

2015 Regular Session

SENATE BILL NO. 276

BY SENATOR MARTINY

TAX/SALES. Phases out state sales tax over a six-year period on transactions related to certain tangible personal property used or consumed by a communications service provider in providing communications services or which is integral or necessary for the installation, operation, or maintenance of such property. (7/1/15)

AN ACT

To enact R.S. 47:301(3)(l), (13)(n), and (30), relative to sales and use tax of the state and statewide political subdivisions; to provide for an exclusion reducing the taxable price and taxable lease or rental price or gross receipts of certain defined equipment; to provide for effective dates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(3)(l), (13)(n), and (30) are hereby enacted to read as follows:

§301. Definitions

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

* * *

(3) * * *

(l)(i) For purposes of the imposition of the use tax levied by the state and any statewide political subdivision of the state, the cost price of tangible personal property directly used or consumed by a communications provider who has received a certificate of exclusion as provided for in this Subparagraph,

1 in or during the distribution, provision, transmission, conveyance, monitoring,
2 switching, routing, creation, or production of a communications service, or that
3 is integral or necessary for the installation, operation, or maintenance of such
4 tangible personal property, shall be reduced as follows:

5 (aa) For the period July 1, 2015, through June 30, 2016, the cost price
6 shall be reduced by fourteen percent.

7 (bb) For the period July 1, 2016, through June 30, 2017, the cost price
8 shall be reduced by twenty-eight percent.

9 (cc) For the period July 1, 2017, through June 30, 2018, the cost price
10 shall be reduced by forty-two percent.

11 (dd) For the period July 1, 2018, through June 30, 2019, the cost price
12 shall be reduced by fifty-six percent.

13 (ee) For the period July 1, 2019, through June 30, 2020, the cost price
14 shall be reduced by seventy percent.

15 (ff) For the period July 1, 2020, through June 30, 2021, the cost price
16 shall be reduced by eighty-four percent.

17 (gg) For all periods beginning on or after July 1, 2021, the cost price shall
18 be reduced by one hundred percent.

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

21 (aa) "Communications provider" shall mean a person who is principally
22 engaged in the business of distributing, provisioning, transmitting, conveying,
23 monitoring, switching, receiving, or routing of a communications service.

24 (bb) "Communications service" shall mean cable television service,
25 Internet access service, telecommunications service, or any combination thereof.

26 (cc) "Telecommunications service" shall mean the electronic
27 transmission, conveyance, or routing of voice, data, audio, video, or any other
28 information or signals to a point, or between or among points. The term
29 "telecommunications service" includes such transmission, conveyance, or

1 routing in which computer processing applications are used to act on the form,
2 code or protocol of the content for purposes of transmission, conveyance, or
3 routing without regard to the classification of such service by the Federal
4 Communications Commission.

5 (dd) "Cable television service" shall mean the distribution of video
6 programming, with or without the use of wires, to subscribing or paying
7 customers. The term includes direct broadcast satellite service (DBS),
8 subscription television service (STV), satellite master antenna television service
9 (SMATV), master antenna television service (MATV), multipoint distribution
10 service (MDS), over-the-top video service, and multichannel multipoint
11 distribution service (MMDS), and any audio portion of a video program.

12 (ee) "Internet access service" shall mean both of the following:

13 (I) A service that enables users to connect to the Internet to access or
14 obtain content, information, or other services offered over the Internet.

15 (II) The purchase, use, or sale of telecommunications by a provider of a
16 service described in Subsubitem (I) to the extent such telecommunications are
17 purchased, used, or sold to enable users to connect to the Internet to access or
18 obtain content, information, or other services offered over the Internet.

19 (ff) "Internet" shall mean the myriad of computer and
20 telecommunications facilities, including equipment and operating software,
21 which comprise the interconnected worldwide network of networks that employ
22 the Transmission Control Protocol/Internet Protocol or any predecessor or
23 successor protocols to such protocol to communicate information of all kinds by
24 fiber, wire, light or radio.

25 (iii) No person shall be entitled to purchase, use, lease, or rent tangible
26 personal property as defined in this Subparagraph without payment of the tax
27 imposed by the state or a statewide political subdivision of the state before
28 receiving a certificate of exclusion from the secretary of the Department of
29 Revenue certifying that he is a communications provider as defined herein.

(iv) The secretary of the Department of Revenue may adopt rules and regulations in order to administer the exclusion provided for in this Subparagraph.

$$(13) \quad \begin{array}{ccc} & * & * & * \\ & & & \end{array}$$

(n)(i) For purposes of the imposition of the sales tax levied by the state and any statewide political subdivision of the state, the sales price of tangible personal property directly used or consumed by a communications provider who has received a certificate of exclusion as provided for in this Subparagraph, in or during the distribution, provision, transmission, conveyance, monitoring, switching, routing, creation, or production of a communications service, or that is integral or necessary for the installation, operation, or maintenance of such tangible personal property shall be reduced as follows:

(aa) For the period July 1, 2015, through June 30, 2016, the sales price
shall be reduced by fourteen percent.

(bb) For the period July 1, 2016, through June 30, 2017, the sales price
shall be reduced by twenty-eight percent.

(cc) For the period July 1, 2017, through June 30, 2018, the sales price
shall be reduced by forty-two percent.

(dd) For the period July 1, 2018, through June 30, 2019, the sales price
shall be reduced by fifty-six percent.

(ee) For the period July 1, 2019, through June 30, 2020, the sales price
shall be reduced by seventy percent.

(ff) For the period July 1, 2020, through June 30, 2021, the sales price
shall be reduced by eighty-four percent.

(gg) For all periods beginning on or after July 1, 2021, the sales price
shall be reduced by one hundred percent.

(ii) For purposes of this Subparagraph, "communications provider",
"communications service", "telecommunications service", "cable television

1 service" and "Internet Access" shall have the same meaning as defined in R.S.
2 47:301(3)(l)(ii).

3 (iii) No person shall be entitled to purchase, use, lease, or rent tangible
4 personal property as defined in this Subparagraph without payment of the tax
5 imposed by the state or a statewide political subdivision of the state before
6 receiving a certificate of exclusion from the secretary of the Department of
7 Revenue certifying that it is a communications provider as defined herein.

8 (iv) The secretary of the Department of Revenue may adopt rules and
9 regulations in order to administer the exclusion provided for in this
10 Subparagraph.

11 * * *

12 (30)(a) For purposes of the imposition of the lease or rental tax levied by
13 the state and any statewide political subdivision, the "gross proceeds",
14 "monthly lease or rental price paid", and "monthly lease or rental price
15 contracted or agreed to be paid" for tangible personal property directly used
16 or consumed by a communications provider who has received a certificate of
17 exclusion as provided for in this Subparagraph, in or during the distribution,
18 provision, transmission, conveyance, monitoring, switching, routing, creation,
19 or production of a communications service, or that is integral or necessary for
20 the installation, operation, or maintenance of such tangible personal property
21 shall be reduced as follows:

22 (i) For the period July 1, 2015, through June 30, 2016, by fourteen
23 percent.

24 (ii) For the period July 1, 2016, through June 30, 2017, by twenty-eight
25 percent.

26 (iii) For the period July 1, 2017, through June 30, 2018, by forty-two
27 percent.

28 (iv) For the period July 1, 2018, through June 30, 2019, by fifty-six
29 percent.

(v) For the period July 1, 2019, through June 30, 2020, by seventy percent.

(vi) For the period July 1, 2020, through June 30, 2021, by eighty-four percent.

(vii) For all periods beginning on or after July 1, 2021, by one hundred percent.

(b) For purposes of this Paragraph, "communications provider", "communications service", "telecommunications service", "cable television service" and "Internet Access" shall have the same meaning as defined in R.S. 47:301(3)(l)(ii).

(c) No person shall be entitled to purchase, use, lease, or rent tangible personal property as defined in this Subparagraph without payment of the tax imposed by the state or a statewide political subdivision of the state before receiving a certificate of exclusion from the secretary of the Department of Revenue certifying that it is a communications provider as defined herein.

(d) The secretary of the Department of Revenue may adopt rules and regulations in order to administer the exclusion provided for in this Subparagraph.

* * *

Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2015, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

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Proposed law phases out state sales tax by 14% a year over a six-year period on transactions concerning the following tangible personal property, if a taxpayer receives a "certificate of exclusion" from the secretary of the Department of Revenue certifying that it is a "communications provider" as defined in the proposed law:

- (1) Tangible personal property directly used or consumed by a "communications provider" in or during the distribution, provision, transmission, conveyance,

monitoring, switching, routing, creation, or production of a "communications service".

- (2) Tangible personal property that is integral or necessary for the installation, operation, or maintenance of such tangible personal property.

"Communications provider" is defined as a person who is principally engaged in the business of distributing, provisioning, transmitting, conveying, monitoring, switching, receiving or routing of a "communications service", defined as "cable television service", "Internet access service", "telecommunications service", or any combination thereof.

"Cable television service" is defined as the distribution of video programming, with or without the use of wires, to subscribing or paying customers. The term includes direct broadcast satellite service (DBS), subscription television service (STV), satellite master antenna television service (SMATV), master antenna television service (MATV), multipoint distribution service (MDS), over-the-top video service, and multichannel multipoint distribution service (MMDS), and any audio portion of a video program.

"Internet access service" is defined as both of the following:

- (1) A service that enables users to connect to the "Internet" to access or obtain content, information, or other services offered over the "Internet".
- (2) The purchase, use, or sale of telecommunications by a provider of a service described above to the extent such telecommunications are purchased, used, or sold to enable users to connect to the "Internet" to access or obtain content, information, or other services offered over the "Internet".

"Internet" is defined as the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol or any predecessor or successor protocols to such protocol to communicate information of all kinds by fiber, wire, light, or radio.

"Telecommunications service" is defined as the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term "telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to the classification of such service by the Federal Communications Commission.

Proposed law phases out state sales tax as follows:

- (1) By 14% during FY2015-2016.
- (2) By 28% during FY2016-2017.
- (3) By 42% during FY2017-2018.
- (4) By 56% during FY2018-2019.
- (5) By 70% during FY2019-2020.
- (6) By 84% during FY2020-2021.
- (7) Such property is excluded from all state sales tax starting July 1, 2021.

Proposed law authorizes the secretary of the Department of Revenue to adopt rules and regulations in order to administer the proposed law.

Effective July 1, 2015.

(Adds R.S. 47:301(3)(l), (13)(n), and (30))