

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 62

2016 First Extraordinary Session

Jackson

TAX/SALES-USE, STATE: Impose a one cent sales and use tax (Item #9)

Synopsis of Senate Amendments

1. Change the termination date for the one cent new tax levy from October 1, 2017 to April 1, 2021. And provide a schedule for potential reductions in the tax rate beginning FY17 based on certain increases in the official forecast.
2. Expand the sales and use tax exclusion for property used in a contract for overhaul or construction of vessels for the U.S. Navy to also include contracts for U.S. Coast Guard vessels.
3. Extends the following sales and use tax exclusions to the new one cent tax levy:
 - a. Costs involved in publishing of a free news publication.
 - b. Lease of a crane with an operator.
 - c. First \$50,000 of poultry farm equipment.
 - d. Refinery gas.
 - e. Racehorses.
 - f. Admissions to entertainment by nonprofit entity.
 - g. Amounts paid by motion picture theater for film rental.
 - h. Vessels used for offshore commerce.
 - i. Admissions to little theater performances.
 - j. Vehicles used for drivers education.
 - k. Purchases by Ducks Unlimited and other similar organizations.
 - l. Catalogs.
 - m. Purchases by nonprofit retirement centers.
 - n. Utilities used for a blast furnace.
4. Extend application to the new one cent tax levy for the refund for sales and use taxes paid on certain building materials for housing renovations in certain areas.
5. Make the exemption for sale or lease of rail rolling stock and for parts and services used in the repair or fabrication of rail rolling stock inapplicable for purposes of the new one cent tax.

Digest of Bill as Finally Passed by Senate

HB 62 Reengrossed

2016 First Extraordinary Session

Abstract: Imposes a one percent state sales and use tax, beginning April 1, 2016, and ending April 1, 2021, 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. The tax shall be levied beginning April 1, 2016, and will cease to be effective on April 1, 2021.

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 dedication of sales tax provided in present law shall not apply to the avails of the new one cent tax.

Present law establishes a sales and use tax exclusion for the lease or rental of property or services utilized in the performance of a contract with the U.S. Navy for construction or overhaul of a naval vessel.

Proposed law retains present law and expands the exclusion to include those contracts concerning a vessel for the U.S. Coast Guard.

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":

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.

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":

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.

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.

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

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

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

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":

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 changes present law by limiting the application of the foregoing exclusions to the existing 4% state sales and use tax.

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

(1) Special pricing provisions as to "cost price" for purposes of use tax relative to certain

- motor vehicles returned to dealer inventory.
- (2) Steam, water, electric power, and natural gas 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, airplanes, boats, vessels, or other water craft withdrawn from stock by factory authorized dealers of same 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) Purchases by a nonprofit literacy organization.
 - (11) Sale of materials, services, and supplies, used for repairing, renovating or converting any drilling rig, or machinery and equipment which are component parts thereof, used exclusively for the exploration or development of minerals outside the territorial limits of the state in Outer Continental Shelf waters.
 - (12) 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.
 - (13) Amounts paid by radio and television broadcasters for the right to air content.
 - (14) An event sponsored by a domestic nonprofit organization 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.
 - (15) Installation and service of cable television equipment fees paid by a subscriber.
 - (16) Purchases of materials, supplies, fuel, and repairs for the vessel of a qualified commercial fisherman.

- (17) Purchases of materials, supplies, and repair services by certain seafood-processing facilities.
- (18) Gasohol.
- (19) Tickets to ballet performances.
- (20) Catalogs.
- (21) 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.
- (22) Purchase of certain contract carrier buses used 80% of the time in interstate commerce.
- (23) Purchase and lease of rail rolling stock and parts and services for the repair or fabrication of rail rolling stock.
- (24) Railroad ties to be modified for installation at a location outside of the taxing jurisdiction.
- (25) Purchases of certain items of tangible personal property on the first consecutive Friday and Saturday of August each year.
- (26) Sale of original, one-of-a-kind art from an established location within the boundaries of a cultural product district.
- (27) 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.
- (28) Purchases of construction supplies by Habitat for Humanity affiliates, Fuller Center for Housing covenant partners, and the Make it Right Foundation.
- (29) Purchase of certain water conservation equipment for use within the Sparta Groundwater Conservation District.
- (30) Purchases of firearms, ammunition, and hunting supplies for the first consecutive Friday through Sunday of September.
- (31) 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.
- (32) Offroad vehicles purchased by a resident of another state.
- (33) Breastfeeding items.
- (34) Purchase, use, or rental of materials, services, property, and supplies by the Fore!Kids Foundation.
- (35) Purchase of certain construction supplies by the Make it Right Foundation.
- (36) Purchase of certain construction supplies by the St. Bernard Project, Inc.

Proposed law changes present law by limiting the applicability of the foregoing exemptions to the existing 4% state sales and use tax.

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.

Proposed law specifies that the following exclusions and exemptions shall be the only exclusions and exemptions applicable for purposes of the new one cent tax.

- (1) Food for home consumption, including soft drinks, bakery items, fresh product, and dairy products.
- (2) Natural gas used for residential purposes.
- (3) Electricity, used for residential purposes.
- (4) Water used for residential purposes.
- (5) Prescription drugs.
- (6) Motor fuels subject to the state excise tax on motor fuels.
- (7) Sales to the United States government.
- (8) Other constructions permanently attached to the ground.
- (9) Installation charges on tangible personal property.
- (10) Installation of oil field board roads.
- (11) Transactions involving the construction or overhaul of U.S. Navy and Coast Guard vessels.
- (12) Property purchased for exclusive use outside the state.
- (13) Purchases and leases of durable medical equipment under the provisions of Medicare.
- (14) Sales of human tissue transplants.
- (15) Sales of raw agricultural products.
- (16) Sales of food by youth serving organizations chartered by congress.
- (17) Tangible personal property sold to food banks.
- (18) Materials used in the collection of blood.
- (19) Aphaeresis kits and leuko reduction filters.
- (20) Donation to schools and food banks from resale inventory.
- (21) Manufacturers rebates on new motor vehicles.
- (22) Lease or rentals of railroad rolling stock.
- (23) Purchases and leases by free hospitals.
- (24) Purchases by nonprofit entities that sell donated goods.
- (25) Tangible personal property for resale.

- (26) Purchases of property for lease or rental.
- (27) Isolated or occasional sales of tangible personal property.
- (28) Use of motor vehicles in Louisiana by active duty military.
- (29) Purchases made with food stamps and WIC.
- (30) Articles traded in on purchases of tangible personal property.
- (31) Donations of toys.
- (32) Stocks, bonds, notes or other obligations or securities.
- (33) Credit for sales and use taxes paid to other states on tangible personal property imported in La.
- (34) Work product of certain professionals.
- (35) Purchases by regionally accredited independent educational institutions.
- (36) Sales through coin-operated vending machines.
- (37) Purchases by a private postsecondary academic degree-granting institution.
- (38) Purchases of food items for school lunch or breakfast programs by nonpublic elementary or secondary schools.
- (39) Repair services performed in La. when the repaired property is exported.
- (40) Funeral directing services.
- (41) Feed and feed additives for animals held for business purposes.
- (42) Farm products produced and used by farmers.
- (43) Sales of fertilizers and containers to farmers.
- (44) Sales of seeds for planting crops.
- (45) Sales of pesticides for agricultural purposes.
- (47) Vehicle rentals and re-rentals to warranty customers.
- (48) Sales of materials for further processing.
- (49) Purchases, use, and lease of manufacturing machinery and equipment.
- (50) Transactions in interstate commerce and tangible personal property imported into La., or produced or manufactured in La. for export.
- (51) Any advertising service rendered by an advertising business.
- (52) An exclusion for factory built homes for 54% of retail sales price of a new factory built home, and a full exclusion.

Proposed law establishes an annual process for determining whether the official forecast of state general fund direct exceeds a certain amount, and that if it does, there is a set reduction in the rate of the tax. Each year at its last meeting prior to the beginning of the regular

session of the legislature, the Revenue Estimating Conference shall determine if the adopted official forecast of state general fund direct for the prospective fiscal year, less any increase in general sales tax and vehicle sales tax, exceeds a certain threshold amount. Below are the threshold amounts against which each year the forecast for the prospective year shall be compared, and the scale of the reduction in tax rate:

- (1) If the forecast exceeds \$8,464,300,000, the tax rate will be reduced by 25%, from 1% to .75%, beginning July 1st.
- (2) If the forecast exceeds \$8,689,300,000, the tax rate will be reduced by 50%, from 1% to .50%, beginning July 1st.
- (3) If the forecast exceeds \$8,914,300,000, the tax rate will be reduced by 75%, from 1% to .25%, beginning July 1st.
- (4) If the forecast exceeds \$9,139,300,000, the tax rate will be reduced to zero, from 1% to 0%, beginning July 1st.

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

Applicable for taxable periods beginning on and after April 1, 2016.

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), (E), 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)