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## DIGEST

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HB 62 Engrossed

2016 First Extraordinary Session

Jackson

**Abstract:** Imposes a 1% state sales and use tax and provides with respect to the tax base.

Proposed law imposes a 1% state sales and use tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property as well as certain services.

Present law establishes a dedication for economic development activities of an amount equal to 0.004% of all state sales and use tax annual collections that remain after satisfaction of the requirements of the present constitution for the Bond Security and Redemption Fund. Of that amount, \$2 million is deposited into the Marketing Fund, which is a special fund within the state treasury for the support of various specific economic development organizations. All monies in excess of the Marketing Fund allocation are deposited into the La. Economic Development Fund, which is a special treasury fund to support a wide variety of economic development activities.

Proposed law adds to present law by specifying that the tax established under proposed law shall not be subject to the dedication of revenues for economic development.

Present law provides definitions for terms used for purposes of state and local sales and use tax. Present law establishes the following *exclusions* from tax in the form of definitions:

- (1) From the definition of "cost price":

Regarding the cost of certain publishing of free news publications, the cost is limited to the lesser of the printing cost paid to unrelated third parties, less any itemized freight charges for shipping and any itemized charges for paper and ink, or, payments to a dealer or distributor as consideration.

Manufacturing machinery and equipment, for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, and specific farm equipment.

Electricity and natural gas purchased or used by paper or wood products manufacturing facilities.

Property consumed in the manufacturing process by paper and wood products manufacturers.

(2) From the definition of "lease or rental":

Oilfield drilling equipment to be re-leased or re-rented.

Airplanes or airplane equipment used by a commuter airline domiciled in La.

Manufacturing machinery and equipment used for purposes related to production of biodiesel.

Lease of a crane with an operator.

Pallets used by a manufacturer for packaging.

(3) From the definition of "retail sale":

Pollution control equipment.

Equipment and devices associated with the wireless communication devices and wireless telephone service.

Pelletized paper waste used as fuel for power generation.

Manufacturing machinery and equipment used for purposes related to production of biodiesel.

Telephone directories used for advertising.

Natural gas to be held, used or consumed in providing natural gas storage ("cushion" or "pad" gas).

Storm shutter devices.

Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).

Property sold at an event for La. culture, crafts, food, art, and music, with a five-year annual attendance in excess of 300,000 (New Orleans Jazz Festival).

(4) From the definition of "sales price":

The first \$50,000 of the sale price of new farm equipment used in poultry production.

That portion of the value of refinery gas sold to another person by the person who owns the gas generation facility, whether at retail or wholesale, that is in excess of 52¢ per thousand cubic feet multiplied by a fraction the numerator of which shall be the posted price for a

barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator of which shall be \$29.

Payments made by a manufacturer directly to a dealer of the manufacturer's product for the purpose of reducing the retail "sales price" of the product.

Manufacturing machinery and equipment, for the following sectors: manufacturing, agriculture, forestry, fishing, hunting, power generation, recyclable material sales, news publications, radio broadcasting, and specific farm equipment.

Speciality items sold to members of a non profit carnival organizations for fund-raising purposes if the members are participating in a parade sponsored by the organization.

Electric power and natural gas purchased or used by paper or wood products manufacturing facilities.

(5) From the definition of "sales of services":

Equipment and devices associated with the wireless communication devices and wireless telephone service.

Services performed at an event for La. culture, crafts, food, art, and music, with a five year annual attendance in excess of 300,000 (New Orleans Jazz Festival).

(6) From the definition of "tangible personal property":

Numismatic coins, and platinum, gold, and silver bullion.

Custom computer software.

Equipment used for digital television conversion.

Machinery and equipment used by a motor vehicle manufacturer, glass manufacturer, or public utility in New Orleans.

Newspapers.

(7) From the definition of "use":

Rental of motor vehicles and other tangible personal property.

Free telephone directories used for advertising.

Manufacturing machinery and equipment used for purposes related to production of biodiesel.

Property created or derived as a residue or byproduct of certain manufacturing processes.

Equipment and devices associated with the wireless communication devices and wireless telephone service.

Storm shutter device.

Anthropogenic carbon dioxide used in a qualified tertiary recovery project (mineral exploration and production).

Proposed law limits the application of the exclusions to the existing 4% state sales and use tax.

Present law establishes the following exemptions from state sales and use taxes:

- (1) Racehorses purchased at a claiming race or other sale.
- (2) Steam, water, electric power, and natural gas, boiler fuel utilized for nonresidential purposes (business utilities).
- (3) Water other than mineral, carbonated, and bottled water.
- (4) Any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration.
- (5) Boiler fuel.
- (6) New motor vehicles, boats, vessels, or other water craft withdrawn from stock by factory authorized dealers of new boats, vessels, or other water craft which are withdrawn for use as demonstrators.
- (7) Meals furnished by educational institutions, hospitals, nursing homes, adult continuing care retirement communities, mental institutions, and boarders of rooming houses.
- (8) Sales of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce.
- (9) Regarding ships, barges, or vessels, including drilling ships, operating exclusively in foreign or interstate coastwise commerce:
  - (a) Materials and supplies loaded upon any such ship, barge, or vessel for use or consumption in the maintenance and operation thereof.
  - (b) Repair services performed upon those vessels, and materials and supplies used therein.
  - (c) Laundry services performed for the owners or operators of the vessels.

- (10) Admissions to nonprofit entertainment.
- (11) Amounts paid by a motion picture theater for film rental.
- (12) Purchases by a nonprofit literacy organizations.
- (13) Sale of materials, services, and supplies, used for repairing, renovating or converting of any drilling rig, or machinery and equipment which are component parts thereof, which is used exclusively for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelf waters.
- (14) Vessels leased for offshore use.
- (15) Sales, admissions, and parking fees associated with events sponsored by certain nonprofit or religious organizations when the entire proceeds, except for necessary expenses used for educational, charitable, religious, or historical restoration purposes, including the furtherance of the purpose of the organization.
- (16) Amounts paid by a radio and television broadcasters for the right to air content.
- (17) Little theater.
- (18) An event sponsored by a domestic nonprofit organization that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code when the event provides Louisiana heritage, culture, crafts, art, food, and music, and the sponsor has contracted for production management and financing services for the event.
- (19) Installation and service of cable television equipment fees paid by a subscriber.
- (20) Purchases of materials, supplies, fuel, and repairs for the vessel of a qualified commercial fisherman.
- (21) Purchases of materials, supplies, and repair services by certain seafood-processing facilities.
- (22) Vehicles loaned by a motor vehicle dealer free of charge to a secondary school, college, or public school board for exclusive use in a driver education program.
- (23) Gasohol.
- (24) Ducks Unlimited, and other organizations promoting migratory water fowl.
- (25) Catalogs.
- (26) Purchase of trucks with a gross weight of 26,000 pounds or more and certain trailers if used at least 80% of the time in interstate commerce and whose activities are subject to the

jurisdiction of the U.S. D.O.T.

- (27) Purchase of certain contract carrier buses used 80% of the time in interstate commerce.
- (28) Railroad ties to be modified for installation at a location outside of the taxing jurisdiction.
- (29) Utilities, including electricity, used by steelworks and blast furnaces.
- (30) Purchases of certain items of tangible personal property, made on the first consecutive Friday and Saturday of August each year.
- (31) Sale of original, one-of-a-kind art from an established location within the boundaries of a cultural product district.
- (32) The first \$1,500 of the purchase price of certain hurricane preparedness items or supplies purchased on Saturday and Sunday during the last weekend in May of each year.
- (33) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (34) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (35) Purchases of firearms, ammunition, and hunting supplies for the first consecutive Friday through Sunday of September.
- (36) Purchase of certain construction materials by Hands on New Orleans and Rebuilding Together New Orleans covenant partners used on residential dwellings destroyed or damaged by Hurricanes Katrina or Rita.
- (37) Offroad vehicles purchased by a resident of another state.
- (38) Breastfeeding items.
- (39) Purchase, use, or rental of materials, services, property, and supplies by the Fore!Kids Foundation.
- (40) Purchase of certain construction supplies by the Make it Right Foundation.
- (41) Purchase of certain construction supplies by the St. Bernard Project, Inc.

Proposed law limits the applicability of the exemptions provided in present law to the existing 4% state sales and use tax rate (R.S. 47:302, 321, and 331).

Present law authorizes a refund of state sales and use taxes paid with regard to certain

materials used in the rehabilitation of an existing structure or the construction of a new house and associated improvements in an approved housing development area as provided in the Louisiana Housing Area Development Law.

Proposed law limits the refund provided in present law to the existing 4% state sales and use tax rate (R.S. 47:302, 321, and 331).

Present law authorizes a refund of state sales and use taxes paid on housing materials destroyed in a natural disaster.

Proposed law limits the refund provided in present law to the 4% state sales and use tax rate (R.S. 47:302, 321, and 331).

Proposed law repeals obsolete provisions concerning the Sparta Groundwater District, vehicle modifications for persons with certain disabilities.

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

(Amends R.S. 47:301(1) through (28), 305(A)(2), (C), (D)(1), (2)(a)(intro. para.), (F), (G), (H)(intro. para.) and (I), 305.1(A) and (B), 305.6, 305.7, 305.9, 305.13, 305.14(A)(1) and (5), 305.16, 305.19, 305.20(A) and (G)(1), 305.26, 305.28(A), 305.33, 305.41, 305.42, 305.43(B), 305.44(A), 305.49, 305.50(A)(1) and (2)(a), (B), and (F), 305.51(A), 305.54(B)(1), 305.56, 305.57(A), 305.58(A)(1), 305.59, 305.61(A), 305.62(B)(1), 305.65(A), 305.67, 305.68, 305.70, 305.71, 315.1(A), 315.2(A); Adds R.S. 47:321.1; Repeals R.S. 47:305.60 and 305.69)