or "sale at retail" of a sale of a service as set forth in
4 Chapter 2-F of Subtitle II of Title 47 includes the sale for resale of a sale of a service.
5 The provisions of this Section do not apply to sales of services as defined in R.S.
6 47:301(a)(14).

7 (vi) Solely for purposes of the payment of state sales and use tax, until
8 January 1, 2007, the term "sale at retail" shall not include purchases made in
9 connection with the filming or production of a motion picture by a motion picture
10 production company which has been relieved from the payment of state sales and use
11 tax under the provisions of Chapter 12 of Subtitle II of this Title, also known as the
12 "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively
13 revoked if it is determined that a motion picture production company that has been
14 relieved from payment of state sales and use tax under Chapter 12 failed to meet the
15 conditions of such relief.

16 ~~(b)(i) Solely for purposes of the sales and use tax levied by the state, the sale~~
17 ~~of tangible personal property to a dealer who purchases said property for resale~~
18 ~~through coin-operated vending machines shall be considered a "sale at retail", subject~~
19 ~~to such tax. The subsequent resale of the property by the dealer through~~
20 ~~coin-operated vending machines shall not be considered a "sale at retail".~~

21 ~~(ii) Solely for purposes of the sales and use tax levied~~ imposed by a political
22 ~~subdivisions~~ subdivision, the term "sale at retail" shall include the sale of tangible
23 personal property by a dealer through coin-operated vending machines.

24 (c)(i)(aa) The term "sale at retail" does not include sale of materials for
25 further processing into articles of tangible personal property for sale at retail.

26 (bb) Solely for purposes of the sales and use tax levied by the state, natural
27 gas when used in the production of iron in the process known as the "direct reduced
28 iron process" is not a catalyst and is recognized by the legislature to be a material for
29 further processing into an article of tangible personal property for sale at retail.

1 (ii)(aa) Solely for purposes of the sales and use tax levied by the state, the
2 term "sale at retail" does not include sales of electricity for chlor-alkali manufacturing
3 processes.

4 (bb) The term "sale at retail" does not include an isolated or occasional sale
5 of tangible personal property by a person not engaged in such business.

6 (d) The term "sale at retail" does not include the sale of any human tissue
7 transplants, which shall be defined to include all human organs, bone, skin, cornea,
8 blood, or blood products transplanted from one individual into another recipient
9 individual.

10 (e) The term "sale at retail" does not include the sale of raw agricultural
11 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in
12 preparing, finishing, manufacturing, or producing crops or animals for market. The
13 Department of Agriculture and Forestry shall develop and promulgate guidelines to
14 determine who meets this definition. Any person meeting such guidelines shall
15 receive a certificate from the Department of Agriculture and Forestry indicating that
16 such person is eligible to purchase such items without paying tax thereon. The
17 guidelines promulgated pursuant to this Paragraph shall not become effective prior
18 to January 1, 1995.

19 (f) Notwithstanding any other law to the contrary, solely for purposes of the
20 imposition of the sales and use tax of ~~any~~ a political subdivision, the sale of a vehicle
21 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
22 deemed to be a "retail sale" or a "sale at retail":

23 (i) In the political subdivision of the principal residence of the purchaser if
24 the vehicle is purchased for private use, or

25 (ii) In the political subdivision of the principal location of the business if the
26 vehicle is purchased for commercial use, unless the vehicle purchased for commercial
27 use is assigned, garaged, and used outside of such political subdivision, in which case
28 the sale shall be deemed a "retail sale" or a "sale at retail" in the political subdivision
29 where the vehicle is assigned, garaged, and used.

1 (g) The term "retail sale" does not include a sale of corporeal movable
2 property which is intended for future sale to the United States government or its
3 agencies, when title to such property is transferred to the United States government
4 or its agencies prior to the incorporation of that property into a final product.

5 (h) The term "sale at retail" does not include the sale of food items by youth
6 serving organizations chartered by congress.

7 (i) ~~The~~ Solely for purposes of sales and use tax imposed by a political
8 subdivision, the term "sale at retail" does not include the purchase of a new school bus
9 or a used school bus which is less than five years old by an independent operator,
10 when such bus is to be used exclusively in a public school system. ~~This exclusion~~
11 ~~shall apply to all sales and use taxes levied by any local political subdivision.~~

12 (j) The term "sale at retail" does not include the sale of tangible personal
13 property to food banks, as defined in R.S. 9:2799.

14 (k) ~~The~~ Solely for purposes of sales and use tax imposed by a political
15 subdivision, the term "sale at retail" shall not include the sale of airplanes or airplane
16 equipment or parts to a commuter airline domiciled in Louisiana.

17 (l) ~~Solely for purposes of the state sales and use tax, the term "sale at retail"~~
18 ~~shall not include the sale of a pollution control device or system. Pollution control~~
19 ~~device or system~~ The term "pollution control device or system" shall mean any
20 tangible personal property approved by the ~~Department of Revenue and the~~
21 Department of Environmental Quality and sold or leased and used or intended for the
22 purpose of eliminating, preventing, treating, or reducing the volume or toxicity or
23 potential hazards of industrial pollution of air, water, groundwater, noise, solid waste,
24 or hazardous waste in the state of Louisiana. For the purposes of any sales and use
25 tax levied by a political subdivision, the term "sale at retail" shall include the sale of
26 a pollution control device or system. In order to qualify, the pollution control device
27 or system must demonstrate either: a net decrease in the volume or toxicity or
28 potential hazards of pollution as a result of the installation of the device or system;

1 or that installation is necessary to comply with federal or state environmental laws or
2 regulations.

3 (m) ~~The Solely for purposes of sales and use taxes imposed by a political~~
4 subdivision, the term "sale at retail" shall not include the sales of Louisiana
5 manufactured or assembled passenger aircraft with a capacity in excess of fifty
6 persons, if, after all transportation, including transportation by the purchaser, has been
7 completed, the aircraft is ultimately received by the purchaser outside of Louisiana.

8 (n) For purposes of sales and use taxes imposed or levied by the state or any
9 political subdivision thereof, the term "sale at retail" shall not include the sales of
10 pelletized paper waste when purchased for use as combustible fuel by an electric
11 utility or in an industrial manufacturing, processing, compounding, reuse, or
12 production process, including the generation of electricity or process steam, at a fixed
13 location in this state. However, such sale shall not be excluded unless the purchaser
14 has signed a certificate stating that the fuel purchased is for the exclusive use
15 designated herein. For purposes of this Subparagraph, "pelletized paper waste" means
16 pellets produced from discarded waste paper that has been diverted or removed from
17 solid waste which is not marketable for recycling and which is wetted, extruded,
18 shredded, or formulated into compact pellets of various sizes for use as a
19 supplemental fuel in a permitted boiler.

20 ~~(o) For the purposes of sales and use taxes imposed or levied by the state or~~
21 ~~any local governmental subdivision or school board, the~~ The term "sale at retail" shall
22 not include the sale or purchase of equipment used in fire fighting by bona fide
23 volunteer and public fire departments.

24 (p) For purposes of state and political subdivision sales and use tax, the term
25 "sale at retail" shall not include the sale of items, including but not limited to supplies
26 and equipment, or the sale of services as provided in this Section, which are
27 reasonably necessary for the operation of free hospitals.

1 (q) ~~For purposes of state and political subdivision sales and use tax~~ Solely for
2 purposes of sales and use taxes imposed by a political subdivision, the term "sale at
3 retail" shall not include:

4 (i) The sale of tangible personal property by approved parochial and private
5 elementary and secondary schools which comply with the court order from the Dodd
6 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
7 administrators, or teachers, or other employees of the school, if the money from such
8 sales, less reasonable and necessary expenses associated with the sale, is used solely
9 and exclusively to support the school or its program or curricula. This exclusion shall
10 not be construed to allow tax-free sales to students or their families by promoters or
11 regular commercial dealers through the use of schools, school faculty, or school
12 facilities.

13 (ii) The sale to approved parochial and private elementary and secondary
14 schools which comply with the court order from the Dodd Brumfield decision and
15 Section 501(c)(3) of the Internal Revenue Code of educational materials or equipment
16 used for classroom instruction limited to books, workbooks, computers, computer
17 software, films, videos, and audio tapes.

18 (r) ~~For purposes of state and political subdivision sales and use tax~~ Solely for
19 purposes of sales and use taxes imposed by a political subdivision, the term "sale at
20 retail" shall not include the sale of tangible personal property to Boys State of
21 Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations
22 for their educational and public service programs for youth.

23 (s) The term "sale at retail" or "retail sale", for purposes of sales and use taxes
24 imposed by the state or any political subdivision or other taxing entity, shall not
25 include any charge, fee, money, or other consideration received, given, or paid for the
26 performance of funeral directing services. For purposes of this Subparagraph,
27 "funeral directing services" means the operation of a funeral home, or by way of
28 illustration and not limitation, any service whatsoever connected with the
29 management of funerals, or the supervision of hearses or funeral cars, the cleaning or

1 dressing of dead human bodies for burial, and the performance or supervision of any
2 service or act connected with the management of funerals from time of death until the
3 body or bodies are delivered to the cemetery, crematorium, or other agent for the
4 purpose of disposition. However, such services shall not mean or include the sale,
5 lease, rental, or use of any tangible personal property as those terms are defined in this
6 Section.

7 (t) ~~For~~ Solely for purposes of sales and use taxes ~~levied~~ imposed by ~~the state~~
8 ~~or any a~~ political subdivision ~~of the state~~, the term "sale at retail" shall not include the
9 transfer of title to or possession of telephone directories by an advertising company
10 that is not affiliated with a provider of telephone services if the telephone directories
11 will be distributed free of charge to the recipients of the telephone directories.

12 (u) For purposes of sales and use taxes levied and imposed by local
13 governmental subdivisions, school boards, and other political subdivisions whose
14 boundaries are not coterminous with those of the state, "sale at retail" by a person
15 shall not mean or include the sale of tangible personal property if such sale is made
16 under the provisions of Medicare.

17 (v) ~~For purposes of the imposition~~ Solely for purposes of sales and use taxes
18 ~~imposed or levied by all taxing authorities in the state by a political subdivision~~, in
19 the case of the sale or other disposition by a dealer of any cellular, PCS, or wireless
20 telephone, or any electronic accessories that are physically connected with such
21 telephones and personal communication devices used in connection with the sale or
22 use of mobile telecommunications services, the term "retail sale" or "sale at retail"
23 shall mean and include the sale or any other disposition of such cellular, PCS, or
24 wireless telephone, any electronic accessories that are physically connected with such
25 telephones and personal communication devices by the dealer to the purchaser, but
26 shall not mean or include the withdrawal, use, distribution, consumption, storage,
27 donation, or any other disposition of any such cellular, PCS, or wireless telephone,
28 any electronic accessories that are physically connected with such telephones, and
29 personal communication devices by the dealer.

1 (w) For purposes of the imposition of sales and use taxes imposed or levied
2 by any political subdivision of the state, in the case of the sale or other disposition by
3 a dealer of any cellular telephone, PCS telephone, wireless telephone, or other
4 wireless personal communication device that is used in connection with the sale or
5 use of mobile telecommunications services, or any electronic accessory that is
6 physically connected with any such telephone or personal communication device, the
7 term "retail sale" or "sale at retail" shall mean and include the sale or any other
8 disposition of any such telephone, other personal communication device, or electronic
9 accessory.

10 (x) For purposes of the sales and use tax imposed by the state or any political
11 subdivision whose boundaries are coterminous with those of the state, the terms
12 "retail sale" or "sale at retail" shall not include the following:

13 (i) The sale or purchase by a person of any fuel or gas, including but not
14 limited to butane and propane.

15 (ii) Beginning July 1, 2008, the sale or purchase by any person of butane and
16 propane.

17 (y)(i) Solely for the purposes of sales and use taxes ~~levied by the state or any~~
18 imposed by a political subdivision ~~whose boundaries are coterminous with those~~ of
19 the state, the term "sale at retail" shall not include the sale of manufacturing
20 machinery and equipment used or consumed in this state to manufacture, produce, or
21 extract unblended biodiesel.

22 (ii) As used in this Subparagraph, the following words and phrases have the
23 meaning ascribed to them:

24 (aa) "Manufacturing machinery and equipment" means tangible property used
25 or consumed, or held for use or consumption, as an integral part of a biodiesel
26 manufacturing, production, or extraction facility, process, or item of equipment.
27 Property shall be considered to be an integral part of such biodiesel manufacturing,
28 production, or extraction facility, process, or item of equipment only if such property
29 is used or consumed directly in the manufacturing, production, or extraction process

1 or is part of, physically attached to, or otherwise directly associated with such
2 property. Property, the installation of which is reasonably necessary for the proper
3 installation, operation, maintenance of property which directly results in such
4 manufacturing, production, or extraction shall be considered as directly associated
5 with such property.

6 (bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of
7 long chain fatty acids derived from vegetable oils or animal fats, designated B100,
8 and meeting the requirements of the definition provided for in D 6751 of the
9 American Society of Testing and Materials (ATDM D 6751), before such fuel is
10 blended with a petroleum-based diesel fuel.

11 (z) ~~Solely for the purposes of sales and use taxes levied by the state or any~~
12 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
13 ~~term "sale at retail" shall not include the sale of any alternative substance when such~~
14 ~~alternative substance is used as a fuel by a manufacturer. "Alternative substance"~~
15 ~~means any substance other than oil and natural gas and any product of oil and natural~~
16 ~~gas. "Alternative substance" shall include petroleum coke, landfill gas, reclaimed or~~
17 ~~waste oil, unblended biodiesel, or tire-derived fuel, but not coal, lignite, refinery gas,~~
18 ~~nuclear fuel, or electricity. "Manufacturer" means a person whose principal activity~~
19 ~~is manufacturing and who is assigned by the Louisiana Workforce Commission a~~
20 ~~North American Industrial Classification System code with the agricultural, forestry,~~
21 ~~fishing, and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in~~
22 ~~2002.~~

23 (aa) (i) For purposes of sales and use taxes imposed or levied by the state or
24 any political subdivision of the state, the term "sale at retail" shall not include the sale
25 of toys to a non-profit organization exempt from federal taxation pursuant to Section
26 501(c)(3) of the Internal Revenue Code if the sole purpose of the purchasing
27 organization is to donate toys to minors and the toys are, in fact, donated.

28 (ii) The exclusion provided in this Subparagraph shall not apply if the
29 donation is intended to ultimately yield a profit to a promoter of the organization or

1 to any individual contracted to provide services or equipment, or both, to the
2 organization.

3 (iii) A certificate of exclusion shall be obtained from the secretary or the tax
4 collector of the political subdivision, under such regulations as he shall prescribe, in
5 order for nonprofit organizations to qualify for the exclusion provided for in this
6 Subparagraph.

7 ~~(bb) For purposes of sales and use taxes imposed or levied by the state, the~~
8 ~~terms "retail sale" and "sale at retail" shall not include sales of natural gas to be held,~~
9 ~~used, or consumed in providing natural gas storage services or operating natural gas~~
10 ~~storage facilities.~~

11 ~~(cc) For~~ (aa) ~~Solely for~~ purposes of the sales and use tax imposed by ~~the~~
12 ~~state or any a~~ political subdivision ~~of the state~~, the terms "retail sale" or "sale at retail"
13 shall not mean or include the purchase of textbooks and course-related software by
14 a private postsecondary academic degree-granting institution, accredited by a national
15 or regional commission that is recognized by the United States Department of
16 Education and is licensed by the Board of Regents, which institution has its main
17 location within this state and offers only online instruction, when all of the following
18 apply:

19 (i) The textbooks and course-related software are physically outside of this
20 state when purchased from a vendor outside of this state and then imported into this
21 state.

22 (ii) The first student use of the textbooks and course-related software occurs
23 outside of this state.

24 (iii) The textbooks and course-related software are provided to the student
25 free of charge.

26 ~~(dd)~~ (bb) For purposes of sales and use taxes imposed or levied by the state,
27 the terms "retail sale" or "sale at retail" shall not include the purchase of food items
28 for school lunch or breakfast programs by nonpublic elementary or secondary schools
29 which participate in the National School Lunch and School Breakfast programs or the

1 purchase of food items by nonprofit corporations which serve students in nonpublic
2 elementary or secondary schools and which participate in the National School Lunch
3 and School Breakfast programs.

4 ~~(cc)(i) Solely for the purposes of the imposition of the state sales and use tax,~~
5 ~~the term "retail sale" and "sale at retail" shall not include the sale of any storm shutter~~
6 ~~device:~~

7 ~~(ii) As used in this Subparagraph, "storm shutter device" means materials and~~
8 ~~products manufactured, rated, and marketed specifically for the purpose of preventing~~
9 ~~window damage from storms.~~

10 ~~(iii) The secretary of the Department of Revenue, in consultation with the~~
11 ~~Department of Insurance, shall promulgate such rules and regulations in accordance~~
12 ~~with the Administrative Procedure Act as may be necessary to carry out the~~
13 ~~provisions of this Subparagraph.~~

14 ~~(ff) (cc)~~ For purposes of sales taxes imposed by the state or any political
15 subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales
16 of tangible personal property by the Military Department, state of Louisiana, which
17 occur on an installation or other property owned or operated by the Military
18 Department.

19 ~~(gg) (dd)~~ For purposes of sales and use tax imposed ~~by the state~~ or any
20 political subdivision of the state, the term "sale at retail" shall not include the sale of
21 anthropogenic carbon dioxide for use in a qualified tertiary recovery project approved
22 by the assistant secretary of the office of conservation of the Department of Natural
23 Resources pursuant to R.S. 47:633.4.

24 ~~(hh) (ee)~~ For purposes of sales and use tax imposed ~~by the state~~, any political
25 subdivision whose boundaries are coterminous with those of the state, or any other
26 political subdivision, the term "sale at retail" shall not include the sale of tangible
27 personal property at an event providing Louisiana heritage, culture, crafts, art, food,
28 and music which is sponsored by a domestic nonprofit organization that is exempt
29 from tax under Section 501(c)(3) of the Internal Revenue Code. The provisions of

1 this Subparagraph shall apply only to an event which transpires over a minimum of
2 seven but not more than twelve days and has a five-year annual average attendance
3 of at least three hundred thousand over the duration of the event. For purposes of
4 determining the five-year annual average attendance, the calculation shall include the
5 total annual attendance for each of the five most recent years. The provisions of this
6 Subparagraph shall apply only to sales by the sponsor of the event.

7 (11) "Retailer" means and includes every person engaged in the business of
8 making sales at retail or for distribution, or use or consumption, or storage to be used
9 or consumed in this state.

10 (12) "Sale" means any transfer of title or possession, or both, exchange,
11 barter, conditional or otherwise, in any manner or by any means whatsoever, of
12 tangible personal property, for a consideration, and includes the fabrication of
13 tangible personal property for consumers who furnish, either directly or indirectly, the
14 materials used in fabrication work, and the furnishing, preparing or serving, for a
15 consideration, of any tangible personal property, consumed on the premises of the
16 person furnishing, preparing or serving such tangible personal property. A transaction
17 whereby the possession of property is transferred but the seller retains title as security
18 for the payment of the price shall be deemed a sale.

19 (13)(a) "Sales price" means the total amount for which tangible personal
20 property is sold, less the market value of any article traded in including any services,
21 except services for financing, that are a part of the sale valued in money, whether paid
22 in money or otherwise, and includes the cost of materials used, labor or service costs,
23 except costs for financing which shall not exceed the legal interest rate and a service
24 charge not to exceed six percent of the amount financed, and losses; provided that
25 cash discounts allowed and taken on sales shall not be included; ~~nor shall the sales~~
26 ~~price include the amount charged for labor or services rendered in installing, applying,~~
27 ~~remodeling, or repairing property sold.~~

28 (b) The term "sales price" shall not include any amount designated as a cash
29 discount or a rebate by the vendor or manufacturer of any new vehicle subject to the

1 motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount
2 offered by a vendor or manufacturer as a deduction from the listed retail price of the
3 vehicle.

4 (c) "Sales price" shall not include the first fifty thousand dollars of the sale
5 price of new farm equipment used in poultry production.

6 (d) Notwithstanding any other provision of law to the contrary, for purposes
7 of state and political subdivision sales and use tax, the "sales price" of refinery gas,
8 except for feedstock, not ultimately consumed as an energy source by the person who
9 owns the facility in which the refinery gas is created as provided for in Subparagraph
10 (18)(d) of this Section, but sold to another person, whether at retail or wholesale, shall
11 be fifty-two cents per thousand cubic feet multiplied by a fraction the numerator of
12 which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on
13 December first of the preceding calendar year and the denominator of which shall be
14 twenty-nine dollars, and provided further that such sales price shall be the maximum
15 value placed upon refinery gas by the state and by any political subdivision under any
16 authority or grant of power to levy and collect sales or use taxes, and such sale shall
17 be taxable.

18 (e) The term "sales price", for purposes of the sales tax imposed by the state
19 and its political subdivisions, shall exclude any amount that a manufacturer pays
20 directly to a dealer of the manufacturer's product for the purpose of reducing and that
21 actually results in an equivalent reduction in the retail "sales price" of that product.
22 This exclusion shall not apply to the value of the manufacturer's coupons that dealers
23 accept from purchasers as part payment of the "sales price" and that are redeemable
24 by the dealers through manufacturers or their agents. The value of such coupons is
25 deemed to be part of the "sales price" of the product purchased through the use of the
26 coupons.

27 (f) The term "sales price" shall exclude any charge, fee, money, or other
28 consideration received, given, or paid for the performance of funeral directing
29 services as defined in Subparagraph (10)(s) of this Section.

1 (g) ~~For purposes of the imposition of~~ Solely for purposes of sales and use
2 taxes imposed ~~or levied by all taxing authorities in the state~~ by a political
3 subdivision, in the case of the retail sale by a dealer of any cellular, PCS, or wireless
4 telephone, any electronic accessories that are physically connected with such
5 telephones and personal communications devices used in connection with the sale or
6 use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term
7 "sales price" shall mean and include only the amount of money, if any, actually
8 received by the dealer from the purchaser for each such cellular, PCS, or wireless
9 telephone and any electronic accessories that are physically connected with such
10 telephones and personal communication devices, but shall not include (i) any amount
11 received by the dealer from the purchaser for providing mobile telecommunications
12 services, or (ii) any commissions, fees, rebates, or other amounts received by the
13 dealer from any source other than the purchaser as a result of or in connection with
14 the sale of the cellular, PCS, or wireless telephone, any electronic accessories that are
15 physically connected with such telephones and personal communication devices.

16 (h) For the purpose of the imposition of sales and use tax imposed or levied
17 by all taxing authorities in the state of any cellular, PCS, or wireless telephone used
18 in connection with the sale or use of mobile telecommunications services, as defined
19 in R.S. 47:301(10)(v), after January 1, 2002, the term "sales price" shall mean and
20 include the greater of (i) the amount of money actually received by the dealer from
21 the purchaser for each such telephone, or (ii) twenty-five percent of the cost of such
22 telephone to the dealer, but shall not include any amount received by the dealer from
23 the purchaser for providing mobile telecommunications services or any commissions,
24 fees, rebates, or other amounts received by the dealer from any source other than the
25 purchaser as a result of or in connection with the sale of the telephone.

26 (i)(i) For purposes of a publishing business which distributes its news
27 publications at no cost to readers and pays unrelated third parties to print such news
28 publications, the term "sales price" shall mean only the lesser of the following costs:

1 (aa) The printing cost paid to unrelated third parties to print such news
2 publications, less any itemized freight charges for shipping the news publications
3 from the printer to the publishing business and any itemized charges for paper and
4 ink.

5 (bb) Payments to a dealer or distributor as consideration for distribution of the
6 news publications.

7 (ii) The definition of "sales price" provided for in this Subparagraph shall be
8 applicable to taxes levied by all tax authorities in the state.

9 (j) For the purpose of the imposition of sales and use tax imposed or levied
10 by any political subdivision of the state, in the case of any retail sale or sale at retail,
11 of any cellular telephone, PCS telephone, or wireless telephone used in connection
12 with the sale or use of mobile telecommunications services, as defined in R.S.
13 47:301(10)(w), or any electronic accessory that is physically connected with any such
14 telephone or personal communication device, the term "sales price" shall mean and
15 include the greater of (i) the amount of money, if any, actually received by the dealer
16 from the purchaser at the time of the retail sale or sale at retail by the dealer to the
17 purchaser for each such telephone, personal communication device, or electronic
18 accessory, or (ii) twenty-five percent of the cost of such telephone to the dealer, but
19 shall not include any amount received by the dealer from the purchaser for providing
20 mobile telecommunications services or any commissions, fees, rebates, activation
21 charges, or other amounts received by the dealer from any source other than the
22 purchaser as a result of or in connection with the sale of the telephone.

23 (k)(i) For purposes of the imposition of the sales tax levied by the state and
24 any political subdivision whose boundaries are coterminous with those of the state,
25 the sales price of machinery and equipment purchased by a manufacturer for use in
26 a plant facility predominately and directly in the actual manufacturing for agricultural
27 purposes or the actual manufacturing process of an item of tangible personal property,
28 which is for ultimate sale to another and not for internal use, at one or more fixed
29 locations within Louisiana shall be ~~reduced as follows:~~ zero.

1 (aa) For the period ending on June 30, 2005, the sales price shall be reduced
2 by five percent.

3 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
4 sales price shall be reduced by nineteen percent.

5 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
6 sales price shall be reduced by thirty-five percent.

7 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
8 sales price shall be reduced by fifty-four percent.

9 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
10 sales price shall be reduced by sixty-eight percent.

11 (ff) For all periods beginning on or after July 1, 2009, the sales price shall be
12 reduced by one hundred percent.

13 (ii) For purposes of this Subparagraph, "machinery and equipment",
14 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
15 facility", and "used directly" shall have the same meaning as defined in R.S.
16 47:301(3)(i)(ii).

17 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
18 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
19 and 331 before receiving a certificate of exclusion from the secretary of the
20 Department of Revenue certifying that he is a manufacturer as defined herein.

21 (iv) The secretary of the Department of Revenue is hereby authorized to adopt
22 rules and regulations in order to administer the exclusion provided for in this
23 Subparagraph.

24 ~~(l)(i) For purposes of the payment of the state sales and use tax and the sales~~
25 ~~and use tax levied by any~~ Solely for purposes of sales and use taxes imposed by a
26 political subdivision, the term "sales price" shall not include the price of specialty
27 items sold to members for fund-raising purposes by nonprofit carnival organizations
28 domiciled within Louisiana and participating in a parade sponsored by a carnival
29 organization.

1 (ii) ~~The secretary of the Department of Revenue shall promulgate rules and~~
2 ~~regulations for purposes of this exclusion.~~

3 ~~(iii) No nonprofit carnival organization domiciled within Louisiana and~~
4 ~~participating in a parade sponsored by a carnival organization shall claim exemption~~
5 ~~or exclusion from the state sales and use tax or the sales and use tax levied by any~~
6 ~~political subdivision before having obtained a certificate of authorization. from the~~
7 ~~secretary of the Department of Revenue. The secretary shall develop applications for~~
8 ~~such certificates. The certificates shall be issued without charge to the entities which~~
9 ~~qualify.~~

10 (m) For purposes of the sales and use tax imposed by the state or any political
11 subdivision whose boundaries are coterminous with those of the state, the "sales
12 price" of electric power or energy, or natural gas for the period beginning July 1,
13 2007, and thereafter, sold for use by paper or wood products manufacturing facilities
14 shall not include any of such price.

15 (14) "Sales of services" means and includes the following:

16 (a) The furnishing of sleeping rooms, cottages or cabins by hotels.

17 (b)(i) The sale of admissions to places of amusement, to athletic
18 entertainment other than that of schools, colleges, and universities, and recreational
19 events, and the furnishing, for dues, fees, or other consideration of the privilege of
20 access to clubs or the privilege of having access to or the use of amusement,
21 entertainment, athletic, or recreational facilities; but the term "sales of services" shall
22 not include membership fees or dues of nonprofit, civic organizations, including by
23 way of illustration and not of limitation the Young Men's Christian Association, the
24 Catholic Youth Organization, and the Young Women's Christian Association.

25 (ii) ~~Places~~ Solely for purposes of sales and use taxes imposed by a political
26 subdivision, places of amusement shall not include "museums", which are hereby
27 defined as public or private nonprofit institutions which are organized on a permanent
28 basis for essentially educational or aesthetic purposes and which use professional staff
29 to do all of the following:

- 1 (aa) Own or use tangible objects, whether animate or inanimate.
- 2 (bb) Care for those objects.
- 3 (cc) Exhibit them to the public on a regular basis.
- 4 (iii) Museums include but are not limited to the following institutions:
- 5 (aa) Museums relating to art, history, including historic buildings, natural
6 history, science, and technology.
- 7 (bb) Aquariums and zoological parks.
- 8 (cc) Botanical gardens and arboretums.
- 9 (dd) Nature centers.
- 10 (ee) Planetariums.
- 11 (iv) For purposes of the sales and use taxes of all tax authorities in the state,
12 the term "places of amusement" as used herein shall not include camp and retreat
13 facilities owned and operated by nonprofit organizations exempt from federal income
14 tax under Section 501(a) of the Internal Revenue Code as an organization described
15 in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue
16 derived from the organization's property is devoted wholly to the nonprofit
17 organization's purposes.
- 18 (c) The furnishing of storage or parking privileges by auto hotels and parking
19 lots.
- 20 (d) The furnishing of printing or overprinting, lithographic, multilith, blue
21 printing, photostating or other similar services of reproducing written or graphic
22 matter.
- 23 (e) The furnishing of laundry, cleaning, pressing and dyeing services,
24 including by way of extension and not of limitation, the cleaning and renovation of
25 clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for
26 clothing, furs and rugs.
- 27 (f) The furnishing of cold storage space, except that space which is furnished
28 pursuant to a bailment arrangement, and the furnishing of the service of preparing

1 tangible personal property for cold storage where such service is incidental to the
2 operation of storage facilities.

3 (g)(i)(aa) The furnishing of repairs to tangible personal property, including
4 but not restricted to the repair and servicing of automobiles and other vehicles,
5 electrical and mechanical appliances and equipment, watches, jewelry, refrigerators,
6 radios, shoes, and office appliances and equipment.

7 (bb) For purposes of the sales and use tax levied by the state and by tax
8 authorities in East Feliciana Parish, charges for the furnishing of repairs to tangible
9 personal property may be excluded from sales of services, as defined in this
10 Subparagraph, when the repaired property is delivered to the customer in another state
11 either by common carrier or the repair dealer's own vehicle, however, as to aircraft,
12 delivery may be by the best available means. This exclusion shall not apply to sales
13 and use taxes levied by any other parish, municipality or school board. However, any
14 other parish, municipality or school board may apply the exclusion as defined in this
15 Subparagraph to sales or use taxes levied by any such parish, municipality, or school
16 board. Offshore areas shall not be considered another state for the purpose of this
17 Subparagraph.

18 (ii) For the purposes of this Subparagraph, tangible personal property shall
19 include machinery, appliances, and equipment which have been declared immovable
20 by declaration under the provisions of Article 467 of the Louisiana Civil Code, and
21 things which have been separated from land, buildings, or other constructions
22 permanently attached to the ground or their component parts as defined in Article 466
23 of the Civil Code.

24 (iii)(aa) For purposes of the sales and use taxes imposed by the state or any
25 of its political subdivisions, sale of services shall not include the labor, or sale of
26 materials, services, and supplies, used for the repairing, renovating, or converting of
27 any drilling rig, or machinery and equipment which are component parts thereof,
28 which is used exclusively for the exploration or development of minerals outside the
29 territorial limits of the state in Outer Continental Shelf waters.

1 (bb) For the purposes of this Subitem, "drilling rig" means any unit or
2 structure, along with its component parts, which is used primarily for drilling,
3 workover, intervention or remediation of wells used for exploration or development
4 of minerals and "component parts" means any machinery or equipment necessary for
5 a drilling rig to perform its exclusive function of exploration or development of
6 minerals.

7 (h) The term "sale of service" shall not include an action performed pursuant
8 to a contract with the United States Department of the Navy for construction or
9 overhaul of U.S. Naval vessels.

10 (i) Solely for purposes of the sales and use tax levied by the state, the
11 furnishing of telecommunications services for compensation, in accordance with the
12 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying
13 a sales and use tax on telecommunications services not in effect on July 1, 1990,
14 provided, however, that the provisions of this Subparagraph shall not be construed to
15 prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax
16 or assessment by any political subdivision of the state as defined in Article VI,
17 Section 44(2) of the Constitution of Louisiana.

18 (j) Notwithstanding any provision of law to the contrary, for purposes of sales
19 or use taxation by the state or any local political subdivision, the term "sales of
20 services" shall not mean or include any funeral directing services as defined in
21 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee on
22 Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state
23 Department of Revenue shall devise a formula for the calculation of the tax.

24 (k) For Solely for purposes of sales and use tax imposed by ~~the state, any~~
25 ~~a political subdivision whose boundaries are coterminous with those of the state, or~~
26 ~~any other political subdivision,~~ the term "sales of services" shall not mean or include
27 admission charges for, outside gate admissions to, or parking fees associated with an
28 event providing Louisiana heritage, culture, crafts, art, food, and music which is
29 sponsored by a domestic nonprofit organization that is exempt from tax under Section

1 501(c)(3) of the Internal Revenue Code. The provisions of this Subparagraph shall
2 apply only to an event which transpires over a minimum of seven but not more than
3 twelve days and has a five-year annual average attendance of at least three hundred
4 thousand over the duration of the event. For purposes of determining the five-year
5 annual average attendance, the calculation shall include the total annual attendance
6 for each of the five most recent years. The provisions of this Subparagraph shall
7 apply only to admission charges for, outside gate admissions to, or parking fees
8 associated with an event when the charges and fees are payable to or for the benefit
9 of the sponsor of the event.

10 (15) "Storage" means and includes any keeping or retention in the taxing
11 jurisdiction of tangible personal property for use or consumption within the taxing
12 jurisdiction or for any purpose other than for sale at retail in the regular course of
13 business.

14 (16)(a) "Tangible personal property" means and includes personal property
15 which may be seen, weighed, measured, felt or touched, or is in any other manner
16 perceptible to the senses.

17 (b) The term "tangible personal property" shall not include:

18 (i) Stocks, bonds, notes, or other obligations or securities.

19 (ii) ~~Gold~~, Solely for purposes of sales and use taxes imposed by a political
20 subdivision, gold, silver, or numismatic coins, or platinum, gold, or silver bullion
21 having a total value of one thousand dollars or more.

22 (iii) Proprietary geophysical survey information or geophysical data analysis
23 furnished under a restricted use agreement even though transferred in the form of
24 tangible personal property.

25 (c) ~~The~~ Solely for purposes of sales and use tax imposed by a political
26 subdivision, the term "tangible personal property" shall not include the repair of a
27 vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse
28 of the applicable warranty on that vehicle and at no charge to the owner of the

1 vehicle. For the purpose of assessing a sales and use tax on this transaction, no
2 valuation shall be assigned to the services performed or the parts used in the repair.

3 (d)(i) Notwithstanding any provision of law to the contrary and solely for
4 purposes of state sales and use tax, any sale of a prepaid calling service or prepaid
5 wireless calling service, or both, shall be deemed to be the sale of tangible personal
6 property.

7 (ii) Prepaid calling services and prepaid wireless calling services shall be
8 subject to the tax imposed by this Chapter if the sale takes place in this state. If the
9 customer physically purchases a prepaid calling service or prepaid wireless calling
10 service at the vendor's place of business, the sale is deemed to take place at the
11 vendor's place of business. If the customer does not physically purchase the service
12 at the vendor's place of business, the sale of a prepaid calling service or prepaid
13 wireless calling service is deemed to take place at the first of the following locations
14 that applies to the sale:

15 (aa) The customer's shipping address, if the sale involves a shipment.

16 (bb) The customer's billing address.

17 (cc) Any other address of the customer that is known by the vendor.

18 (dd) The address of the vendor or, alternatively in the case of a prepaid
19 wireless calling service, the location associated with the mobile telephone number.

20 (e) The term "tangible personal property" shall not include work products
21 which are written on paper, stored on magnetic or optical media, or transmitted by
22 electronic device, when such work products are created in the normal course of
23 business by any person licensed or regulated by the provisions of Title 37 of the
24 Louisiana Revised Statutes of 1950, unless such work products are duplicated without
25 modification for sale to multiple purchasers. This exclusion shall not apply to work
26 products which consist of the creation, modification, updating, or licensing of
27 computer software.

28 (f) The term "tangible personal property" shall not include pharmaceuticals
29 administered to livestock used for agricultural purposes, except as otherwise provided

1 in this Subparagraph. Only pharmaceuticals not included in the term "tangible
2 personal property" shall be registered with the Louisiana Department of Agriculture
3 and Forestry. Legend drugs administered to livestock used for agricultural purposes
4 are not required to be registered, but such legend drugs that are not registered shall
5 be "tangible personal property".

6 (g)(i) Notwithstanding the provisions of R.S. 9:1149.1 et seq., except as
7 otherwise provided in this Subparagraph, the term "tangible personal property" shall
8 not include factory built homes.

9 (ii) For purposes of this Subparagraph, "factory built home" means a
10 residential structure which is built in a factory in one or more sections and has a
11 chassis or integrated wheel delivery system, which is either:

12 (aa) A structure built to federal construction standards as defined in Section
13 5402 of Title 42 of the United States Code.

14 (bb) A residential structure built to the Louisiana State Uniform Construction
15 Code.

16 (cc) A manufactured home, modular home, mobile home, or residential
17 mobile home with or without a permanent foundation, which includes plumbing,
18 heating, and electrical systems.

19 (iii) "Factory built home" shall not include any self-propelled recreational
20 vehicle or travel trailer.

21 (iv) ~~The~~ Solely for purposes of sales and use taxes imposed by a political
22 subdivision, the term "tangible personal property" as applied to sales and use taxes
23 levied by the state or any other taxing authority in the state shall include a new
24 factory built home, for the initial sale from a dealer to a consumer, but only to the
25 extent that forty-six percent of the retail sales price shall be so considered as "tangible
26 personal property". Thereafter, each subsequent resale of a factory built home shall
27 not be considered as "tangible personal property".

28 (v) The sales and use taxes due on these transactions shall be paid to the
29 Louisiana Department of Public Safety and Corrections, office of motor vehicles, by

1 the twentieth day of the month following the month of delivery of the factory built
2 home to the consumer, along with any other information requested by the office of
3 motor vehicles.

4 ~~(h)(i) Solely for purposes of the imposition of the sales and use tax levied by~~
5 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
6 ~~the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term~~
7 ~~"tangible personal property" shall not include one-quarter of the cost price of custom~~
8 ~~computer software.~~

9 ~~(ii) Solely for purposes of the imposition of the sales and use tax levied by the~~
10 ~~state or any political subdivision whose boundaries are coterminous with those of the~~
11 ~~state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term~~
12 ~~"tangible personal property" shall not include one-half of the cost price of custom~~
13 ~~computer software.~~

14 ~~(iii) Solely for purposes of the imposition of the sales and use tax levied by~~
15 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
16 ~~the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term~~
17 ~~"tangible personal property" shall not include three-quarters of the cost price of~~
18 ~~custom computer software.~~

19 ~~(iv)~~ Solely for purposes of the imposition of the sales and use tax levied by
20 the state or any political subdivision whose boundaries are coterminous with those of
21 the state, for all taxable periods beginning on or after July 1, 2005, and ending on
22 December 31, 2013, the term "tangible personal property" shall not include custom
23 computer software.

24 ~~(i) Solely for purposes of the imposition of the state sales and use tax, the~~
25 ~~term "tangible personal property" shall not include digital television conversion~~
26 ~~equipment and digital radio conversion equipment as defined in this Section.~~

27 ~~(i) "Digital television conversion equipment" shall include the following:~~

28 ~~(aa) DTV transmitter and RF system.~~

29 ~~(bb) Transmission line.~~

- 1 ~~(cc) DTV antenna.~~
- 2 ~~(dd) Tower.~~
- 3 ~~(ee) Existing tower structural upgrade.~~
- 4 ~~(ff) Advanced TV receiver (STL receiver).~~
- 5 ~~(gg) Decoder (digital to analog converter for NTSC).~~
- 6 ~~(hh) DTV transmission system test and monitoring.~~
- 7 ~~(ii) Digital video/audio master control switcher.~~
- 8 ~~(jj) Analog to digital conversion.~~
- 9 ~~(kk) High definition up-converters.~~
- 10 ~~(ll) High definition bypass switcher.~~
- 11 ~~(mm) Down converters for standard definition.~~
- 12 ~~(nn) Advanced TV transmitter (STL transmitter).~~
- 13 ~~(oo) Advanced TV signal encoder.~~
- 14 ~~(pp) DTV transmission monitoring.~~
- 15 ~~(qq) High definition digital video switcher and DVE.~~
- 16 ~~(rr) High definition studio cameras.~~
- 17 ~~(ss) High definition graphics/graphic generator.~~
- 18 ~~(tt) High definition video monitoring.~~
- 19 ~~(uu) Conversion gear.~~
- 20 ~~(vv) High definition recorder/players, including tape, disk, etc.~~
- 21 ~~(ww) High definition video/audio signal router.~~
- 22 ~~(xx) High definition video/audio media server.~~
- 23 ~~(yy) MPEG or HDTV digital receivers for program content.~~
- 24 ~~(zz) High definition recorder/players, including tape, disk, etc.~~
- 25 ~~(aaa) High definition video/audio media server and workstations.~~
- 26 ~~(bbb) Digital EAS encoder/decoder.~~
- 27 ~~(ccc) High definition camcorder, including tape, disk, etc.~~
- 28 ~~(ddd) Advanced TV transmitters, including microwave.~~
- 29 ~~(ii) "Digital radio conversion equipment" shall include the following:~~

- 1 ~~(aa) IBOC transmitter.~~
- 2 ~~(bb) IBOC main channel and IBOC combiner.~~
- 3 ~~(cc) IBOC compatible antenna.~~
- 4 ~~(dd) Tower.~~
- 5 ~~(ee) IBOC coaxial bypass switcher.~~
- 6 ~~(ff) Digital STL.~~
- 7 ~~(gg) STL heliax transmission line.~~
- 8 ~~(hh) STL antenna.~~
- 9 ~~(ii) Digital console.~~
- 10 ~~(jj) EAS insertion.~~
- 11 ~~(kk) AES EBU conversion equipment.~~
- 12 ~~(ll) IBOC transmission testing and monitoring equipment.~~
- 13 ~~(mm) Digital processor.~~
- 14 ~~(iii) The exclusion from state sales and use tax authorized by this~~
- 15 ~~Subparagraph shall only apply to the first purchase of each enumerated item by an~~
- 16 ~~individual taxpayer who holds a Federal Communications Commission license issued~~
- 17 ~~pursuant to 47 CFR Part 73. Individual taxpayers operating under several broadcaster~~
- 18 ~~licenses shall be allowed one purchase of each enumerated item per license. Each~~
- 19 ~~subsequent purchase of any of the enumerated items by the same taxpayer or license~~
- 20 ~~holder shall be subject to sales and use tax.~~
- 21 ~~(v) Any eligible taxpayer who has purchased any item enumerated in Item (i)~~
- 22 ~~or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the effective~~
- 23 ~~date of this Act, shall be entitled to a credit against the state sales and use tax due in~~
- 24 ~~any year for an amount equal to state sales and use tax paid on the purchase of the~~
- 25 ~~item.~~
- 26 ~~(vi) Local taxing authorities are hereby authorized to provide an exemption~~
- 27 ~~from any local sales and use tax liability to any taxpayers holding a Federal~~
- 28 ~~Communications Commission license issued pursuant to 47 CFR Part 73 which has~~
- 29 ~~purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local~~

1 ~~taxing authorities are further authorized to provide a credit against any tax liability~~
2 ~~for the amount of local sales tax paid by taxpayers holding Federal Communications~~
3 ~~Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in~~
4 ~~Item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but prior~~
5 ~~to June 25, 2002.~~

6 ~~(vii) No exclusion from state sales and use tax as authorized in this~~
7 ~~Subsection shall be allowed after the Federal Communications Commission has~~
8 ~~issued an order mandating license holders, issued pursuant to 47 CFR Part 73, to~~
9 ~~discontinue broadcasting their analog signal.~~

10 ~~(viii) The Department of Revenue shall adopt rules and regulations necessary~~
11 ~~for the implementation of this Act no later than August 1, 2002.~~

12 ~~(j) (i)~~ (i) The term "tangible personal property", for purposes of the payment of
13 sales and use taxes levied by all tax authorities in the state, shall not include materials
14 used directly in the collection, separation, treatment, testing, and storage of blood by
15 nonprofit blood banks and nonprofit blood collection centers.

16 ~~(k) (j)~~ (j) The term "tangible personal property" for purposes of the sales and use
17 taxes imposed by all tax authorities in this state shall not include apheresis kits and
18 leuko reduction filters used by nonprofit blood banks and nonprofit blood collection
19 centers.

20 ~~(l) (k)~~ (k) For purposes of the sales and use tax imposed by the state of Louisiana,
21 by a political subdivision whose boundaries are coterminous with those of the state,
22 or by all political subdivisions of the state and without regard to the nature of the
23 ownership of the ground, tangible personal property shall not include other
24 constructions permanently attached to the ground which shall be treated as immovable
25 property.

26 ~~(m) (l)~~ (l) (i) Notwithstanding any other provision of law to the contrary, for
27 purposes of the sales and use tax levied by the state or any political subdivision whose
28 boundaries are coterminous with those of the state, the term "tangible personal
29 property" shall not include machinery and equipment used by a motor vehicle

1 manufacturer with a North American Industry Classification System (NAICS) Code
2 beginning with 3361, or by a glass container manufacturer with a NAICS Code of
3 327213. This exclusion shall be subject to the definitions and requirements of Item
4 (3)(i)(ii) of this Section.

5 (ii) A political subdivision may provide for a sales and use tax exemption for
6 the sales, cost, or lease or rental price of manufacturing machinery and equipment as
7 provided for in this Section, either effective upon adoption or enactment or phased in
8 over a period of time, or effective for a certain period of time or duration, all as set
9 forth in the instrument, resolution, vote, or other affirmative action providing the
10 exemption.

11 (iii) Notwithstanding any other provision of this Section, tooling in a
12 compression mold process shall be considered manufacturing machinery and
13 equipment for purposes of this Section.

14 ~~(n)~~ (m) (i) For purposes of the imposition of the sales and use tax levied by
15 the state, the term "tangible personal property" shall not include machinery and
16 equipment purchased by the owner of a radio station located within the state that is
17 licensed by the Federal Communications Commission for radio broadcasting, if the
18 owner is either of the following:

19 (aa) An individual domiciled in the state who owns a business with
20 substantially all of its assets located in the state and substantially all of its payroll paid
21 in the state.

22 (bb) A business entity with substantially all of its assets located in the state
23 and substantially all of its payroll paid in the state; provided that the business entity
24 is not owned or controlled or is otherwise an affiliate of a multi-state business entity
25 and is not owned or controlled by an individual who is not domiciled in the state.

26 (ii) "Radio broadcasting" means the sound transmission made via
27 electromagnetic waves for direct sound reception by the general public.

28 ~~(o)~~ (n) (i) For purposes of the imposition of the sales and use tax levied by
29 the state and any political subdivision whose boundaries are coterminous with those

1 of the state, the term "tangible personal property" shall not include machinery and
2 equipment as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii) which
3 is purchased by a utility regulated by the Public Service Commission or the council
4 of the City of New Orleans. For the purposes of this Paragraph, the term "utility"
5 shall mean a person regulated by the Public Service Commission or the council of the
6 City of New Orleans who is assigned a North American Industrial Classification
7 System Code 22111, Electric Power Generation, as it existed in 2002. Such utility
8 shall also be considered a "manufacturer" for purposes of R.S. 47:301(3)(i)(ii).

9 (ii) For purposes of this Subparagraph, a political subdivision whose
10 boundaries are not coterminous with those of the state may provide for a sales and use
11 tax exclusion for machinery and equipment as defined in and subject to the
12 requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the
13 Public Service Commission or the council of the city of New Orleans.

14 ~~(p)~~ (o) For purposes of sales and use taxes imposed by the state or any of its
15 political subdivisions, the term "tangible personal property" shall not include
16 newspapers.

17 ~~(q)~~ (p) For purposes of sales and use taxes imposed by the state, any statewide
18 taxing authority, or any political subdivision, the term "tangible personal property"
19 shall not include any property that would have been considered immovable property
20 prior to the enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session
21 of the Legislature.

22 (q) For purposes of sales and use tax imposed by the state, the term "tangible
23 personal property" includes digital goods.

24 (i) "Digital goods" means sounds, images, data, facts, or information, or any
25 combination thereof, transferred electronically.

26 (ii) "Digital goods" also includes the following sales to consumers of digital
27 goods, digital codes, and digital automated services; sales in which the seller has
28 granted the purchaser the right of permanent use; sales in which the seller has granted
29 the purchaser a right of use that is less than permanent; sales in which the purchaser

1 is not obligated to make continued payment as a condition of sale; and sales in which
2 the purchaser is obligated to make continued payment as a condition of the sale.

3 (iii) A retail sale of digital goods, digital codes, or digital automated services
4 includes any services provided by the seller exclusively in connection with the digital
5 goods, digital codes, or digital automated services, whether or not a separate charge
6 is made for such services.

7 (17) "Off-road vehicle" is any vehicle manufactured for off road use which
8 is issued a manufacturer's statement of origin that cannot be issued a registration
9 certificate and license to operate on the public roads of this state because at the time
10 of manufacture the vehicle does not meet the safety requirements prescribed by R.S.
11 32:1301 through R.S. 32:1310. This includes vehicles that are issued a title only by
12 the Vehicle Registration Bureau, Department of Public Safety and Corrections, such
13 as all terrain vehicles and recreational and sport vehicles, but it does not include off
14 road vehicles used for farm purposes, farm equipment, or heavy construction
15 equipment.

16 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
17 "use" means and includes the exercise of any right or power over tangible personal
18 property incident to the ownership thereof, except that it shall not include the sale at
19 retail of that property in the regular course of business or the donation to a school in
20 the state which meets the definition provided in R.S. 17:236 or to a public or
21 recognized independent institution of higher education in the state of property
22 previously purchased for resale in the regular course of a business. The term "use"
23 shall not include the purchase, the importation, the consumption, the distribution, or
24 the storage of automobiles to be leased in an arm's length transaction, nor shall the
25 term "use" include the donation of food items to a food bank as defined in R.S.
26 9:2799(B).

27 (ii) For purposes of the imposition of the sales and use tax levied by a
28 political subdivision or school board, "use" shall mean and include the exercise of any
29 right or power over tangible personal property incident to the ownership thereof,

1 except that it shall not include the sale at retail of that property in the regular course
2 of business or the donation to a school in the state which meets the definition
3 provided in R.S. 17:236 or to a public or recognized independent institution of higher
4 education in the state of property previously purchased for resale in the regular course
5 of a business. The term "use" shall not include the donation of food items to a food
6 bank as defined in R.S. 9:2799(B).

7 (iii) The term "use", for purposes of sales and use taxes imposed by the state
8 on the use for rental of automobiles which take place on or after January 1, 1991, and
9 by political subdivisions on such use on or after July 1, 1996, and state sales and use
10 taxes imposed on the use for lease or rental of tangible personal property other than
11 automobiles which take place on or after July 1, 1991, shall not include the purchase,
12 the importation, the consumption, the distribution, or the storage of tangible personal
13 property to be leased or rented in an arm's length transaction as tangible personal
14 property. For purposes of the imposition of the tax levied by any political subdivision
15 of the state, for the period beginning July 1, 1999, and ending on June 30, 2000, the
16 term "use" shall not include one-fourth of the cost price of any tangible personal
17 property which is purchased, imported, consumed, distributed, or stored and which
18 is to be leased or rented in an arm's length transaction in the form of tangible personal
19 property. For purposes of the imposition of the tax levied by any political subdivision
20 of the state, for the period beginning July 1, 2000, and ending on June 30, 2001, the
21 term "use" shall not include one-half of the cost price of any tangible personal
22 property which is purchased, imported, consumed, distributed, or stored and which
23 is to be leased or rented in an arm's length transaction in the form of tangible personal
24 property. For purposes of the imposition of the tax levied by any political subdivision
25 of the state, for the period beginning July 1, 2001, and ending on June 30, 2002, the
26 term "use" shall not include three-fourths of the cost price of any tangible personal
27 property which is purchased, imported, consumed, distributed, or stored and which
28 is to be leased or rented in an arm's length transaction in the form of tangible personal
29 property. Beginning July 1, 2002, for purposes of the imposition of the tax levied by

1 any political subdivision of the state, the term "use" shall not include the purchase,
2 the importation, the consumption, the distribution, or the storage of any tangible
3 personal property which is to be leased or rented in an arm's length transaction in the
4 form of tangible personal property.

5 (iv) The term "use", for purposes of sales and use taxes imposed by the state
6 on the use for rental automobiles which take place prior to January 1, 1991, and by
7 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
8 lease or rental of tangible personal property other than automobiles which take place
9 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
10 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
11 include the purchase, the importation, the consumption, the distribution, or the storage
12 of tangible personal property to be leased or rented in an arm's length transaction as
13 tangible personal property.

14 (b) Notwithstanding any other law to the contrary, for purposes of the
15 imposition of the sales and use tax of any political subdivision, the use of a vehicle
16 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
17 deemed to be a "use":

18 (i) In the political subdivision of the principal residence of the purchaser if
19 the vehicle is purchased for private use, or

20 (ii) In the political subdivision of the principal location of the business if the
21 vehicle is purchased for commercial use, unless the vehicle purchased for commercial
22 use is assigned, garaged, and used outside of such political subdivision, in which case
23 the use shall be deemed a use in the political subdivision where the vehicle is
24 assigned, garaged, and used.

25 (c) For purposes of state and political subdivision sales and use tax, "use"
26 shall not include the exercise of any right or power by a free hospital over items,
27 including but not limited to supplies and equipment, which are reasonably necessary
28 for the operation of the free hospital.

1 (d)(i) Notwithstanding any other provision of law to the contrary, and except
2 as provided in Item (iii) of this Subparagraph, for purposes of ~~state and~~ sales and use
3 taxes imposed by a political subdivision sales and use tax, "use" means and includes
4 the exercise of any right or power over tangible personal property incident to the
5 ownership thereof, except that it shall not include the further processing of tangible
6 personal property into articles of tangible personal property for sale.

7 (ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for
8 purposes of ~~state and~~ sales and use taxes imposed by a political subdivision use tax,
9 "use" shall not include the storage, consumption, or the exercise of any other right of
10 ownership over tangible personal property which is created or derived as a residue or
11 byproduct of such processing. Such residue or byproduct shall include but shall not
12 be limited to catalyst cracker coke derived from crude oil, wood chips, bark, and
13 liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived
14 from sugarcane.

15 (iii) Notwithstanding any other provision of law to the contrary, and
16 notwithstanding the provisions of this Subparagraph, "use" shall include the exercise
17 of any right of ownership over the consumption, the distribution, and the storage for
18 use or consumption in this state of refinery gas, except the sale to another person,
19 whether at retail or wholesale, only if the refinery gas is ultimately consumed as an
20 energy source by the person who owns the facility in which it is created and is not
21 sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be
22 taxed at the cost price value provided in Subparagraph (3)(f) of this Section. If
23 refinery gas, except for feedstock, is sold to another person, whether at retail, or
24 wholesale, such sale shall be taxable and the sales price value shall be as provided for
25 in Subparagraph (13)(d) of this Section. The provisions of this Item shall not apply
26 to feedstocks.

27 (e) ~~For~~ Solely for purposes of ~~state and~~ sales and use taxes imposed by
28 a political subdivision sales and use tax, "use" shall not include the purchase of or the
29 exercise of any right or power over:

1 (i) Tangible personal property sold by approved parochial and private
2 elementary and secondary schools which comply with the court order from the Dodd
3 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
4 administrators, or teachers, or other employees of the school, if the money from such
5 sales, less reasonable and necessary expenses associated with the sale, is used solely
6 and exclusively to support the school or its program or curricula.

7 (ii) Educational materials or equipment used for classroom instruction by
8 approved parochial and private elementary and secondary schools which comply with
9 the court order from the Dodd Brumfield decision and Section 501(c)(3) of the
10 Internal Revenue Code, limited to books, workbooks, computers, computer software,
11 films, videos, and audio tapes.

12 (f) For Solely for purposes of state and sales and use taxes imposed by
13 a political subdivision sales and use tax, "use" shall not include the purchase of or the
14 exercise of any right or power over tangible personal property used by Boys State of
15 Louisiana, Inc. and Girls State of Louisiana, Inc. for their educational and public
16 service programs for youth.

17 (g) Notwithstanding any provision of law to the contrary, for purposes of
18 sales or use taxation by the state or any local political subdivision, the term "use" shall
19 not mean or include any funeral directing services as defined in Subparagraph (10)(s)
20 of this Section.

21 (h) For Solely for purposes of sales and use taxes levied by the state or any
22 imposed by a political subdivision of the state, the term "use" shall not include the
23 exercise of any right of ownership in or the distribution of telephone directories
24 acquired by an advertising company that is not affiliated with a provider of telephone
25 services if the telephone directories will be distributed free of charge to the recipients
26 of the telephone directories.

27 (i) For Solely for purposes of the imposition of sales and use taxes imposed
28 or levied by all taxing authorities in the state by a political subdivision, in the case of
29 the sale or any other disposition by a dealer of any cellular, PCS, or wireless

1 telephone, any electronic accessories that are physically connected with such
2 telephones and personal communications devices used in connection with the sale or
3 use of mobile telecommunications services, as defined in R.S. 47:301(10)(v), the term
4 "use" shall not include the withdrawal, use, distribution, consumption, storage,
5 donation, or any other disposition of any such cellular, PCS, or wireless telephone,
6 any electronic accessories that are physically connected with such telephones and
7 personal communications devices by the dealer.

8 (j) For purposes of the imposition of sales and use taxes imposed ~~or levied by~~
9 ~~any a~~ political subdivision ~~of the state~~, in the case of the sale or any other disposition
10 by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other
11 wireless personal communication device that is used in connection with the sale or
12 use of mobile telecommunications services, as defined in R.S. 47:301(10)(w), or any
13 electronic accessory that is physically connected with any such telephone or personal
14 communications device, the term "use" shall not include the withdrawal, use,
15 distribution, consumption, storage, donation, or any other disposition of any such
16 telephone or electronic accessory by the dealer.

17 (k) Solely for purposes of the sales and use tax ~~levied by the state or any~~
18 imposed by a political subdivision ~~whose boundaries are coterminous with those~~ of
19 the state, the term "use" shall not include the purchase, the use, the consumption, the
20 distribution, the storage for use or consumption, or the exercise of any right or power
21 over manufacturing machinery and equipment used or consumed in this state to
22 manufacture, produce or extract unblended biodiesel.

23 (l) Solely for the purposes of sales and use taxes ~~levied by the state or any~~
24 imposed by a political subdivision ~~whose boundaries are coterminous with those~~ of
25 the state, the term "use" shall not include the use, the consumption, the distribution,
26 the storage for use or consumption in this state, or the exercise of any right or power
27 over an alternative substance as that term is defined in Subparagraph (10)(z) of this
28 Section when such alternative substance is used as a fuel by a manufacturer.
29 "Manufacturer" means a person whose principal activity is manufacturing and who

1 is assigned by the Louisiana Workforce Commission a North American Industrial
2 Classification System code with the agricultural, forestry, fishing, and hunting Sector
3 11 or the manufacturing Sectors 31-33 as they existed in 2002.

4 (m)(i) ~~For the~~ Solely for purposes of sales and use taxes imposed ~~or levied by~~
5 ~~the state or any~~ by a political subdivision ~~of the state~~, the term "use" shall not include
6 the purchase of or the exercise of any right or power over toys by a non-profit
7 organization exempt from federal taxation pursuant to Section 501(c)(3) of the
8 Internal Revenue Code if the sole purpose of the purchasing organization is to donate
9 toys to minors and the toys are, in fact, donated.

10 (ii) The exclusion provided for in this Subparagraph shall be subject to the
11 same conditions as are provided for in Items (10)(aa)(ii) and (iii) of this Section.

12 (n) ~~For~~ Solely for purposes of sales and use tax imposed by ~~the state or any~~
13 a political subdivision ~~of the state~~, the term "use" shall not mean or include the
14 purchase, importation, storage, distribution, or exportation of, or exercise of any right
15 or power over, textbooks and course-related software by a private postsecondary
16 academic degree-granting institution, accredited by a national or regional commission
17 that is recognized by the United States Department of Education and is licensed by
18 the Board of Regents, which institution has its main location within this state and
19 offers only online instruction, when all of the following apply:

20 (i) The textbooks and course-related software are physically outside of this
21 state when purchased from a vendor outside of this state and then imported into this
22 state.

23 (ii) The first student use of the textbooks and course-related software occurs
24 outside of this state.

25 (iii) The textbooks and course-related software are provided to the student
26 free of charge.

27 (o) Solely for purposes of the imposition of the state sales and use tax, the
28 term "use" shall not include the purchase or use of any storm shutter device as defined
29 and provided for in Subparagraph (10)(ee) of this Section.

1 (p) For Solely for purposes of sales and use tax imposed by ~~the state or any~~
2 a political subdivision ~~of the state~~, the term "use" shall not mean or include the
3 purchase, importation, storage, distribution or exercise of any right or power over
4 anthropogenic carbon dioxide used in a qualified tertiary recovery project approved
5 by the assistant secretary of the office of conservation of the Department of Natural
6 Resources pursuant to R.S. 47:633.4.

7 (19) "Use tax" includes the use, the consumption, the distribution, and the
8 storage as herein defined. No use tax shall be due to or collected by:

9 (a) The state on tangible personal property used, consumed, distributed, or
10 stored for use or consumption in the state if the sale of such property would have been
11 exempted or excluded from sales tax at the time such property became subject to the
12 taxing jurisdiction of the state.

13 (b) Any political subdivision on tangible personal property used, consumed,
14 distributed, or stored for use or consumption in such political subdivision if the sale
15 of such property would have been exempted or excluded from sales tax at the time
16 such property became subject to the taxing jurisdiction of the political subdivision.

17 (20) "Drugs" includes all pharmaceuticals and medical devices which are
18 prescribed for use in the treatment of any medical disease.

19 (21) "Free hospital" means a hospital that does not charge any patients for
20 health care provided by the hospital.

21 (22) The term "computer software" means a set of statements, data, or
22 instructions to be used directly or indirectly in a computer in order to bring about a
23 certain result in any form in which those statements, data, or instructions may be
24 embodied, transmitted, or fixed, by any method now known or hereafter developed,
25 regardless of whether the statements, data, or instructions are capable of being
26 perceived by or communicated to humans. Computer software includes all types of
27 software including operational, applicational, utilities, compilers, and all other forms.

28 (23)(a) The term "custom computer software" means computer software
29 prepared, created, adapted, or modified to the special order of a particular purchaser,

1 licensee, or user; or to meet the specific needs or requirements of a particular
2 purchaser, licensee, or user, regardless of the means by or through which such
3 computer software is furnished, delivered, or transmitted, and regardless of whether
4 such software incorporates or consists of preexisting routines, utilities, or other
5 computer software components.

6 (b) In order to be considered "custom computer software", the computer
7 software must require preparation, creation, adaption, or modification by the vendor
8 in order to be used in a specific work environment or to perform a specific function
9 for the user.

10 (c) Updates, upgrades, and new versions of custom computer software shall
11 be considered custom computer software, provided such upgrades, updates, and new
12 versions meet the definition of custom computer software contained in this Chapter.

13 (24) The term "news publication" shall mean any printed periodical that:

14 (a) Appears at regular intervals.

15 (b) Contains reports of a varied character, such as political, social, cultural,
16 sports, moral, religious, or other subjects of general public interest.

17 (c) Contains not more than seventy-five percent advertising.

18 (d) Is not owned or published as an auxiliary to another nonpublishing
19 business, organization, or entity.

20 (25) "Taxing authority" shall mean and include both the state and a statewide
21 political subdivision and any political subdivision ~~of the state~~ authorized under the
22 Constitution or laws of the state of Louisiana to levy and collect a sales and use tax,
23 unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax
24 Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any
25 political subdivision ~~of the state~~ authorized under the Constitution or laws of the state
26 of Louisiana to levy and collect a sales and use tax, except a statewide political
27 subdivision.

28 (26) "Taxing jurisdiction" shall mean the area within the physical boundaries
29 of the taxing authority.

1 (27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use
2 tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A
3 and 2-B of this Subtitle and the tax imposed by political subdivisions under the
4 constitution or laws of this state authorizing the imposition of a sales and use tax.

5 (28)(a) For purposes of the imposition of the lease or rental tax levied by the
6 state and any political subdivision whose boundaries are coterminous with those of
7 the state, the "gross proceeds", "monthly lease or rental price paid", and "monthly
8 lease or rental price contracted or agreed to be paid" for machinery and equipment
9 used by a manufacturer in a plant facility predominately and directly in the actual
10 manufacturing for agricultural purposes or the actual manufacturing process of an
11 item of tangible personal property, including, but not limited to rubber tired farm
12 tractors, cane harvesters, cane loaders, cotton pickers, combines, haybalers,
13 attachments and sprayers, clippers, cultivators, discs, plows, and spreaders, which is
14 for ultimate sale to another and not for internal use, at one or more fixed locations
15 within Louisiana shall be reduced as follows:

16 ~~(i) For the period ending on June 30, 2005, by five percent.~~

17 ~~(ii) For the period beginning July 1, 2005, and ending on June 30, 2006, by~~
18 ~~nineteen percent.~~

19 ~~(iii) For the period beginning July 1, 2006, and ending on June 30, 2007, by~~
20 ~~thirty-five percent.~~

21 ~~(iv)~~ (i) For the period beginning July 1, 2007, and ending on June 30, 2008,
22 by fifty-four percent.

23 ~~(v)~~ (ii) For the period beginning July 1, 2008, and ending on June 30, 2009,
24 by sixty-eight percent.

25 ~~(vi)~~ (iii) For all periods beginning on or after July 1, 2009, the sales price
26 shall be reduced by one hundred percent.

27 (b) For purposes of this Paragraph, "machinery and equipment",
28 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant

1 facility", and "used directly" shall have the same meaning as defined in R.S.
2 47:301(3)(i)(ii).

3 (c) No person shall be entitled to purchase, use, lease, or rent machinery or
4 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
5 and 331 before receiving a certificate of exclusion from the secretary of the
6 Department of Revenue certifying that he is a manufacturer as defined herein.

7 (d) The secretary of the Department of Revenue is hereby authorized to adopt
8 rules and regulations in order to administer the exclusion provided for in this
9 Subparagraph.

10 (e) The manufacturer's exemption certificate granted by the Department of
11 Revenue shall serve as a substitute for the sales tax exemption for certain farm
12 equipment.

13 (29) With respect to the furnishing of telecommunications and ancillary
14 services, as used in this Chapter the following words, terms, and phrases have the
15 meaning ascribed to them in this Paragraph, unless the context clearly indicates a
16 different meaning:

17 (a) "Air-to-Ground Radiotelephone service" means a radio service, as that
18 term is defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer
19 and provide radio telecommunications service for hire to subscribers in aircraft.

20 (b) "Ancillary service" means a service that is associated with or incidental
21 to the provision of one or more telecommunications services, including but not
22 limited to conference bridging services, detailed telecommunications billing services,
23 directory assistance services, vertical services, and voice mail services.

24 (c) "Call-by-call basis" means any method of charging for
25 telecommunications services where the price is measured by individual calls.

26 (d) "Call center" means one or more locations that utilize telecommunications
27 services in one or more of the following activities: customer services, soliciting sales,
28 reactivating dormant accounts, conducting surveys or research, fundraising, collection
29 of receivables, receiving reservations, receiving orders, or taking orders.

1 (e) "Communications channel" means a physical or virtual path of
2 communications over which signals are transmitted between or among customer
3 channel termination points.

4 (f) "Conference bridging service" means a service that links two or more
5 participants of an audio or video conference call and may include the provision of a
6 telephone number. "Conference bridging service" does not include any
7 telecommunications services used to reach the conference bridge.

8 (g) "Customer" means the person or entity that contracts with the seller of
9 telecommunications services. If the end user of the telecommunications service is not
10 the contracting party, the end user of the telecommunications service is the customer
11 of the telecommunications service, but only for the purpose of sourcing sales of
12 telecommunications services under R.S. 47:301.1(A). "Customer" does not include
13 a reseller of telecommunications service or for mobile telecommunications service of
14 a serving carrier under an agreement to serve the customer outside the home service
15 provider's licensed service area.

16 (h) "Customer channel termination point" means, in the context of a private
17 communications service, the location where the customer either inputs or receives
18 communications.

19 (i) "Detailed telecommunications billing service" means a service of
20 separately stating information pertaining to individual calls on a customer's billing
21 statement.

22 (j) "Directory assistance" means a service of providing telephone number or
23 address information, or both.

24 (k) "End user" means the person who utilizes the telecommunications service.
25 In the case of an entity, "end user" means the individual who utilizes the service on
26 behalf of the entity.

27 (l) "Home service provider" has the same meaning given to such term in
28 Section 124(5) of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4
29 U.S.C. 124(5).

1 (m) "International telecommunications service" means a telecommunications
2 service that originates or terminates in the United States and terminates or originates
3 outside the United States, respectively. The United States includes each of the fifty
4 United States, the District of Columbia, and each United States territory, or
5 possession.

6 (n) "Interstate telecommunications service" means a telecommunications
7 service that originates in one U.S. state, territory, or possession, and terminates in a
8 different U.S. state, territory, or possession.

9 (o) "Intrastate telecommunications service" means a telecommunications
10 service that originates in one U.S. state, territory or possession, and terminates in the
11 same U.S. state, territory, or possession.

12 (p) "Mobile telecommunications service" has the same meaning given to such
13 term in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-
14 252, 4 U.S.C. 124(7).

15 (q) "Mobile wireless service" means a telecommunications service, regardless
16 of the technology used, whereby the origination or termination points, or both, of the
17 transmission, conveyance or routing are not fixed, including but not limited to
18 telecommunications services that are provided by a commercial mobile radio service
19 provider.

20 (r) "Place of primary use" means the street address representative of where
21 the customer's use of the telecommunications service primarily occurs, which must
22 be the residential street address or the primary business street address of the customer.
23 In the case of mobile telecommunications services, the place of primary use must be
24 within the licensed service area of the home service provider.

25 (s) "Postpaid calling service" means a telecommunications service obtained
26 by making a payment on a call-by-call basis either through the use of a credit card or
27 payment mechanism such as a bank card, travel card, credit card, or debit card, or by
28 charge made to a telephone number which is not associated with the origination or
29 termination of the telecommunications service. A postpaid calling service includes

1 a telecommunications service, except a prepaid wireless calling service, that would
2 be a prepaid calling service, except that the right provided is not exclusively to access
3 telecommunications services.

4 (t) "Prepaid calling service" means the right to access exclusively
5 telecommunications services, which must be paid for in advance and which enables
6 the origination of calls using an access number or authorization code, whether
7 manually or electronically dialed, and that is sold in predetermined units or dollars of
8 which the number declines with use in a known amount.

9 (u) "Prepaid wireless calling service" means a telecommunications service
10 that provides the right to utilize mobile wireless service as well as non-
11 telecommunications services, including the download of digital products delivered
12 electronically, content, and ancillary services, which must be paid for in advance and
13 which is sold in predetermined units or dollars of which the number declines with use
14 in a known amount.

15 (v) "Private communication service" means a telecommunications service that
16 entitles the customer to exclusive or priority use of a communications channel or
17 group of channels between or among termination points, regardless of the manner in
18 which such channel or channels are connected, and includes switching capacity,
19 extension lines, stations, and any other associated services that are provided in
20 connection with the use of such channel or channels.

21 (w) "Service address" means:

22 (i) The location of the telecommunications equipment to which a customer's
23 call is charged and from which the call originates or terminates, regardless of where
24 the call is billed or paid.

25 (ii) If the location in Item (i) of this Subparagraph is not known, "service
26 address" means the origination point of the signal of the telecommunications service
27 first identified by either the seller's telecommunications system or, in information
28 received by the seller from its service provider, where the system used to transport
29 such signals is not that of the seller.

1 (iii) If the location in both Items (i) and (ii) of this Subparagraph are not
2 known, "service address" means the location of the customer's place of primary use.

3 (x) "Telecommunications service" means the electronic transmission,
4 conveyance, or routing of voice, data, audio, video, or any other information or
5 signals to a point, or between or among points. "Telecommunications service"
6 includes such transmission, conveyance, or routing in which computer processing
7 applications are used to act on the form, code, or protocol of the content for purposes
8 of transmission, conveyance, or routing without regard to whether such service is
9 referred to as voice over Internet protocol service or is classified by the Federal
10 Communications Commission as an enhanced or value-added service.

11 "Telecommunications service" does not include any of the following:

12 (i) Data processing or information services which allow data to be generated,
13 acquired, stored, processed, or retrieved and delivered by an electronic transmission
14 to a purchaser where such purchaser's primary purpose for the underlying transaction
15 is the processed data or information.

16 (ii) Installation or maintenance of wiring or equipment on a customer's
17 premises.

18 (iii) Tangible personal property.

19 (iv) Advertising, including but not limited to directory advertising.

20 (v) Billing and collection services provided to third parties.

21 (vi) Internet access service.

22 (vii) Radio and television audio and video programming services, regardless
23 of the medium, including the furnishing of transmission, conveyance, and routing of
24 such services by the programming service provider. Radio and television audio and
25 video programming services shall include but not be limited to cable service as
26 defined in 47 U.S.C. 522(6) and audio and video programming services delivered by
27 commercial mobile radio service providers, as defined in 47 C.F.R. 20.3.

28 (viii) Ancillary services.

1 (ix) Digital products delivered electronically, including but not limited to
2 software, music, video, reading materials, or ring tones.

3 (x) Prepaid calling service and prepaid wireless calling service.

4 (y) "Vertical service" means a service that is offered in connection with one
5 or more telecommunications services which offers advanced calling features that
6 allow customers to identify callers and to manage multiple calls and call connections.

7 (z) "Voice mail service" means a service that enables the customer to store,
8 send, or receive recorded messages services. The term "voice mail service" does not
9 include any telecommunications or vertical services that the customer may be
10 required to have in order to utilize the voice mail service.

11 §301.1. Telecommunications and ancillary services

12 A. The sales and use tax levied by this Chapter shall apply to the sales price
13 of telecommunications services in accordance with the following sourcing rules:

14 * * *

15 B.(1) The sales price of telecommunications services shall include, whether
16 or not separately stated, charges for any of the following:

17 (a) The connection, movement, change, or termination of telecommunications
18 services.

19 (b) Conference bridging services and vertical services if the customer's place
20 of primary use is located in this state.

21 (2) The sales price of telecommunications services shall not include charges
22 for any of the following:

23 ~~(a) The furnishing of any telecommunications service for resale, including~~
24 ~~access and other interconnection charges paid by providers of telecommunications~~
25 ~~services and charges for the use of intercompany facilities pursuant to shared network~~
26 ~~facility arrangements, provided that any dealer making a sale of telecommunications~~
27 ~~services for resale shall obtain a certificate from the purchaser of such services~~
28 ~~certifying that such services are purchased for the purpose of resale, the form of the~~

1 ~~certification to be determined by rules and regulations to be promulgated by the~~
2 ~~secretary.~~

3 ~~(b) Ancillary services, except those specified in Paragraph (1) of this~~
4 ~~Subsection, if the nontaxable ancillary service charges are stated separately from the~~
5 ~~charges for telecommunications services.~~

6 ~~(c)~~ Any excise, franchise, or similar tax or like fee or assessment levied by
7 the United States, by the state of Louisiana, or by any political subdivision as defined
8 in Article VI, Section 44(2) of the Constitution of Louisiana, upon the purchase, sale,
9 use, or consumption of any telecommunications service, which tax, fee, or assessment
10 is collected by the seller from the purchaser.

11 ~~(d) Telecommunications services paid for by inserting coins in coin-operated~~
12 ~~telephones available to the public.~~

13 ~~(e)~~ (b) Telecommunications services or transactions defined in this Paragraph
14 among entities classified as members of an affiliated group as provided by 26 U.S.C.
15 1504, provided, however, that these provisions shall not apply to any sale of tangible
16 personal property.

17 ~~(f)~~ (c) Any other property or services that are not telecommunications
18 services if stated separately from the charges for telecommunications services.

19 * * *

20 ~~D.(1) Notwithstanding any provision of law to the contrary, with respect to~~
21 ~~sales of interstate telecommunications services to any person for use in the operation~~
22 ~~of one or more call centers, the tax imposed by this Chapter shall not exceed twenty-~~
23 ~~five thousand dollars per calendar year.~~

24 ~~(2) The limitation set forth in this Subsection shall apply only to holders of~~
25 ~~a direct payment number issued by the department pursuant to R.S. 47:303.1. In order~~
26 ~~to obtain such direct payment number, the applicant must establish that he satisfies~~
27 ~~the criteria set forth in this Subsection. The provisions of R.S. 47:303.1(B) shall not~~
28 ~~apply to any application for a direct payment number under this Subsection.~~

1 presented to him that all sales taxes required by law have been paid. ~~However, as~~
 2 ~~provided for in R.S. 47:305.56, an out-of-state purchaser of an off-road vehicle shall~~
 3 ~~be exempt from the payment of state sales and use taxes.~~ The purchaser of an off-road
 4 vehicle from a seller who is not registered with the Department of Public Safety and
 5 Corrections shall pay the sales tax at the time the vehicle is titled the same as is
 6 required for the registration and licensing of other vehicles under the provisions of
 7 Subsection B of this Section.

8 * * *

9 F. Collection of tax on membership in health and physical fitness clubs. The
 10 sales tax due under the provisions of this Chapter on contracts for membership in a
 11 health and physical fitness club shall be assessed and shall be due and payable on a
 12 monthly basis computed on the amount paid each month less any actual or imputed
 13 interest or collection fees or unpaid reserve amounts not received by the health and
 14 fitness club, provided that no sales or use tax of the state or any of its political
 15 subdivisions not collected by such clubs shall be due or payable on amounts collected
 16 on such contracts prior to the effective date of the Act originally enacting this
 17 Subsection. Solely for state sales and use tax purposes, there shall be no deduction
 18 for any actual or imputed interest, collection fees, or unpaid reserve amounts not
 19 received by the health and fitness club.

20 * * *

21 §304. Treatment of tax by dealer

22 A. The tax levied in this Chapter shall be collected by the dealer from the
 23 purchaser or consumer, except as provided for the collection of tax on motor vehicles
 24 in R.S. 47:303 and the collection of tax on property leased or rented for use offshore
 25 in R.S. 47:301(4)(d)(ii). The dealer shall collect the sales tax on off-road vehicles and
 26 remit them directly to the Department of Public Safety and Corrections upon
 27 application for certificate of title and registration as required for the registration and
 28 licensing of other vehicles under the provisions of Subsection B of this Section. The
 29 dealer shall collect the sales taxes on off-road vehicles from out-of-state residents

1 who purchase off-road vehicles in this state and remit the sales taxes due directly to
2 the Department of Revenue, ~~unless the requirements of the sales and use tax~~
3 ~~exemption provided for in R.S. 47:305.56 are met.~~

4 * * *

5 §305. Exclusions and exemptions from the tax

6 A.(1) The gross proceeds derived from the sale in this state of livestock,
7 poultry, and other farm products direct from the farm are exempted from the tax
8 levied by taxing authorities, provided that such sales are made directly by the
9 producers. When sales of livestock, poultry, and other farm products are made to
10 consumers by any person other than the producer, they are not exempted from the tax
11 imposed by taxing authorities.

12 (2) The gross proceeds derived from the sale in this state of livestock at public
13 sales sponsored by breeders' or registry associations or livestock auction markets are
14 exempted from the sales and use tax levied by the state only. When public sales of
15 livestock are made to consumers by any person other than through a public sale
16 sponsored by a breeders' or registry association or a livestock auction market, they are
17 not exempted from the sales and use tax imposed by the state. ~~This Section shall be~~
18 ~~construed as exempting race horses entered in races and claimed at any racing meet~~
19 ~~held in Louisiana, whether the horse claimed was owned by the original breeder or~~
20 ~~not.~~

21 (3) Every agricultural commodity sold by any person, other than a producer,
22 to any other person who purchases not for direct consumption but for the purpose of
23 acquiring raw product for use or for sale in the process of preparing, finishing, or
24 manufacturing such agricultural commodity for the ultimate retail consumer trade,
25 shall be exempted from any and all provisions of the sales and use tax imposed by a
26 taxing authority, including payment of the tax applicable to the sale, storage, use,
27 transfer, or any other utilization of or handling thereof, except when such agricultural
28 commodity is actually sold as a marketable or finished product to the ultimate
29 consumer, and in no case shall more than one tax be exacted. For the purposes of this

1 Section, "agricultural commodity" means horticultural, viticultural, poultry, farm and
2 range products, and livestock and livestock products.

3 ~~(4)(a) The purchase of feed and feed additives for the purpose of sustaining~~
4 ~~animals which are held primarily for commercial, business, or agricultural use shall~~
5 ~~be exempted from the taxes levied by taxing authorities.~~

6 ~~(b) For purposes of this Subsection:~~

7 ~~(i) "Commercial use" means the purchasing, producing, or maintaining of~~
8 ~~animals, including breeding stock, for resale;~~

9 ~~(ii) "Business use" means the keeping and maintaining of animals which are~~
10 ~~used in performing services in conjunction with a business enterprise, such as sentry~~
11 ~~dogs and rental horses;~~

12 ~~(iii) "Agricultural use" means the maintaining of work animals and beasts of~~
13 ~~burden which are utilized in the activity of producing crops or animals for market, in~~
14 ~~the production of food for human consumption, in the production of animal hides or~~
15 ~~other animal products for market, or in the maintaining of breeding stock for the~~
16 ~~propagation of such agricultural use animals.~~

17 ~~(c) This exemption shall not apply to the purchase of feed or feed additives~~
18 ~~for animals kept primarily for personal, sporting, or other purposes, including but not~~
19 ~~limited to purchases for pets of any kind or hunting dogs.~~

20 ~~(5)(a) Solely for purposes of the sales and use tax levied by the state, such tax~~
21 ~~shall not apply to the sale or use of materials, supplies, equipment, fuel, and related~~
22 ~~items other than vessels used in the production or harvesting of crawfish. The person~~
23 ~~who purchases the exempt items shall claim the exemption by executing a certificate~~
24 ~~at the time of purchase. The Department of Revenue shall provide the certificates to~~
25 ~~retail merchants. Any merchant who in good faith, and after examination of the~~
26 ~~applicability of the certificate to that purchase with due care, neglects or fails to~~
27 ~~collect the tax herein provided, due to the presentation by the purchaser of a tax~~
28 ~~exemption certificate issued by the Department of Revenue, including those issued~~
29 ~~pursuant to R.S. 47:305.10, shall not be liable for the payment of the tax.~~

1 (b) Solely for purposes of the sales and use tax levied by the state, such tax
2 shall not apply to the sale or use of bait and feed used in the production or harvesting
3 of crawfish. The person who purchases the exempt items shall claim the exemption
4 by executing a certificate at the time of purchase. The Department of Revenue shall
5 provide the certificates to retail merchants. Any merchant who in good faith, and
6 after examination of the applicability of the certificate to that purchase with due care,
7 neglects or fails to collect the tax herein provided, due to the presentation by the
8 purchaser of a tax exemption certificate issued by the Department of Revenue,
9 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
10 of the tax.

11 ~~(6)~~(5) Solely for purposes of the sales and use tax levied by the state, such tax
12 shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and
13 related items other than vessels used in the production or harvesting of catfish. The
14 person who purchases the exempt items shall claim the exemption by executing a
15 certificate at the time of purchase. The Department of Revenue shall provide the
16 certificates to retail merchants. Any merchant who in good faith, and after
17 examination of the applicability of the certificate to that purchase with due care,
18 neglects or fails to collect the tax herein provided, due to the presentation by the
19 purchaser of a tax exemption certificate issued by the Department of Revenue, shall
20 not be liable for the payment of the tax.

21 B. For purposes of the sales and use tax of all taxing authorities, the "use tax,"
22 as defined herein, shall not apply to livestock and livestock products, to poultry and
23 poultry products, to farm, range and agricultural products when produced by the
24 farmer and used by him and members of his family.

25 ~~C. For purposes of the sales and use tax of all taxing authorities, where a part~~
26 ~~of the cost price of a motor vehicle is represented by a motor vehicle returned to the~~
27 ~~dealer's inventory, the use tax is payable on the total cost price less the wholesale~~
28 ~~value of the article returned.~~

1 ~~D~~(1) The sale at retail, the use, the consumption, the distribution, and the
2 storage to be used or consumed in the taxing jurisdiction of the following tangible
3 personal property is hereby specifically exempted from the tax imposed by taxing
4 authorities, except as otherwise provided in this Paragraph:

5 (a) Gasoline.

6 (b) Steam.

7 (c) Water (not including mineral water or carbonated water or any water put
8 in bottles, jugs, or containers, all of which are not exempted).

9 (d) Electric power or energy and any materials or energy sources used to fuel
10 the generation of electric power for resale or used by an industrial manufacturing
11 plant for self-consumption or cogeneration.

12 ~~(e) Repealed by Acts 2007, No. 480, §2.~~

13 ~~(f)~~(e) Fertilizer and containers used for farm products when sold directly to
14 the farmer.

15 ~~(g)~~(f) Natural gas.

16 ~~(h)~~(g) All energy sources when used for boiler fuel except refinery gas.

17 ~~(i)~~ (h) Solely for purposes of sales and use tax imposed by a political
18 subdivision. New trucks, new automobiles, new aircraft, and new boats, vessels, or
19 other water craft withdrawn from stock by factory authorized new truck, new
20 automobile, new aircraft dealers, and factory-authorized dealers of new boats, vessels,
21 or other water craft, and used trucks and used automobiles withdrawn from stock by
22 new or used motor vehicle dealers, which are withdrawn for use as demonstrators.

23 ~~(j)~~(i) Solely for purposes of the state sales and use tax, drugs prescribed by
24 a physician or dentist.

25 ~~(k)~~ (j) Solely for purposes of the state sales and use tax, orthotic, including
26 prescription eyeglasses and contact lenses, and prosthetic devices and wheelchairs and
27 wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors for
28 personal consumption or use.

1 ~~(k)~~ (k) Solely for purposes of the state sales and use tax, the sale or purchase
2 of any ostomy, ileostomy or colostomy device or any other appliance including
3 catheters or any related item which is required as the result of any surgical procedure
4 by which an artificial opening is created in the human body for the elimination of
5 natural waste.

6 ~~(l)~~ (l) Solely for purposes of the state sales and use tax, patient aids
7 prescribed by a physician or a licensed chiropractor for home use.

8 ~~(m)~~ (m) Solely for purposes of the state sales and use tax, food sold for
9 preparation and consumption in the home including by way of extension and not of
10 limitation bakery products.

11 ~~(n)~~ (n) Solely for purposes of the state sales and use tax, dairy products.

12 ~~(o)~~ (o) Solely for purposes of the state sales and use tax, soft drinks.

13 ~~(p)~~ (p) Solely for purposes of the state sales and use tax, fresh fruits and
14 vegetables.

15 ~~(q)~~ (q) Solely for purposes of the state sales and use tax, package foods
16 requiring further preparation by the purchaser.

17 ~~(r)~~ (r) Solely for purposes of the state sales and use tax, any and all medical
18 devices used exclusively by the patient in the medical treatment of various diseases
19 or administered exclusively to the patient by a physician, nurse, or other health care
20 professional or health care facility in the medical treatment of various diseases under
21 the supervision of and prescribed by a licensed physician.

22 ~~(s)~~ (s) Orthotic devices, prosthetic devices, prostheses and restorative materials
23 utilized by or prescribed by dentists in connection with health care treatment or for
24 personal consumption or use and any and all dental devices used exclusively by the
25 patient or administered exclusively to the patient by a dentist or dental hygienist in
26 connection with dental or health care treatment. Notwithstanding any other provision
27 of law to the contrary, the exemptions from the state sales and use tax provided in this
28 Subparagraph shall be applicable to any sales and use tax levied by any local
29 governmental subdivision or school board.

1 ~~(u) Solely for purposes of the state sales and use tax, adaptive driving~~
2 ~~equipment and motor vehicle modifications prescribed for personal use by a~~
3 ~~physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the~~
4 ~~state.~~

5 (2)(a) Sales of meals furnished as follows:

6 (i) To the staff and students of educational institutions, including but not
7 limited to kindergartens, if the meals are consumed on the premises where purchased,
8 or if they are purchased in advance by students, faculty, or staff pursuant to a meal
9 plan sponsored by the institution or organization or purchased in advance pursuant to
10 any other payment arrangement sanctioned by the institution or organization and
11 generally available to students, faculty, and staff of the institution or organization,
12 regardless of where such meals are consumed.

13 (ii) To the staff and patients of hospitals.

14 (iii) To the staff, inmates, and patients of mental institutions.

15 (iv) To the boarders of rooming houses.

16 (v) Occasional meals furnished to the public in educational, religious, or
17 medical organization facilities.

18 (b) Except as provided for in Item (a)(i) of this Paragraph, the furnishing of
19 such meals shall be exempt from the taxes imposed by this Chapter if the meals are
20 consumed on the premises where purchased.

21 (3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters,
22 private clubs, and sales made by an establishment not specifically exempted
23 elsewhere who furnish facilities for the consumption of the food on the premises are
24 not exempt from the taxes imposed by taxing authorities.

25 (4)(a) The exemption for food, drugs, orthotic and prosthetic devices, and
26 wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors
27 for personal consumption or use; for patient aids prescribed by a physician or licensed
28 chiropractor for home use; and ostomy, ileostomy or colostomy devices, or other
29 appliances including catheters or related items required as the result of any surgical

1 procedure by which an artificial opening is created in the human body for the
2 elimination of natural waste applies only to sales taxes imposed by the state of
3 Louisiana and does not apply to such taxes authorized and imposed by any school
4 board, municipality, or other local taxing authority notwithstanding any other
5 provisions of law to the contrary, and specifically, but not exclusively, R.S. 47:337.8.

6 (b) However, sales taxes authorized and imposed by any taxing authority shall
7 not apply to the procurement and administration of cancer and related chemotherapy
8 prescription drugs used exclusively by the patient in his medical treatment when
9 administered exclusively to the patient by a physician, nurse, or other health care
10 professional in a physician's office where patients are not regularly kept as bed
11 patients for twenty-four hours or more.

12 (5)(a) However sales taxes authorized and imposed by any school board,
13 municipality, or other local taxing authority shall not apply to the sale of prescription
14 drugs under the pharmaceutical vendor program for Title XIX of the Social Security
15 Act as administered by the Department of Health and Hospitals of the state of
16 Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such
17 drugs under Title XXI of the Social Security Act as administered by such department.

18 (b) The administration of prescription drugs used exclusively by the patient
19 in the medical treatment of various diseases or injuries when administered exclusively
20 to the patient by a physician, nurse, or other health care professional in a physician's
21 office where patients are not regularly kept as bed patients for twenty-four hours or
22 more shall be a professional service.

23 (c) For the time after July 1, 1999, school boards, municipalities, and other
24 local taxing authorities may by ordinance or resolution provide for the following:

25 (i) An exemption for the sale of prescription drugs administered as provided
26 for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and
27 administration of chemotherapy drugs used exclusively by the patient in his medical
28 treatment if administered exclusively to the patient by a physician, nurse, or other

1 health care professional in a physician's office where patients are not regularly kept
2 as bed patients for twenty-four hours or more.

3 (ii) An amnesty for any person who may have been responsible to impose,
4 collect, and/or remit the tax previously imposed on the transactions provided for in
5 Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or
6 amnesty is granted according to such reasonable terms and conditions as the
7 respective school boards, municipalities and other local taxing authorities may adopt.

8 (6) The exemptions from the state sales and use tax provided in this
9 Subsection in existence as of the effective date of Act 205 of 1978* shall be
10 applicable to any sales and use tax levied by any local governmental subdivision or
11 school board except as otherwise specifically provided in this Subsection. Without
12 determining the validity of any exemptions placed in this Subsection subsequent to
13 the effective date of Act 205 of 1978, all Acts after the 1991 Regular Session placing
14 an exemption in this Subsection which is applicable to a political subdivision must,
15 to be effective, specifically provide in the title and body of the bill that it is applicable
16 to a political subdivision. The exemptions provided in R.S. 47:305(D)(1)(t) are
17 hereby deemed to specifically comply with Act 205 of 1978.

18 E D. It is not the intention of any taxing authority to levy a tax upon articles
19 of tangible personal property imported into this state, or produced or manufactured
20 in this state, for export; nor is it the intention of any taxing authority to levy a tax on
21 bona fide interstate commerce; however, nothing herein shall prevent the collection
22 of the taxes due on sales of tangible personal property into this state which are
23 promoted through the use of catalogs and other means of sales promotion and for
24 which federal legislation or federal jurisprudence enables the enforcement of the sales
25 tax of a taxing authority upon the conduct of such business. It is, however, the
26 intention of the taxing authorities to levy a tax on the sale at retail, the use, the
27 consumption, the distribution, and the storage to be used or consumed in this state
28 except for tangible personal property kept in inventory clearly marked for use outside
29 of Louisiana, of tangible personal property after it has come to rest in this state and

1 has become a part of the mass of property in this state. At such time as federal
2 legislation or federal jurisprudence as to sales in interstate commerce promoted
3 through the use of catalogs and other means of sales promotions enables the
4 enforcement of this Chapter or any other law or local ordinance imposing a sales tax
5 against vendors that have no other nexus with the taxing jurisdiction, the following
6 provisions shall apply to such sales on which sales and use tax would not otherwise
7 be collected.

8 F E. The sales, use and lease taxes imposed by taxing authorities shall not
9 apply to the amounts paid by radio and television broadcasters for the right to exhibit
10 or broadcast copyrighted material and the use of film, video or audio tapes, records
11 or any other means supplied by licensors thereof in connection with such exhibition
12 or broadcast and the sales and use tax shall not apply to licensors or distributors
13 thereof.

14 G F. The sales, use, and lease taxes imposed by taxing authorities shall not
15 apply to the purchase or rental by private individuals of machines, parts therefor, and
16 materials and supplies which a physician has prescribed for home renal dialysis.

17 H: G. "Demonstrators" as used in Subsection D C of this Section for purposes
18 of the sales and use tax levied by all taxing authorities shall mean all of the following:

19 (1) New and used trucks and automobiles for which dealer inventory plates
20 may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name
21 for use as demonstrators which are kept primarily on the dealer's premises during
22 normal business hours and which are available for demonstration purposes. However,
23 the occasional use of a demonstrator by authorized personnel of the dealer shall not
24 disqualify such demonstrator from the exemption herein designated.

25 (2) New boats, vessels, or other water craft, hereafter, "boats," which comply
26 with all the following:

27 (a) They are registered in a boat, vessel, or water craft dealer's name with the
28 appropriate agency.

1 (b) They are reported by the dealer to the department as demonstrators and
2 are clearly identified as demonstrators in the manner required by the department.

3 (c) They are used by those designated by such dealer for any activity which
4 results in the advertisement, promotion of sales, or demonstration of the qualities of
5 the boat for the purpose of increasing sales of such boats; provided that such use does
6 not occur on more than six consecutive days and does not occur on more than twelve
7 days in any calendar month. The dealer shall keep such logs or other records of such
8 use as shall be required by the department.

9 (d) They are ultimately sold at retail.

10 ~~F.~~ H. The sales and use taxes imposed by the state of Louisiana or any of its
11 political subdivisions shall not apply to the labor, or sale of materials, services, and
12 supplies, used for repairing, renovating or converting of any drilling rig, or machinery
13 and equipment which are component parts thereof, which is used exclusively for the
14 exploration or development of minerals outside the territorial limits of the state in
15 Outer Continental Shelf waters. For the purposes of this Subsection, "drilling rig"
16 means any unit or structure, along with its component parts, which is used primarily
17 for drilling, workover, intervention or remediation of wells used for exploration or
18 development of minerals. For purposes of this Subsection, "component parts" means
19 any machinery or equipment necessary for a drilling rig to perform its exclusive
20 function of exploration or development of minerals.

21 * * *

22 §305.6. Exclusions and exemptions; Little Theater tickets

23 The sales tax imposed by local taxing authorities shall not apply to the sale of
24 admission tickets by Little Theater organizations. The provisions of this Section shall
25 not apply to sales and use taxes imposed by the state of Louisiana.

26 §305.7. Exclusions and exemptions; tickets to musical performances of nonprofit
27 musical organizations

28 The sales tax imposed by local taxing authorities shall not apply to the sale of
29 admission tickets by domestic nonprofit corporations or by any other domestic

1 nonprofit organization known as a symphony organization or as a society or
 2 organization engaged in the presentation of musical performances, ~~provided that this~~
 3 ~~Section~~ This exemption shall not apply to performances given by out-of-state or
 4 nonresident symphony companies, ~~nor shall this Section apply or~~ to any performance
 5 intended to yield a profit to the promoters thereof. The provisions of this Section
 6 shall not apply to sales and use taxes imposed by the state of Louisiana.

* * *

8 §305.9. Exclusions and exemptions; motion picture film rental

9 The sales and use taxes imposed by ~~the State of Louisiana or any such taxes~~
 10 ~~imposed by~~ any parish or municipality within the state shall not apply to the amount
 11 paid by the operator of a motion picture theater to a distributing agency for use of
 12 films of photoplay. The provisions of this Section shall not apply to sales and use
 13 taxes imposed by the state of Louisiana.

* * *

15 §305.11. Exclusions and exemptions; contracts prior to and within ninety days of tax
16 levy

17 A. No new or additional sales or use tax shall be applicable to sales of
 18 materials or services involved in lump sum or unit price construction contracts
 19 entered into and reduced to writing prior to the effective date of the statute or
 20 ordinance levying same or to sales or services involved in such contracts entered into
 21 and reduced to writing within ninety days thereafter, if such contracts involve
 22 contractual obligations undertaken prior to such effective date and were computed and
 23 bid on the basis of sales taxes at the rates effective and existing prior to such effective
 24 date.

25 B. This section shall apply to sales and use taxes now or hereafter levied by
 26 ~~the State of Louisiana or by~~ any parish, municipality or other political subdivision
 27 thereof, whether such levy is under authority of general or special laws of the state or
 28 under powers granted in local charters or under any other authority or grant of the
 29 power to levy and collect sales or use taxes.

1 A. A Louisiana resident, domiciled in Louisiana, who possesses such valid
2 Louisiana commercial fishing license(s) as may be necessary for commercial fishing
3 ventures, including but not limited to a vessel license issued pursuant to R.S. 56:304,
4 and who is an owner of a vessel operated primarily for the conduct of commercial
5 fishing as a trade or business and which the Louisiana Department of Wildlife and
6 Fisheries determines will be predominantly and principally used for commercial
7 fishing ventures and whose catch is for human consumption shall not be exempt from
8 state sales, use, lease, and services taxes ~~as set forth in Subsection C of this Section.~~
9 Possession of a commercial fishing license issued by the Department of Wildlife and
10 Fisheries shall not be used as the sole determination that a vessel will be used
11 predominantly and principally for commercial fishing ventures. This exemption from
12 state sale, use, lease, and services taxes shall ~~also~~ apply to facilities which process the
13 catch from owners of commercial fishing vessels for which this exemption is granted
14 when such vessels are owned by, or leased or contracted exclusively to, the seafood
15 processing facility.

* * *

17 ~~C. An owner who has obtained a certificate of exemption shall, with respect~~
18 ~~to the vessel identified in the certificate for the harvesting or production of fish and~~
19 ~~other aquatic life, including shrimp, oysters, and clams, and certain seafood~~
20 ~~processing facilities described in Subsection A, be exempt from the taxes described~~
21 ~~in Subsection A, as follows:~~

22 ~~(1) Taxes applied to the materials and supplies necessary for repairs to the~~
23 ~~vessel or facility if they are purchased by the owner and later become a component~~
24 ~~part of the vessel or facility.~~

25 ~~(2) Taxes applied to materials and supplies purchased by the owner of the~~
26 ~~vessel or facility where such materials and supplies are loaded upon the vessel or~~
27 ~~delivered to the facility for use or consumption in the maintenance and operation~~
28 ~~thereof for commercial fishing and processing ventures. For purposes of this~~

1 provisions of this Section shall not apply to sales and use taxes imposed by the state
2 of Louisiana.

3 * * *

4 §305.43. Exclusions and exemptions; nonprofit organizations dedicated to the
5 conservation of fish or migratory waterfowl; nature of exemption; limitations;
6 qualifications

7 A. The sales and use taxes imposed by ~~R.S. 47:302, R.S. 47:321, and R.S.~~
8 ~~47:331~~ by a political subdivision shall not apply to any sales made by a nonprofit
9 organization dedicated exclusively to the conservation of fish or the migratory
10 waterfowl of the North American Continent and to the preservation and conservation
11 of wetland habitat of such waterfowl, when the entire proceeds, except for the
12 necessary expenses connected therewith, are used in furtherance of the organization's
13 exempt purpose. The exemption provided herein shall not apply to any event
14 intended to yield a profit to the promoter or to any individual contracted to provide
15 services or equipment, or both, for the event.

16 B. Purchases by any organization qualifying hereunder shall be exempt from
17 the payment of any sales or use taxes imposed by ~~the state and its~~ political
18 subdivisions. The provisions of this Section shall not apply to sales and use taxes
19 imposed by the state of Louisiana.

20 * * *

21 E. An exemption certificate must be obtained from the ~~secretary of the~~
22 ~~Department of Revenue~~ political subdivision, under such regulations as he shall
23 prescribe, in order for a nonprofit organization to qualify for the exemption provided
24 in this Section.

25 §305.44. Exclusions and exemptions; raw materials used in printing process

26 A. The sales and use taxes imposed by ~~the state under R.S. 47:302, R.S.~~
27 ~~47:321, and R.S. 47:331~~ and by any political subdivision shall not apply to purchases
28 and sales of the following, including all chemical supplies necessary to produce such
29 items whether manufactured by a printer or purchased from a subcontractor:

1 * * *

2 §305.49. Catalog distribution; exemption

3 Notwithstanding any provision of law to the contrary, no sales or use tax shall
4 be imposed by ~~the state or~~ any political subdivision on the value of catalogs
5 distributed, or intended for distribution in the state, without charge to the recipient.

6 §305.50. Exemption; vehicles used in interstate commerce; rail rolling stock; railroad
7 ties

8 * * *

9 F. The sales and use tax imposed by ~~the state, its statewide taxing authorities,~~
10 ~~or any of its political subdivisions~~ any political subdivision shall not apply to the
11 "sales price" or "cost price" of railroad ties that a railroad purchases prior to long-term
12 preservative treatment and installs into the railroad's track system outside the taxing
13 jurisdiction of the respective taxing authority, whether it be the state, a statewide
14 taxing authority, or a political subdivision.

15 * * *

16 §305.57. Exemptions; sale of art work

17 A. The sales and use taxes imposed by ~~the state of Louisiana or any of its~~
18 ~~political subdivisions~~ any political subdivision shall not apply to the sale of original,
19 one-of-a-kind works of art from an established location within the boundaries of a
20 cultural product district. The provisions of this Section shall not apply to sales and
21 use taxes imposed by the state of Louisiana.

22 * * *

23 §305.59. Exemption; charitable residential construction

24 The sales and use tax imposed by the ~~state of Louisiana and all of its tax local~~
25 taxing authorities shall not apply to the sale of construction materials to Habitat for
26 Humanity affiliates, Fuller Center for Housing covenant partners located in this state,
27 or the Make it Right Foundation when such materials are intended for use in
28 constructing new residential dwellings in this state. The provisions of this Section
29 shall not apply to sales and use taxes imposed by the state of Louisiana.

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§305.61. Exemption; certain water conservation equipment; Sparta Groundwater Conservation District

A. The sales and use tax imposed by all ~~tax~~ local taxing authorities in the state shall not apply to sales of water conservation equipment for use within the Sparta Groundwater Conservation District. Only persons defined as "users" under R.S. 38:3087.133(7) shall be eligible for this exemption.

B. Any person seeking to qualify for this exemption must apply for an exemption certificate with the ~~secretary of the Department of Revenue~~ local taxing authority. Prior to application for an exemption certificate, the applicant must receive certification from the commissioner of conservation that the equipment qualifies as water conservation equipment. The certification by the commissioner of conservation shall be attached by the board to the application for the exemption certificate. In accordance with the powers defined in R.S. 38:3087.136, the board shall determine the types of equipment which qualify as water conservation equipment, provided that such equipment must reduce water consumption by at least twenty-five percent.

§305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday

* * *

B.(1) Notwithstanding any other provisions of law to the contrary, the sales and use tax levied by ~~the state of Louisiana and its~~ political subdivisions shall not apply to the sales price or cost price of any consumer purchases of firearms, ammunition, and hunting supplies that occur each calendar year on the first consecutive Friday through Sunday of September. The provisions of this Section shall not apply to sales and use taxes imposed by the state of Louisiana.

* * *

§305.64. Exemption; qualifying radiation therapy treatment centers

A.(1) ~~The sales and use tax imposed by the state of Louisiana shall not apply to the amount paid by qualifying radiation therapy treatment centers for the purchase, lease, or repair of capital equipment and the purchase, lease, or repair of software~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~used to operate capital equipment.~~ Any political subdivision of this state, including
2 parishes and municipalities, may elect to grant a sales and use tax exemption for the
3 amount paid by qualifying radiation therapy treatment centers for the purchase, lease,
4 or repair of capital equipment and the purchase, lease, or repair of software used to
5 operate capital equipment. The provisions of this Section shall not apply to sales and
6 use taxes imposed by the state of Louisiana.

7 * * *

8 B. An exemption certificate shall be obtained from the ~~secretary of the~~
9 ~~Department of Revenue~~ political subdivision in order for a radiation therapy center
10 to qualify for the exemption provided for in this Section.

11 ~~C. The Department of Revenue shall promulgate rules and regulations in~~
12 ~~accordance with the Administrative Procedure Act as are necessary to implement the~~
13 ~~provisions of this Section.~~

14 §305.65. Exemption; charitable residential construction, rehabilitation, and
15 renovation; limitation

16 A. The sales and use tax imposed by ~~the state of Louisiana and all of its tax~~
17 local taxing authorities shall not apply to the sale of construction materials to Hands
18 on New Orleans and Rebuilding Together New Orleans covenant partners located in
19 this state when such materials are intended for use in either constructing,
20 rehabilitating, or renovating residential dwellings in this state which were destroyed
21 or damaged by Hurricane Katrina or Hurricane Rita.

22 B. No more than five hundred thousand dollars of ~~state and~~ local exemptions
23 authorized pursuant to this Section shall be granted in any calendar year.

24 ~~C. The secretary of the Department of Revenue shall promulgate rules and~~
25 ~~regulations necessary to implement the provisions of this Section.~~

26 * * *

27 §305.68. Exemption; Fore!Kids Foundation

28 The sales and use tax imposed by ~~the state of Louisiana or~~ any political
29 subdivisions shall not apply to the purchase, use, or rental of materials, services,

1 property, and supplies, by the Fore!Kids Foundation, whose primary purpose is to
2 fund children's service organizations from monies raised from golfing events.

3 * * *

4 §305.70. Exemption; "Make It Right Foundation"

5 The sales and use tax imposed by ~~the state of Louisiana~~ or any political
6 subdivision shall not apply to the sale of construction materials to the "Make It Right
7 Foundation" when such materials are intended for use in constructing new residential
8 dwellings in this state.

9 * * *

10 §306. Returns and payment of tax; penalty for absorption

11 A.

12 * * *

13 (3)(a) For the purpose of compensating the dealer in accounting for and
14 remitting the tax levied by this Chapter, each dealer shall be allowed one ~~and~~
15 ~~one-tenth~~ percent of the amount of tax due and accounted for and remitted to the
16 secretary in the form of a deduction in submitting his report and paying the amount
17 due by him, provided the amount of any credit claimed for taxes already paid to a
18 wholesaler shall not be deducted in computing the commission allowed the dealer
19 hereunder. This compensation shall be allowed only if the payment of the dealer is
20 timely paid and the return is timely filed.

21 (b) The compensation permitted a dealer under the provisions of this
22 Paragraph shall not exceed fifty dollars per calendar month. The aggregate state
23 compensation available to a dealer who operates more than one business location
24 within this state and who does not file a consolidated monthly tax report for all
25 locations shall not exceed fifty dollars per month.

26 ~~(b)~~ (c) Municipalities are hereby authorized to pay compensation to their sales
27 tax dealers in any amounts designated by the governing body of the municipality.

28 * * *

29 F. Annual consumer use tax return

1 (1) Purpose. The state imposes a use tax to ensure that sales tax is paid on
2 taxable purchases made by Louisiana buyers even if the seller was not legally
3 obligated to collect the sales tax. The use tax is intended to put Louisiana retailers on
4 an equal footing with their out of state competitors who are not required to collect
5 sales tax because they do not have a sufficient connection with Louisiana. The rate
6 and base for each tax is the same.

7 (2) Beginning July 1, 2014, every person who uses, stores, or consumes
8 tangible personal property or purchases a taxable service not in the conduct of a
9 business, which property is purchased either inside or outside of this state, and who
10 has not paid the sales or use tax imposed by this Chapter to a dealer shall make a
11 return and remit the tax annually, on forms prescribed by the Secretary. Such form
12 shall show the total cost price of the tangible personal property stored, used or
13 consumed and the total purchase price of taxable services by said person within this
14 state for the preceding taxable year.

15 (a) The annual consumer use tax payment and tax return are due on July 1.

16 (b) All such returns shall be subscribed by the taxpayer or his agent and shall
17 contain a written declaration that it is made under the penalties of perjury.

18 (3)(a) Consumers may elect to calculate their actual use tax liabilities on their
19 returns or use the use tax table provided by the Secretary to report their estimated use
20 tax liabilities for one or more single nonbusiness purchases of individual items of
21 tangible personal property.

22 (b) The use tax table may not be used to estimate use tax liabilities for
23 business purchases, including purchases made by businesses which are required to
24 hold a seller's permit or to register with the Department of Revenue under the Sales
25 and Use Tax Law and report their use tax liabilities directly to the Department of
26 Revenue.

27 (4) Use tax table. If eligible consumers use the use tax table included in the
28 instructions to estimate their use tax liabilities for qualified nonbusiness purchases
29 and correctly report their estimated use tax liabilities in accordance with their federal

1 adjusted gross ranges for the previous year, then the Department of Revenue shall not
2 assess the difference, if any, between the estimated use tax liabilities reported in
3 accordance with the use tax table and the consumer's actual use tax liabilities for
4 qualified nonbusiness purchases.

5 (5) Safe harbor amounts for 2014 are based on the taxpayer's federal adjusted
6 gross income for tax year 2013, regardless of filing status.

7 (a) If the consumer's federal adjusted gross income is less than or equal to
8 twenty thousand dollars, the safe harbor use tax amount is ten dollars.

9 (b) If the consumer's federal adjusted gross income is greater than thirty
10 thousand dollars, but less than or equal to forty thousand dollars, the safe harbor use
11 tax amount is twenty-five dollars.

12 (c) If the consumer's federal adjusted gross income is greater than forty
13 thousand dollars, but less than or equal to sixty thousand dollars, the safe harbor use
14 tax amount is thirty-five dollars.

15 (d) If the consumer's federal adjusted gross income is greater than sixty
16 thousand dollars, but less than or equal to eighty thousand dollars, the safe harbor use
17 tax amount is fifty dollars.

18 (e) If the consumer's federal adjusted gross income is greater than eighty
19 thousand dollars, but less than or equal to one hundred thousand dollars, the safe
20 harbor use tax amount is sixty-five dollars.

21 (f) If the consumer's federal adjusted gross income is greater than one
22 hundred thousand dollars, but less than or equal to one hundred fifty thousand dollars,
23 the safe harbor use tax amount is ninety dollars.

24 (g) If the consumer's federal adjusted gross income is greater than one
25 hundred fifty thousand dollars, but less than or equal to two hundred thousand dollars,
26 the safe harbor use tax amount is one hundred twenty-five dollars.

27 (h) If the consumer's federal adjusted gross income is greater than two
28 hundred thousand dollars, the safe harbor use tax amount is the determined by
29 multiplying the federal adjusted gross income by point zero seven percent (0.07%).

1 (6) Beginning January 1, 2015, the Department of Revenue shall annually
2 recalculate the safe harbor use tax table based on:

3 (a) The most current personal income data published by the United States
4 Bureau of Economic Analysis.

5 (b) Total spending at electronic shopping and mail order houses, determined
6 by reference to the most current electronic shopping and mail order house spending
7 data published by the United States Census Bureau.

8 (c) The percentage of total spending at electronic shopping and mail order
9 houses that are not included in the constitutionally exempted items, by reference to
10 the most current retail trade product lines statistics by kind of business data published
11 by the United States Census Bureau.

12 (d) The department shall annually determine the new use tax table and shall
13 publish such schedule no later than the March issue of the Louisiana Register.

14 (7) If a person fails to make a return, the Secretary shall make an estimate,
15 based upon the information available, of the amount of taxes due for the period for
16 which the taxpayer is delinquent, and shall add a penalty equal to ten percent of the
17 amount of taxes due, plus interest on the delinquent taxes at the rate imposed under
18 R.S. 47:1601. Thereafter, the Department of Revenue shall give to the delinquent
19 taxpayer written notice of the estimated taxes, penalty, and interest, which notice shall
20 be to the last address the taxpayer provided to the department. Such estimate shall
21 thereupon become a notice of tax due as provided in R.S. 47:1562.

22 CHAPTER 2- E. ADDITIONAL SALES AND USE TAX

23 §339. Imposition of tax

24 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331(A) and
25 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
26 Revised Statutes of 1950, there is hereby levied an additional tax upon the sale at
27 retail, the use, the consumption, the distribution, and the storage for use or
28 consumption in this state of each item or article of tangible personal property, as

1 defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
2 1950; the levy of said tax to be as follows:

3 (1) At the rate of two and twenty-five hundredths percent of the sales price
4 of each item or article of tangible personal property when sold at retail in this state,
5 the tax to be computed on gross sales for the purpose of remitting the amount of tax
6 to the state, and to include each and every retail sale.

7 (2) At the rate of two and twenty-five hundredths percent of the cost price of
8 each item or article of tangible personal property when the same is not sold but is
9 used, consumed, distributed, or stored for use or consumption in this state, provided
10 that there shall be no duplication of the tax.

11 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
12 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
13 Revised Statutes of 1950, there is hereby levied a tax upon the lease or rental within
14 this state of each item or article of tangible personal property, as defined in Chapter
15 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said
16 tax to be as follows:

17 (1) At the rate of two and twenty-five hundredths percent of the gross
18 proceeds derived from the lease or rental of tangible personal property, as defined in
19 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where
20 the lease or rental of such property is in an established business, or part of an
21 established business, or the same is incidental or germane to the business.

22 (2) At the rate of two and twenty-five hundredths percent of the monthly lease
23 or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee
24 or rentee to the owner of the tangible personal property.

25 C. In addition to the tax levied on sales of services by R.S. 47:302(C), 321(C),
26 and 331(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title,
27 there is hereby levied a tax upon all sales of services in this state, as defined in
28 Chapter 2 of Subtitle II of this Title, at the rate of two and twenty-five hundredths
29 percent of the amounts paid or charged for such services.

1 D. The tax levied herein shall be collected from the dealer, or wholesaler as
2 provided for and as defined by Chapter 2 of Subtitle II of Title 47 of the Louisiana
3 Revised Statutes of 1950; shall be paid at the time and in the manner provided by said
4 Chapter; shall be in addition to all other taxes, whether levied in the form of sales,
5 excise, license, or privilege taxes; and shall be in addition to taxes levied under the
6 provisions of Chapter 3 of Subtitle II of Title 47 of the Louisiana.

7 CHAPTER 2- F. SALES AND USE TAX ON SERVICES

8 §340. Imposition of tax; services subject to sales tax; exemptions

9 A. There is hereby levied a tax upon all sales of services, as defined herein,
10 in this state, at the rate of six and twenty-five hundredths percent of the amounts paid
11 or charged for such services. This tax on sales of services shall be levied and imposed
12 by the state of Louisiana and shall not be applicable to sales and use taxes levied by
13 any political subdivision. The tax imposed and levied pursuant to the provisions of
14 this Chapter shall apply to all services except those services specifically exempted in
15 Subsection (C) of this Section.

16 B. For purposes of this Chapter, “service” shall mean all activities engaged
17 in for other persons, natural or juridical, for a fee, retainer, commission, other
18 consideration or monetary charge, which involve predominantly the performance of
19 a service as distinguished from the selling of property.

20 C. The following services, and no others, shall be exempt from the tax levied
21 and imposed pursuant to the provisions of this Chapter:

22 (1) Services taxable by the state under the general sales tax provisions of this
23 Title.

24 (2) Services rendered by an employee for his employer.

25 (3) Services performed directly for the state, a political subdivision of the
26 state, the United States government, or the agencies of the United States government.

27 (4) Purchases and resales of advertising time or space from media outlets. A
28 “media outlet” is a publication or broadcast program that transmits feature

1 stories and news to the public through various distribution channels, including, but
2 not limited to, newspapers, magazines, radio, television, and the Internet.

3 (5) Services enumerated in the North American Industrial Classification
4 System, 2007, as prepared by the Statistical Policy Division of the Office of
5 Management and Budget, Office of the President as follows. Services described in
6 this Paragraph are exempt based upon the North American Industrial Classification
7 System Sector, Subsector, Industry Group or Industry number applicable to that
8 service and not based upon the Sector, Subsector, Industry Group or Industry number
9 assigned to the service provider.

10 (a) Sector 11 Agriculture, Forestry, Fishing and Hunting.

11 (b) Sector 21 Mining, Quarrying, and Oil and Gas Extraction except Industry
12 213113 Support Activities for Coal Mining, Industry 213114 Support Activities for
13 Metal Mining and Industry 213115 Support Activities for Nonmetallic Minerals
14 (except Fuels) Mining.

15 (c) Sector 22 Utilities.

16 (d) Sector 23 Construction.

17 (e) Subsector 481 Air Transportation.

18 (f) Subsector 482 Rail Transportation.

19 (g) Subsector 483 Water Transportation.

20 (h) Subsector 484 Truck Transportation.

21 (i) Subsector 486 Pipeline Transportation.

22 (j) Subsector 491 Postal Service.

23 (k) Industry 519190 Other Information Services

24 (l) Industry 51913 Internet Publishing and Broadcasting and Web Search
25 Portals

26 (m) Sector 52 Finance and Insurance, except Industry Group 5242 Agencies,
27 Brokerages, and Other Insurance Related Activities.

1 (n) Subsector 531 Real Estate, except Industry 53113 Lessors of
2 Miniwarehouses and Self-Storage Units and Industry 531130 Lessors of
3 Miniwarehouses and Self-Storage Units.

4 (o) Industry Group 5411 Legal Services.

5 (p) Industry 541910 Marketing Research and Public Opinion Polling

6 (q) Sector 55 Management of Companies and Enterprises.

7 (r) Sector 61 Educational Services.

8 (s) Sector 62 Health Care and Social Assistance.

9 (t) Industry Group 8122 Death Care Services.

10 (u) Industry Group 8131 Religious Organizations.

11 (v) Industry Group 8132 Grantmaking and Giving Services.

12 (w) Industry Group 8133 Social Advocacy Organizations.

13 (x) Industry group 8134 Civic and Social Organizations.

14 (y) Industry group 8139 Business, Professional, Labor, Political, and Similar
15 Organizations.

16 D.(1) Sales of services shall be sourced as follows:

17 (a) If the customer receives the service at the dealer's place of business, the
18 sale shall be sourced to that place of business.

19 (b) If the service is not received at a dealer's place of business, the sale shall
20 be sourced to the location known to the dealer where the customer receives service.

21 (c) If Subparagraphs (a) and (b) of this Paragraph do not apply, the sale shall
22 be sourced to the location indicated by an address for the customer that is available
23 from the dealer's business records maintained in the ordinary course of the dealer's
24 business, when use of that address does not constitute an attempt to avoid taxation.

25 (d) If Subparagraphs (a), (b), and (c) of this Paragraph do not apply, the sale
26 shall be sourced to the location indicated by an address for the customer obtained
27 during the consummation of the sale, including the address associated with the
28 customer's payment instrument, if no other address is available, when use of that
29 address does not constitute an attempt to avoid taxation.

1 (e) If Subparagraphs (a), (b), (c), and (d) of this Paragraph do not apply,
2 including in the circumstance where the dealer is without sufficient information to
3 apply any of those divisions, the sale shall be sourced to the address from which the
4 service was provided, disregarding any location that merely provided the electronic
5 transfer of the service provided.

6 (2) Any service performed for a business with a Louisiana address or for an
7 individual that resides in Louisiana is presumed to be received in Louisiana.

8 E. Bundled transactions are subject to the tax levied and imposed by this
9 Chapter if the sale of any of its components would be subject to the tax levied and
10 imposed under R.S. 47:301 or this Chapter. “Bundled transaction” means the sale of
11 two or more items of tangible personal property, products, or services if the tangible
12 personal property, products, or services are distinct and identifiable, and sold for one
13 non-itemized price.

14 F.(1) De minimus exception. Service providers with total gross receipts from
15 the sales of services of ten thousand dollars or less in the previous twelve month
16 period shall not be required to collect and remit the tax imposed by this Chapter. In
17 the month following the month in which a service provider’s gross receipts for the
18 previous twelve month period exceed ten thousand dollars, the service provider shall
19 begin to collect and remit the tax imposed by this Chapter. This exception shall only
20 apply to those service providers who are registered for sales tax with the Department
21 of Revenue.

22 G. (1) The tax levied and imposed by this Chapter shall be collected from the
23 dealer or wholesaler as provided for and as defined by Chapter 2 of Subtitle II of Title
24 47 of the Louisiana Revised Statutes of 1950; shall be paid at the time and in the
25 manner provided by said Chapter; shall be in addition to all other taxes, whether
26 levied in the form of sales, excise, license, or privilege taxes; and shall be in addition
27 to taxes levied and imposed under the provisions of Chapter 3 of Subtitle II of Title
28 47 of the Louisiana.

1 personal property tax shall be imposed on any aircraft weighing less than six thousand
2 pounds which is owned by a private individual and not used for commercial or profit
3 making purposes. The exemption from local taxes contained in this Section is granted
4 notwithstanding the provisions of R.S. 47:302, and such exemption shall apply to any
5 sales and use tax levied by any local governmental subdivision or school board.

6 * * *

7 Section 3. R.S. 47:305.18, 305.20(C), 305.26, 305.33, 305.40, 305.42, 305.54,
8 305.56, 305.58, 305.60, 305.64(C), 305.66, 315.2, 315.3, 315.5, 306.1, and Section 4 of Act
9 No. 386 of the 1990 Regular Session of the Legislature are hereby repealed in their entirety.

10 Section 4. "Revenue neutrality" means that both the Division of Administration and
11 the Legislative Fiscal Office reasonably estimate that the cost to the state of the tax benefit
12 provided to taxpayers pursuant to the provisions of this Act will be offset by the revenue
13 received by the state because of the tax benefits provided to such taxpayers.

14 Section 5. Notwithstanding the provisions of R.S. 24:175, the provisions of this Act
15 shall not be severable. It is intended that if any provision of this Act, or the application
16 thereof to any person or circumstance, is held invalid under the Constitution of Louisiana or
17 the Constitution of the United States by a final judgment that is not subject to appeal, such
18 provision's ineffectiveness or invalidity shall invalidate all provisions of this Act.

19 Section 6. This Act shall take effect and become operative on January 1, 2014 if and
20 when the Acts which originated as House Bill No. ____ of this 2013 Regular Session of the
21 Legislature providing for the repeal of state individual income tax, and House Bill No. _____
22 of this 2013 Regular Session of the Legislature providing for the repeal of state corporate
23 income and corporation franchise taxes, both are enacted and become effective. This Act shall
24 become effective on January 1, 2014.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Robideaux

HB No. 653

Abstract: Changes the rate of the state sales and use tax from 4.0% to 6.25% and provides for the taxability of tangible personal property and services.

Present law imposes a 4% state tax upon the sale, use, consumption, storage, or rental of certain tangible personal property and services.

Present law provides for the tangible personal property and services subject to the tax.

Present law provides for numerous exclusions and exemptions from the tax.

Proposed law changes present law with respect to the following:

- (1) Changes the rate from 4% to 6.25%.
- (2) Adds new taxable services.
- (3) Deletes certain exclusions and exemptions contained in proposed law.

Proposed law establishes a requirement for the filing of an Annual Consumer Use Tax Return for the purpose of payment of use tax on property and services bought via a remote seller.

Proposed law contains provisions whereby proposed law is not severable.

Effective if and when House Bill No. _____ and _____ this 2013 Regular Session are enacted and become effective.

(Amends R.S. 4:168 and 227, R.S. 32:707(A), R.S. 47:301, 301.1(A)(intro. para.), (B), (D) and (E), 305, 305.6, 305.7, 305.9, 305.11, 305.16, 305.17, 305.19, 305.20(A), 305.28, 305.41, 305.43(A), (B), and (E), 305.44(A) 305.49, 305.50(F), 305.57(A), 305.59, 305.61, 305.62(B)(1), 305.64(A)(1) and (B), 305.65, 305.68, 305.70, 306(A)(3), and 6001(A); Adds R.S. 47:306(A)(3) and (F), 339, 340; Repeal R.S. 47:305.20(C), 305.26, 305.33, 305.40, 305.42, 305.54, 305.56, 305.58, 305.60, 305.64(C), 305.66, 315.2, 315.3, 315.5, 306.1, and Section 4 of Act No. 386 of the 1990 R.S.)