

2016 Second Extraordinary Session

HOUSE BILL NO. 28

BY REPRESENTATIVE GREGORY MILLER

TAX/SALES & USE: Changes the exclusion for sales of materials for further processing to an exemption for sales of raw materials for further processing (Item #48)

1 AN ACT

2 To amend and reenact R.S. 47:301(10)(c)(i) and to enact R.S. 47:305.4, relative to sales and
3 use taxes; to provide with respect to the taxability of sales of certain materials for
4 further processing; to provide for legislative intent; to provide for effectiveness; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:301(10)(c)(i) is hereby amended and reenacted and R.S. 47:305.4
8 is hereby enacted to read as follows:

9 §301. Definitions

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

13 * * *

14 (10)

15 * * *

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

18 ~~(bb)~~ Solely for purposes of the sales and use tax levied by the state, natural
19 gas when used in the production of iron in the process known as the "direct reduced

1 iron process" is not a catalyst and is recognized by the legislature to be a material for
2 further processing into an article of tangible personal property for sale at retail.

3 * * *

4 §305.4. Exclusions and exemptions; sale of materials for further processing

5 For purposes of sales and use taxes imposed by the state and its political
6 subdivisions, the sale of raw materials for further processing into articles of tangible
7 personal property for sale at retail shall be exempt from taxation as a sale at retail if
8 all of the following criteria are met:

9 (1) The raw materials become a recognizable and identifiable component of
10 the primary end product.

11 (2) The raw materials are beneficial to the primary end product.

12 (3) The raw materials are material for further processing, and as such, are
13 purchased for the primary purpose of inclusion into the primary end product.

14 Section 2. This Act is intended to clarify and be interpretative of the original intent
15 and application of R.S. 47:301(10)(c)(i)(aa). Therefore, provisions of this Act shall be
16 applicable for all pending refund claims, applicable for any and all tax periods not barred by
17 prescription, and applicable to any and all claims arising or actions filed on or after the
18 effective date of this Act.

19 Section 3. This Act shall become effective upon signature by the governor or, if not
20 signed by the governor, upon expiration of the time for bills to become law without signature
21 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
22 vetoed by the governor and subsequently approved by the legislature, this Act shall become
23 effective on the day following such approval.

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)]

HB 28 Original

2016 Second Extraordinary Session

Gregory Miller

Abstract: Changes the state and local sales and use tax exclusion for the sale of materials for further processing to a state and local sales and use tax exemption for the sale of raw materials for further processing.

Present law provides for the definitions to be used in the administration of state and local sales and use taxes.

Present law defines "sale at retail" to exclude the sale of materials for further processing into articles of tangible personal property.

Proposed law repeals the state and local sales and use tax exclusion for the sale of materials for further processing and enacts a state and local sales and use tax exemption for the same purpose.

Proposed law establishes the following criteria for the determination of qualification for the exemption:

- (1) The raw materials become a recognizable and identifiable component of the primary end product.
- (2) The raw materials are beneficial to the primary end product.
- (3) The raw materials are materials for further processing, and as such, are purchased for the primary purpose of inclusion into the primary end product.

Proposed law is intended to clarify the original intent of the special tax treatment of sales of materials for further processing, and thus provides that proposed law shall be applicable for all pending refund claims, applicable for any and all tax periods not barred by prescription, and applicable to any and all claims arising or actions filed on or after the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301(10)(c)(i); Adds R.S. 47:305.4)