

2018 First Extraordinary Session

HOUSE BILL NO. 19

BY REPRESENTATIVE LEGER

TAX/SALES & USE: Provides with respect to taxation of the sales of certain services (Item #2)

1 AN ACT

2 To enact R.S. 47:301(14)(l) through (v), relative to sales and use taxes; to provide for the
3 taxation of certain additional types of services; to provide for definitions; to provide
4 for exclusions; to provide for effectiveness; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:301(14)(l) through (v) are hereby enacted to read as follows:

7 §301. Definitions

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

11 * * *

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

13 * * *

14 (l) The furnishing of personal services including massage parlors, escort
15 services, and turkish baths or steam baths.

16 (m) The furnishing of credit reporting services, including the assembly or
17 furnishing of a credit history or credit information relating to any person.

18 (n)(i) The furnishing of debt collection services, including any activity to
19 collect or adjust a delinquent debt, to collect or adjust a claim, or to repossess
20 property subject to a claim.

1 (ii) The furnishing of debt collection services shall not include any of the
2 following:

3 (aa) The collection of a judgment by an attorney or by a partnership or
4 professional corporation of attorneys;

5 (bb) The collection of court-ordered child support or medical child support;
6 or

7 (cc) A service provided by a person acting as a trustee in connection with the
8 foreclosure sale of immovable property under a lien created by a mortgage or
9 security instrument.

10 (o)(i) The furnishing of insurance services, including insurance loss or
11 damage appraisal, insurance inspection, insurance investigation, insurance actuarial
12 analysis or research, insurance claims adjustment or claims processing, or insurance
13 loss prevention service.

14 (ii) "Insurance service" shall not include insurance coverage for which a
15 premium or commission is paid to insurance agents for the sale of insurance or
16 annuities, or a service performed on behalf of an insured by a person who is licensed
17 as a public insurance adjustor by the Department of Insurance.

18 (p)(i) The furnishing of immovable property services, including any of the
19 following: landscaping; the care and maintenance of lawns, yards, or ornamental
20 trees, or other plants; the removal or collection of garbage, rubbish, or other solid
21 waste; building or grounds cleaning, janitorial, or custodial services; or a structural
22 pest control service.

23 (ii) The furnishing of immovable property services shall not include any of
24 the following: hazardous or industrial solid waste; waste material that results from
25 an activity associated with the exploration, development, or production of oil, gas,
26 geothermal resources, or any other substance or material; domestic sewage or an
27 irrigation return flow, to the extent the sewage or return flow does not constitute
28 garbage or rubbish; or industrial discharges subject to regulation by permit issued
29 under Louisiana law.

1 (iii) Immovable property service shall not include a service listed under Item
2 (i) of this Subparagraph, if the service is performed by a landman and is necessary
3 to negotiate or secure land or mineral rights for acquisition or trade, including any
4 of the following: determining ownership; negotiating a trade or agreement
5 regarding land or mineral rights; drafting and administering contractual agreements;
6 ensuring that all governmental regulations are complied with; or any other action
7 necessary to complete the transaction related to a service described by this Item,
8 other than an information service under R.S. 47:301(14)(v).

9 (q)(i) The furnishing of data processing services, including word processing,
10 data entry, data retrieval, data search, information compilation, payroll and business
11 accounting data production, and other computerized data and information storage
12 manipulation.

13 (ii) As used in this Subparagraph the following terms and phrases shall have
14 the following meanings:

15 (aa) "Data processing service" means and includes the use of a computer or
16 computer time for data processing whether the processing is performed by the
17 provider of the computer or computer time or by the purchaser or other beneficiary
18 of the service.

19 (bb) "Data processing service" means and includes the use of a computer to
20 perform totalizator services for the purpose of registering wagers and dividing total
21 winnings derived from wagering on the outcome of pari-mutual races.

22 (cc) "Data processing service" shall not include the transcription of medical
23 dictation by a medical transcriptionist.

24 (dd) "Data storage" shall not include a classified advertisement, banner
25 advertisement, vertical advertisement, or link when the item is displayed on an
26 Internet website owned by another person.

27 (r)(i) The furnishing of immovable property repair and remodeling, including
28 the repair, restoration, remodeling, or modification of an improvement to immovable
29 property.

1 (ii) The furnishing of immovable property repair and remodeling shall not
2 include an improvement to a manufacturing or processing production unit in a
3 petrochemical refinery or chemical plant that provides increased capacity in the
4 production unit.

5 (iii) For purposes of this Subparagraph, the following words and phrases
6 shall have the following meanings:

7 (aa) "Increased capacity" means the capability to produce additional products
8 or services as measured by units per hour or units per year; or a new product or
9 service.

10 (bb) "Production unit" means a group of manufacturing and processing
11 machines and ancillary equipment that together are necessary to create or produce
12 a physical or chemical change beginning with the first processing of the raw material
13 and ending with the finished product.

14 (cc) "New product" means a product that has different product properties and
15 a different commercial application than the product previously manufactured or
16 processed by the production unit that produced the previous product.

17 (s) The furnishing of security services, including services for which a license
18 is required under Louisiana law.

19 (t) The furnishing of telephone answering services.

20 (u)(i) The furnishing of audio and video services.

21 (ii) The term "furnishing of video services" means the sale, offering,
22 transmission, conveyance, or routing of video programming or other video content
23 for purchase by subscribers or customers, regardless of the medium, technology, or
24 method of display and regardless of the payment schedule or storage method used
25 to purchase or access the video programming or video content. The term shall
26 include, but not be limited to, all of the following types of services and any
27 substantially equivalent successor technology.

28 (aa) Cable service, as defined in Section 602(6) of the Communications Act
29 of 1934 (47 U.S.C. Section 522).

1 Section 3. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 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 19 Original

2018 First Extraordinary Session

Leger

Abstract: Adds additional services to the state and local sales and use tax base and provides for definitions related to these services.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies:

- R.S. 47:302 - 2% tax
- R.S. 47:321 - 1% tax
- R.S. 47:321.1 - 1% tax
- R.S. 47:331 - 0.97% tax
- R.S. 51:1286 - .03% tax (LA Tourism and Promotion District)

Present law imposes state and local sales and use tax upon the sale of the following services, subject to certain exemptions and exclusions:

- (1) Furnishing of sleeping rooms.
- (2) Admission to a place of amusement.
- (3) Storage or parking privileges.
- (4) Printing and related services.
- (5) Laundry, cleaning, and pressing of textiles.
- (6) Cold storage services.
- (7) Repairs to tangible personal property.
- (8) Telecommunication services.

Proposed law retains present law and adds sales of the following services to the state and local sales and use tax base.

- (1) Personal services including massage parlors, escort services, and turkish baths or steam baths.
- (2) Credit reporting services.

- (3) Certain debt collection services.
- (4) Certain insurance services.
- (5) Certain immovable property services.
- (6) Certain data processing and data storage services.
- (7) Certain immovable property repair and remodeling services.
- (8) Security services.
- (9) Telephone answering services.
- (10) Audio and video services.
- (11) Certain information services.

Effective for taxable periods beginning on July 1, 2018.

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

(Adds R.S. 47:301(14)(l)-(v))