
DIGEST

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HB 23 Original

2018 Second Extraordinary Session

James

Abstract: Provides for the applicability of certain exclusions and exemptions to state sales and use tax levies.

Present law imposes a 1% state sales and use tax on the sale, use, consumption, storage, or lease of tangible personal property and certain services in La. The imposition of the tax expires on June 30, 2018.

Proposed law changes present law by reducing the rate of the tax from 1% to 0.75%, and removes the sunset of the tax, making imposition of the 0.75% tax permanent.

Present law provides that the avails of the 1% tax imposed under R.S. 47:321.1 be deposited into the state general fund.

Proposed law changes present law by dedicating a portion of the avails of 0.75% tax imposed under R.S. 47:321.1. After compliance with the requirements of Article VII, Section 9(B) of the La. constitution for deposits into the Bond Security and Redemption Fund, the following deposits shall be made:

- (1) \$50 million to be deposited into the Early Childhood Education Fund.
- (2) \$230 million to be deposited into the TOPS Income Fund.
- (3) All remaining monies to be deposited into the state general fund.

Propose law requires that of the avails of the tax that are deposited into the state general fund, the following amounts are dedicated for, and the executive budget shall include a recommendation for appropriations for, the following:

- (1) \$100 million for expenditure through the minimum foundation program formula for salaries and benefits for certain members of the teaching staff of a La. public school, and certain social workers, guidance counselors, or school psychologists employed by a city, parish, or other local public school board in La.
- (2) \$50 million for expenditure by the Louisiana Office for Financial Assistance for the Louisiana Go Grant Program.

Present law establishes a variety of exclusions and exemptions ("exemptions") applicable to state sales and use tax.

Present law suspends numerous exemptions from the four levies of 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 for purposes of the tax levies in R.S. 47:321 and 331, expired June 30, 2016. The suspension with respect to the tax levies in R.S. 47:302 and 321.1, remains effective through June 30, 2018.

Present law establishes various provisions concerning specific exemptions to provide that the exemptions shall be applicable under all circumstances.

Proposed law changes present law by revising the various provisions for effectiveness of certain specific exemptions to sunset those provisions by June 30, 2018.

Proposed law changes present law regarding the effectiveness of exemptions by establishing that on and after July 1, 2018, only the following exemptions shall be applicable to all state sales and use tax levies:

- (1) Food for home consumption as defined in R.S. 47:305(D)(1)(n) through (r) on Jan. 1, 2003. (Const. Art. VII, §2.2)
- (2) Natural gas. (Const. Art. VII, §2.2)
- (3) Electricity. (Const. Art. VII, §2.2)
- (4) Water. (Const. Art. VII, §2.2)
- (5) Prescription drugs. (Const. Art. VII, §2.2)
- (6) Gasoline and other motor fuels subject to the state excise tax on fuel (Const. Art. VII, §27.
- (7) Sales to the U.S. government and its agencies. (R.S. 47:301(10)(g))
- (8) Other constructions permanently attached to the ground. (R.S. 47:301(16)(l))
- (9) Installation charges on tangible personal property. (R.S. 47:301(3)(a))
- (10) Installation of oil field board roads. (R.S. 47:301(3)(c))
- (11) Transactions involving the construction or overhaul of U.S. Navy vessels. (R.S. 47:301(7)(c) and (14)(h))

- (12) Property purchased for exclusive use outside the state. (R.S. 47:305.10)
- (13) Sales, leases, or rentals of tangible personal property paid by or under the provisions of Medicare. (R.S. 47:315.3)
- (14) Sales of human tissue transplants. (R.S. 47:301(10)(d))
- (15) Sales of raw agricultural commodities. (R.S. 47:301(10)(e))
- (16) Sales of food by a youth-serving organization chartered by the U.S. Congress. (R.S. 47:301(10)(h))
- (17) Tangible personal property sold or donated to a food bank. (R.S. 47:301(10)(j) and (18)(a)(i))
- (18) Materials used in the collection of blood. (R.S. 47:301(16)(j))
- (19) Aphaeresis kits and leuko reduction filters. (R.S. 47:301(16)(k))
- (20) Donations to schools and food banks from resale inventory. (R.S. 47:301(18)(a))
- (21) Manufacturer's rebates on a new motor vehicle. (R.S. 47:301(3)(e) and (13)(b))
- (22) Leases or rentals of railroad rolling stock. (R.S. 47:301(4)(k))
- (23) Sales, purchases and leases of tangible personal property by free hospitals. (R.S. 47:301(7)(e), (10)(p), and (18)(c))
- (24) Purchases by a nonprofit entity that sells donated goods. (R.S. 47:301(8)(f))
- (25) Tangible personal property for resale. (R.S. 47:301(10)(a)(i))
- (26) Purchases of property for lease or rental. (R.S. 47:301(10)(a)(iii) and (18)(a)(iii))
- (27) Isolated or occasional sales of tangible personal property by a person not engaged in such business. (R.S. 47:301(1) and (10)(c)(ii)(bb))
- (28) Use of a motor vehicle in La. by a member of the active duty military. (R.S. 47:303(A) and 305.48)
- (29) Purchases made under the Supplemental Nutrition Assistance Program with WIC Program Vouchers. (R.S. 47:305.46)
- (30) An article traded in on the purchase of tangible personal property.

- (R.S. 47:301(13)(a))
- (31) Donation of toys. (R.S. 47:301(10)(aa)(i) and (18)(m))
 - (32) Stocks, bonds, notes, and other obligations or securities. (R.S. 47:301(16)(b)(i))
 - (33) Credit for sales and use taxes paid to another state on tangible personal property imported in La. (R.S. 47:303(A)(3)(a))
 - (34) Work product of certain professionals. (R.S. 47:301(16)(e))
 - (35) Purchases by a regionally accredited independent educational institution. (R.S. 47:301(8)(b))
 - (36) Sales through a coin-operated vending machine. (R.S.47:301(10)(b)(i))
 - (37) Purchases by a private postsecondary academic degree-granting institution. (R.S. 47:301(10)(cc) and(18)(n))
 - (38) Purchases of food items for school lunch and breakfast programs by a nonpublic elementary or secondary school. (R.S. 47:301(10)(dd))
 - (39) Repair services when property is to be exported as provided in R.S. 47:301(14)(g)(i)(bb).
 - (40) Funeral directing services. (R.S. 47:301(14)(j))
 - (41) Feed and feed additives for animals held for business purposes. (R.S. 47:305(A)(4))
 - (42) Farm products produced and used by farmers. (R.S. 47:305(B))
 - (43) Sale of fertilizer and containers to farmers. (R.S. 47:305(D)(1)(f))
 - (44) Sales of seeds for planting crops. (R.S. 47:305.3)
 - (45) Sales of pesticides for agricultural purposes. (R.S. 47:305.8)
 - (46) The cost price for the printing of a news publication. (R.S. 47:301(3)(h))
 - (47) Vehicle rentals to a warranty customer. (R.S. 47:301(7)(h))
 - (48) Leases or rentals of a crane and related equipment with an operator. (R.S. 47:301(7)(k))
 - (49) Sales by and to the state and its political subdivisions. (R.S. 47:301(8)(c))

- (50) Sales of materials for further processing. (R.S. 47:301(10)(c)(i)(aa))
- (51) The sales price for new farm equipment used in poultry production. (R.S. 47:301(13)(c))
- (52) A factory built home. (R.S. 47:301(16)(g))
- (53) Any advertising service rendered by an advertising business. (R.S. 47:302(D))
- (54) Sales of livestock, poultry, and other farm products direct from a farm.
(R.S. 47:305(A)(1))
- (55) Sales of livestock at a public sale sponsored by a breeders' or registry association or at a livestock auction market. (R.S. 47:305(A)(2))
- (56) Sales of agricultural commodities by a person other than the producer, for use in further processing. (R.S. 47:305(A)(3))
- (57) Transactions in interstate commerce and tangible personal property imported into this state, or produced or manufactured in this state for export. (R.S. 47:305(E))
- (58) Ships, vessels, barges, and related supplies. (R.S. 47:305.1)
- (59) The sales price of new farm equipment, including polyroll tubing. (R.S. 47:305.25)
- (60) A truck and trailer if used at least 80% of the time in interstate commerce.
(R.S. 47:305.50(A))
- (61) Freight cars, piggyback trailers, and rail rolling stock, and railroad ties.
(R.S. 47:305.45 and 305.50(F))
- (62) Purchases and sales by councils on aging. (R.S. 47:305.66)
- (63) Sales of pharmaceuticals administered to livestock for agricultural purposes.
(R.S. 47:301(16)(f))
- (64) Materials used in the production of crawfish and catfish. (R.S. 47:305(A)(5) and (6))
- (65) Purchases, use, and lease of manufacturing machinery and equipment. (R.S. 47:301(3)(i),
(13)(k) and (28)(a))
- (66) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization. (R.S.
47:301(6)(b))
- (67) Sales of room rentals by a homeless shelter. (R.S. 47:301(6)(c))

- (68) Sales, leases, and rentals of tangible personal property to Boys State of La., Inc. and Girls State of La., Inc. (R.S. 47:301(7)(g) and (10)(r))
- (69) Sales or purchases of fire-fighting equipment by a volunteer fire department. (R.S. 47:301(10)(o))
- (70) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by a parochial and private elementary and secondary school that complies with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii))
- (71) Sales by a parochial and private elementary and secondary school that complies with the court order from the Dodd Brumfield decision and federal law. (R.S. 47:301(10)(q)(i) and (18)(e)(i))
- (72) Sales, (R.S. 47:301(14)(b)(i)), but only of admissions to an athletic and entertainment event held for or by an elementary or secondary school and membership fees or dues of a nonprofit, civic association.
- (73) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by a physician, optometrist, or licensed chiropractor used exclusively by the patient for personal use. (R.S. 47:305(D)(1)(k))
- (74) Sales or use of ostomy, colostomy, and ileostomy devices and equipment. (R.S. 47:305(D)(1)(l))
- (75) Sales or use of adaptive driving equipment and motor vehicle modification prescribed for personal use. (R.S. 47:305(D)(1)(u))
- (76) Sales or use of a meal by an educational institution, medical facility, mental institution, and an occasional meal furnished by an educational, religious, or medical organization. (R.S. 47:305(D)(2))
- (77) Purchases or rentals of renal dialysis machines, parts, materials, and supplies for home use under a physician's prescription. (R.S. 47:305(G))
- (78) Sales of admission to entertainment events by a Little Theater organization. (R.S. 47:305.6)
- (79) Sales of admission to musical performances sponsored by a nonprofit organization. (R.S. 47:305.7)
- (80) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations. (R.S. 47:305.13)

- (81) 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. (R.S. 47:305.14(A)(1))
- (82) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations. (R.S. 47:305.18)
- (83) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen. (R.S. 47:305.20)
- (84) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption. (R.S. 47:305.39)
- (85) Sales and purchases by certain organizations that provide training for blind persons. (R.S. 47:305.15)
- (86) Purchases and lease by qualified radiation therapy treatment centers. (R.S. 47:305.64)
- (87) The exclusion for surface preparation, painting, and coating fixed or rotary wing aircraft and certified transport category aircraft registered outside of this state. (R.S. 47:301(14)(g)(iv))
- (88) Sales of medical devices. (R.S. 47:305(D)(1)(s))
- (89) Sales of platinum, gold, and silver bullion, that is valued solely upon its precious metal content, whether in coin or ingot form. (R.S. 47:301(16)(b)(ii)(aa))
- (90) Sales of certain numismatic coins. (R.S. 47:301(16)(b)(ii)(bb) and (cc))
- (91) Sales of orthotic and prosthetic devices and restorative materials utilized and prescribed by dentists. (R.S. 47:305(D)(1)(t))
- (92) Purchase of machinery and equipment by a utility regulated by the Public Service Commission and the city of New Orleans as provided in R.S. 47:301(16)(o).
- (93) Refunds for purchases of tangible personal property by international travelers as part of the Louisiana Tax Free Shopping Program pursuant to R.S. 51:1301 et seq.

Proposed law provides that the exemptions for the sales and use of steam, water, electric power or energy, natural gas, or other energy sources as provided in R.S. 47:305(D)(1)(b), (c), (d), (g), and (h) *with respect to all taxpayers* shall be applicable to the taxes levied under R.S. 47:321, 321.1, and 331.

Effective July 1, 2018.

(Amends R.S. 17:407.3(B), and R.S. 47:301(16)(o), 302(R)(2) and (3), (S), (T), and (X)(intro. para.),(AA)(intro. para.), (29) through (31), and (32)(intro. para.), 321(H)(2) through (6), and (I) through (K), 321.1(A) through (C), (F)(intro. para.), (66)(intro. para.), (67) through (69), and (70)(intro. para.), and (G), and 331(P), (Q), and (R), and Section 1 of Act No. ___ of the 2018 R.S.; Adds 39.34(F), and R.S. 47:302(BB) and (CC), 321(P) and (Q), 321.1(I) and (J), and 331(V) and (W); Repeals R.S. 47:302(Y), 321(M), 321.1(E), 331(T), and Act No. 395 of the 2017 R.S.)