

Regular Session, 2013

HOUSE BILL NO. 610

BY REPRESENTATIVE TALBOT

TAX/SALES-USE, STATE: Provides relative to services subject to the state sales and use tax

1 AN ACT

2 To enact Chapter 2-F of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 47:340, relative to state sales and use taxes; to provide for the
4 taxability of certain sales and other transactions involving certain services; to provide
5 with respect to exclusions, exemptions and other special tax treatment; to provide for
6 effectiveness;; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 2-F of Subtitle II of Title 47 of the Louisiana Revised Statutes
9 of 1950, comprised of R.S. 47:340 is hereby enacted to read as follows:

10 CHAPTER 2- F. SALES AND USE TAX ON SERVICES

11 §340. Imposition of tax; services subject to sales tax; exemptions

12 A. There is hereby levied a tax upon all sales of services, as defined herein,
13 in this state, at the rate of four percent of the amounts paid or charged for such
14 services. This tax on sales of services shall be levied and imposed by the state of
15 Louisiana and shall not be applicable to sales and use taxes levied by any political
16 subdivision. The tax imposed and levied pursuant to the provisions of this Chapter
17 shall apply to all services except those services specifically exempted in Subsection
18 (C) of this Section.

19 B. For purposes of this Chapter, “service” shall mean all activities engaged
20 in for other persons, natural or juridical, for a fee, retainer, commission, other

1 consideration or monetary charge, which involve predominantly the performance of
2 a service as distinguished from the selling of property.

3 C. The following services, and no others, shall be exempt from the tax levied
4 and imposed pursuant to the provisions of this Chapter:

5 (1) Services taxable by the state under the general sales tax provisions of this
6 Title.

7 (2) Services rendered by an employee for his employer.

8 (3) Services performed directly for the state, a political subdivision of the
9 state, the United States government, or the agencies of the United States government.

10 (4) Purchases and resales of advertising time or space from media outlets.
11 A “media outlet” is a publication or broadcast program that transmits feature stories
12 and news to the public through various distribution channels, including, but not
13 limited to, newspapers, magazines, radio, television, and the Internet.

14 (5) Services enumerated in the North American Industrial Classification
15 System, 2007, as prepared by the Statistical Policy Division of the Office of
16 Management and Budget, Office of the President as follows. Services described in
17 this Paragraph are exempt based upon the North American Industrial Classification
18 System Sector, Subsector, Industry Group or Industry number applicable to that
19 service and not based upon the Sector, Subsector, Industry Group or Industry
20 number assigned to the service provider.

21 (a) Sector 11 Agriculture, Forestry, Fishing and Hunting.

22 (b) Sector 21 Mining, Quarrying, and Oil and Gas Extraction except Industry
23 213113 Support Activities for Coal Mining, Industry 213114 Support Activities for
24 Metal Mining and Industry 213115 Support Activities for Nonmetallic Minerals
25 (except Fuels) Mining.

26 (c) Sector 22 Utilities.

27 (d) Sector 23 Construction.

28 (e) Subsector 481 Air Transportation.

29 (f) Subsector 482 Rail Transportation.

- 1 (g) Subsector 483 Water Transportation.
- 2 (h) Subsector 484 Truck Transportation.
- 3 (i) Subsector 486 Pipeline Transportation.
- 4 (j) Subsector 491 Postal Service.
- 5 (k) Industry 519190 Other Information Services
- 6 (l) Industry 51913 Internet Publishing and Broadcasting and Web Search
- 7 Portals
- 8 (m) Sector 52 Finance and Insurance, except Industry Group 5242 Agencies,
- 9 Brokerages, and Other Insurance Related Activities.
- 10 (n) Subsector 531 Real Estate, except Industry 53113 Lessors of
- 11 Miniwarehouses and Self-Storage Units and Industry 531130 Lessors of
- 12 Miniwarehouses and Self-Storage Units.
- 13 (o) Industry Group 5411 Legal Services.
- 14 (p) Industry 541910 Marketing Research and Public Opinion Polling
- 15 (q) Sector 55 Management of Companies and Enterprises.
- 16 (r) Sector 61 Educational Services.
- 17 (s) Sector 62 Health Care and Social Assistance.
- 18 (t) Industry Group 8122 Death Care Services.
- 19 (u) Industry Group 8131 Religious Organizations.
- 20 (v) Industry Group 8132 Grantmaking and Giving Services.
- 21 (w) Industry Group 8133 Social Advocacy Organizations.
- 22 (x) Industry group 8134 Civic and Social Organizations.
- 23 (y) Industry group 8139 Business, Professional, Labor, Political, and Similar
- 24 Organizations.
- 25 D.(1) Sales of services shall be sourced as follows:
- 26 (a) If the customer receives the service at the dealer's place of business, the
- 27 sale shall be sourced to that place of business.
- 28 (b) If the service is not received at a dealer's place of business, the sale shall
- 29 be sourced to the location known to the dealer where the customer receives service.

1 (c) If Subparagraphs (a) and (b) of this Paragraph do not apply, the sale shall
2 be sourced to the location indicated by an address for the customer that is available
3 from the dealer's business records maintained in the ordinary course of the dealer's
4 business, when use of that address does not constitute an attempt to avoid taxation.

5 (d) If Subparagraphs (a), (b), and (c) of this Paragraph do not apply, the sale
6 shall be sourced to the location indicated by an address for the customer obtained
7 during the consummation of the sale, including the address associated with the
8 customer's payment instrument, if no other address is available, when use of that
9 address does not constitute an attempt to avoid taxation.

10 (e) If Subparagraphs (a), (b), (c), and (d) of this Paragraph do not apply,
11 including in the circumstance where the dealer is without sufficient information to
12 apply any of those divisions, the sale shall be sourced to the address from which the
13 service was provided, disregarding any location that merely provided the electronic
14 transfer of the service provided.

15 (2) Any service performed for a business with a Louisiana address or for an
16 individual that resides in Louisiana is presumed to be received in Louisiana.

17 E. Bundled transactions are subject to the tax levied and imposed by this
18 Chapter if the sale of any of its components would be subject to the tax levied and
19 imposed under R.S. 47:301 or this Chapter. "Bundled transaction" means the sale of
20 two or more items of tangible personal property, products, or services if the tangible
21 personal property, products, or services are distinct and identifiable, and sold for one
22 non-itemized price.

23 F.(1) De minimus exception. Service providers with total gross receipts from
24 the sales of services of ten thousand dollars or less in the previous twelve month
25 period shall not be required to collect and remit the tax imposed by this Chapter. In
26 the month following the month in which a service provider's gross receipts for the
27 previous twelve month period exceed ten thousand dollars, the service provider shall
28 begin to collect and remit the tax imposed by this Chapter. This exception shall only

1 apply to those service providers who are registered for sales tax with the Department
2 of Revenue.

3 G. (1) The tax levied and imposed by this Chapter shall be collected from the
4 dealer or wholesaler as provided for and as defined by Chapter 2 of Subtitle II of
5 Title 47 of the Louisiana Revised Statutes of 1950; shall be paid at the time and in
6 the manner provided by said Chapter; shall be in addition to all other taxes, whether
7 levied in the form of sales, excise, license, or privilege taxes; and shall be in addition
8 to taxes levied and imposed under the provisions of Chapter 3 of Subtitle II of Title
9 47 of the Louisiana.

10 (2)(a) For the purpose of compensating the dealer in accounting for and
11 remitting the tax levied by this Chapter, each dealer shall be allowed one percent of
12 the amount of tax due and accounted for and remitted to the secretary in the form of
13 a deduction in submitting his report and paying the amount due by him, provided the
14 amount of any credit claimed for taxes already paid to a wholesaler shall not be
15 deducted in computing the commission allowed the dealer hereunder. This
16 compensation shall be allowed only if the payment of the dealer is timely paid and
17 the return is timely filed.

18 (i) The compensation permitted a dealer under this Paragraph may not
19 exceed fifty dollars per calendar month.

20 (ii) The aggregate state compensation available to a dealer who operates
21 more than one business location within this state and who does not file a
22 consolidated monthly tax report for all locations shall not exceed fifty dollars per
23 month.

24 (3) If a service that is subject to the tax levied and imposed by this Chapter
25 is purchased within or imported into this state and the service provider fails to collect
26 the tax, the service shall be subject to the state use tax as of the time it is brought into
27 the state, subject to the credit provided for in R.S. 47:303(A).

28 H. Nothing herein imposes additional sales tax on tangible personal property
29 or services that are subject to the sales tax levied under Chapters 2, 2-A, 2-B or 2-E.

1 Nothing herein provides an exemption for those services subject to the general sales
2 tax provisions of this Title.

3 I. The Department of Revenue shall promulgate rules and regulations in
4 accordance with the Administrative Procedure Act as are necessary to implement and
5 administer the provisions of this Chapter.

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)]

Talbot

HB No. 610

Abstract: Imposes state sales and use tax on certain services at a rate of 4%.

Present law imposes a 4% state tax upon the sale, use, consumption, storage, or rental of certain tangible personal property and services.

Proposed law provides for the taxability of certain services.

(Adds R.S. 47:340)