
DIGEST

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HB 36 Original

2016 Second Extraordinary Session

James

Abstract: Adds various exemptions and exclusions to the list of state sales and use tax exemptions and exclusions to be given effect beginning July 1, 2016.

Present law establishes a variety of state sales and use tax exclusions and exemptions.

Present law suspends numerous exemptions and exclusions from the state sales and use tax (R.S. 47:302, 321, 321.1, and 331) for two different periods of time, both occurring between April 1, 2016 and June 30, 2018.

Present law provides that the suspension of certain exemptions and exclusions for purposes of two of the tax levies, R.S. 47:321 and 331, expires June 30, 2016. The suspension with respect to the other two tax levies, R.S. 47:302 and 321.1 remains effective through June 30, 2018.

Present law provides an exclusion for isolated or occasional sales of tangible personal property by a person not engaged in such business.

Proposed law retains present law but defines the following as isolated or occasional sales:

- (1) Six or fewer separate sales of taxable items at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail.
- (2) The sale of the entire operating assets of a business, or of a separate division, branch, or identifiable segment of a business.
- (3) The sale of tangible personal property by an individual if the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family.
- (4) The sale of tangible personal property by an individual if the individual is not required to be registered as a dealer.
- (5) The sale of tangible personal property by an individual if the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property.
- (6) The sale of tangible personal property by an individual if the total receipts from sales of the

individual's tangible personal property in a calendar year do not exceed \$3,000.

- (7) Sales of aircraft, boats, mobile homes, or motor vehicles in this state of a class or type required to be registered, licensed, titled, or documented in this state or by the U.S. gov't. shall not be isolated or occasional sales, except as provided in R.S. 47:6001.

Proposed law changes present law for purposes of exemptions and exclusions to the state sales and use taxes imposed under R.S. 47:302, beginning July 1, 2016, by adding the following exemptions and exclusions to the list of exemptions and exclusions that remain in effect through June 30, 2018.

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization.
- (2) Sales of room rentals by a homeless shelter.
- (3) Sales, leases, and rentals of tangible personal property and sales of services by hospitals necessary to operate free hospitals.
- (4) Sales, leases, or rentals to Boys State of La., Inc. and Girls State of La., Inc.
- (5) Sales by nonprofit entities that sell donated goods.
- (6) Isolated or occasional sales of tangible personal property by a person not engaged in such business.
- (7) Sales of human tissue transplants.
- (8) Sales of food items by a youth organization chartered by the U. S. congress.
- (9) Sales and donations of tangible personal property by food banks.
- (10) Sales or purchases of fire-fighting equipment by volunteer fire departments.
- (11) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code.
- (12) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code.
- (13) Sales of admission charges to athletic and entertainment events for elementary and secondary schools and membership fees or dues of nonprofit, civic associations.
- (14) Sales or use of materials used directly in the collection of blood.

- (15) Sales or use of apheresis kits and Leuko reduction filters.
- (16) Sales or use of orthotic devices, prosthetic devices, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors for personal use.
- (17) Sales or use of ostomy, colostomy, and ileostomy devices and equipment.
- (18) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use.
- (19) Sales or use of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations.
- (20) Purchases or rentals of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription.
- (21) Sales of admissions to entertainment events by Little Theater organizations.
- (22) Sales of admissions to musical performances sponsored by nonprofit organizations.
- (23) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations.
- (24) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations.
- (25) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations.
- (26) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fisherman.
- (27) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption.

Present law imposes a 1% temporary state sales and use tax (R.S. 47:321.1) for the period from April 1, 2016 through June 30, 2018.

Proposed law changes present law for purposes of exemptions and exclusions to the 1% temporary state sales and use taxes imposed under R.S. 47:321.1 by adding the following exclusions and exemptions to the list of state sales and use tax exemptions and exclusions to be given effect beginning July 1, 2016:

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization.

- (2) Sales of room rentals by homeless shelters.
- (3) Sales, leases, or rentals to Boys State of La., Inc. and Girls State of La., Inc.
- (4) Sales or purchases of fire-fighting equipment by volunteer fire departments.
- (5) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code.
- (6) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code.
- (7) Sales of admission charges to athletic and entertainment events for elementary and secondary schools and membership fees or dues of nonprofit, civic associations.
- (8) Sales or use of orthotic devices, prosthetic devices, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors for personal use.
- (9) Sales or use of ostomy, colostomy, and ileostomy devices and equipment.
- (10) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use.
- (11) Sales of meals by education institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations.
- (12) Purchases or rentals of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription.
- (13) Sales of admissions to entertainment events by Little Theater organizations.
- (14) Sales of admissions to musical performances sponsored by nonprofit organizations.
- (15) Sales of admissions to entertainment events sponsored by domestic, nonprofit charitable, religious, and educational organizations.
- (16) Sales of admissions, parking fees, and sales of tangible personal property at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations.
- (17) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations.

- (18) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the boats of licensed commercial fisherman.
- (19) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption.

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

(Amends R.S. 47:301(10)(c)(ii)(bb), 302(V)(intro. para.) as enacted by Act No. 25 of the 2016 1st E.S., and R.S. 47:321.1(F)(intro.para.); Adds R.S. 47:302(AA) and 321.1(F)(66))