

2023 Regular Session

HOUSE BILL NO. 630

BY REPRESENTATIVE SCHEXNAYDER

TAX/SALES-USE-EXEMPT: Provides relative to sales and use tax exemptions for commercial fishermen

1 AN ACT

2 To amend and reenact R.S. 47:305.20(A), (B)(1) and (3), (C)(introductory paragraph), (D),
3 and (E), relative to sales and use tax exemptions; to provide relative to the sales and
4 use tax exemption for commercial fishermen; to provide relative to eligibility
5 requirements for the exemption; to include charter boat fishing guides as eligible for
6 the exemption; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:305.20(A), (B)(1) and (3), (C)(introductory paragraph), (D), and
9 (E) are hereby amended and reenacted to read as follows:

10 §305.20. Exclusions and exemptions; Louisiana commercial fishermen and charter
11 boat fishing guides

12 A. A Louisiana resident, domiciled in Louisiana, who possesses such valid
13 ~~Louisiana commercial fishing~~ license(s) as may be necessary for commercial fishing
14 ~~ventures~~ or charter boat fishing guide activities, including but not limited to a
15 commercial fishing license issued pursuant to R.S. 56:303, a charter boat fishing
16 guide license issued pursuant to 56:302.9, or a vessel license issued pursuant to R.S.
17 56:304, and who is an owner of a vessel operated primarily for the conduct of
18 commercial fishing or charter boat fishing guide activities as a trade or business and
19 which the Louisiana Department of Wildlife and Fisheries determines will be
20 predominantly and principally used for commercial fishing ~~ventures~~ or charter boat

1 fishing guide activities and whose catch is for human consumption shall be exempt
2 from state sales, use, lease, and services taxes as set forth in Subsection C of this
3 Section. Possession of a ~~commercial fishing~~ license issued by the Department of
4 Wildlife and Fisheries shall not be used as the sole determination that a vessel will
5 be used predominantly and principally for commercial fishing ~~ventures~~ or charter
6 boat fishing guide activities. This exemption shall also apply to facilities which
7 process the catch from owners of commercial fishing vessels for which this
8 exemption is granted when such vessels are owned by, or leased or contracted
9 exclusively to, the seafood processing facility.

10 B.(1) The Department of Revenue, after consulting with the Department of
11 Wildlife and Fisheries, shall immediately issue rules and regulations for the
12 enforcement of these provisions. Through its agents, it shall issue a certificate of
13 exemption to those who have demonstrated their qualification under the provisions
14 of this Section. Except as provided in Paragraph (2) of this Subsection, no such
15 certificate shall be issued to any person who does not present to the department a
16 notarized statement that he derives or intends to derive his primary source of income,
17 which means not less than fifty percent, from commercial fishing or charter boat
18 fishing guide activities.

19 * * *

20 (3) A separate certificate of exemption shall be issued for each vessel which
21 the applicant has demonstrated, to the satisfaction of the department, will be used
22 principally and predominantly for commercial fishing ~~ventures~~ or charter boat
23 fishing guide activities. The certificate shall identify the vessel to which the
24 exemption shall be applicable. This certificate shall be made available without
25 charge to qualified applicants. Such certificates are not transferable and shall be
26 presented in order to obtain the exemption.

27 C. An owner who has obtained a certificate of exemption shall, with respect
28 to the vessel identified in the certificate ~~for the harvesting or production of fish and~~
29 ~~other aquatic life, including shrimp, oysters, and clams, and certain seafood~~

1 ~~processing facilities described in Subsection A~~, be exempt from the taxes described
2 in Subsection A, as follows:

3 * * *

4 D. Any person who would otherwise be entitled to a certificate of exemption,
5 shall be exempt from all taxes applied to the purchase of any vessel which the
6 Department of Revenue determines, under its rules and regulations, will be used
7 principally and predominantly for commercial fishing ~~ventures~~ or charter boat
8 fishing guide activities. This determination may be made prior to the sale by the
9 department at which time it shall issue to the applicant a certificate of exemption.
10 Where application is made prior to the purchase, the burden shall be on the applicant
11 to demonstrate that the vessel will be used principally and predominantly for
12 commercial fishing ~~ventures~~ or charter boat fishing guide activities. If application
13 for a certificate of exemption is made after purchase, a certificate of exemption shall
14 issue and the Department of Revenue shall give a rebate, out of funds made available
15 therefor, for all taxes paid; but this shall take place only where the applicant has
16 demonstrated his and the vessel's qualifications under this Section. This Subsection
17 shall be made applicable only to purchases made subsequent to September 12, 1975.

18 E. When a commercial fisherman or charter boat fishing guide objects to a
19 refusal of the Department of Revenue to issue a certificate under this Section, he may
20 appeal such ruling to the Board of Tax Appeals, which may overrule the secretary
21 and grant tax exempt status if there is a determination that the denial was arbitrary,
22 capricious, or unreasonable.

23 * * *

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 630 Original 2023 Regular Session Schexnayder

Abstract: Clarifies that charter boat fishing guide activities are considered commercial fishing for purposes of sales and use tax exemptions.

Present law provides that a La. resident, domiciled in La., who possesses a valid licenses necessary for commercial fishing ventures and who is an owner of a vessel operated primarily for the conduct of commercial fishing as a trade or business is eligible for an exemption from state sales and use taxes for certain purchases and services related to the commercial operation.

Present law further applies the exemption to facilities that process the catch from owners of commercial fishing vessels for which the exemption is granted when such vessels are owned by, or leased or contracted exclusively to, the seafood processing facility.

Present law provides that the certificate of exemption granted to commercial fishermen and seafood processing facilities shall exempt the owner of the certificate from the following taxes:

- (1) Taxes applied to the materials and supplies necessary for repairs to the vessel or facility if they are purchased by the owner and later become a component part of the vessel or facility.
- (2) Taxes applied to materials and supplies purchased by the owner of the vessel or facility where such materials and supplies are loaded upon the vessel or delivered to the facility for use or consumption in the maintenance and operation thereof for commercial fishing and processing ventures.
- (3) Taxes applied to repair services performed upon the vessel or facility.
- (4) Taxes applied to the purchase of gasoline, diesel fuel, and lubricants for the vessel and to sources of energy and fuels for the facility.

Present law further provides that the purchase of any vessel that will be used primarily for commercial fishing ventures is exempt from all taxes applied to the purchase.

Proposed law provides that the exemptions in present law also apply to the owner of a vessel operated primarily for charter boat fishing guide activities.

(Amends R.S. 47:305.20(A), (B)(1) and (3), (C)(intro. para.), (D), and (E))