

2017 Regular Session

HOUSE BILL NO. 411

BY REPRESENTATIVE JAMES

TAX/SALES-USE, ST-EXEMPT: Provides for effectiveness and applicability of the state sales and use tax exemption for purchases and leases by qualifying radiation therapy treatment centers

1 AN ACT

2 To amend and reenact R.S. 47:302(X)(introductory paragraph), relative to state sales and use
3 tax; to provide with respect to the base of the two percent sales and use tax; to
4 provide with respect to exemptions and exclusions; to provide for effectiveness; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:302(X)(introductory paragraph) is hereby amended and reenacted
8 to read as follows:

9 §302. Imposition of tax

10 * * *

11 X. Notwithstanding any other provision of law to the contrary, including but
12 not limited to any contrary provisions of this Chapter, ~~for the period April 1, 2016~~
13 ~~through July 1, 2018~~, there shall be no exclusions and exemptions to the tax levied
14 pursuant to the provisions of this Section except for exemptions and exclusions for
15 sales or purchases of the following items and for those items enumerated in
16 Subsection AA of this Section:

17 * * *

1 Section 2. This Act shall become effective on July 1, 2018; if vetoed by the
 2 governor and subsequently approved by the legislature, this Act shall become
 3 effective on July 1, 2018, or on the day following such approval by the legislature,
 4 whichever is later.

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 411 Engrossed

2017 Regular Session

James

Abstract: Removes the July 1, 2018, sunset provision with respect to the applicability of certain exclusions and exemptions effective for the 2% state sales and use tax making the effectiveness of the exclusions and exemptions permanent.

Present law imposes a 2% state sales and use tax upon the sale, use, lease, or rental of tangible personal property and certain services occurring in this state.

Present law, for the period from April 1, 2016, through July 1, 2018, restricts the applicability of various exclusions and exemptions against that tax to the following:

- (1) Food for home consumption, as defined in R.S. 47:305(D)(1)(n) through (r) on Jan. 1, 2003, as provided in Article VII, Section 2.2 of the Constitution of La.
- (2) Natural gas, as provided in Article VII, Section 2.2 of the Constitution of La.
- (3) Electricity, as provided in Article VII, Section 2.2 of the Constitution of La.
- (4) Water, as provided in Article VII, Section 2.2 of the Constitution of La.
- (5) Prescription drugs, as provided in Article VII, Section 2.2 of the Constitution of La.
- (6) Gasoline and other motor fuels subject to the state excise tax on fuel.
- (7) Sales to the U. S. government and its agencies, as provided in R.S. 47:301(10)(g).
- (8) Sales of raw agricultural products, as provided in R.S. 47:301(10)(e) and 305(A)(3).
- (9) Lease or rentals of railroad rolling stock as provided in R.S. 47:301(4)(k), piggyback trailers as provided in R.S. 47:305.45, and certain trucks and trailers in interstate commerce as provided in R.S. 47:305.50(A) and (B).
- (10) Tangible personal property for resale as provided in R.S. 47:301(10)(a)(i).
- (11) Feed and feed additives for animals held for business purposes as provided in R.S. 47:305(A)(4).
- (12) Farm products produced and used by farmers as provided in R.S. 47:305(B).
- (13) Sales of fertilizers and containers to farmers as provided in R.S. 47:305(D)(1)(f).
- (14) Sales of seeds for planting crops as provided in R.S. 47:305.3.

- (15) Sales of pesticides for agricultural purposes as provided in R.S. 47:305.8.
- (16) Purchases, use, and lease of manufacturing machinery and equipment as provided in R.S. 47:301(3)(i)(i), (13)(k), and (28)(a).
- (17) Sales of materials for further processing as provided in R.S. 47:301(10)(c)(i)(aa).
- (18) Sale of 50-ton vessels and new component parts and sales of certain materials and services to vessels operating in interstate commerce as provided in R.S. 47:305.1 (A) and (B).
- (19) La. Tax Free Shopping Program for international visitors as provided in R.S. 51:1301.
- (20) Sales of farm equipment used in poultry production as provided in R.S. 47:301(13)(c).
- (21) Sales of pharmaceuticals administered to livestock for agricultural purposes as provided in R.S. 47:301(16)(f).
- (22) Sales of livestock, poultry, and other farm products and sales at public livestock auctions as provided in R.S. 47:305(A)(1) and (2).
- (23) Materials used in the production of crawfish and catfish as provided in R.S. 47:305(A)(5) and (6).
- (24) First \$50,000 of farm equipment purchases as provided in R.S. 47:305.25.
- (25) Fuel used on the farm as provided in R.S. 47:305.37.
- (26) Taxation of electrical cooperatives as provided in R.S. 12:425.
- (27) Overhaul of naval vessels as provided in R.S. 47:301(7)(c) and (14)(h).
- (28) Purchases by state and local governments as provided in R.S. 47:301(8)(c).
- (29) Transactions in interstate commerce and tangible personal property imported into this state, or produced or manufactured in this state, for export as provided in R.S. 47:305(E).
- (30) Parish councils on aging in R.S. 47:305.66.
- (31) Articles traded in on purchases of tangible personal property as provided in R.S. 47:301(13)(a).
- (32) A factory-built home as provided in R.S. 47:301(16)(g).

Proposed law changes present law by making permanent those restrictions on exclusions and exemptions applicable against the tax.

Present law, beginning July 1, 2016, provides for the applicability of specific exclusions and exemptions against the tax as follows:

- (1) Sales of room rentals by a camp or retreat facility owned by a nonprofit organization as provided in R.S. 47:301(6)(b).
- (2) Sales of room rentals by a homeless shelter as provided in R.S. 47:301(6)(c).

- (3) Sales, leases, and rentals of tangible personal property and sales of services necessary to operate free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).
- (4) Sales, leases, or rentals of tangible personal property to Boys State of La., Inc. and Girls State of La., Inc. as provided in R.S. 47:301(7)(g) and (10)(r).
- (5) Sales by nonprofit entities that sell donated goods as provided in R.S. 47:301(8)(f).
- (6) Isolated or occasional sales of tangible personal property as provided in R.S. 47:301(10)(c)(ii)(bb).
- (7) Sales of human tissue transplants as provided in R.S. 47:301(10)(d).
- (8) Sales of food items by a youth-serving organization chartered by the U. S. Congress as provided in R.S. 47:301(10)(h).
- (9) Sales and donations of tangible personal property by food banks as provided in R.S. 47:301(10)(j) and (18)(a)(i).
- (10) Sales or purchases of fire-fighting equipment by volunteer fire departments as provided in R.S. 47:301(10)(o).
- (11) Sales to, and leases, rentals, and use of educational materials and equipment used for classroom instruction by parochial and private elementary and secondary schools as provided in R.S. 47:301(7)(f), (10)(q)(ii), and (18)(e)(ii).
- (12) Sales by parochial and private elementary and secondary schools that comply with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue Code as provided in R.S. 47:301(10)(q)(i) and (18)(e)(i).
- (13) Sales, as provided in R.S. 47:301(14)(b)(i), but only of admissions to athletic and entertainment events held for or by an elementary or secondary school and membership fees or dues of nonprofit, civic associations.
- (14) Sales or use of materials used directly in the collection of blood as provided in R.S. 47:301(16)(j).
- (15) Sales or use of apheresis kits and leukoreduction filters as provided in R.S. 47:301(16)(k).
- (16) Sales or use of orthotic devices, prosthetic devices, hearing aids, eyeglasses, contact lenses, and wheelchairs prescribed by physicians, optometrists, or licensed chiropractors used exclusively by the patient for personal use as provided in R.S. 47:305(D)(1)(k).
- (17) Sales or use of ostomy, colostomy, and ileostomy devices and equipment as provided in R.S. 47:305(D)(1)(l).
- (18) Sales or use of adaptive driving equipment and motor vehicle modifications prescribed for personal use as provided in R.S. 47:305(D)(1)(u).
- (19) Sales of meals by educational institutions, medical facilities, mental institutions, and occasional meals furnished by educational, religious, or medical organizations as provided in R.S. 47:305(D)(2).
- (20) Purchase or rental of kidney dialysis machines, parts, materials, and supplies for home use under a physician's prescription as provided in R.S. 47:305(G).

- (21) Sales of admissions to entertainment events by Little Theater organizations as provided in R.S. 47:305.6.
- (22) Sales of admissions to musical performances sponsored by nonprofit organizations as provided in R.S. 47:305.7.
- (23) Sales of admissions to entertainment events sponsored by domestic nonprofit charitable, religious, and educational organizations as provided in R.S. 47:305.13.
- (24) 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 as provided in R.S. 47:305.14(A)(1).
- (25) Sales of admissions and parking fees at fairs and festivals sponsored by nonprofit organizations as provided in R.S. 47:305.18.
- (26) Purchases of fishing vessels, supplies, fuels, lubricants, and repairs for the vessels of licensed commercial fishermen as provided in R.S. 47:305.20.
- (27) Sales of butane, propane, or other liquified petroleum gases for private, residential consumption as provided in R.S. 47:305.39.
- (28) Sales and purchases by certain organizations that provide training for blind persons as provided in R.S. 47:305.15.

Proposed law retains present law.

Effective July 1, 2018.

(Amends R.S. 47:302(X)(intro. para.))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add a termination of the sunset on the temporary restriction on exclusions and exemptions applicable to the 2 % state sales and use tax levy.
2. Delete provisions concerning the sales and use tax exemption for capital equipment and software purchased by a radiation treatment center.
3. Add a July 1, 2018, effective date.