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HLS 13RS-714

Regular Session, 2013

HOUSE BILL NO.

BY

TAX:

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1

R AN ACT

2 To enact Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised statutes of 1950, to be
 3 comprised of R.S. 47:339, Chapter 2-F of Subtitle II of Title 47 of the Louisiana Revised
 4 Statutes of 1950, to be comprised of ~~R.S. 47:340~~, and to amend and reenact R.S. 47:301,
 5 301.1(B)(2)(d) through (f) and ~~(D)~~ and ~~(E)~~, 305, 305.6, 305.7, 305.9, 305.11, 305.15,
 6 47:305.16, 305.17, 305.19, 305.28, 305.38, 305.41, 305.43(A), (B), and (E),
 7 305.44(A)(introductory paragraph), 305.47, 47:305.49, 305.50(F), 305.53, 305.57(A),
 8 305.59, 305.61, 305.62(B)(1), 305.64(A)(1), (B), and (C), 305.65, 305.68, 305.70,
 9 306(A)(3), 306.1, and 6001, and to repeal R.S. 47:305.18, 305.20, 305.26, 305.33,
 10 305.36, 305.40, 305.42, 305.54, 305.56, 305.58, 305.60, 305.64, 305.66, 315.2, Section 4
 11 of Act No. 386 of the 1990 Regular Session of the Legislature, relative to taxes, to,
 12 and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:301, 301.1(B)(2)(d) through (f) and (D) and (E), 305, 305.6,
 15 305.7, 305.9, 305.11, 305.15, 47:305.16, 305.17, 305.19, 305.28, 305.38, 305.41,
 16 305.43(A), (B), and (E), 305.44(A)(introductory paragraph), 305.47, 47:305.49,
 17 305.50(F), 305.53, 305.57(A), 305.59, 305.61, 305.62(B)(1), 305.64(A)(1), (B), and (C),
 18 305.65, 305.68, 305.70, 306(A)(3), 306.1, and 6001 are hereby amended and reenacted to
 19 read as follows:

1 §301. Definitions

2 As used in this Chapter the following words, terms, and phrases have the meaning
3 ascribed to them in this Section, unless the context clearly indicates a different meaning:

4 (1) "Business" includes any activity engaged in by any person or caused to be
5 engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.
6 The term "business" shall not be construed to include the occasional and isolated sales by
7 a person who does not hold himself out as engaged in business.

8 (2) "Collector" shall mean and include (a) the secretary of the Department of
9 Revenue for the state of Louisiana and includes his duly authorized assistants, when used
10 in reference to a sales and use tax levied by the state, or (b) the individual or entity
11 designated as collector of the appropriate single sales and use tax collection office, and
12 his duly authorized assistants, of any political subdivision authorized under the
13 constitution and laws of the state of Louisiana to levy and collect a sales and use tax,
14 except a statewide political subdivision, when used in reference to a sales and use tax
15 levied by such political subdivision.

16 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
17 property without any deductions therefrom on account of the cost of materials used, labor,
18 or service cost, except those service costs for installing the articles of tangible personal
19 property if such cost is separately billed to the customer at the time of installation;
20 transportation charges, or any other expenses whatsoever, or the reasonable market value
21 of the tangible personal property at the time it becomes susceptible to the use tax,
22 whichever is less.

23 (b) In the case of tangible personal property which has acquired a tax situs in a
24 taxing jurisdiction and is thereafter transported outside the taxing jurisdiction for repairs
25 performed outside the taxing jurisdiction and is thereafter returned to the taxing
26 jurisdiction, the cost price shall be deemed to be the actual cost of any parts and/or
27 materials used in performing such repairs, if applicable labor charges are separately stated

1 on the invoice. If the applicable labor charges are not separately stated on the invoice, it
2 shall be presumed that the cost price is the total charge reflected on the invoice.

3 (c) "Cost price" solely for purposes of sales and use tax imposed by a political
4 subdivision shall not include the supplying and installation of board roads to oil field
5 operators if the installation charges are separately billed to the customer at the time of
6 installation.

7 (d)(i) In the case of interchangeable components located in Louisiana, a taxpayer
8 may elect to determine the cost price of such components as follows:

9 (aa) The taxpayer shall send to the secretary written notice of the calendar month
10 selected by the taxpayer as the first month for the determination of cost price under this
11 Paragraph (the "First Month"). The taxpayer may select any month. The taxpayer shall
12 send to the secretary notice of an election to designate a First Month on the first day of
13 the designated First Month, or ninety days from July 1, 1990, whichever is later.

14 (bb) For the First Month and each month thereafter, cost price shall be based and
15 use tax shall be paid only on one-sixtieth of the aggregate cost price of the
16 interchangeable components deployed and earning revenue within Louisiana during the
17 month, without regard to any credit or other consideration for Louisiana state, political
18 subdivision, or school board use tax previously paid on such interchangeable
19 components.

20 (cc) Any election made under this Paragraph shall be irrevocable for a period of
21 sixty consecutive months inclusive of the First Month. If at any time after the sixty-
22 month period the taxpayer revokes its election, no credit or other consideration for use
23 taxes paid pursuant thereto shall be applied to any use tax liability arising after such
24 revocation.

25 (ii)(aa) For purposes of this Paragraph, "interchangeable component" means a
26 component that is used or stored for use in measurement-while-drilling instruments or
27 systems manufactured or assembled by the taxpayer, which measurement-while-drilling

1 instruments or systems collectively generate eighty percent or more of their annual
2 revenue from their use outside of the state.

3 (bb) "Measurement-while-drilling instruments or systems" means instruments or
4 systems which measure information from a downhole location in a borehole, transmit the
5 information to the surface during the process of drilling the borehole using a wireless
6 technique, and receive and decode the information on the surface.

7 (iii) ~~The method for determining cost price of interchangeable components~~
8 ~~provided for in this Paragraph shall apply to any use taxes imposed by a local political~~
9 ~~subdivision or school board. For purposes of that application, the words "political~~
10 ~~subdivision" or "school board" as the case may be, shall be substituted for the words~~
11 ~~"Louisiana" or "State" in each instance where those words appear in this Paragraph and an~~
12 ~~appropriate official of the local political subdivision or school board shall be designated~~
13 ~~to receive the notices required by this Paragraph.~~

14 (e) "Cost price" shall not include any amount designated as a cash discount or a
15 rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle
16 license tax. For purposes of this Paragraph ~~"rebate"~~ means any amount offered by the
17 vendor or manufacturer as a deduction from the listed retail price of the vehicle.

18 (f) The "cost price" of refinery gas shall be fifty-two cents per thousand cubic feet
19 multiplied by a fraction the numerator of which shall be the posted price for a barrel of
20 West Texas Intermediate Crude Oil on December first of the preceding calendar year and
21 the denominator of which shall be twenty-nine dollars, and provided further that such cost
22 price shall be the maximum value placed upon refinery gas by the state and by any
23 political subdivision under any authority or grant of power to levy and collect use taxes.

24 (g) "Cost price", for purposes of the use tax imposed by the state and its political
25 subdivisions, shall exclude any amount that a manufacturer pays directly to a dealer of the
26 manufacturer's product for the purpose of reducing and that actually results in an
27 equivalent reduction in the retail "cost price" of that product. This exclusion shall not

1 apply to the value of the coupons that dealers accept from purchasers as part payment of
2 the "sales price" and that are redeemable by the dealers through manufacturers or their
3 agents. The value of such coupons is deemed to be part of the "cost price" of the product
4 purchased through the use of the coupons.

5 (h)(i) For purposes of a publishing business which distributes its news
6 publications ~~at no cost~~ to readers and pays unrelated third parties to print such news
7 publications, ~~the term~~ "cost price" shall mean only the lesser of the following costs:

8 (aa) The printing cost paid to unrelated third parties to print such news
9 publications, ~~less any itemized freight charges for shipping the news publications from~~
10 ~~the printer to the publishing business and any itemized charges for paper and ink.~~

11 (bb) Payments to a dealer or distributor as consideration for distribution of the
12 news publications.

13 (ii) The definition of "cost price" provided for in this Subparagraph shall be
14 applicable to taxes levied by all tax authorities in the state.

15 (i)(i) For purposes of the imposition of the use tax levied by the state and any
16 political subdivision whose boundaries are coterminous with those of the state, the cost
17 price of machinery and equipment used by a manufacturer in a plant facility
18 predominately and directly in the actual manufacturing for agricultural purposes or the
19 actual manufacturing process of an item of tangible personal property, which is for
20 ultimate sale to another and not for internal use, at one or more fixed locations within
21 Louisiana, shall be reduced as follows:

22 ~~(aa) For the period ending on June 30, 2005, the cost price shall be reduced by~~
23 ~~five percent.~~

24 ~~(bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the cost~~
25 ~~price shall be reduced by nineteen percent.~~

26 ~~(cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the cost~~
27 ~~price shall be reduced by thirty-five percent.~~

- 1 ~~(dd)~~ (aa) For the period beginning July 1, 2007, and ending on June 30, 2008, the
2 cost price shall be reduced by fifty-four percent.
- 3 ~~(cc)~~ (bb) For the period beginning July 1, 2008, and ending on June 30, 2009, the
4 cost price shall be reduced by sixty-eight percent.
- 5 ~~(ff)~~ (cc) For all periods beginning on or after July 1, 2009, the cost price shall be
6 reduced by one hundred percent.
- 7 (ii) For purposes of this Subparagraph, the following definitions shall apply:
- 8 (aa) "Machinery and equipment" means tangible personal property or other
9 property that is eligible for depreciation for federal income tax purposes and that is used
10 as an integral part in the manufacturing of tangible personal property for sale.
- 11 "Machinery and equipment" shall also mean tangible personal property or other property
12 that is eligible for depreciation for federal income tax purposes and that is used as an
13 integral part of the production, processing, and storing of food and fiber or of timber.
- 14 (I) Machinery and equipment, for purposes of this Subparagraph, also includes
15 but is not limited to the following:
- 16 (aaa) Computers and software that are an integral part of the machinery and
17 equipment used directly in the manufacturing process.
- 18 (bbb) Machinery and equipment necessary to control pollution at a plant facility
19 where pollution is produced by the manufacturing operation.
- 20 (ccc) Machinery and equipment used to test or measure raw materials, the
21 property undergoing manufacturing or the finished product, when such test or
22 measurement is a necessary part of the manufacturing process.
- 23 (ddd) Machinery and equipment used by an industrial manufacturing plant to
24 generate electric power for self consumption or cogeneration.
- 25 (eee) Machinery and equipment used primarily to produce a news publication
26 whether it is ultimately sold at retail or for resale or at no cost. Such machinery and
27 equipment shall include but not be limited to all machinery and equipment used primarily

1 in composing, creating, and other prepress operations, electronic transmission of pages
2 from prepress to press, pressroom operations, and mailroom operations and assembly
3 activities. The term "news publication" shall mean any publication issued daily or
4 regularly at average intervals not exceeding three months, which contains reports of
5 varied character, such as political, social, cultural, sports, moral, religious, or subjects of
6 general public interest, and advertising supplements and any other printed matter
7 ultimately distributed with or a part of such publications.

8 (II) Machinery and equipment, for purposes of this Subparagraph, does not
9 include any of the following:

10 (aaa) A building and its structural components, unless the building or structural
11 component is so closely related to the machinery and equipment that it houses or supports
12 that the building or structural component can be expected to be replaced when the
13 machinery and equipment are replaced.

14 (bbb) Heating, ventilation, and air-conditioning systems, unless their installation
15 is necessary to meet the requirements of the manufacturing process, even though the
16 system may provide incidental comfort to employees or serve, to an insubstantial degree,
17 nonproduction activities.

18 (ccc) Tangible personal property used to transport raw materials or manufactured
19 goods prior to the beginning of the manufacturing process or after the manufacturing
20 process is complete.

21 (ddd) Tangible personal property used to store raw materials or manufactured
22 goods prior to the beginning of the manufacturing process or after the manufacturing
23 process is complete.

24 (bb) "Manufacturer" means:

25 (I) A person whose principal activity is manufacturing, as defined in this
26 Subparagraph, and who is assigned by the Louisiana Workforce Commission a North
27 American Industrial Classification System code within the agricultural, forestry, fishing,

1 and hunting Sector 11, the manufacturing Sectors 31-33, the information Sector 511110
2 as they existed in 2002, or industry code 423930 as a recyclable material merchant
3 wholesaler engaged in manufacturing activities, which must include shredding facilities,
4 as determined by the secretary of the Department of Revenue.

5 (II) A person whose principal activity is manufacturing and who is not required to
6 register with the Louisiana Workforce Commission for purposes of unemployment
7 insurance, ~~but who would be assigned a North American Industrial Classification System~~
8 code within the agricultural, forestry, fishing, and hunting Sector 11, the manufacturing
9 Sectors 31-33, the information Sector 511110 as they existed in 2002, as determined by
10 the Louisiana Department of Revenue from federal income tax data, if he were required
11 to register with the Louisiana Workforce Commission for purposes of unemployment
12 insurance.

13 (cc) "Manufacturing" means putting raw materials through a series of steps that
14 brings about a change in their composition or physical nature in order to make a new and
15 different item of tangible personal property that will be sold to another. Manufacturing
16 begins at the point at which raw materials reach the first machine or piece of equipment
17 involved in changing the form of the material and ends at the point at which
18 manufacturing has altered the material to its completed form. Placing materials into
19 containers, packages, or wrapping in which they are sold to the ultimate consumer is part
20 of this manufacturing process. Manufacturing, for purposes of this Subparagraph, does
21 not include any of the following:

- 22 (I) Repackaging or redistributing.
- 23 (II) The cooking or preparing of food products by a retailer in the regular course
24 of retail trade.
- 25 (III) The storage of tangible personal property.
- 26 (IV) The delivery of tangible personal property to or from the plant.
- 27 (V) The delivery of tangible personal property to or from storage within the plant.

1 (VI) Actions such as sorting, packaging, or shrink wrapping the final material
2 for ease of transporting and shipping.

3 (dd) "Manufacturing for agricultural purposes" means the production,
4 processing, and storing of food and fiber and the production, processing, and storing of
5 timber.

6 (ee) "Plant facility" means a facility, at one or more locations, in which
7 manufacturing, referred to in Sectors 11 and 31-33 of the North American Industrial
8 Classification system as of 2002, of a product of tangible personal property takes
9 place.

10 (ff) "Used directly" means used in the actual process of manufacturing or
11 manufacturing for agricultural purposes.

12 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
13 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
14 and 331 before receiving a certificate of exclusion from the secretary of the
15 Department of Revenue certifying that he is a manufacturer as defined herein.

16 (iv) The secretary of the Department of Revenue is hereby authorized to adopt
17 rules and regulations in order to administer the exclusion provided for in this
18 Subparagraph.

19 (j) For the purpose of the sales and use taxes imposed by the state or any
20 political subdivision whose boundaries are coterminous with those of the state, the
21 "cost price" of electric power or energy, or natural gas for the period beginning July 1,
22 2007 and thereafter, purchased or used by paper or wood products manufacturing
23 facilities shall not include any of such cost.

24 ~~(k)(i) For purposes of the imposition of the sales and use tax levied by the state~~
25 ~~or any political subdivision whose boundaries are coterminous with those of the state,~~
26 ~~the tax on the cost price of tangible property consumed in the manufacturing process;~~
27 ~~such as fuses, belts, felts, wires, conveyor belts, lubricants, and motor oils and the tax~~

- 1 on the cost price of repairs and maintenance of manufacturing machinery and
2 equipment shall be reduced as follows:
- 3 ~~(aa) For the period beginning July 1, 2010, and ending on June 30, 2011, the~~
4 ~~state sales and use tax on the cost price shall be reduced by twenty-five percent.~~
- 5 ~~(bb) For the period beginning July 1, 2011, and ending June 30, 2012, the state~~
6 ~~sales and use tax on the cost price shall be reduced by fifty percent.~~
- 7 ~~(cc) For the period beginning July 1, 2012, and ending June 30, 2013, the state~~
8 ~~sales and use tax on the cost price shall be reduced by seventy-five percent.~~
- 9 ~~(dd) For all periods beginning on and after July 1, 2013, the state sales and use~~
10 ~~tax on the cost price shall be reduced by one hundred percent.~~
- 11 (ii) For purposes of this Subparagraph, "manufacturer" means a person whose
12 principal activity is manufacturing and who is assigned an industry group designation
13 by the United States Census of 3211 through 3222 or 113310 pursuant to the North
14 American Industry Classification System of 2007.
- 15 (4) "Dealer" includes every person who manufactures or produces tangible
16 personal property for sale at retail, for use, or consumption, or distribution, or for
17 storage to be used or consumed in a taxing jurisdiction. "Dealer" is further defined to
18 mean:
- 19 (a) Every person who imports, or causes to be imported, tangible personal
20 property from any other state, foreign country, or other taxing jurisdiction for sale at
21 retail, for use, or consumption, or distribution, or for storage to be used or consumed in
22 a taxing jurisdiction.
- 23 (b) Every person who sells at retail, or who offers for sale at retail, or who has
24 in his possession for sale at retail, or for use, or consumption, or distribution, or
25 storage to be used or consumed in the taxing jurisdiction, tangible personal property as
26 defined herein.
- 27 (c) Any person who has sold at retail, or used, or consumed, or distributed, or

1 stored for use or consumption in the taxing jurisdiction, tangible personal property and
2 who cannot prove that the tax levied by this Chapter has been paid on the sale at retail,
3 the use, the consumption, the distribution, or the storage of said tangible personal
4 property.

5 (d)(i) Any person who leases or rents tangible personal property for a
6 consideration, permitting the use or possession of the said property without
7 ~~transferring title~~ thereto.

8 (ii) However, a person who leases or rents tangible personal property to
9 customers who provide information to such person that they will use the property only
10 offshore beyond the territorial limits of the state shall not be included in the term
11 "dealer" for purposes of the collection of the rental or lease tax of the state, statewide
12 political subdivisions, and other political subdivisions on such lease or rental contracts.
13 For purposes of this Item, "use" means the operational or functional use of the property
14 and not other uses related to its possession such as transportation, maintenance, and
15 repair. It is the intention of this Item that the customers of such persons shall remit any
16 tax due on the lease or rental of such property directly to the state and local taxing
17 bodies to whom they are due.

18 (e) Any person who is the lessee or rentee of tangible personal property and
19 who pays to the owner of such property a consideration for the use or possession of
20 such property without acquiring title thereto.

21 (f) Any person, who sells or furnishes any of the services subject to tax under
22 this Chapter.

23 (g) Any person, as used in this act, who purchases or receives any of the
24 services subject to tax under this Chapter.

25 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
26 business in the taxing jurisdiction" means and includes any of the following methods
27 of transacting business: maintaining directly, indirectly, or through a subsidiary, an

1 office, distribution house, sales house, warehouse, or other place of business or by
2 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
3 the authority of the seller or its subsidiary irrespective of whether such place of
4 business, agent, salesman, or solicitor is located in such taxing jurisdiction
5 permanently or temporarily or whether such seller or subsidiary is qualified to do
6 business in such taxing jurisdiction, or any person who makes deliveries of tangible
7 personal property into the taxing jurisdiction other than by a common or contract
8 carrier.

9 (i) Any person who sells at retail any tangible personal property to a vending
10 machine operator for resale through coin-operated vending machines.

11 (j) Any person who makes deliveries of tangible personal property into the
12 taxing jurisdiction in a vehicle owned or operated by said person.

13 (k) The term "dealer" shall not include lessors of railroad rolling stock used
14 either for freight or passenger purposes. However, the term "dealer" shall include
15 lessees, other than a railway company or railroad corporation, of such property and
16 such lessees shall be responsible for the collection and payment of all state and local
17 sales and use taxes.

18 (l) Every person who engages in regular or systematic solicitation of a
19 consumer market in the taxing jurisdiction by the distribution of catalogs, periodicals,
20 advertising fliers, or other advertising, or by means of print, radio or television media,
21 by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other
22 communication system.

23 (5) "Gross sales" means the sum total of all retail sales of tangible personal
24 property, without any deduction whatsoever of any kind or character except as
25 provided in this Chapter.

26 (6)(a) "Hotel" means and includes any establishment engaged in the business
27 of furnishing sleeping rooms, cottages, or cabins to transient guests, where such

1 establishment consists of six or more sleeping rooms, cottages, or cabins at a single
2 business location.

3 (b) For purposes of the sales and use taxes of all tax authorities in this state,
4 the term "hotel" as defined herein shall not include camp and retreat facilities owned
5 and operated by nonprofit organizations exempt from federal income tax under Section
6 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3)
7 of the Internal Revenue Code provided that the net revenue derived from the
8 organizations's property is devoted wholly to the nonprofit organization's purposes.
9 However, for purposes of this Paragraph, the term "hotel" shall include camp and
10 retreat facilities which shall sell rooms or other accommodations to transient guests
11 who are not attending a function of such nonprofit organization that owns and operates
12 the camp and retreat facilities or a function of another nonprofit organization exempt
13 from federal income tax under Section 501(a) of the Internal Revenue Code as an
14 organization described in Section 501(c)(3) of the Internal Revenue Code. It is the
15 intention of the legislature to tax the furnishing of rooms to those who merely purchase
16 lodging at such facilities.

17 (c) For Solely for purposes of the sales and use taxes of all tax authorities in
18 this state imposed by a political subdivision, the term "hotel", as defined herein, shall
19 not include a temporary lodging facility which is operated by a nonprofit organization
20 described in Section 501(c)(3) of the Internal Revenue Code, provided that the facility
21 is devoted exclusively to the temporary housing, for periods no longer than thirty days'
22 duration, of homeless transient persons whom the organization determines to be
23 financially incapable of engaging lodging at a facility defined by Subparagraph (a) of
24 this Paragraph, and further provided that the lodging charge to such persons is no
25 greater than twenty dollars per day.

26 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
27 property and the possession or use thereof by the lessee or renter, for a consideration,

1 without transfer of the title of such property. For the purpose of the leasing or renting
 2 of automobiles, "lease" means the leasing of automobiles and the possession or use
 3 thereof by the lessee, for a consideration, without the transfer of the title of such
 4 property for a one hundred eighty-day period or more. "Rental" means the renting of
 5 automobiles and the possession or use thereof by the renter, for a consideration,
 6 without the transfer of the title of such property for a period less than one hundred
 7 eighty days.

8 (b) The Solely for purposes of sales and use taxes imposed by a political
 9 subdivision the term "lease or rental", however, as herein defined, shall not mean or
 10 include the lease or rental made for the purposes of re-lease or re-rental of casing tools
 11 and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or
 12 related equipment used in connection with the operating, drilling, completion, or
 13 reworking of oil, gas, sulphur, or other mineral wells.

14 (c) The term "lease or rental", as herein defined shall not mean or include a
 15 lease or rental of property to be used in performance of a contract with the United
 16 States Department of the Navy for construction or overhaul of U.S. Naval vessels.

17 (d) The Solely for purposes of sales and use taxes imposed by a political
 18 subdivision the term "lease or rental", as herein defined, shall not mean the lease or
 19 rental of airplanes or airplane equipment by a commuter airline domiciled in
 20 Louisiana.

21 ~~(e) For purposes of state and political subdivision sales and use tax the~~ The
 22 term "lease or rental", as herein defined, shall not mean the lease or rental of items,
 23 including but not limited to supplies and equipment, which are reasonably necessary
 24 for the operation of free hospitals.

25 ~~(f) For purposes of state and political subdivision sales and use tax, Solely for~~
 26 purposes of sales and use tax imposed by a political subdivision, the term "lease or
 27 rental" shall not mean the lease or rental of educational materials or equipment used

1 for classroom instruction by approved parochial and private elementary and secondary
2 schools which comply with the court order from the Dodd Brumfield decision and
3 Section 501(c)(3) of the Internal Revenue Code, limited to books, workbooks,
4 computers, computer software, films, videos, and audio tapes.

5 ~~(g) For purposes of state and political subdivision sales and use tax;~~ Solely for
6 purposes of sales and use tax imposed by a political subdivision, the term "lease or
7 rental" shall not mean the lease or rental of tangible personal property to Boys State of
8 Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations
9 for their educational and public service programs for youth.

10 ~~(h) For purposes of state and political subdivision sales and use tax;~~ Solely for
11 purposes of sales and use taxes imposed by a political subdivision, the term "lease or
12 rental" shall not mean or include the lease or rental of motor vehicles by licensed
13 motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle manufacturers, as
14 defined in R.S. 32:1252(11), for their use in furnishing such leased or rented motor
15 vehicles to their customers in performance of their obligations under warranty
16 agreements associated with the purchase of a motor vehicle or when the applicable
17 warranty has lapsed and the leased or rented motor vehicle is provided to the customer
18 at no charge.

19 ~~(i) For~~ Solely for purposes of sales and use taxes ~~levied and imposed by local~~
20 ~~governmental subdivisions, school boards, and other political subdivisions whose~~
21 ~~boundaries are not coterminous with those of the state~~ a political subdivision, "lease or
22 rental" by a person shall not mean or include the lease or rental of tangible personal
23 property if such lease or rental is made under the provisions of Medicare.

24 ~~(j) Solely for purposes of the sales and use tax levied by the state or any~~
25 ~~political subdivision whose boundaries are coterminous with those of the state~~ Solely
26 for purposes of sales and use taxes imposed by a political subdivision, the term "lease
27 or rental" shall not include the lease or rental in this state of manufacturing machinery

1 and equipment used or consumed in this state to manufacture, produce, or extract
2 unblended biodiesel.

3 (k)(i) For Solely for purposes of any sales, use, or lease tax levied by the state
4 or imposed by any political subdivision of the state, the term "lease or rental" shall not
5 include the lease or rental of a crane and related equipment with an operator.

6 (ii) Notwithstanding the provisions of Item (i) of this Subparagraph, cranes
7 leased or rented with an operator are subject to the provisions of the sales and use tax
8 law upon first use in Louisiana.

9 (l)(i) For purposes of the sales and use tax levied by all tax authorities in this
10 state, the The term "lease or rental" shall not apply to leases or rentals of pallets which
11 are used in packaging products produced by a manufacturer.

12 (ii) For purposes of this Subparagraph, the term "manufacturer" shall mean a
13 person whose primary activity is manufacturing and who is assigned by the Louisiana
14 Workforce Commission a North American Industrial Classification System code
15 within the manufacturing sectors 31-33 as they existed in 2002.

16 (8)(a) "Person", except as provided in Subparagraph (c), includes any
17 individual, firm, copartnership, joint adventure, association, corporation, estate, trust,
18 business trust, receiver, syndicate, this state, any parish, city and parish, municipality,
19 district or other political subdivision thereof or any board, agency, instrumentality, or
20 other group or combination acting as a unit, and the plural as well as the singular
21 number.

22 (b) ~~Solely for purposes of the payment of state sales or use tax on the lease or~~
23 ~~rental or the purchase of tangible personal property or services, "person" shall not~~
24 ~~include a regionally accredited independent institution of higher education which is a~~
25 ~~member of the Louisiana Association of Independent Colleges and Universities, if~~
26 ~~such lease or rental or purchase is directly related to the educational mission of such~~
27 ~~institution. However, the term "person" shall include such institution for purposes of~~

- 1 ~~the payment of tax on sales by such institution if the sales are not otherwise exempt.~~
- 2 ~~(c)(i) For purposes of the payment of the state sales and use tax and the sales~~
3 ~~and use tax levied by any political subdivision; The term "person" shall not include this~~
4 ~~state, any parish, city and parish, municipality, district, or other political subdivision~~
5 ~~thereof, or any agency, board, commission, or instrumentality of this state or its~~
6 ~~political subdivisions.~~
- 7 ~~(ii) Upon request by any political subdivision for an exemption identification~~
8 ~~number, the Department of Revenue shall issue such number. The secretary may~~
9 ~~promulgate rules and regulations in accordance with the Administrative Procedure Act~~
10 ~~to carry out the provisions of this Item.~~
- 11 ~~(d)(i) For purposes of the payment of the state sales and use tax and the sales~~
12 ~~and use tax levied by any political subdivision, the (c)(i) The term "person" shall not~~
13 ~~include a church or synagogue that is recognized by the United States Internal Revenue~~
14 ~~Service as entitled to exemption under Section 501(c)(3) of the United States Internal~~
15 ~~Revenue Code.~~
- 16 ~~(ii) The secretary of the Department of Revenue shall promulgate rules and~~
17 ~~regulations defining the terms "church" and "synagogue" for purposes of this~~
18 ~~exclusion. The definitions shall be consistent with the criteria established by the U.S.~~
19 ~~Internal Revenue Service in identifying organizations that qualify for church status for~~
20 ~~federal income tax purposes.~~
- 21 ~~(iii) No church or synagogue shall claim exemption or exclusion from the state~~
22 ~~sales and use tax or the sales and use tax levied by any political subdivision before~~
23 ~~having obtained a certificate of authorization from the secretary of the Department of~~
24 ~~Revenue. The secretary shall develop applications for such certificates. The~~
25 ~~certificates shall be issued without charge to the institutions that qualify.~~
- 26 ~~(iv) The exclusion from the sales and use tax authorized by this Subparagraph~~
27 ~~shall apply only to purchases of bibles, song books, or literature used for religious~~

1 instruction classes.

2 (e) (i) For purposes of the payment of the state sales and use tax and the sales
3 and use tax levied by any political subdivision, the term "person" shall not include the
4 Society of the Little Sisters of the Poor.

5 (ii) The secretary of the Department of Revenue shall promulgate rules and
6 regulations for purposes of this exclusion. The definitions shall be consistent with the
7 criteria established by the U.S. Internal Revenue Service in identifying tax-exempt
8 status for federal income tax purposes.

9 (iii) No member of the Society of the Little Sisters of the Poor shall claim
10 exemption or exclusion from the state sales and use tax or the sales and use tax levied
11 by any political subdivision before having obtained a certificate of authorization from
12 the secretary of the Department of Revenue. The secretary shall develop applications
13 for such certificates. The certificates shall be issued without charge to the entities
14 which qualify.

15 (f)(i) For purposes of the payment of sales and use tax levied by this state and
16 any political subdivision whose boundaries are coterminous with those of the state, the
17 term "person" shall not include a nonprofit entity which sells donated goods and
18 spends seventy-five percent or more of its revenues on directly employing or training
19 for employment persons with disabilities or workplace disadvantages.

20 (ii) The secretary shall promulgate rules and regulations for the use of
21 exclusion certificates for purposes of implementation of this Subparagraph. Each
22 nonprofit entity electing to utilize the exclusion provided for in this Subparagraph shall
23 apply for an exclusion certificate annually. Any exclusion certificate granted by the
24 Department of Revenue shall be effective for a one-year period.

25 (iii) The secretary shall provide forms for nonprofit entities to request an
26 exclusion certificate.

27 (9) "Purchaser" means and includes any person who acquires or receives any

1 tangible personal property, or the privilege of using any tangible personal property, or
2 receives any services pursuant to a transaction subject to tax under this Chapter.

3 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
4 tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person for
5 any purpose other than for resale as tangible personal property, or for the lease of
6 automobiles in an arm's length transaction, and shall mean and include all such
7 transactions as the secretary, upon investigation, finds to be in lieu of sales; provided
8 that sales for resale or for lease of automobiles in an arm's length transaction must be
9 made in strict compliance with the rules and regulations. Any dealer making a sale for
10 resale or for the lease of automobiles, which is not in strict compliance with the rules
11 and regulations, shall himself be liable for and pay the tax.

12 (ii) Solely for purposes of the imposition of the sales and use tax levied
13 imposed by a political subdivision or school board, "retail sale" or "sale at retail" shall
14 mean a sale to a consumer or to any other person for any purpose other than for resale
15 in the form of tangible personal property, or resale of those services defined in
16 Paragraph (14) of this Section provided the retail sale of the service is subject to sales
17 tax in this state, and shall mean and include all such transactions as the collector, upon
18 investigation, finds to be in lieu of sales; provided that sales for resale be made in strict
19 compliance with the rules and regulations. Any dealer making a sale for resale, which
20 is not in strict compliance with the rules and regulations shall himself be liable for and
21 pay the tax. A local collector shall accept a resale certificate issued by the Department
22 of Revenue, provided the taxpayer includes the parish of its principal place of business
23 and local sales tax account number on the state certificate. However, in the case of an
24 intra-parish transaction from dealer to dealer, the collector may require that the local
25 exemption certificate be used in lieu of the state certificate. The department shall
26 accommodate the inclusion of such information on its resale certificate for such
27 purposes.

1 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes imposed
2 by the state on transactions involving the sale for rental of automobiles which take
3 place on or after January 1, 1991, and by political subdivisions on such transactions on
4 or after July 1, 1996, and state sales and use taxes imposed on transactions involving
5 the lease or rental of tangible personal property other than automobiles which take
6 place on or after July 1, 1991, means a sale to a consumer or to any other person for
7 any purpose other than for resale as tangible personal property, or for lease or rental in
8 an arm's length transaction in the form of tangible personal property, and shall mean
9 and include all such transactions as the secretary, upon investigation, finds to be in lieu
10 of sales; provided that sales for resale or for lease or rental in an arm's length
11 transaction must be made in strict compliance with the rules and regulations. Any
12 dealer making a sale for resale or for lease or rental, which is not in strict compliance
13 with the rules and regulations, shall himself be liable for and pay the tax. For purposes
14 of the imposition of the tax imposed by any political subdivision of the state, for the
15 ~~period beginning on July 1, 1999, and ending on June 30, 2000, the term "retail sale"~~
16 ~~or "sale at retail" shall not include one-fourth of the sales price of any tangible personal~~
17 ~~property which is sold in order to be leased or rented in an arm's length transaction in~~
18 ~~the form of tangible personal property. For purposes of the imposition of the tax~~
19 ~~imposed by any political subdivision of the state, for the period beginning on July 1,~~
20 ~~2000, and ending on June 30, 2001, the term "retail sale" or "sale at retail" shall not~~
21 ~~include one-half of the sales price of any tangible personal property which is sold in~~
22 ~~order to be leased or rented in an arm's length transaction in the form of tangible~~
23 ~~personal property. For purposes of the imposition of the tax imposed by any political~~
24 ~~subdivision of the state, for the period beginning on July 1, 2001, and ending on June~~
25 ~~30, 2002, the term "retail sale" or "sale at retail" shall not include three-fourths of the~~
26 ~~sales price of any tangible personal property which is sold in order to be leased or~~
27 ~~rented in an arm's length transaction in the form of tangible personal property.~~

1 ~~Beginning July 1, 2002, for the purposes of imposition of the tax levied by any~~ For
2 ~~purposes of sales and use taxes imposed by a political subdivision of the state,~~ the term
3 "retail sale" or "sale at retail" shall not include the sale of any tangible personal
4 property which is sold in order to be leased or rented in an arm's length transaction in
5 the form of tangible personal property.

6 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes imposed
7 by the state on transactions involving the sale for rental of automobiles which take
8 place prior to January 1, 1991, and by political subdivisions on such transactions prior
9 to July 1, 1996, and imposed on transactions involving the lease or rental of tangible
10 personal property other than autos which take place prior to July 1, 1991, and for
11 purposes of local sales and use taxes levied by political subdivisions except for
12 transactions involving the sale for rental of automobiles on or after July 1, 1996, means
13 a sale to a consumer or to any other person for any purpose other than for resale in the
14 form of tangible personal property, and shall mean and include all such transactions as
15 the secretary, upon investigation, finds to be in lieu of sales; provided that sales for
16 resale must be made in strict compliance with the rules and regulations. Any dealer
17 making a sale for resale, which is not in strict compliance with the rules and
18 regulations, shall himself be liable for and pay the tax. However, contrary provisions
19 of law notwithstanding, any political subdivision may, by ordinance, adopt the
20 definition of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph
21 for purposes of the imposition of its sales and use tax.

22 (vi) Solely for purposes of the payment of state sales and use tax, until January
23 1, 2007, the term "sale at retail" shall not include purchases made in connection with
24 the filming or production of a motion picture by a motion picture production company
25 which has been relieved from the payment of state sales and use tax under the
26 provisions of Chapter 12 of Subtitle II of this Title, also known as the "Louisiana
27 Motion Picture Incentive Act". This exclusion shall be retroactively revoked if it is

1 determined that a motion picture production company that has been relieved from
2 payment of state sales and use tax under Chapter 12 failed to meet the conditions of
3 such relief.

4 ~~(b)(i) Solely for purposes of the sales and use tax levied by the state, the sale~~
5 ~~of tangible personal property to a dealer who purchases said property for resale through~~
6 ~~coin-operated vending machines shall be considered a "sale at retail", subject to such~~
7 ~~tax. The subsequent resale of the property by the dealer through coin-operated vending~~
8 ~~machines shall not be considered a "sale at retail".~~

9 (ii) Solely for purposes of the sales and use tax levied imposed by a political
10 subdivisions subdivision, the term "sale at retail" shall include the sale of tangible
11 personal property by a dealer through coin-operated vending machines.

12 (c)(i)(aa) The term "sale at retail" does not include sale of materials for further
13 processing into articles of tangible personal property for sale at retail.

14 (bb) Solely for purposes of the sales and use tax levied by the state, natural gas
15 when used in the production of iron in the process known as the "direct reduced iron
16 process" is not a catalyst and is recognized by the legislature to be a material for
17 further processing into an article of tangible personal property for sale at retail.

18 (ii)(aa) Solely for purposes of the sales and use tax levied by the state, the term
19 "sale at retail" does not include sales of electricity for chlor-alkali manufacturing
20 processes.

21 (bb) The term "sale at retail" does not include an isolated or occasional sale of
22 tangible personal property by a person not engaged in such business.

23 (d) The term "sale at retail" does not include the sale of any human tissue
24 transplants, which shall be defined to include all human organs, bone, skin, cornea,
25 blood, or blood products transplanted from one individual into another recipient
26 individual.

27 (e) The term "sale at retail" does not include the sale of raw agricultural

1 commodities, including but not limited to feed, seed, and fertilizer, to be utilized in
 2 preparing, finishing, manufacturing, or producing crops or animals for market. The
 3 Department of Agriculture and Forestry shall develop and promulgate guidelines to
 4 determine who meets this definition. Any person meeting such guidelines shall
 5 receive a certificate from the Department of Agriculture and Forestry indicating that
 6 such person is eligible to purchase such items without paying tax thereon. The
 7 guidelines promulgated pursuant to this Paragraph shall not become effective prior to
 8 January 1, 1995.

9 (f) Notwithstanding any other law to the contrary, solely for purposes of the
 10 imposition of the sales and use tax of any a political subdivision, the sale of a vehicle
 11 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
 12 deemed to be a "retail sale" or a "sale at retail":

13 (i) In the political subdivision of the principal residence of the purchaser if the
 14 vehicle is purchased for private use, or

15 (ii) In the political subdivision of the principal location of the business if the
 16 vehicle is purchased for commercial use, unless the vehicle purchased for commercial
 17 use is assigned, garaged, and used outside of such political subdivision, in which case
 18 the sale shall be deemed a "retail sale" or a "sale at retail" in the political subdivision
 19 where the vehicle is assigned, garaged, and used.

20 (g) The term "retail sale" does not include a sale of corporeal movable property
 21 which is intended for future sale to the United States government or its agencies, when
 22 title to such property is transferred to the United States government or its agencies
 23 prior to the incorporation of that property into a final product.

24 (h) The term "sale at retail" does not include the sale of food items by youth
 25 serving organizations chartered by congress.

26 (i) ~~The~~ Solely for purposes of sales and use tax imposed by a political
 27 subdivision, the term "sale at retail" does not include the purchase of a new school bus

1 or a used school bus which is less than five years old by an independent operator, when
2 such bus is to be used exclusively in a public school system. ~~This exclusion shall~~
3 ~~apply to all sales and use taxes levied by any local political subdivision.~~

4 (j) The term "sale at retail" does not include the sale of tangible personal
5 property to food banks, as defined in R.S. 9:2799.

6 (k) ~~The Solely for purposes of sales and use tax imposed by a political~~
7 ~~subdivision, the term "sale at retail" shall not include the sale of airplanes or airplane~~
8 ~~equipment or parts to a commuter airline domiciled in Louisiana.~~

9 (l) ~~Solely for purposes of the state sales and use tax, the term "sale at retail"~~
10 ~~shall not include the sale of a pollution control device or system. Pollution control~~
11 ~~device or system. The term "pollution control device or system" shall mean any~~
12 ~~tangible personal property approved by the Department of Revenue and the~~
13 ~~Department of Environmental Quality and sold or leased and used or intended for the~~
14 ~~purpose of eliminating, preventing, treating, or reducing the volume or toxicity or~~
15 ~~potential hazards of industrial pollution of air, water, groundwater, noise, solid waste,~~
16 ~~or hazardous waste in the state of Louisiana. For the purposes of any sales and use tax~~
17 ~~levied by a political subdivision, the term "sale at retail" shall include the sale of a~~
18 ~~pollution control device or system. In order to qualify, the pollution control device or~~
19 ~~system must demonstrate either: a net decrease in the volume or toxicity or potential~~
20 ~~hazards of pollution as a result of the installation of the device or system; or that~~
21 ~~installation is necessary to comply with federal or state environmental laws or~~
22 ~~regulations.~~

23 (m) ~~The Solely for purposes of sales and use taxes imposed by a political~~
24 ~~subdivision, the term "sale at retail" shall not include the sales of Louisiana~~
25 ~~manufactured or assembled passenger aircraft with a capacity in excess of fifty~~
26 ~~persons, if, after all transportation, including transportation by the purchaser, has been~~
27 ~~completed, the aircraft is ultimately received by the purchaser outside of Louisiana.~~

1 (n) For purposes of sales and use taxes imposed or levied by the state or any
 2 political subdivision thereof, the term "sale at retail" shall not include the sales of
 3 pelletized paper waste when purchased for use as combustible fuel by an electric utility
 4 or in an industrial manufacturing, processing, compounding, reuse, or production
 5 process, including the generation of electricity or process steam, at a fixed location in
 6 this state. However, such sale shall not be excluded unless the purchaser has signed a
 7 certificate stating that the fuel purchased is for the exclusive use designated herein.
 8 For purposes of this Subparagraph, "pelletized paper waste" means pellets produced
 9 from discarded waste paper that has been diverted or removed from solid waste which
 10 is not marketable for recycling and which is wetted, extruded, shredded, or formulated
 11 into compact pellets of various sizes for use as a supplemental fuel in a permitted
 12 boiler.

13 ~~(o) For the purposes of sales and use taxes imposed or levied by the state or~~
 14 ~~any local governmental subdivision or school board, the~~ The term "sale at retail" shall
 15 not include the sale or purchase of equipment used in fire fighting by bona fide
 16 volunteer and public fire departments.

17 (p) For purposes of state and political subdivision sales and use tax, the term
 18 "sale at retail" shall not include the sale of items, including ~~but not limited to~~ supplies
 19 and equipment, or the sale of services as provided in this Section, which are reasonably
 20 necessary for the operation of free hospitals.

21 ~~(q) For purposes of state and political subdivision sales and use tax~~ Solely for
 22 purposes of sales and use taxes imposed by a political subdivision, the term "sale at
 23 retail" shall not include:

24 (i) The sale of tangible personal property by approved parochial and private
 25 elementary and secondary schools which comply with the court order from the Dodd
 26 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
 27 administrators, or teachers, or other employees of the school, if the money from such

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 sales, less reasonable and necessary expenses associated with the sale, is used solely
2 and exclusively to support the school or its program or curricula. This exclusion shall
3 not be construed to allow tax-free sales to students or their families by promoters or
4 regular commercial dealers through the use of schools, school faculty, or school
5 facilities.

6 (ii) The sale to approved parochial and private elementary and secondary
7 schools which comply with the court order from the Dodd Brumfield decision and
8 Section 501(c)(3) of the Internal Revenue Code of educational materials or equipment
9 used for classroom instruction limited to books, workbooks, computers, computer
10 software, films, videos, and audio tapes.

11 (r) ~~For purposes of state and political subdivision sales and use tax~~ Solely for
12 purposes of sales and use taxes imposed by a political subdivision, the term "sale at
13 retail" shall not include the sale of tangible personal property to Boys State of
14 Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations
15 for their educational and public service programs for youth.

16 (s) The term "sale at retail" or "retail sale", for purposes of sales and use taxes
17 imposed by the state or any political subdivision or other taxing entity, shall not
18 include any charge, fee, money, or other consideration received, given, or paid for the
19 performance of funeral directing services. For purposes of this Subparagraph, "funeral
20 directing services" means the operation of a funeral home, or by way of illustration and
21 not limitation, any service whatsoever connected with the management of funerals, or
22 the supervision of hearses or funeral cars, the cleaning or dressing of dead human
23 bodies for burial, and the performance or supervision of any service or act connected
24 with the management of funerals from time of death until the body or bodies are
25 delivered to the cemetery, crematorium, or other agent for the purpose of disposition.
26 However, such services shall not mean or include the sale, lease, rental, or use of any
27 tangible personal property as those terms are defined in this Section.

1 (t) ~~For~~ Solely for purposes of sales and use taxes levied imposed by the state or
 2 any a political subdivision of the state, the term "sale at retail" shall not include the
 3 transfer of title to or possession of telephone directories by an advertising company
 4 that is not affiliated with a provider of telephone services if the telephone directories
 5 will be distributed free of charge to the recipients of the telephone directories.

6 (u) For purposes of sales and use taxes levied and imposed by local
 7 governmental subdivisions, school boards, and other political subdivisions whose
 8 boundaries are not coterminous with those of the state, "sale at retail" by a person shall
 9 not mean or include the sale of tangible personal property if such sale is made under
 10 the provisions of Medicare.

11 (v) ~~For purposes of the imposition~~ Solely for purposes of sales and use taxes
 12 imposed or levied by all taxing authorities in the state by a political subdivision, in the
 13 case of the sale or other disposition by a dealer of any cellular, PCS, or wireless
 14 telephone, or any electronic accessories that are physically connected with such
 15 telephones and personal communication devices used in connection with the sale or
 16 use of mobile telecommunications services, the term "retail sale" or "sale at retail"
 17 shall mean and include the sale or any other disposition of such cellular, PCS, or
 18 wireless telephone, any electronic accessories that are physically connected with such
 19 telephones and personal communication devices by the dealer to the purchaser, but
 20 shall not mean or include the withdrawal, use, distribution, consumption, storage,
 21 donation, or any other disposition of any such cellular, PCS, or wireless telephone, any
 22 electronic accessories that are physically connected with such telephones, and personal
 23 communication devices by the dealer.

24 (w) For purposes of the imposition of sales and use taxes imposed or levied by
 25 any political subdivision of the state, in the case of the sale or other disposition by a
 26 dealer of any cellular telephone, PCS telephone, wireless telephone, or other wireless
 27 personal communication device that is used in connection with the sale or use of

1 mobile telecommunications services, or any electronic accessory that is physically
2 connected with any such telephone or personal communication device, the term "retail
3 sale" or "sale at retail" shall mean and include the sale or any other disposition of any
4 such telephone, other personal communication device, or electronic accessory.

5 (x) For purposes of the sales and use tax imposed by the state or any political
6 subdivision whose boundaries are coterminous with those of the state, the terms "retail
7 sale" or "sale at retail" shall not include the following:

8 (i) The sale or purchase by a person of any fuel or gas, including but not
9 limited to butane and propane.

10 (ii) Beginning ~~July 1, 2008~~, the sale or purchase by any person of butane and
11 propane.

12 (y)(i) Solely for the purposes of sales and use taxes levied by the state or any
13 ~~imposed by a political subdivision whose boundaries are coterminous with those of the~~
14 state, the term "sale at retail" shall not include the sale of manufacturing machinery
15 and equipment used or consumed in this state to manufacture, produce, or extract
16 unblended biodiesel.

17 (ii) As used in this Subparagraph, the following words and phrases have the
18 meaning ascribed to them:

19 (aa) "Manufacturing machinery and equipment" means ~~tangible~~ property used
20 or consumed, or held for use or consumption, as an integral part of a biodiesel
21 manufacturing, production, or extraction facility, process, or item of equipment.
22 Property shall be considered to be an integral part of such biodiesel manufacturing,
23 production, or extraction facility, process, or item of equipment only if such property is
24 used or consumed directly in the manufacturing, production, or extraction process or is
25 part of, physically attached to, or otherwise directly associated with such property.
26 Property, the installation of which is reasonably necessary for the proper installation,
27 operation, maintenance of property which directly results in such manufacturing,

1 production, or extraction shall be considered as directly associated with such property.

2 (bb) "Unblended biodiesel" means a fuel comprised of mono-alkyl esters of
3 long chain fatty acids derived from vegetable oils or animal fats, designated B100, and
4 meeting the requirements of the definition provided for in D 6751 of the American
5 Society of Testing and Materials (ATDM D 6751), before such fuel is blended with a
6 petroleum-based diesel fuel.

7 ~~(2) Solely for the purposes of sales and use taxes levied by the state or any~~
8 ~~political subdivision whose boundaries are coterminous with those of the state, the~~
9 ~~term "sale at retail" shall not include the sale of any alternative substance when such~~
10 ~~alternative substance is used as a fuel by a manufacturer. "Alternative substance"~~
11 ~~means any substance other than oil and natural gas and any product of oil and natural~~
12 ~~gas. "Alternative substance" shall include petroleum coke, landfill gas, reclaimed or~~
13 ~~waste oil, unblended biodiesel, or tire derived fuel, but not coal, lignite, refinery gas,~~
14 ~~nuclear fuel, or electricity. "Manufacturer" means a person whose principal activity is~~
15 ~~manufacturing and who is assigned by the Louisiana Workforce Commission a North~~
16 ~~American Industrial Classification System code with the agricultural, forestry, fishing,~~
17 ~~and hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002.~~

18 ~~(aa) (i) For Solely for purposes of sales and use taxes imposed or levied by the~~
19 ~~state or any by a political subdivision of the state, the term "sale at retail" shall not~~
20 ~~include the sale of toys to a non-profit organization exempt from federal taxation~~
21 ~~pursuant to Section 501(c)(3) of the Internal Revenue Code if the sole purpose of the~~
22 ~~purchasing organization is to donate toys to minors and the toys are, in fact, donated.~~

23 (ii) The exclusion provided in this Subparagraph shall not apply if the donation
24 is intended to ultimately yield a profit to a promoter of the organization or to any
25 individual contracted to provide services or equipment, or both, to the organization.

26 (iii) A certificate of exclusion shall be obtained from the secretary or the tax
27 collector of the political subdivision, under such regulations as he shall prescribe, in

1 order for nonprofit organizations to qualify for the exclusion provided for in this
2 Subparagraph.

3 ~~(bb) For purposes of sales and use taxes imposed or levied by the state, the~~
4 ~~terms "retail sale" and "sale at retail" shall not include sales of natural gas to be held,~~
5 ~~used, or consumed in providing natural gas storage services or operating natural gas~~
6 ~~storage facilities.~~

7 ~~(cc) For~~ (aa) ~~Solely~~ for purposes of the sales and use tax imposed by the state
8 or any a political subdivision of the state, the terms "retail sale" or "sale at retail" shall
9 not mean or include the purchase of textbooks and course-related software by a private
10 postsecondary academic R degree-granting institution, accredited by a national or
11 regional commission that is recognized by the United States Department of Education
12 and is licensed by the Board of Regents, which institution has its main location within
13 this state and offers only online A instruction, when all of the following apply:

14 (i) The textbooks and course-related software are physically outside of this
15 state when purchased from a vendor outside of this state and then imported into this
16 state.

17 (ii) The first student use of the textbooks and course-related software occurs
18 outside of this state.

19 (iii) The textbooks and course-related software are provided to the student free
20 of charge.

21 ~~(dd)~~ (bb) For purposes of sales and use taxes imposed or levied by the state,
22 the terms "retail sale" or "sale at retail" shall not include the purchase of food items for
23 school lunch or breakfast programs by nonpublic elementary or secondary schools
24 which participate in the National School Lunch and School Breakfast programs or the
25 purchase of food items by nonprofit corporations which serve students in nonpublic
26 elementary or secondary schools and which participate in the National School Lunch
27 and School Breakfast programs.

1 ~~(cc)(i)~~ Solely for the purposes of the imposition of the state sales and use tax,
2 the term "retail sale" and "sale at retail" shall not include the sale of any storm shutter
3 device.

4 ~~(ii)~~ As used in this Subparagraph, "storm shutter device" means materials and
5 products manufactured, rated, and marketed specifically for the purpose of preventing
6 window damage from storms.

7 ~~(iii)~~ *D* The secretary of the Department of Revenue, in consultation with the
8 Department of Insurance, shall promulgate such rules and regulations in accordance
9 with the Administrative Procedure Act as may be necessary to carry out the provisions
10 of this Subparagraph. *R*

11 ~~(ff)~~ (cc) For purposes of sales taxes imposed by the state or any political
12 subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales
13 of tangible personal property by the *A* Military Department, state of Louisiana, which
14 occur on an installation or other property owned or operated by the Military
15 Department.

16 ~~(gg)~~ (dd) For purposes of sales and use tax imposed by the state or any
17 political subdivision of the state, the term "sale at retail" shall not include the sale of
18 anthropogenic carbon dioxide for use in a qualified tertiary *S* recovery project approved
19 by the assistant secretary of the office of conservation of the Department of Natural
20 Resources pursuant to R.S. 47:633.4.

21 ~~(hh)~~ (ee) For purposes of sales and use tax imposed by the state, any political
22 subdivision whose boundaries are coterminous with those of the state, or any other
23 political subdivision, the term "sale at retail" shall not include the sale of tangible
24 personal property at an event providing Louisiana heritage, culture, crafts, art, food,
25 and music which is sponsored by a domestic nonprofit organization that is exempt
26 from tax under Section 501(c)(3) of the Internal Revenue Code. The provisions of this
27 Subparagraph shall apply only to an event which transpires over a minimum of seven

1 but not more than twelve days and has a five-year annual average attendance of at least
2 three hundred thousand over the duration of the event. For purposes of determining
3 the five-year annual average attendance, the calculation shall include the total annual
4 attendance for each of the five most recent years. The provisions of this Subparagraph
5 shall apply only to sales by the sponsor of the event.

6 (11) "Retailer" means and includes every person engaged in the business of
7 making sales at retail or for distribution, or use or consumption, or storage to be used
8 or consumed in this state.

9 (12) "Sale" means any transfer of title or possession, or both, exchange, barter,
10 conditional or otherwise, in any manner or by any means whatsoever, of tangible
11 personal property, for a consideration, and includes the fabrication of tangible personal
12 property for consumers who furnish, either directly or indirectly, the materials used in
13 fabrication work, and the furnishing, preparing or serving, for a consideration, of any
14 tangible personal property, consumed on the premises of the person furnishing,
15 preparing or serving such tangible personal property. A transaction whereby the
16 possession of property is transferred but the seller retains title as security for the
17 payment of the price shall be deemed a sale.

18 (13)(a) "Sales price" means the total amount for which tangible personal
19 property is sold, less the market value of any article traded in including any services,
20 except services for financing, that are a part of the sale valued in money, whether paid
21 in money or otherwise, and includes the cost of materials used, labor or service costs,
22 except costs for financing which shall not exceed the legal interest rate and a service
23 charge not to exceed six percent of the amount financed, and losses; provided that cash
24 discounts allowed and taken on sales shall not be included, ~~nor shall the sales price~~
25 ~~include the amount charged for labor or services rendered in installing, applying,~~
26 ~~remodeling, or repairing property sold.~~

27 (b) The term "sales price" shall not include any amount designated as a cash

1 discount or a rebate by the vendor or manufacturer of any new vehicle subject to the
2 motor vehicle license tax. For purposes of this Paragraph "rebate" means any amount
3 offered by a vendor or manufacturer as a deduction from the listed retail price of the
4 vehicle.

5 (c) "Sales price" shall not include the first fifty thousand dollars of the sale
6 price of new farm equipment used in poultry production.

7 (d) Notwithstanding any other provision of law to the contrary, for purposes of
8 state and political subdivision sales and use tax, the "sales price" of refinery gas,
9 except for feedstock, not ultimately consumed as an energy source by the person who
10 owns the facility in which ~~the~~ refinery gas is created as provided for in Subparagraph
11 (18)(d) of this Section, but sold to another person, whether at retail or wholesale, shall
12 be fifty-two cents per thousand cubic feet multiplied by a fraction the numerator of
13 which shall be the posted price for ~~a~~ barrel of West Texas Intermediate Crude Oil on
14 December first of the preceding calendar year and the denominator of which shall be
15 twenty-nine dollars, and provided further that such sales price shall be the maximum
16 value placed upon refinery gas by the state and by any political subdivision under any
17 authority or grant of power to levy and collect sales or use taxes, and such sale shall be
18 taxable.

19 (e) The term "sales price", for purposes of the sales tax imposed by the state
20 and its political subdivisions, shall exclude any amount that a manufacturer pays
21 directly to a dealer of the manufacturer's product for the purpose of reducing and that
22 actually results in an equivalent reduction in the retail "sales price" of that product.
23 This exclusion shall not apply to the value of the manufacturer's coupons that dealers
24 accept from purchasers as part payment of the "sales price" and that are redeemable by
25 the dealers through manufacturers or their agents. The value of such coupons is
26 deemed to be part of the "sales price" of the product purchased through the use of the
27 coupons.

1 (f) The term "sales price" shall exclude any charge, fee, money, or other
2 consideration received, given, or paid for the performance of funeral directing services
3 as defined in Subparagraph (10)(s) of this Section.

4 (g) ~~For purposes of the imposition of~~ Solely for purposes of sales and use
5 ~~taxes imposed or levied by all taxing authorities in the state by a political subdivision,~~
6 in the case of the retail sale by a dealer of any cellular, PCS, or wireless telephone, any
7 electronic accessories that are physically connected with such telephones and personal
8 communications devices used in connection with the sale or use of mobile
9 telecommunications services, as defined in R.S. 47:301(10)(v), the term "sales price"
10 shall mean and include only the amount of money, if any, actually received by the
11 dealer from the purchaser for each such cellular, PCS, or wireless telephone and any
12 electronic accessories that are physically connected with such telephones and personal
13 communication devices, but shall not include (i) any amount received by the dealer
14 from the purchaser for providing mobile telecommunications services, or (ii) any
15 commissions, fees, rebates, or other amounts received by the dealer from any source
16 other than the purchaser as a result of or in connection with the sale of the cellular,
17 PCS, or wireless telephone, any electronic accessories that are physically connected
18 with such telephones and personal communication devices.

19 (h) For the purpose of the imposition of sales and use tax imposed or levied by
20 all taxing authorities in the state of any cellular, PCS, or wireless telephone used in
21 connection with the sale or use of mobile telecommunications services, as defined in
22 R.S. 47:301(10)(v), after January 1, 2002, the term "sales price" shall mean and
23 include the greater of (i) the amount of money actually received by the dealer from the
24 purchaser for each such telephone, or (ii) twenty-five percent of the cost of such
25 telephone to the dealer, but shall not include any amount received by the dealer from
26 the purchaser for providing mobile telecommunications services or any commissions,
27 fees, rebates, or other amounts received by the dealer from any source other than the

1 purchaser as a result of or in connection with the sale of the telephone.

2 (i)(i) For purposes of a publishing business which distributes its news
3 publications at no cost to readers and pays unrelated third parties to print such news
4 publications, the term "sales price" shall mean only the lesser of the following costs:

5 (aa) The printing cost paid to unrelated third parties to print such news
6 publications, less any itemized freight charges for shipping the news publications from
7 the printer to the publishing business and any itemized charges for paper and ink.

8 (bb) Payments to a dealer or distributor as consideration for distribution of the
9 news publications.

10 (ii) The definition of "sales price" provided for in this Subparagraph shall be
11 applicable to taxes levied by all tax authorities in the state.

12 (j) For the purpose of the imposition of sales and use tax imposed or levied by
13 any political subdivision of the state, in the case of any retail sale or sale at retail, of
14 any cellular telephone, PCS telephone, or wireless telephone used in connection with
15 the sale or use of mobile telecommunications services, as defined in R.S.

16 47:301(10)(w), or any electronic accessory that is physically connected with any such
17 telephone or personal communication device, the term "sales price" shall mean and
18 include the greater of (i) the amount of money, if any, actually received by the dealer
19 from the purchaser at the time of the retail sale or sale at retail by the dealer to the
20 purchaser for each such telephone, personal communication device, or electronic
21 accessory, or (ii) twenty-five percent of the cost of such telephone to the dealer, but
22 shall not include any amount received by the dealer from the purchaser for providing
23 mobile telecommunications services or any commissions, fees, rebates, activation
24 charges, or other amounts received by the dealer from any source other than the
25 purchaser as a result of or in connection with the sale of the telephone.

26 (k)(i) For purposes of the imposition of the sales tax levied by the state and
27 any political subdivision whose boundaries are coterminous with those of the state, the

1 sales price of machinery and equipment purchased by a manufacturer for use in a plant
2 facility predominately and directly in the actual manufacturing for agricultural
3 purposes or the actual manufacturing process of an item of tangible personal property,
4 which is for ultimate sale to another and not for internal use, at one or more fixed
5 locations within Louisiana shall be reduced as follows: zero.

6 (aa) For the period ending on June 30, 2005, the sales price shall be reduced by
7 five percent.

8 (bb) For the period beginning July 1, 2005, and ending on June 30, 2006, the
9 sales price shall be reduced by nineteen percent.

10 (cc) For the period beginning July 1, 2006, and ending on June 30, 2007, the
11 sales price shall be reduced by thirty-five percent.

12 (dd) For the period beginning July 1, 2007, and ending on June 30, 2008, the
13 sales price shall be reduced by fifty-four percent.

14 (ee) For the period beginning July 1, 2008, and ending on June 30, 2009, the
15 sales price shall be reduced by sixty-eight percent.

16 (ff) For all periods beginning on or after July 1, 2009, the sales price shall be
17 reduced by one hundred percent.

18 (ii) For purposes of this Subparagraph, "machinery and equipment",
19 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
20 facility", and "used directly" shall have the same meaning as defined in R.S.
21 47:301(3)(i)(ii).

22 (iii) No person shall be entitled to purchase, use, lease, or rent machinery or
23 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
24 and 331 before receiving a certificate of exclusion from the secretary of the
25 Department of Revenue certifying that he is a manufacturer as defined herein.

26 (iv) The secretary of the Department of Revenue is hereby authorized to adopt
27 rules and regulations in order to administer the exclusion provided for in this

1 Subparagraph.

2 ~~(l)(i) For purposes of the payment of the state sales and use tax and the sales~~
3 ~~and use tax levied by any~~ Solely for purposes of sales and use taxes imposed by a
4 political subdivision, the term "sales price" shall not include the price of specialty
5 items sold to members for fund-raising purposes by nonprofit carnival organizations
6 domiciled within Louisiana and participating in a parade sponsored by a carnival
7 organization.

8 ~~(ii) The secretary of the Department of Revenue shall promulgate rules and~~
9 ~~regulations for purposes of this exclusion.~~

10 ~~(iii) No nonprofit carnival organization domiciled within Louisiana and~~
11 ~~participating in a parade sponsored by a carnival organization shall claim exemption or~~
12 ~~exclusion from the state sales and use tax or the sales and use tax levied by any~~
13 ~~political subdivision before having obtained a certificate of authorization from the~~
14 ~~secretary of the Department of Revenue. The secretary shall develop applications for~~
15 ~~such certificates. The certificates shall be issued without charge to the entities which~~
16 ~~qualify.~~

17 (m) For purposes of the sales and use tax imposed by the state or any political
18 subdivision whose boundaries are coterminous with those of the state, the "sales price"
19 of electric power or energy, or natural gas for the period beginning July 1, 2007, and
20 thereafter, sold for use by paper or wood products manufacturing facilities shall not
21 include any of such price.

22 (14) "Sales of services" means and includes the following:

23 (a) The furnishing of sleeping rooms, cottages or cabins by hotels.

24 (b)(i) The sale of admissions to places of amusement, to athletic entertainment
25 other than that of schools, colleges, and universities, and recreational events, and the
26 furnishing, for dues, fees, or other consideration of the privilege of access to clubs or
27 the privilege of having access to or the use of amusement, entertainment, athletic, or

1 recreational facilities; but the term "sales of services" shall not include membership
2 fees or dues of nonprofit, civic organizations, including by way of illustration and not
3 of limitation the Young Men's Christian Association, the Catholic Youth Organization,
4 and the Young Women's Christian Association.

5 (ii) Places solely for purposes of sales and use taxes imposed by a political
6 subdivision, places of amusement shall not include "museums", which are hereby
7 defined as ~~public or~~ private nonprofit institutions which are organized on a permanent
8 basis for essentially educational or aesthetic purposes and which use professional staff
9 to do all of the following:

10 (aa) ~~Own or use~~ R tangible objects, whether animate or inanimate.

11 (bb) Care for those objects.

12 (cc) Exhibit them to the public on a regular basis.

13 (iii) Museums include but ~~are not~~ A limited to the following institutions:

14 (aa) Museums relating to art, history, including historic buildings, natural
15 history, science, and technology.

16 (bb) Aquariums and zoological parks. F

17 (cc) Botanical gardens and arboretums.

18 (dd) Nature centers.

19 (ee) Planetariums. T

20 (iv) For purposes of the sales and use taxes of all tax authorities in the state,
21 the term "places of amusement" as used herein shall not include camp and retreat
22 facilities owned and operated by nonprofit organizations exempt from federal income
23 tax under Section 501(a) of the Internal Revenue Code as an organization described in
24 Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived
25 from the organization's property is devoted wholly to the nonprofit organization's
26 purposes.

27 (c) The furnishing of storage or parking privileges by auto hotels and parking

1 lots.

2 (d) The furnishing of printing or overprinting, lithographic, multilith, blue
3 printing, photostating or other similar services of reproducing written or graphic
4 matter.

5 (e) The furnishing of laundry, cleaning, pressing and dyeing services,
6 including by way of extension and not of limitation, the cleaning and renovation of
7 ~~clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for~~
8 ~~clothing, furs and rugs.~~

9 (f) The furnishing of cold storage space, except that space which is furnished
10 pursuant to a bailment arrangement, and the furnishing of the service of preparing
11 tangible personal property for cold storage where such service is incidental to the
12 operation of storage facilities.

13 (g)(i)(aa) The furnishing of repairs to tangible personal property, including but
14 not restricted to the repair and servicing of automobiles and other vehicles, electrical
15 and mechanical appliances and equipment, watches, jewelry, refrigerators, radios,
16 shoes, and office appliances and equipment.

17 (bb) For purposes of the sales and use tax levied by the state and by tax
18 authorities in East Feliciana Parish, charges for the furnishing of repairs to tangible
19 personal property may be excluded from sales of services, as defined in this
20 Subparagraph, when the repaired property is delivered to the customer in another state
21 either by common carrier or the repair dealer's own vehicle, however, as to aircraft,
22 delivery may be by the best available means. This exclusion shall not apply to sales
23 and use taxes levied by any other parish, municipality or school board. However, any
24 other parish, municipality or school board may apply the exclusion as defined in this
25 Subparagraph to sales or use taxes levied by any such parish, municipality, or school
26 board. Offshore areas shall not be considered another state for the purpose of this
27 Subparagraph.

1 (ii) For the purposes of this Subparagraph, tangible personal property shall
 2 include machinery, appliances, and equipment which have been declared immovable
 3 by declaration under the provisions of Article 467 of the Louisiana Civil Code, and
 4 things which have been separated from land, buildings, or other constructions
 5 permanently attached to the ground or their component parts as defined in Article 466
 6 of the Civil Code.

7 (iii)(aa) For purposes of the sales and use taxes imposed by the state or any of
 8 its political subdivisions, sale of services shall not include the labor, or sale of
 9 materials, services, and supplies, used for the repairing, renovating, or converting of
 10 any drilling rig, or machinery and equipment which are component parts thereof,
 11 which is used exclusively for the exploration or development of minerals outside the
 12 territorial limits of the state in Outer Continental Shelf waters.

13 (bb) For the purposes of this Subitem, "drilling rig" means any unit or
 14 structure, along with its component parts, which is used primarily for drilling,
 15 workover, intervention or remediation of wells used for exploration or development of
 16 minerals and "component parts" means any machinery or equipment necessary for a
 17 drilling rig to perform its exclusive function of exploration or development of
 18 minerals.

19 (h) The term "sale of service" shall not include an action performed pursuant
 20 to a contract with the United States Department of the Navy for construction or
 21 overhaul of U.S. Naval vessels.

22 (i) Solely for purposes of the sales and use tax levied by the state, the
 23 furnishing of telecommunications services for compensation, in accordance with the
 24 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying a
 25 sales and use tax on telecommunications services not in effect on July 1, 1990,
 26 provided, however, that the provisions of this Subparagraph shall not be construed to
 27 prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax or

1 assessment by any political subdivision of the state as defined in Article VI, Section
2 44(2) of the Constitution of Louisiana.

3 (j) Notwithstanding any provision of law to the contrary, for purposes of sales
4 or use taxation by the state or any local political subdivision, the term "sales of
5 services" shall not mean or include any funeral directing services as defined in
6 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee on
7 Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state
8 Department of Revenue shall devise a formula for the calculation of the tax.

9 (k) For Solely for purposes of sales and use tax imposed by the state, any
10 a political subdivision ~~whose boundaries are coterminous with those of the state, or~~
11 ~~any other political subdivision,~~ the term "sales of services" shall not mean or include
12 admission charges for, outside gate admissions to, or parking fees associated with an
13 event providing Louisiana heritage, culture, crafts, art, food, and music which is
14 sponsored by a domestic nonprofit organization that is exempt from tax under Section
15 501(c)(3) of the Internal Revenue Code. The provisions of this Subparagraph shall
16 apply only to an event which transpires over a minimum of seven but not more than
17 twelve days and has a five-year annual average attendance of at least three hundred
18 thousand over the duration of the event. For purposes of ~~determining~~ the five-year
19 annual average attendance, the calculation shall include the total annual attendance for
20 each of the five most recent years. The provisions of this Subparagraph shall apply
21 only to admission charges for, outside gate admissions to, or parking fees associated
22 with an event when the charges and fees are payable to or for the benefit of the sponsor
23 of the event.

24 (15) "Storage" means and includes any keeping or retention in the taxing
25 jurisdiction of tangible personal property for use or consumption within the taxing
26 jurisdiction or for any purpose other than for sale at retail in the regular course of
27 business.

1 (16)(a) "Tangible personal property" means and includes personal property
2 which may be seen, weighed, measured, felt or touched, or is in any other manner
3 perceptible to the senses.

4 (b) The term "tangible personal property" shall not include:

5 (i) Stocks, bonds, notes, or other obligations or securities.

6 (ii) ~~Gold;~~ Solely for purposes of sales and use taxes imposed by a political
7 subdivision; ~~gold;~~ silver, or numismatic coins, or platinum, gold, or silver bullion
8 having a total value of one thousand dollars or more.

9 (iii) Proprietary geophysical survey information or geophysical data analysis
10 furnished under a restricted-use agreement even though transferred in the form of
11 tangible personal property.

12 (c) ~~The~~ Solely for purposes of sales and use tax imposed by a political
13 subdivision, the term "tangible personal property" shall not include the repair of a
14 vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse
15 of the applicable warranty on that vehicle and at no charge to the owner of the vehicle.
16 For the purpose of assessing a sales and use tax on this transaction, no valuation shall
17 be assigned to the services performed or the parts used in the repair.

18 (d)(i) Notwithstanding any provision of law to the ~~contrary~~ and solely for
19 purposes of state sales and use tax, any sale of a prepaid calling service or prepaid
20 wireless calling service, or both, shall be deemed to be the sale of tangible personal
21 property.

22 (ii) Prepaid calling services and prepaid wireless calling services shall be
23 subject to the tax imposed by this Chapter if the sale takes place in this state. If the
24 customer physically purchases a prepaid calling service or prepaid wireless calling
25 service at the vendor's place of business, the sale is deemed to take place at the
26 vendor's place of business. If the customer does not physically purchase the service at
27 the vendor's place of business, the sale of a prepaid calling service or prepaid wireless

1 calling service is deemed to take place at the first of the following locations that
2 applies to the sale:

- 3 (aa) The customer's shipping address, if the sale involves a shipment.
- 4 (bb) The customer's billing address.
- 5 (cc) Any other address of the customer that is known by the vendor.

6 (dd) The address of the vendor or, alternatively in the case of a prepaid
7 wireless calling service, the location associated with the mobile telephone number.

8 (e) The term "tangible personal property" shall not include work products
9 which are written on paper, stored on magnetic or optical media, or transmitted by
10 electronic device, when such work products are created in the normal course of
11 business by any person licensed or regulated by the provisions of Title 37 of the
12 Louisiana Revised Statutes of 1950, unless such work products are duplicated without
13 modification for sale to multiple purchasers. This exclusion shall not apply to work
14 products which consist of the creation, modification, updating, or licensing of
15 computer software.

16 (f) ~~The~~ Solely for purposes of sales and use taxes imposed by a political
17 subdivision, the term "tangible personal property" shall not include pharmaceuticals
18 administered to livestock used for agricultural purposes, ~~except as otherwise provided~~
19 in this Subparagraph. Only pharmaceuticals not included in the term "tangible
20 personal property" shall be registered with the Louisiana Department of Agriculture
21 and Forestry. Legend drugs administered to livestock used for agricultural purposes
22 are not required to be registered, but such legend drugs that are not registered shall be
23 "tangible personal property".

24 (g)(i) Notwithstanding the provisions of R.S. 9:1149.1 et seq., except as
25 otherwise provided in this Subparagraph, the term "tangible personal property" shall
26 not include factory built homes.

27 (ii) For purposes of this Subparagraph, "factory built home" means a

1 residential structure which is built in a factory in one or more sections and has a
2 chassis or integrated wheel delivery system, which is either:

3 (aa) A structure built to federal construction standards as defined in Section
4 5402 of Title 42 of the United States Code.

5 (bb) A residential structure built to the Louisiana State Uniform Construction
6 Code.

7 (cc) A manufactured home, modular home, mobile home, or residential mobile
8 home with or without a permanent foundation, which includes plumbing, heating, and
9 electrical systems.

10 (iii) "Factory built home" shall not include any self-propelled recreational
11 vehicle or travel trailer.

12 (iv) ~~The Solely for purposes of sales and use taxes imposed by a political~~
13 subdivision, the term "tangible personal property" as applied to sales and use taxes
14 levied by the state or any other taxing authority in the state shall include a new factory
15 built home, for the initial sale from a dealer to a consumer, but only to the extent that
16 forty-six percent of the retail sales price shall be so considered as "tangible personal
17 property". Thereafter, each subsequent resale of a factory built home shall not be
18 considered as "tangible personal property".

19 (v) The sales and use taxes due on these transactions shall be paid to the
20 Louisiana Department of Public Safety and Corrections, office of motor vehicles, by
21 the twentieth day of the month following the month of delivery of the factory built
22 home to the consumer, along with any other information requested by the office of
23 motor vehicles.

24 (h)(i) ~~Solely for purposes of the imposition of the sales and use tax levied by~~
25 ~~the state or any political subdivision whose boundaries are coterminous with those of~~
26 ~~the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term~~
27 "tangible personal property" shall not include one-quarter of the cost price of custom

1 computer software:

2 (ii) ~~Solely for purposes of the imposition of the sales and use tax levied by the~~
3 ~~state or any political subdivision whose boundaries are coterminous with those of the~~
4 ~~state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term~~
5 ~~"tangible personal property" shall not include one-half of the cost price of custom~~
6 ~~computer software.~~

7 ~~(iii) Solely for purposes of the imposition of the sales and use tax levied by the~~
8 ~~state or any political subdivision whose boundaries are coterminous with those of the~~
9 ~~state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term~~
10 ~~"tangible personal property" shall not include three-quarters of the cost price of custom~~
11 ~~computer software.~~

12 (iv) Solely for purposes of the imposition of the sales and use tax levied by the
13 state or any political subdivision whose boundaries are coterminous with those of the
14 state, for all taxable periods beginning on or after July 1, 2005, and ending on
15 December 31, 2013, the term "tangible personal property" shall not include custom
16 computer software.

17 (i) Solely for purposes of the imposition of the state sales and use tax, the term
18 "tangible personal property" shall not include digital television conversion equipment
19 and digital radio conversion equipment as defined in this Section.

20 (i) "Digital television conversion equipment" shall include the following:

21 (aa) ~~DTV transmitter and RF system:~~

22 (bb) ~~Transmission line:~~

23 (cc) ~~DTV antenna:~~

24 (dd) ~~Tower:~~

25 (ee) ~~Existing tower structural upgrade:~~

26 (ff) ~~Advanced TV receiver (STL receiver):~~

27 (gg) ~~Decoder (digital to analog converter for NTSC):~~

- 1 ~~(ab) DTV transmission system test and monitoring.~~
- 2 ~~(ii) Digital video/audio master control switcher.~~
- 3 ~~(jj) Analog to digital conversion.~~
- 4 ~~(kc) High definition up-converters.~~
- 5 ~~(li) High definition bypass switcher.~~
- 6 ~~(mm) Down converters for standard definition.~~
- 7 ~~(nn) Advanced TV transmitter (STL transmitter).~~
- 8 ~~(oo) Advanced TV signal encoder.~~
- 9 ~~(pp) DTV transmission monitoring.~~
- 10 ~~(qq) High definition digital video switcher and DVE.~~
- 11 ~~(r) High definition studio cameras.~~
- 12 ~~(ss) High definition graphics/graphic generator.~~
- 13 ~~(tt) High definition video monitoring.~~
- 14 ~~(uu) Conversion gear.~~
- 15 ~~(vv) High definition recorder/players, including tape, disk, etc.~~
- 16 ~~(ww) High definition video/audio signal router.~~
- 17 ~~(xx) High definition video/audio media server.~~
- 18 ~~(yy) MPEG or HDTV digital receivers for program content.~~
- 19 ~~(zz) High definition recorder/players, including tape, disk, etc.~~
- 20 ~~(aaa) High definition video/audio media server and workstations.~~
- 21 ~~(bbb) Digital EAS encoder/decoder.~~
- 22 ~~(ccc) High definition camcorder, including tape, disk, etc.~~
- 23 ~~(ddd) Advanced TV transmitters, including microwave.~~
- 24 (ii) "Digital radio conversion equipment" shall include the following:
- 25 ~~(aa) IBOC transmitter.~~
- 26 ~~(bb) IBOC main channel and IBOC combiner.~~
- 27 ~~(cc) IBOC-compatible antenna.~~

- 1 ~~(dd) Tower.~~
- 2 ~~(ee) BOC coaxial bypass switcher.~~
- 3 ~~(ff) Digital STL.~~
- 4 ~~(gg) STL heliarc transmission line.~~
- 5 ~~(hh) STL antenna.~~
- 6 ~~(ii) Digital console.~~
- 7 ~~(jj) EAS insertion.~~
- 8 ~~(kk) AES EBU conversion equipment.~~
- 9 ~~(ll) IBOL transmission testing and monitoring equipment.~~
- 10 ~~(mm) Digital processor.~~
- 11 ~~(iii) The exclusion from state sales and use tax authorized by this~~
12 ~~Subparagraph shall only apply to the first purchase of each enumerated item by an~~
13 ~~individual taxpayer who holds a Federal Communications Commission license issued~~
14 ~~pursuant to 47 CFR Part 73. Individual taxpayers operating under several broadcaster~~
15 ~~licenses shall be allowed one purchase of each enumerated item per license. Each~~
16 ~~subsequent purchase of any of the enumerated items by the same taxpayer or license~~
17 ~~holder shall be subject to sales and use tax.~~
- 18 ~~(v) Any eligible taxpayer who has purchased any item enumerated in Item (i)~~
19 ~~or (ii) of this Subparagraph subsequent to January 1, 1999, but prior to the effective~~
20 ~~date of this Act, shall be entitled to a credit against the state sales and use tax due in~~
21 ~~any year for an amount equal to state sales and use tax paid on the purchase of the~~
22 ~~item.~~
- 23 ~~(vi) Local taxing authorities are hereby authorized to provide an exemption~~
24 ~~from any local sales and use tax liability to any taxpayers holding a Federal~~
25 ~~Communications Commission license issued pursuant to 47 CFR Part 73 which has~~
26 ~~purchased any of the equipment listed in Item (i) or (ii) of this Subparagraph. Local~~
27 ~~taxing authorities are further authorized to provide a credit against any tax liability for~~

1 the amount of local sales tax paid by taxpayers holding Federal Communications
 2 Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in
 3 item (i) or (ii) of the Subparagraph purchased subsequent to January 1, 1999, but prior
 4 to June 25, 2002:

5 ~~(vii) No exclusion from state sales and use tax as authorized in this Subsection~~
 6 ~~shall be allowed after the Federal Communications Commission has issued an order~~
 7 ~~mandating license holders, issued pursuant to 47 CFR Part 73, to discontinue~~
 8 ~~broadcasting their analog signal:~~

9 ~~(viii) The Department of Revenue shall adopt rules and regulations necessary~~
 10 ~~for the implementation of this Act no later than August 1, 2002:~~

11 ~~(j) (i) The term "tangible personal property", for purposes of the payment of~~
 12 ~~sales and use taxes levied by all tax authorities in the state, shall not include materials~~
 13 ~~used directly in the collection, separation, treatment, testing, and storage of blood by~~
 14 ~~nonprofit blood banks and nonprofit blood collection centers.~~

15 ~~(k) (i) The term "tangible personal property" for purposes of the sales and use~~
 16 ~~taxes imposed by all tax authorities in this state shall not include apheresis kits and~~
 17 ~~leuko reduction filters used by nonprofit blood banks and nonprofit blood collection~~
 18 ~~centers.~~

19 ~~(l) (k) For purposes of the sales and use tax imposed by the state of Louisiana,~~
 20 ~~by a political subdivision whose boundaries are coterminous with those of the state, or~~
 21 ~~by all political subdivisions of the state and without regard to the nature of the~~
 22 ~~ownership of the ground, tangible personal property shall not include other~~
 23 ~~constructions permanently attached to the ground which shall be treated as immovable~~
 24 ~~property.~~

25 ~~(m) (l) (i) Notwithstanding any other provision of law to the contrary, for~~
 26 ~~purposes of the sales and use tax levied by the state or any political subdivision whose~~
 27 ~~boundaries are coterminous with those of the state, the term "tangible personal~~

1 property" shall not include machinery and equipment used by a motor vehicle
2 manufacturer with a North American Industry Classification System (NAICS) Code
3 beginning with 3361, or by a glass container manufacturer with a NAICS Code of
4 327213. This exclusion shall be subject to the definitions and requirements of Item
5 (3)(i)(ii) of this Section.

6 (ii) A political subdivision may provide for a sales and use tax exemption for
7 the sales, cost, or lease or rental price of manufacturing machinery and equipment as
8 provided for in this Section, either effective upon adoption or enactment or phased in
9 over a period of time, or effective for a certain period of time or duration, all as set
10 forth in the instrument, ~~resolution~~, vote, or other affirmative action providing the
11 exemption.

12 (iii) Notwithstanding any other provision of this Section, tooling in a
13 compression mold process shall be ~~considered~~ manufacturing machinery and
14 equipment for purposes of this Section.

15 ~~(n)~~ (m) (i) For purposes of the imposition of the sales and use tax levied by
16 the state, the term "tangible personal property" shall not include machinery and
17 equipment purchased by the owner of a radio station located within the state that is
18 licensed by the Federal Communications Commission for radio broadcasting, if the
19 owner is either of the following:

20 (aa) An individual domiciled in the state who owns a business with
21 substantially all of its assets located in the state and substantially all of its payroll paid
22 in the state.

23 (bb) A business entity with substantially all of its assets located in the state and
24 substantially all of its payroll paid in the state; provided that the business entity is not
25 owned or controlled or is otherwise an affiliate of a multi-state business entity and is
26 not owned or controlled by an individual who is not domiciled in the state.

27 (ii) "Radio broadcasting" means the sound transmission made via

- 1 electromagnetic waves for direct sound reception by the general public.
- 2 ~~(n)~~ (m) (i) For purposes of the imposition of the sales and use tax levied by
- 3 the state and any political subdivision whose boundaries are coterminous with those of
- 4 the state, the term "tangible personal property" shall not include machinery and
- 5 equipment as defined in and subject to the requirements of R.S. 47:301(3)(i)(ii) which
- 6 is purchased by a utility regulated by the Public Service Commission or the council of
- 7 the City of New Orleans. For the purposes of this Paragraph, the term "utility" shall
- 8 mean a person regulated by the Public Service Commission or the council of the City
- 9 of New Orleans who is assigned a North American Industrial Classification System
- 10 Code 22111, Electric Power Generation, as it existed in 2002. Such utility shall also be
- 11 considered a "manufacturer" for purposes of R.S. 47:301(3)(i)(ii).
- 12 (ii) For purposes of this Subparagraph, a political subdivision whose
- 13 boundaries are not coterminous with those of the state may provide for a sales and use
- 14 tax exclusion for machinery and equipment as defined in and subject to the
- 15 requirements of R.S. 47:301(3)(i)(ii) which is purchased by a utility regulated by the
- 16 Public Service Commission or the council of the city of New Orleans.
- 17 ~~(o)~~ (o) For purposes of sales and use taxes imposed by the state or any of its
- 18 political subdivisions, the term "tangible personal property" shall not include
- 19 newspapers.
- 20 ~~(p)~~ (p) For purposes of sales and use taxes imposed by the state, any statewide
- 21 taxing authority, or any political subdivision, the term "tangible personal property"
- 22 shall not include any property that would have been considered immovable property
- 23 prior to the enactment on July 1, 2008, of Act No. 632 of the 2008 Regular Session of
- 24 the Legislature.
- 25 (q) For purposes of sales and use tax imposed by the state, the term "tangible
- 26 personal property" includes digital goods.
- 27 (i) "Digital goods" means sounds, images, data, facts, or information, or any

1 combination thereof, transferred electronically.

2 (ii) "Digital goods" also includes the following sales to consumers of digital
3 goods, digital codes, and digital automated services: sales in which the seller has
4 granted the purchaser the right of permanent use; sales in which the seller has granted
5 the purchaser a right of use that is less than permanent; sales in which the purchaser is
6 not obligated to make continued payment as a condition of sale; and sales in which the
7 purchaser is obligated to make continued payment as a condition of the sale.

8 (iii) A retail sale of digital goods, digital codes, or digital automated services
9 includes any services provided by the seller exclusively in connection with the digital
10 goods, digital codes, or digital automated services, whether or not a separate charge is
11 made for such services.

12 (17) "Off-road vehicle" is any vehicle manufactured for off road use which is
13 issued a manufacturer's statement of origin that cannot be issued a registration
14 certificate and license to operate on the public roads of this state because at the time of
15 manufacture the vehicle does not meet the safety requirements prescribed by R.S.
16 32:1301 through R.S. 32:1310. This includes vehicles that are issued a title only by
17 the Vehicle Registration Bureau, Department of Public Safety and Corrections, such as
18 all terrain vehicles and recreational and sport vehicles, but it does not include off road
19 vehicles used for farm purposes, farm equipment, or heavy construction equipment.

20 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
21 "use" means and includes the exercise of any right or power over tangible personal
22 property incident to the ownership thereof, except that it shall not include the sale at
23 retail of that property in the regular course of business or the donation to a school in
24 the state which meets the definition provided in R.S. 17:236 or to a public or
25 recognized independent institution of higher education in the state of property
26 previously purchased for resale in the regular course of a business. The term "use"
27 shall not include the purchase, the importation, the consumption, the distribution, or

1 the storage of automobiles to be leased in an arm's length transaction, nor shall the
2 term "use" include the donation of food items to a food bank as defined in R.S.
3 9:2799(B).

4 (ii) For purposes of the imposition of the sales and use tax levied by a political
5 subdivision or school board, "use" shall mean and include the exercise of any right or
6 power over tangible personal property incident to the ownership thereof, except that it
7 shall not include the sale at retail of that property in the regular course of business or
8 the donation to a school in the state which meets the definition provided in R.S. 17:236
9 or to a public or recognized independent institution of higher education in the state of
10 property previously purchased for resale in the regular course of a business. The term
11 "use" shall not include the donation of food items to a food bank as defined in R.S.
12 9:2799(B).

13 (iii) The term "use", for purposes of sales and use taxes imposed by the state
14 on the use for rental of automobiles which take place on or after January 1, 1991, and
15 by political subdivisions on such use on or after July 1, 1996, and state sales and use
16 taxes imposed on the use for lease or rental of tangible personal property other than
17 automobiles which take place on or after July 1, 1991, shall not include the purchase,
18 the importation, the consumption, the distribution, or the storage of tangible personal
19 property to be leased or rented in an arm's length transaction as tangible personal
20 property. For purposes of the imposition of the tax levied by any political subdivision
21 of the state, for the period beginning July 1, 1999, and ending on June 30, 2000, the
22 term "use" shall not include one-fourth of the cost price of any tangible personal
23 property which is purchased, imported, consumed, distributed, or stored and which is
24 to be leased or rented in an arm's length transaction in the form of tangible personal
25 property. For purposes of the imposition of the tax levied by any political subdivision
26 of the state, for the period beginning July 1, 2000, and ending on June 30, 2001, the
27 term "use" shall not include one-half of the cost price of any tangible personal property

1 which is purchased, imported, consumed, distributed, or stored and which is to be
2 leased or rented in an arm's length transaction in the form of tangible personal
3 property. For purposes of the imposition of the tax levied by any political subdivision
4 of the state, for the period beginning July 1, 2001, and ending on June 30, 2002, the
5 term "use" shall not include three-fourths of the cost price of any tangible personal
6 property which is purchased, imported, consumed, distributed, or stored and which is
7 to be leased or rented in an arm's length transaction in the form of tangible personal
8 property. ~~Beginning July 1, 2002, for purposes of the imposition of the tax levied by~~
9 ~~any political subdivision of the state, the term "use" shall not include the purchase, the~~
10 ~~importation, the consumption, the distribution, or the storage of any tangible personal~~
11 ~~property which is to be leased or rented in an arm's length transaction in the form of~~
12 ~~tangible personal property.~~

13 (iv) The term "use", for purposes of sales and use taxes imposed by the state
14 on the use for rental automobiles which take place prior to January 1, 1991, and by
15 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
16 lease or rental of tangible personal property other than automobiles which take place
17 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
18 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
19 include the purchase, the importation, the consumption, the distribution, or the storage
20 of tangible personal property to be leased or rented in an arm's length transaction as
21 tangible personal property.

22 (b) Notwithstanding any other law to the contrary, for purposes of the
23 imposition of the sales and use tax of any political subdivision, the use of a vehicle
24 subject to the Vehicle Registration License Tax Law (R.S. 47:451 et seq.) shall be
25 deemed to be a "use":

26 (i) In the political subdivision of the principal residence of the purchaser if the
27 vehicle is purchased for private use, or

1 (ii) In the political subdivision of the principal location of the business if the
2 vehicle is purchased for commercial use, unless the vehicle purchased for commercial
3 use is assigned, garaged, and used outside of such political subdivision, in which case
4 the use shall be deemed a use in the political subdivision where the vehicle is assigned,
5 garaged, and used.

6 (c) For purposes of state and political subdivision sales and use tax, "use" shall
7 not include the exercise of any right or power by a free hospital over items, including
8 but not limited to supplies and equipment, which are reasonably necessary for the
9 operation of the free hospital.

10 (d)(i) Notwithstanding any other provision of law to the contrary, and except
11 as provided in Item (iii) of this Subparagraph, for purposes of state and sales and use
12 taxes imposed by a political subdivision sales and use tax, "use" means and includes
13 the exercise of any right or power over tangible personal property incident to the
14 ownership thereof, except that it shall not include the further processing of tangible
15 personal property into articles of tangible personal property for sale.

16 (ii) Except as provided in Item (iii) of this Subparagraph for refinery gas, for
17 purposes of state and sales and use taxes imposed by a political subdivision use tax,
18 "use" shall not include the storage, consumption, or the exercise of any other right of
19 ownership over tangible personal property which is created or derived as a residue or
20 byproduct of such processing. Such residue or byproduct shall include but shall not be
21 limited to catalyst cracker coke derived from crude oil, wood chips, bark, and liquor
22 derived from the processing of sawlogs or pulpwood timber, or bagasse derived from
23 sugarcane.

24 (iii) Notwithstanding any other provision of law to the contrary, and
25 notwithstanding the provisions of this Subparagraph, "use" shall include the exercise
26 of any right of ownership over the consumption, the distribution, and the storage for
27 use or consumption in this state of refinery gas, except the sale to another person,

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 whether at retail or wholesale, only if the refinery gas is ultimately consumed as an
 2 energy source by the person who owns the facility in which it is created and is not sold.
 3 Notwithstanding any other law to the contrary, the use of refinery gas shall be taxed at
 4 the cost price value provided in Subparagraph (3)(f) of this Section. If refinery gas,
 5 except for feedstock, is sold to another person, whether at retail, or wholesale, such
 6 sale shall be taxable and the sales price value shall be as provided for in Subparagraph
 7 (13)(d) of this Section. The provisions of this Item shall not apply to feedstocks.

8 ~~(c) For Solely for purposes of state and sales and use taxes imposed by~~
 9 ~~a political subdivision sales and use tax, "use" shall not include the purchase of or the~~
 10 ~~exercise of any right or power over:~~

11 (i) Tangible personal property sold by approved parochial and private
 12 elementary and secondary schools which comply with the court order from the Dodd
 13 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, or students,
 14 administrators, or teachers, or other employees of the school, if the money from such
 15 sales, less reasonable and necessary expenses associated with the sale, is used solely
 16 and exclusively to support the school or its program or curricula.

17 (ii) Educational materials or equipment used for classroom instruction by
 18 approved parochial and private elementary and secondary schools which comply with
 19 the court order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal
 20 Revenue Code, limited to books, workbooks, computers, computer software, films,
 21 videos, and audio tapes.

22 (f) ~~For Solely for purposes of state and sales and use taxes imposed by~~
 23 ~~a political subdivision sales and use tax, "use" shall not include the purchase of or the~~
 24 ~~exercise of any right or power over tangible personal property used by Boys State of~~
 25 ~~Louisiana, Inc. and Girls State of Louisiana, Inc. for their educational and public~~
 26 ~~service programs for youth.~~

27 (g) Notwithstanding any provision of law to the contrary, for purposes of sales

1 or use taxation by the state or any local political subdivision, the term "use" shall not
2 mean or include any funeral directing services as defined in Subparagraph (10)(s) of
3 this Section.

4 (h) ~~For Solely for purposes of sales and use taxes levied by the state or any~~
5 ~~imposed by a~~ political subdivision ~~of the state~~, the term "use" shall not include the
6 exercise of any right of ownership in or the distribution of telephone directories
7 ~~acquired by an advertising company that is not affiliated with a provider of telephone~~
8 ~~services if the telephone directories will be distributed free of charge to the recipients~~
9 of the telephone directories.

10 (i) ~~For Solely for purposes of the imposition of sales and use taxes imposed or~~
11 ~~levied by all taxing authorities in the state by a political subdivision~~, in the case of the
12 sale or any other disposition by a dealer of any cellular, PCS, or wireless telephone,
13 any electronic accessories that are physically connected with such telephones and
14 personal communications devices used in connection with the sale or use of mobile
15 telecommunications services, as defined in R.S. 47:301(10)(v), the term "use" shall not
16 include the withdrawal, use, distribution, consumption, storage, donation, or any other
17 disposition of any such cellular, PCS, or wireless telephone, any electronic accessories
18 that are physically connected with such telephones and personal communications
19 devices by the dealer.

20 (j) For purposes of the imposition of sales and use taxes imposed ~~or levied by~~
21 ~~any a~~ political subdivision ~~of the state~~, in the case of the sale or any other disposition
22 by a dealer of any cellular telephone, PCS telephone, wireless telephone, or other
23 wireless personal communication device that is used in connection with the sale or use
24 of mobile telecommunications services, as defined in R.S. 47:301(10)(w), or any
25 electronic accessory that is physically connected with any such telephone or personal
26 communications device, the term "use" shall not include the withdrawal, use,
27 distribution, consumption, storage, donation, or any other disposition of any such

1 telephone or electronic accessory by the dealer.

2 (k) Solely for purposes of the sales and use tax ~~levied by the state or any~~
3 imposed by a political subdivision whose boundaries are coterminous with those of the
4 state, the term "use" shall not include the purchase, the use, the consumption, the
5 distribution, the storage for use or consumption, or the exercise of any right or power
6 over manufacturing machinery and equipment used or consumed in this state to
7 manufacture, produce or extract unblended biodiesel.

8 (l) ~~Solely for the purposes of sales and use taxes levied by the state or any~~
9 imposed by a political subdivision whose boundaries are coterminous with those of the
10 state, the term "use" shall ~~not~~ include the use, the consumption, the distribution, the
11 storage for use or consumption in this state, or the exercise of any right or power over
12 an alternative substance as that term is defined in Subparagraph (10)(z) of this Section
13 when such alternative substance is used as a fuel by a manufacturer. "Manufacturer"
14 means a person whose principal activity is manufacturing and who is assigned by the
15 Louisiana Workforce Commission a North American Industrial Classification System
16 code with the agricultural, forestry, fishing, and hunting Sector 11 or the
17 manufacturing Sectors 31-33 as they existed in 2002.

18 (m)(i) ~~For the Solely for~~ purposes of sales and use taxes ~~imposed or levied by~~
19 ~~the state or any~~ by a political subdivision of the state, the term "use" shall not include
20 the purchase of or the exercise of any right or power over toys by a non-profit
21 organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal
22 Revenue Code if the sole purpose of the purchasing organization is to donate toys to
23 minors and the toys are, in fact, donated.

24 (ii) The exclusion provided for in this Subparagraph shall be subject to the
25 same conditions as are provided for in Items (10)(aa)(ii) and (iii) of this Section.

26 (n) ~~For Solely for~~ purposes of sales and use tax ~~imposed by the state or any a~~
27 political subdivision ~~of the state~~, the term "use" shall not mean or include the purchase,

1 importation, storage, distribution, or exportation of, or exercise of any right or power
2 over, textbooks and course-related software by a private postsecondary academic
3 degree-granting institution, accredited by a national or regional commission that is
4 recognized by the United States Department of Education and is licensed by the Board
5 of Regents, which institution has its main location within this state and offers only
6 online instruction, when all of the following apply:

7 (i) ^D The textbooks and course-related software are physically outside of this
8 state when purchased from a vendor outside of this state and then imported into this
9 state.

10 (ii) ^R The first student use of the textbooks and course-related software occurs
11 outside of this state.

12 (iii) The textbooks and course-related software are provided to the student free
13 of charge.

14 (o) ^A Solely for purposes of the imposition of the state sales and use tax, the term
15 "use" shall not include the purchase or use of any storm shutter device as defined and
16 provided for in Subparagraph (10)(ee) of this Section.

17 (p) ^F For Solely for purposes of sales and use tax imposed by the state or any a
18 political subdivision ~~of the state~~, the term "use" shall not mean or include the purchase,
19 importation, storage, distribution or exercise of any right or power ^I over anthropogenic
20 carbon dioxide used in a qualified tertiary recovery project approved by the assistant
21 secretary of the office of conservation of the Department of Natural Resources
22 pursuant to R.S. 47:633.4.

23 (19) "Use tax" includes the use, the consumption, the distribution, and the
24 storage as herein defined. No use tax shall be due to or collected by:

25 (a) The state on tangible personal property used, consumed, distributed, or
26 stored for use or consumption in the state if the sale of such property would have been
27 exempted or excluded from sales tax at the time such property became subject to the

1 taxing jurisdiction of the state.

2 (b) Any political subdivision on tangible personal property used, consumed,
3 distributed, or stored for use or consumption in such political subdivision if the sale of
4 such property would have been exempted or excluded from sales tax at the time such
5 property became subject to the taxing jurisdiction of the political subdivision.

6 (20) "Drugs" includes all pharmaceuticals and medical devices which are
7 prescribed for use in the treatment of any medical disease.

8 (21) "Free hospital" means a hospital that does not charge any patients for
9 health care provided by the hospital.

10 (22) The term "computer software" means a set of statements, data, or
11 instructions to be used directly or indirectly in a computer in order to bring about a
12 certain result in any form in which those statements, data, or instructions may be
13 embodied, transmitted, or fixed, by any method now known or hereafter developed,
14 regardless of whether the statements, data, or instructions are capable of being
15 perceived by or communicated to humans. Computer software includes all types of
16 software including operational, applicational, utilities, compilers, and all other forms.

17 (23)(a) The term "custom computer software" means computer software
18 prepared, created, adapted, or modified to the special order of a particular purchaser,
19 licensee, or user; or to meet the specific needs or requirements of a particular
20 purchaser, licensee, or user, regardless of the means by or through which such
21 computer software is furnished, delivered, or transmitted, and regardless of whether
22 such software incorporates or consists of preexisting routines, utilities, or other
23 computer software components.

24 (b) In order to be considered "custom computer software", the computer
25 software must require preparation, creation, adaption, or modification by the vendor in
26 order to be used in a specific work environment or to perform a specific function for
27 the user.

1 (c) Updates, upgrades, and new versions of custom computer software shall be
2 considered custom computer software, provided such upgrades, updates, and new
3 versions meet the definition of custom computer software contained in this Chapter.

4 (24) The term "news publication" shall mean any printed periodical that:

5 (a) Appears at regular intervals.

6 (b) Contains reports of a varied character, such as political, social, cultural,
7 sports, moral, religious, or other subjects of general public interest.

8 (c) Contains not more than seventy-five percent advertising.

9 (d) Is not owned or published as an auxiliary to another nonpublishing
10 business, organization, or entity.

11 (25) "Taxing authority" shall mean and include both the state and a statewide
12 political subdivision and any political subdivision ~~of the state~~ authorized under the
13 Constitution or laws of the state of Louisiana to levy and collect a sales and use tax,
14 unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax
15 Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any
16 political subdivision ~~of the state~~ authorized under the Constitution or laws of the state
17 of Louisiana to levy and collect a sales and use tax, except a statewide political
18 subdivision.

19 (26) "Taxing jurisdiction" shall mean the area within the physical boundaries
20 of the taxing authority.

21 (27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use
22 tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A
23 and 2-B of this Subtitle and the tax imposed by political subdivisions under the
24 constitution or laws of this state authorizing the imposition of a sales and use tax.

25 (28)(a) For purposes of the imposition of the lease or rental tax levied by the
26 state and any political subdivision whose boundaries are coterminous with those of the
27 state, the "gross proceeds", "monthly lease or rental price paid", and "monthly lease or

1 rental price contracted or agreed to be paid" for machinery and equipment used by a
 2 manufacturer in a plant facility predominately and directly in the actual manufacturing
 3 for agricultural purposes or the actual manufacturing process of an item of tangible
 4 personal property, including, but not limited to rubber tired farm tractors, cane
 5 harvesters, cane loaders, cotton pickers, combines, haybalers, attachments and
 6 sprayers, clippers, cultivators, discs, plows, and spreaders, which is for ultimate sale to
 7 another and not for internal use, at one or more fixed locations within Louisiana shall
 8 be reduced as follows:

9 ~~(i) For the period ending on June 30, 2005, by five percent:~~

10 ~~(ii) For the period beginning July 1, 2005, and ending on June 30, 2006, by~~
 11 ~~nineteen percent:~~

12 ~~(iii) For the period beginning July 1, 2006, and ending on June 30, 2007, by~~
 13 ~~thirty-five percent:~~

14 ~~(iv) (i) For the period beginning July 1, 2007, and ending on June 30, 2008, by~~
 15 ~~fifty-four percent.~~

16 ~~(v) (ii) For the period beginning July 1, 2008, and ending on June 30, 2009, by~~
 17 ~~sixty-eight percent.~~

18 ~~(vi) (iii) For all periods beginning on or after July 1, 2009, the sales price shall~~
 19 ~~be reduced by one hundred percent.~~

20 (b) For purposes of this Paragraph, "machinery and equipment",
 21 "manufacturer", "manufacturing", "manufacturing for agricultural purposes", "plant
 22 facility", and "used directly" shall have the same meaning as defined in R.S.
 23 47:301(3)(i)(ii).

24 (c) No person shall be entitled to purchase, use, lease, or rent machinery or
 25 equipment as defined herein without payment of the tax imposed by R.S. 47:302, 321,
 26 and 331 before receiving a certificate of exclusion from the secretary of the
 27 Department of Revenue certifying that he is a manufacturer as defined herein.

1 (d) The secretary of the Department of Revenue is hereby authorized to adopt
2 rules and regulations in order to administer the exclusion provided for in this
3 Subparagraph.

4 (e) The manufacturer's exemption certificate granted by the Department of
5 Revenue shall serve as a substitute for the sales tax exemption for certain farm
6 equipment.

7 (29) ~~With respect to the furnishing of telecommunications and ancillary~~
8 ~~services, as used in this Chapter the following words, terms, and phrases have the~~
9 ~~meaning ascribed to them in this Paragraph, unless the context clearly indicates a~~
10 ~~different meaning:~~

11 (a) "Air-to-Ground Radiotelephone service" means a radio service, as that term
12 is defined in 47 C.F.R. 22.99, in which common carriers are authorized to offer and
13 provide radio telecommunications service for hire to subscribers in aircraft.

14 (b) "Ancillary service" means a service that is associated with or incidental to
15 the provision of one or more telecommunications services, including but not limited to
16 conference bridging services, detailed telecommunications billing services, directory
17 assistance services, vertical services, and voice mail services.

18 (c) "Call-by-call basis" means any method of charging for telecommunications
19 services where the price is measured by individual calls.

20 (d) "Call center" means one or more locations that utilize telecommunications
21 services in one or more of the following activities: customer services, soliciting sales,
22 reactivating dormant accounts, conducting surveys or research, fundraising, collection
23 of receivables, receiving reservations, receiving orders, or taking orders.

24 (e) "Communications channel" means a physical or virtual path of
25 communications over which signals are transmitted between or among customer
26 channel termination points.

27 (f) "Conference bridging service" means a service that links two or more

1 participants of an audio or video conference call and may include the provision of a
2 telephone number. "Conference bridging service" does not include any
3 telecommunications services used to reach the conference bridge.

4 (g) "Customer" means the person or entity that contracts with the seller of
5 telecommunications services. If the end user of the telecommunications service is not
6 the contracting party, the end user of the telecommunications service is the customer of
7 the telecommunications service, but only for the purpose of sourcing sales of
8 telecommunications services under R.S. 47:301.1(A). "Customer" does not include a
9 reseller of telecommunications service or for mobile telecommunications service of a
10 serving carrier under an agreement to serve the customer outside the home service
11 provider's licensed service area.

12 (h) "Customer channel termination point" means, in the context of a private
13 communications service, the location where the customer either inputs or receives
14 communications.

15 (i) "Detailed telecommunications billing service" means a service of separately
16 stating information pertaining to individual calls on a customer's billing statement.

17 (j) "Directory assistance" means a service of providing telephone number or
18 address information, or both.

19 (k) "End user" means the person who utilizes the telecommunications service.
20 In the case of an entity, "end user" means the individual who utilizes the service on
21 behalf of the entity.

22 (l) "Home service provider" has the same meaning given to such term in
23 Section 124(5) of the Mobile Telecommunications Sourcing Act, P.L. 106-252, 4
24 U.S.C. 124(5).

25 (m) "International telecommunications service" means a telecommunications
26 service that originates or terminates in the United States and terminates or originates
27 outside the United States, respectively. The United States includes each of the fifty

1 United States, the District of Columbia, and each United States territory, or possession.

2 (n) "Interstate telecommunications service" means a telecommunications
3 service that originates in one U.S. state, territory, or possession, and terminates in a
4 different U.S. state, territory, or possession.

5 (o) "Intrastate telecommunications service" means a telecommunications
6 service that originates in one U.S. state, territory or possession, and terminates in the
7 same U.S. state, territory, or possession.

8 (p) "Mobile telecommunications service" has the same meaning given to such
9 term in Section 124(7) of the Mobile Telecommunications Sourcing Act, P.L. 106-
10 252, 4 U.S.C. 124(7).

11 (q) "Mobile wireless service" means a telecommunications service, regardless
12 of the technology used, whereby the origination or termination points, or both, of the
13 transmission, conveyance or routing are not fixed, including but not limited to
14 telecommunications services that are provided by a commercial mobile radio service
15 provider.

16 (r) "Place of primary use" means the street address representative of where the
17 customer's use of the telecommunications service primarily occurs, which must be the
18 residential street address or the primary business street address of the customer. In the
19 case of mobile telecommunications services, the place of primary use must be within
20 the licensed service area of the home service provider.

21 (s) "Postpaid calling service" means a telecommunications service obtained by
22 making a payment on a call-by-call basis either through the use of a credit card or
23 payment mechanism such as a bank card, travel card, credit card, or debit card, or by
24 charge made to a telephone number which is not associated with the origination or
25 termination of the telecommunications service. A postpaid calling service includes a
26 telecommunications service, except a prepaid wireless calling service, that would be a
27 prepaid calling service, except that the right provided is not exclusively to access

1 telecommunications services.

2 (t) "Prepaid calling service" means the right to access exclusively
3 telecommunications services, which must be paid for in advance and which enables the
4 origination of calls using an access number or authorization code, whether manually or
5 electronically dialed, and that is sold in predetermined units or dollars of which the
6 number declines with use in a known amount.

7 (u) "Prepaid wireless calling service" means a telecommunications service that
8 provides the right to utilize mobile wireless service as well as non-telecommunications
9 services, including the download of digital products delivered electronically, content,
10 and ancillary services, which must be paid for in advance and which is sold in
11 predetermined units or dollars of which the number declines with use in a known
12 amount.

13 (v) "Private communication service" means a telecommunications service that
14 entitles the customer to exclusive or priority use of a communications channel or group
15 of channels between or among termination points, regardless of the manner in which
16 such channel or channels are connected, and includes switching capacity, extension
17 lines, stations, and any other associated services that are provided in connection with
18 the use of such channel or channels.

19 (w) "Service address" means:

20 (i) The location of the telecommunications equipment to which a customer's
21 call is charged and from which the call originates or terminates, regardless of where
22 the call is billed or paid.

23 (ii) If the location in Item (i) of this Subparagraph is not known, "service
24 address" means the origination point of the signal of the telecommunications service
25 first identified by either the seller's telecommunications system or, in information
26 received by the seller from its service provider, where the system used to transport
27 such signals is not that of the seller.

1 (iii) If the location in both Items (i) and (ii) of this Subparagraph are not
2 known, "service address" means the location of the customer's place of primary use.

3 (x) "Telecommunications service" means the electronic transmission,
4 conveyance, or routing of voice, data, audio, video, or any other information or signals
5 to a point, or between or among points. "Telecommunications service" includes such
6 transmission, conveyance, or routing in which computer processing applications are
7 used to ~~act on the form, code, or protocol of the content for purposes of transmission,~~
8 conveyance, or routing without regard to whether such service is referred to as voice
9 over Internet protocol service or is classified by the Federal Communications
10 Commission as an enhanced or value-added service. "Telecommunications service"
11 does not include any of the following:

12 (i) Data processing or information services which allow data to be generated,
13 acquired, stored, processed, ~~retrieved~~ and delivered by an electronic transmission to
14 a purchaser where such purchaser's primary purpose for the underlying transaction is
15 the processed data or information.

16 (ii) Installation or maintenance of ~~wiring or~~ equipment on a customer's
17 premises.

18 (iii) Tangible personal property.

19 (iv) Advertising, including but not limited to directory advertising.

20 (v) Billing and collection services provided to third parties.

21 (vi) Internet access service.

22 (vii) Radio and television audio and video programming services, regardless of
23 the medium, including the furnishing of transmission, conveyance, and routing of such
24 services by the programming service provider. Radio and television audio and video
25 programming services shall include but not be limited to cable service as defined in 47
26 U.S.C. 522(6) and audio and video programming services delivered by commercial
27 mobile radio service providers, as defined in 47 C.F.R. 20.3.

- 1 (viii) Ancillary services.
- 2 (ix) Digital products delivered electronically, including but not limited to
- 3 software, music, video, reading materials, or ring tones.
- 4 (x) Prepaid calling service and prepaid wireless calling service.
- 5 (y) "Vertical service" means a service that is offered in connection with one or
- 6 more telecommunications services which offers advanced calling features that allow
- 7 customers to identify callers and to manage multiple calls and call connections.
- 8 (z) "Voice mail service" means a service that enables the customer to store,
- 9 send, or receive recorded messages services. The term "voice mail service" does not
- 10 include any telecommunications or vertical services that the customer may be required
- 11 to have in order to utilize the voice mail service.

* * *

12 §301.1. Telecommunications and ancillary services

13 A. The sales and use tax levied by this Chapter shall apply to the sales price of

14 telecommunications services in accordance with the following sourcing rules:

15 * * *

16 B.

17 (2) The sales price of telecommunications services shall not include charges

18 for any of the following:

19 * * *

20 ~~(d) Telecommunications services paid for by inserting coins in coin-operated~~

21 ~~telephones available to the public.~~

22 ~~(e) (d)~~ Telecommunications services or transactions defined in this Paragraph

23 among entities classified as members of an affiliated group as provided by 26 U.S.C.

24 1504, provided, however, that these provisions shall not apply to any sale of tangible

25 personal property.

1 ~~(f)~~ (e) Any other property or services that are not telecommunications services
2 if stated separately from the charges for telecommunications services.

3 * * *

4 ~~D.(1) Notwithstanding any provision of law to the contrary, with respect to~~
5 ~~sales of interstate telecommunications services to any person for use in the operation~~
6 ~~of one or more call centers, the tax imposed by this Chapter shall not exceed twenty-~~
7 ~~five thousand dollars per calendar year.~~

8 ~~(2) The limitation set forth in this Subsection shall apply only to holders of a~~
9 ~~direct payment number issued by the department pursuant to R.S. 47:303.1. In order to~~
10 ~~obtain such direct payment number, the applicant must establish that he satisfies the~~
11 ~~criteria set forth in this Subsection. The provisions of R.S. 47:303.1(B) shall not apply~~
12 ~~to any application for a direct payment number under this Subsection.~~

13 ~~(3) The department shall not issue any refunds of taxes paid prior to receiving~~
14 ~~a direct payment number.~~

15 ~~(4) All entities wholly owned by the same person or entity shall be considered~~
16 ~~a single person.~~

17 ~~E. D.~~ To prevent actual multistate taxation of an interstate telecommunications
18 service subject to the tax imposed by this Chapter, any taxpayer, upon proof that such
19 taxpayer has paid a tax in another state on such service, shall be allowed a credit
20 against the tax imposed by this Chapter to the extent of the amount of such tax paid in
21 such other state.

22 * * *

23 §305. Exclusions and exemptions from the tax

24 A.(1) The gross proceeds derived from the sale in this state of livestock,
25 poultry, and other farm products direct from the farm are exempted from the tax levied
26 by taxing authorities, provided that such sales are made directly by the producers.

1 When sales of livestock, poultry, and other farm products are made to consumers by
2 any person other than the producer, they are not exempted from the tax imposed by
3 taxing authorities.

4 (2) The gross proceeds derived from the sale in this state of livestock at public
5 sales sponsored by breeders' or registry associations or livestock auction markets are
6 exempted from the sales and use tax levied by the state only. When public sales of
7 livestock are made to consumers by any person other than through a public sale
8 sponsored by a breeders' or registry association or a livestock auction market, they are
9 not exempted from the sales and use tax imposed by the state. ~~This Section shall be~~
10 ~~construed as exempting race horses entered in races and claimed at any racing meet~~
11 ~~held in Louisiana, whether the horse claimed was owned by the original breeder or not.~~

12 (3) ~~Every agricultural commodity sold by any person, other than a producer, to~~
13 ~~any other person who purchases not for direct consumption but for the purpose of~~
14 ~~acquiring raw product for use or for sale in the process of preparing, finishing, or~~
15 ~~manufacturing such agricultural commodity for the ultimate retail consumer trade;~~
16 ~~shall be exempted from any and all provisions of the sales and use tax imposed by a~~
17 ~~taxing authority, including payment of the tax applicable to the sale, storage, use,~~
18 ~~transfer, or any other utilization of or handling thereof, except when such agricultural~~
19 ~~commodity is actually sold as a marketable or finished product to the ultimate~~
20 ~~consumer, and in no case shall more than one tax be exacted. For the purposes of this~~
21 ~~Section, "agricultural commodity" means horticultural, viticultural, poultry, farm and~~
22 ~~range products, and livestock and livestock products.~~

23 (4)(a) ~~The purchase of feed and feed additives for the purpose of sustaining~~
24 ~~animals which are held primarily for commercial, business, or agricultural use shall be~~
25 ~~exempted from the taxes levied by taxing authorities.~~

26 (b) ~~For purposes of this Subsection:~~

27 (i) ~~"Commercial use" means the purchasing, producing, or maintaining of~~

1 animals, including breeding stock, for resale;

2 (ii) ~~"Business use" means the keeping and maintaining of animals which are~~
3 ~~used in performing services in conjunction with a business enterprise, such as sentry~~
4 ~~dogs and rental horses;~~

5 (iii) ~~"Agricultural use" means the maintaining of work animals and beasts of~~
6 ~~burden which are utilized in the activity of producing crops or animals for market, in~~
7 ~~the production of food for human consumption, in the production of animal hides or~~
8 ~~other animal products for market, or in the maintaining of breeding stock for the~~
9 ~~propagation of such agricultural use animals.~~

10 (c) ~~This exemption shall not apply to the purchase of feed or feed additives for~~
11 ~~animals kept primarily for personal, sporting, or other purposes, including but not~~
12 ~~limited to purchases for pets of any kind or hunting dogs.~~

13 (5)(a) ~~Solely for purposes of the sales and use tax levied by the state, such tax~~
14 ~~shall not apply to the sale or use of materials, supplies, equipment, fuel, and related~~
15 ~~items other than vessels used in the production or harvesting of crawfish. The person~~
16 ~~who purchases the exempt items shall claim the exemption by executing a certificate at~~
17 ~~the time of purchase. The Department of Revenue shall provide the certificates to~~
18 ~~retail merchants. Any merchant who in good faith, and after examination of the~~
19 ~~applicability of the certificate to that purchase with due care, neglects or fails to collect~~
20 ~~the tax herein provided, due to the presentation by the purchaser of a tax exemption~~
21 ~~certificate issued by the Department of Revenue, including those issued pursuant to~~
22 ~~R.S. 47:305.10, shall not be liable for the payment of the tax.~~

23 (b) ~~Solely for purposes of the sales and use tax levied by the state, such tax~~
24 ~~shall not apply to the sale or use of bait and feed used in the production or harvesting~~
25 ~~of crawfish. The person who purchases the exempt items shall claim the exemption by~~
26 ~~executing a certificate at the time of purchase. The Department of Revenue shall~~
27 ~~provide the certificates to retail merchants. Any merchant who in good faith, and after~~

1 examination of the applicability of the certificate to that purchase with due care,
2 neglects or fails to collect the tax herein provided, due to the presentation by the
3 purchaser of a tax exemption certificate issued by the Department of Revenue,
4 including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment
5 of the tax.

6 ~~(6)~~(4) Solely for purposes of the sales and use tax levied by the state, such tax
7 shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and
8 related items other than vessels used in the production or harvesting of catfish. The
9 person who purchases the exempt items shall claim the exemption by executing a
10 certificate at the time of purchase. The Department of Revenue shall provide the
11 certificates to retail merchants. Any merchant who in good faith, and after
12 examination of the applicability of the certificate to that purchase with due care,
13 neglects or fails to collect the tax herein provided, due to the presentation by the
14 purchaser of a tax exemption certificate issued by the Department of Revenue, shall
15 not be liable for the payment of the tax.

16 B. For purposes of the sales and use tax of all taxing authorities, the "use tax,"
17 as defined herein, shall not apply to livestock and livestock products, to poultry and
18 poultry products, to farm, range and agricultural products when produced by the farmer
19 and used by him and members of his family.

20 C. ~~For purposes of the sales and use tax of all taxing authorities, where a part~~
21 ~~of the cost price of a motor vehicle is represented by a motor vehicle returned to the~~
22 ~~dealer's inventory, the use tax is payable on the total cost price less the wholesale value~~
23 ~~of the article returned.~~

24 ~~Ø~~(1) The sale at retail, the use, the consumption, the distribution, and the
25 storage to be used or consumed in the taxing jurisdiction of the following tangible
26 personal property is hereby specifically exempted from the tax imposed by taxing
27 authorities, except as otherwise provided in this Paragraph:

- 1 (a) Gasoline.
- 2 (b) Steam.
- 3 (c) Water (not including mineral water or carbonated water or any water put in
- 4 bottles, jugs, or containers, all of which are not exempted).
- 5 (d) Electric power or energy and any materials or energy sources used to fuel
- 6 the generation of electric power for resale or used by an industrial manufacturing plant
- 7 for self-consumption or cogeneration.
- 8 ~~(c)~~ Repealed by Acts 2007, No. 480, §2.
- 9 ~~(f)~~(e) Fertilizer and containers used for farm products when sold directly to the
- 10 farmer.
- 11 ~~(g)~~(f) Natural gas.
- 12 ~~(h)~~(g) All energy sources when used for boiler fuel except refinery gas.
- 13 ~~(i)~~ New trucks, new automobiles, new aircraft, and new boats, vessels, or other
- 14 water-craft withdrawn from stock by factory-authorized new-truck, new-automobile,
- 15 new-aircraft dealers, and factory-authorized-dealers of new-boats, vessels, or other
- 16 water-craft, and used-trucks and used-automobiles withdrawn from stock by new or
- 17 used-motor-vehicle dealers, which are withdrawn for use as demonstrators.
- 18 ~~(j)~~(h) Solely for purposes of the state sales and use tax, ~~drugs~~ prescribed by a
- 19 physician or dentist.
- 20 ~~(k)~~ Solely for purposes of the state sales and use tax, orthotic, including
- 21 prescription-eyeglasses and contact lenses, and prosthetic devices and wheelchairs and
- 22 wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors for
- 23 personal consumption or use.
- 24 ~~(l)~~ Solely for purposes of the state sales and use tax, the sale or purchase of
- 25 any ostomy, ileostomy or colostomy device or any other appliance including catheters
- 26 or any related item which is required as the result of any surgical procedure by which
- 27 an artificial opening is created in the human body for the elimination of natural waste.

1 ~~(m)~~ Solely for purposes of the state sales and use tax, patient aids prescribed
2 by a physician or a licensed chiropractor for home use.

3 (n)(i) Solely for purposes of the state sales and use tax, food sold for
4 preparation and consumption in the home including by way of extension and not of
5 limitation bakery products.

6 ~~(o)(j)~~ Solely for purposes of the state sales and use tax, dairy products.

7 ~~(p)(k)~~ Solely for purposes of the state sales and use tax, soft drinks.

8 ~~(q)(l)~~ Solely for purposes of the state sales and use tax, fresh fruits and
9 vegetables.

10 (r)(m) Solely for purposes of the state sales and use tax, package foods
11 requiring further preparation by the purchaser.

12 ~~(s)~~ Solely for purposes of the state sales and use tax, any and all medical
13 devices used exclusively by the patient in the medical treatment of various diseases or
14 administered exclusively to the patient by a physician, nurse, or other health care
15 professional or health care facility in the medical treatment of various diseases under
16 the supervision of and prescribed by a licensed physician.

17 (t)(n) Orthotic devices, prosthetic devices, prostheses and restorative materials
18 utilized by or prescribed by dentists in connection with health care treatment or for
19 personal consumption or use and any and all dental devices used exclusively by the
20 patient or administered exclusively to the patient by a dentist or dental hygienist in
21 connection with dental or health care treatment. Notwithstanding any other provision
22 of law to the contrary, the exemptions from the state sales and use tax provided in this
23 Subparagraph shall be applicable to any sales and use tax levied by any local
24 governmental subdivision or school board.

25 ~~(u)~~ Solely for purposes of the state sales and use tax, adaptive driving
26 equipment and motor vehicle modifications prescribed for personal use by a physician,
27 a licensed chiropractor, or a driver rehabilitation specialist licensed by the state.

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(2)(a) Sales of meals furnished as follows:

(i) To the staff and students of educational institutions, including but not limited to kindergartens, if the meals are consumed on the premises where purchased, or if they are purchased in advance by students, faculty, or staff pursuant to a meal plan sponsored by the institution or organization or purchased in advance pursuant to any other payment arrangement sanctioned by the institution or organization and generally available to students, faculty, and staff of the institution or organization, regardless of where such meals are consumed.

(ii) To the staff and patients of hospitals.

(iii) To the staff, inmates, and patients of mental institutions.

(iv) To the boarders of rooming houses.

(v) Occasional meals furnished to the public in educational, religious, or medical organization facilities.

(b) Except as provided for in Item (a)(i) of this Paragraph, the furnishing of such meals shall be exempt from the taxes imposed by this Chapter if the meals are consumed on the premises where purchased.

(3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales made by an establishment not specifically exempted elsewhere who furnish facilities for the consumption of the food on the premises are not exempt from the taxes imposed by taxing authorities.

~~(4)(a) The exemption for food, drugs, orthotic and prosthetic devices, and wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors for personal consumption or use; for patient aids prescribed by a physician or licensed chiropractor for home use; and ostomy, ileostomy or colostomy devices, or other appliances including catheters or related items required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste applies only to sales taxes imposed by the state of~~

1 ~~Louisiana and does not apply to such taxes authorized and imposed by any school~~
 2 ~~board, municipality, or other local taxing authority notwithstanding any other~~
 3 ~~provisions of law to the contrary, and specifically, but not exclusively, R.S. 47:337-8.~~

4 ~~(b) However, sales taxes authorized and imposed by any taxing authority shall~~
 5 ~~not apply to the procurement and administration of cancer and related chemotherapy~~
 6 ~~prescription drugs used exclusively by the patient in his medical treatment when~~
 7 ~~administered exclusively to the patient by a physician, nurse, or other health care~~
 8 ~~professional in a physician's office where patients are not regularly kept as bed patients~~
 9 ~~for twenty-four hours or more.~~

10 ~~(5)(a) However sales taxes authorized and imposed by any school board,~~
 11 ~~municipality, or other local taxing authority shall not apply to the sale of prescription~~
 12 ~~drugs under the pharmaceutical vendor program for Title XIX of the Social Security~~
 13 ~~Act as administered by the Department of Health and Hospitals of the state of~~
 14 ~~Louisiana. Beginning January 1, 1999, such taxes shall not apply to the sale of such~~
 15 ~~drugs under Title XXI of the Social Security Act as administered by such department.~~

16 ~~(b) The administration of prescription drugs used exclusively by the patient in~~
 17 ~~the medical treatment of various diseases or injuries when administered exclusively to~~
 18 ~~the patient by a physician, nurse, or other health care professional in a physician's~~
 19 ~~office where patients are not regularly kept as bed patients for twenty-four hours or~~
 20 ~~more shall be a professional service. This provision shall not apply to any sales and~~
 21 ~~use taxes imposed by the state of Louisiana.~~

22 ~~(c) For the time after July 1, 1999, school boards, municipalities, and other~~
 23 ~~local taxing authorities may by ordinance or resolution provide for the following:~~

24 ~~(i) An exemption for the sale of prescription drugs administered as provided~~
 25 ~~for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and~~
 26 ~~administration of chemotherapy drugs used exclusively by the patient in his medical~~
 27 ~~treatment if administered exclusively to the patient by a physician, nurse, or other~~

1 health care professional in a physician's office where patients are not regularly kept as
2 bed patients for twenty-four hours or more.

3 (ii) An amnesty for any person who may have been responsible to impose,
4 collect, and/or remit the tax previously imposed on the transactions provided for in
5 Subparagraph (b) and (c) of this Paragraph prior to the time such exemption and/or
6 amnesty is granted according to such reasonable terms and conditions as the respective
7 school boards, municipalities and other local taxing authorities may adopt.

8 ~~(b)(2)~~ The exemptions from the state sales and use tax provided in this
9 Subsection in existence as of the effective date of Act 205 of 1978* shall be applicable
10 to any sales and use tax levied by any local governmental subdivision or school board
11 except as otherwise specifically provided in this Subsection. Without determining the
12 validity of any exemptions placed in this Subsection subsequent to the effective date of
13 Act 205 of 1978, all Acts after the 1991 Regular Session placing an exemption in this
14 Subsection which is applicable to a political subdivision must, to be effective,
15 specifically provide in the title and body of the bill that it is applicable to a political
16 subdivision. The exemptions provided in R.S. 47:305(D)(1)(t) are hereby deemed to
17 specifically comply with Act 205 of 1978.

18 ED. It is not the intention of any taxing authority to ~~levy a tax~~ upon articles of
19 tangible personal property imported into this state, or produced or manufactured in this
20 state, for export; nor is it the intention of any taxing authority to levy a tax on bona fide
21 interstate commerce; however, nothing herein shall prevent the collection of the taxes
22 due on sales of tangible personal property into this state which are promoted through
23 the use of catalogs and other means of sales promotion and for which federal
24 legislation or federal jurisprudence enables the enforcement of the sales tax of a taxing
25 authority upon the conduct of such business. It is, however, the intention of the taxing
26 authorities to levy a tax on the sale at retail, the use, the consumption, the distribution,
27 and the storage to be used or consumed in this state except for tangible personal

1 property kept in inventory clearly marked for use outside of Louisiana, of tangible
 2 personal property after it has come to rest in this state and has become a part of the
 3 mass of property in this state. At such time as federal legislation or federal
 4 jurisprudence as to sales in interstate commerce promoted through the use of catalogs
 5 and other means of sales promotions enables the enforcement of this Chapter or any
 6 other law or local ordinance imposing a sales tax against vendors that have no other
 7 nexus with the taxing jurisdiction, the following provisions shall apply to such sales on
 8 which sales and use tax would not otherwise be collected.

9 F E. The sales, use and lease taxes imposed by taxing authorities shall not
 10 apply to the amounts paid by radio and television broadcasters for the right to exhibit
 11 or broadcast copyrighted material and the use of film, video or audio tapes, records or
 12 any other means supplied by licensors thereof in connection with such exhibition or
 13 broadcast and the sales and use tax shall not apply to licensors or distributors thereof.

14 G E. ~~The sales, use, and lease taxes imposed by taxing authorities shall not~~
 15 ~~apply to the purchase or rental by private individuals of machines, parts therefor, and~~
 16 ~~materials and supplies which a physician has prescribed for home renal dialysis.~~

17 H. "Demonstrators" as used in Subsection D of this Section for purposes of the
 18 sales and use tax levied by all taxing authorities shall mean all of the following:

19 (1) ~~New and used trucks and automobiles for which dealer inventory plates~~
 20 ~~may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name~~
 21 ~~for use as demonstrators which are kept primarily on the dealer's premises during~~
 22 ~~normal business hours and which are available for demonstration purposes. However,~~
 23 ~~the occasional use of a demonstrator by authorized personnel of the dealer shall not~~
 24 ~~disqualify such demonstrator from the exemption herein designated.~~

25 (2) ~~New boats, vessels, or other water craft, hereafter, "boats," which comply~~
 26 ~~with all the following:~~

27 (a) ~~They are registered in a boat, vessel, or water craft dealer's name with the~~

1 appropriate agency:

2 (b) ~~They are reported by the dealer to the department as demonstrators and are~~
3 ~~clearly identified as demonstrators in the manner required by the department:~~

4 (c) ~~They are used by those designated by such dealer for any activity which~~
5 ~~results in the advertisement, promotion of sales, or demonstration of the qualities of~~
6 ~~the boat for the purpose of increasing sales of such boats; provided that such use does~~
7 ~~not occur on more than six consecutive days and does not occur on more than twelve~~
8 ~~days in any calendar month. The dealer shall keep such logs or other records of such~~
9 ~~use as shall be required by the department:~~

10 (d) ~~They are ultimately sold at retail:~~

11 ~~†~~ The sales and use taxes imposed by the state of Louisiana or any of its
12 political subdivisions shall not apply to the labor, or sale of materials, services, and
13 supplies, used for repairing, renovating or converting of any drilling rig, or machinery
14 and equipment which are component parts thereof, which is used exclusively for the
15 exploration or development of minerals outside the territorial limits of the state in
16 Outer Continental Shelf waters. For the purposes of this Subsection, "drilling rig"
17 means any unit or structure, along with its component parts, which is used primarily
18 for drilling, workover, intervention or remediation of wells used for exploration or
19 development of minerals. For purposes of this Subsection, "component parts" means
20 any machinery or equipment necessary for a drilling rig to perform its exclusive
21 function of exploration or development of minerals.

22 * * *

23 §305.6. Exclusions and exemptions; Little Theater tickets

24 The sales tax imposed by local taxing authorities shall not apply to the sale of
25 admission tickets by Little Theater organizations. The provisions of this Section shall
26 not apply to sales and use taxes imposed by the state of Louisiana.

27 §305.7. Exclusions and exemptions; tickets to musical performances of nonprofit

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musical organizations

The sales tax imposed by local taxing authorities shall not apply to the sale of admission tickets by domestic nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances, ~~;~~ provided that this Section This exemption shall not apply to performances given by out-of-state or nonresident symphony companies, nor shall this Section apply or to any performance intended to yield a profit to the promoters thereof. The provisions of this Section shall not apply to sales and use taxes imposed by the state of Louisiana.

D
R * * *

§305.9. Exclusions and exemptions; motion picture film rental

The sales and use taxes imposed by ~~the State of Louisiana or any such taxes imposed by~~ any parish or municipality within the state shall not apply to the amount paid by the operator of a motion picture theatre to a distributing agency for use of films of photoplay. The provisions of this Section shall not apply to sales and use taxes imposed by the state of Louisiana.

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§305.11. Exclusions and exemptions; contracts prior to and ~~within~~ within ninety days of tax levy

A. No new or additional sales or use tax shall be applicable to sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of the statute or ordinance levying same or to sales or services involved in such contracts entered into and reduced to writing within ninety days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales taxes at the rates effective and existing prior to such effective date.

B. This section shall apply to sales and use taxes now or hereafter levied by the

1 ~~State of Louisiana or~~ by any parish, municipality or other political subdivision thereof,
2 whether such levy is under authority of general or special laws of the state or under
3 powers granted in local charters or under any other authority or grant of the power to
4 levy and collect sales or use taxes.

5 C. The provisions of this Section shall not apply to sales now or hereafter
6 levied by the state of Louisiana.

7 *D* * * *
8 §305.15. Exclusions and exemptions; sales or purchases by individuals who are blind

9 A. The sales and use taxes levied by political subdivisions and the collection,
10 reporting, and remittance thereof required by this Chapter shall not apply to sales or
11 purchases made by blind persons in the conduct of a business which is exempt from
12 license taxes by R.S. 23:3031 through 3033.

13 B. In addition, the sales and use taxes imposed by ~~the state or by~~ any political
14 subdivision thereof shall not apply to any nonprofit organization which utilizes public
15 funds for not less than seventy-five percent of its operational funding and which
16 primarily operates to provide funding for and training to blind persons.

17 C. The provisions of this Section shall not apply the levy, collection, reporting,
18 and the remittance of sales and use taxes imposed by the state of Louisiana.

19 §305.16. Exclusions and exemptions; cable television installation and repair

20 The sales and use taxes imposed by ~~the state or by~~ any political subdivision
21 thereof shall not apply to necessary fees incurred in connection with the installation
22 and service of cable television. Such exemption shall not apply to purchases made by
23 any cable television system, but shall only apply to funds collected from the subscriber
24 for regular service, installation and repairs. The provisions of this Section shall not
25 apply to sales and use taxes imposed by the state of Louisiana.

26 §305.17. Exclusions and exemptions; income from coin-operated washing and drying
27 machines in a commercial laundromat

1 which shall be different and distinct from other gasolines. The secretary of the
2 Department of Revenue shall designate the color used and supplied by the dealer in the
3 manufacture of gasohol.

4 C. The provisions of this Section shall not apply to sales and use taxes
5 imposed by the state of Louisiana.

6 * * *

7 §305.38. Exclusions and exemptions; sheltered workshop for mentally retarded

8 The sale at retail, the use, the consumption, the distribution, and the storage for
9 use or consumption in this state of each item or article of tangible personal property by
10 a sheltered workshop for the mentally retarded licensed by the Department of Children
11 and Family Services as a day developmental training center for the mentally retarded
12 shall not be subject to the sales and use taxes levied by ~~the state or by~~ any political
13 subdivision thereof. The provisions of this Section shall not apply to sales and use
14 taxes imposed by the state of Louisiana.

15 * * *

16 §305.41. Exclusions and exemptions; Ducks Unlimited; Bass Life

17 The sales and use tax imposed by the state of Louisiana or any of its any local
18 governmental subdivisions or school boards shall not apply to ~~either~~ the sales of Ducks
19 Unlimited or Bass Life or any of their chapters or any rental or purchase of property or
20 services by Ducks Unlimited or Bass Life or any of their chapters. The provisions of
21 this Section shall not apply to sales and use taxes imposed by the state of Louisiana.

22 * * *

23 §305.43. Exclusions and exemptions; nonprofit organizations dedicated to the
24 conservation of fish or migratory waterfowl; nature of exemption; limitations;
25 qualifications

26 A. The sales and use taxes imposed by ~~R.S. 47:302, R.S. 47:321, and R.S.~~
27 ~~47:331~~ by a political subdivision shall not apply to any sales made by a nonprofit

1 organization dedicated exclusively to the conservation of fish or the migratory
2 waterfowl of the North American Continent and to the preservation and conservation
3 of wetland habitat of such waterfowl, when the entire proceeds, except for the
4 necessary expenses connected therewith, are used in furtherance of the organization's
5 exempt purpose. The exemption provided herein shall not apply to any event intended
6 to yield a profit to the promoter or to any individual contracted to provide services or
7 equipment, or both, for the event.

8 B. Purchases by any organization qualifying hereunder shall be exempt from
9 the payment of any sales or use taxes imposed by ~~the state and its political~~
10 subdivisions. The provisions of this Section shall not apply to sales and use taxes
11 imposed by the state of Louisiana.

12 * * *
13 E. An exemption certificate must be obtained from the ~~secretary of the~~
14 ~~Department of Revenue~~ political subdivision, under such regulations as he shall
15 prescribe, in order for a nonprofit organization to qualify for the exemption provided in
16 this Section.

17 §305.44. Exclusions and exemptions; raw materials used in printing process

18 A. The sales and use taxes imposed by ~~the state under R.S. 47:302, R.S.~~
19 ~~47:321, and R.S. 47:331 and by any political subdivision~~ shall not apply to purchases
20 and sales of the following, including all chemical supplies necessary to produce such
21 items whether manufactured by a printer or purchased from a subcontractor:

22 * * *
23 §305.47. Exclusions and exemptions; pharmaceutical samples distributed without
24 charge

25 The sales and use tax imposed by ~~the state of Louisiana or any of its political~~
26 ~~subdivisions~~ any political subdivision shall not apply to pharmaceutical samples
27 approved by the United States Food and Drug Administration which are manufactured

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are additions.

1 in the state or imported into the state for distribution without charge to physicians,
2 dentists, clinics, or hospitals.

3 * * *

4 §305.49. Catalog distribution; exemption

5 Notwithstanding any provision of law to the contrary, no sales or use tax shall
6 be imposed by ~~the state or~~ any political subdivision on the value of catalogs
7 distributed, ~~or intended for distribution in the state,~~ without charge to the recipient.

8 §305.50. Exemption; vehicles used in interstate commerce; rail rolling stock; railroad
9 ties

10 *R* * * *

11 F. The sales and use tax imposed by ~~the state, its statewide taxing authorities,~~
12 ~~or any of its political subdivisions~~ any political subdivision shall not apply to the "sales
13 price" or "cost price" of railroad ties that a railroad purchases prior to long-term
14 preservative treatment and installs into the railroad's track system outside the taxing
15 jurisdiction of the respective taxing authority, ~~whether it be the state, a statewide~~
16 ~~taxing authority, or a political subdivision.~~

17 * * *

18 §305.53. Exclusions and exemptions; sickle cell disease organizations

19 A. The sale at retail, the rental or lease, the use, the consumption, the
20 distribution, and the storage for use or consumption in this state of each item or article
21 of tangible personal property, or any taxable service, by a nonprofit organization
22 established prior to 1975 which conducts a comprehensive program on sickle cell
23 disease which includes but is not limited to free education, free testing, free
24 counseling, and free prescriptions, transportation, and food packages for sickle cell
25 patients shall not be subject to the sales and use taxes levied by ~~the state or by any~~
26 other tax authority.

27 B.(1) An exemption certificate shall be obtained from the secretary taxing

1 authority, under such regulations as she shall prescribe, in order for a nonprofit
2 organization to qualify for the exemption provided in this Section.

3 (2) In the event ~~the secretary~~ a taxing authority denies tax exempt status under
4 this Section, the organization may appeal such ruling to the Louisiana Board of Tax
5 Appeals, which may overrule the secretary and grant tax exempt status to the
6 organization.

7 C. The provisions of this Section shall not apply to sales and use taxes
8 imposed by the state of Louisiana.

9 * * *
10 §305.57. Exemptions; sales of art work

11 A. The sales and use taxes imposed by ~~the state of Louisiana or any of its~~
12 political subdivisions ~~any political subdivision~~ shall not apply to the sale of original,
13 one-of-a-kind works of art from an established location within the boundaries of a
14 cultural product district. The provisions of this Section shall not apply to sales and use
15 taxes imposed by the state of Louisiana.

16 * * *
17 §305.59. Exemption; charitable residential construction

18 The sales and use tax imposed by the ~~state of Louisiana and all of its tax local~~
19 taxing authorities shall not apply to the sale of construction materials to Habitat for
20 Humanity affiliates, Fuller Center for Housing covenant partners located in this state,
21 or the Make it Right Foundation when such materials are intended for use in
22 constructing new residential dwellings in this state. The provisions of this Section
23 shall not apply to sales and use taxes imposed by the state of Louisiana.

24 * * *
25 §305.61. Exemption; certain water conservation equipment; Sparta Groundwater

26 Conservation District

27 A. The sales and use tax imposed by all ~~tax~~ local taxing authorities in the state

1 shall not apply to sales of water conservation equipment for use within the Sparta
2 Groundwater Conservation District. Only persons defined as "users" under R.S.
3 38:3087.133(7) shall be eligible for this exemption.

4 B. Any person seeking to qualify for this exemption must apply for an
5 exemption certificate with the ~~secretary of the Department of Revenue~~ local taxing
6 authority. Prior to application for an exemption certificate, the applicant must receive
7 certification ~~from the commissioner of conservation~~ that the equipment qualifies as
8 water conservation equipment. The certification by the commissioner of conservation
9 shall be attached by the board to the application for the exemption certificate. In
10 accordance with the ~~powers defined in R.S. 38:3087.136~~, the board shall determine the
11 types of equipment which qualify as water conservation equipment, provided that such
12 equipment must reduce water consumption by at least twenty-five percent.

13 §305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday

14 * * *

15 B.(1) Notwithstanding any other provisions of law to the contrary, the sales
16 and use tax levied by the state of Louisiana and its political subdivisions shall not
17 apply to the sales price or cost price of any consumer purchases of firearms,
18 ammunition, and hunting supplies that occur each calendar year on the first
19 consecutive Friday through Sunday of September. The provisions of this Section shall
20 not apply to sales and use taxes imposed by the state of Louisiana.

21 * * *

22 §305.64. Exemption; qualifying radiation therapy treatment centers

23 A.(1) ~~The sales and use tax imposed by the state of Louisiana shall not apply~~
24 ~~to the amount paid by qualifying radiation therapy treatment centers for the purchase,~~
25 ~~lease, or repair of capital equipment and the purchase, lease, or repair of software used~~
26 ~~to operate capital equipment.~~ Any political subdivision of this state, including parishes
27 and municipalities, may elect to grant a sales and use tax exemption for the amount

1 paid by qualifying radiation therapy treatment centers for the purchase, lease, or repair
2 of capital equipment and the purchase, lease, or repair of software used to operate
3 capital equipment. The provisions of this Section shall not apply to sales and use taxes
4 imposed by the state of Louisiana.

5 * * *

6 B. An exemption certificate shall be obtained from the ~~secretary of the~~
7 ~~Department of Revenue~~ political subdivision in order for a radiation therapy center to
8 qualify for the exemption provided for in this Section.

9 C. ~~The Department of Revenue shall promulgate rules and regulations in~~
10 ~~accordance with the Administrative Procedure Act as are necessary to implement the~~
11 ~~provisions of this Section:~~

12 §305.65. Exemption; charitable residential construction, rehabilitation, and
13 renovation; limitation

14 A. The sales and use tax imposed by ~~the state of Louisiana and all of its tax~~
15 local taxing authorities shall not apply to the sale of construction materials to Hands on
16 New Orleans and Rebuilding Together New Orleans covenant partners located in this
17 state when such materials are intended for use in either constructing, rehabilitating, or
18 renovating residential dwellings in this state which were destroyed or damaged by
19 Hurricane Katrina or Hurricane Rita.

20 B. No more than five hundred thousand dollars of ~~state and~~ local exemptions
21 authorized pursuant to this Section shall be granted in any calendar year.

22 C. ~~The secretary of the Department of Revenue shall promulgate rules and~~
23 ~~regulations necessary to implement the provisions of this Section:~~

24 * * *

25 §305.68. Exemption; Fore!Kids Foundation

26 The sales and use tax imposed by ~~the state of Louisiana or any political~~
27 subdivisions shall not apply to the purchase, use, or rental of materials, services,

1 property, and supplies, by the Fore!Kids Foundation, whose primary purpose is to fund
2 children's service organizations from monies raised from golfing events.

3 * * *

4 §305.70. Exemption; "Make It Right Foundation"

5 The sales and use tax imposed by ~~the state of Louisiana or~~ any political
6 subdivision shall not apply to the sale of construction materials to the "Make It Right
7 Foundation" when such materials are intended for use in constructing new residential
8 dwellings in this state.

9 * * *

10 §306. Returns and payment of tax; penalty for absorption

11 A.

12 * * *

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

21 (b) The compensation permitted a dealer under the provisions of this
22 Paragraph shall not exceed fifty dollars per calendar month. The aggregate state
23 compensation available to a dealer who operates more than one business location
24 within this state and who does not file a consolidated monthly tax report for all
25 locations shall not exceed fifty dollars per month.

26 ~~(b)~~ (c) Municipalities are hereby authorized to pay compensation to their sales
27 tax dealers in any amounts designated by the governing body of the municipality.

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§306.1. Collection from interstate and foreign transportation dealers

A. Persons, as defined in this Chapter, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft or other means, may, at their option under rules and regulations prescribed by the collector, register as dealers and pay the taxes imposed by ~~R.S. 47:302~~ R.S. 47:302(A) on the basis of the formula hereinafter provided.

Such persons, when properly registered as dealers, may make purchases in this state or import property into this state without payment of the sales or use taxes imposed by ~~R.S. 47:302~~ R.S. 47:302(A) at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the collector. ~~Thereafter, on~~

B. On or before the 20th day of the month following the purchase or importation, the dealer shall transmit to the collector, on forms secured by him, returns showing gross purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the state. ~~The amount of such purchases and importations shall be multiplied by a fraction, the numerator of which is Louisiana mileage operated by the taxpayer and the denominator of which is the total mileage, to obtain the taxable amount of tax basis. This amount shall be multiplied by the tax rate to disclose the tax due.~~

~~Each such dealer, at~~ At the time of making the return required hereunder, the dealer shall remit to the collector the tax due for the preceding calendar month as shown on the return.

Section 2. Chapter 2-E of Subtitle II of Title 47 of the Louisiana Revised statutes of 1950, to be comprised of R.S. 47:339 and Chapter 2-F of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:340 are hereby enacted to read

1 as follows:

2 CHAPTER 2- E. ADDITIONAL SALES AND USE TAX

3 §339. Imposition of tax

4 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331(A) and
 5 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
 6 Revised Statutes of 1950, there is hereby levied an additional tax upon the sale at
 7 retail, the use, the consumption, the distribution, and the storage for use or
 8 consumption in this state of each item or article of tangible personal property, as
 9 defined in Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
 10 1950; the levy of said tax to be as follows:

11 (1) At the rate of one and eighty-eight hundredths percent of the sales price of
 12 each item or article of tangible personal property when sold at retail in this state, the
 13 tax to be computed on gross sales for the purpose of remitting the amount of tax to the
 14 state, and to include each and every retail sale.

15 (2) At the rate of one and eighty-eight hundredths percent of the cost price of
 16 each item or article of tangible personal property when the same is not sold but is used,
 17 consumed, distributed, or stored for use or consumption in this state, provided that
 18 there shall be no duplication of the tax.

19 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
 20 collected under the provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana
 21 Revised Statutes of 1950, there is hereby levied a tax upon the lease or rental within
 22 this state of each item or article of tangible personal property, as defined in Chapter 2
 23 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the levy of said tax
 24 to be as follows:

25 (1) At the rate of one and eighty-eight hundredths percent of the gross
 26 proceeds derived from the lease or rental of tangible personal property, as defined in
 27 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where

1 the lease or rental of such property is in an established business, or part of an
2 established business, or the same is incidental or germane to the business.

3 (2) At the rate of one and eighty-eight hundredths percent of the monthly lease
4 or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee
5 or rentee to the owner of the tangible personal property.

6 C. In addition to the tax levied on sales of services by R.S. 47:302(C), 321(C),
7 and 331(C) and collected under the provisions of Chapter 2 of Subtitle II of this Title,
8 there is hereby levied a tax upon all sales of services in this state, as defined in
9 Chapter 2 of Subtitle II of this Title, at the rate of one and eighty-eight hundredths
10 percent of the amounts paid or charged for such services.

11 D. The tax levied herein shall be collected from the dealer, or wholesaler as
12 provided for and as defined by Chapter 2 of Subtitle II of Title 47 of the Louisiana
13 Revised Statutes of 1950; shall be paid at the time and in the manner provided by said
14 Chapter; shall be in addition to all other taxes, whether levied in the form of sales,
15 excise, license, or privilege taxes; and shall be in addition to taxes levied under the
16 provisions of Chapter 3 of Subtitle II of Title 47 of the Louisiana.

17 CHAPTER 2- F. ADDITIONAL SALES AND USE TAX LEVIED ON SERVICES

18 §340. Imposition of tax; services subject to additional tax; exemptions

19 A. There is hereby levied a tax upon all sales of services, as defined herein, in
20 this state, at the rate of five and eighty-eight hundredths percent of the amounts paid or
21 charged for such services. This tax on sales of services shall be levied and imposed by
22 the state of Louisiana and shall not be applicable to sales and use taxes levied by any
23 political subdivision. The tax imposed and levied pursuant to the provisions of this
24 Chapter shall apply to the services provided for in Subsection (B) of this Section.

25 B. For purposes of this Chapter, "service" shall mean all activities engaged in
26 for other persons, natural or juridical, for a fee, retainer, commission, or other
27 monetary charge or consideration, which involve predominantly the performance of a

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1 service as distinguished from the selling of property. For purposes of this Chapter, in
2 determining if an activity qualifies as a service, the intended use, principal objective or
3 ultimate objective of the contracting parties shall not be controlling.

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

6 (1) Services taxable under R.S. 47:302(C) shall be exempt from taxation under
7 this Chapter.

8 (2) Services rendered by an employee for his employer are not taxable.

9 (3) Services performed directly for the state, a political subdivision of the
10 state, the United States government, or the agencies of the United States government
11 are not taxable.

12 (4) Purchases and resales of advertising time or space from media outlets.

13 (5) The following services enumerated in the North American Industrial
14 Classification System, 2007, as prepared by the Statistical Policy Division of the
15 Office of Management and Budget, Office of the President shall be exempt from the
16 tax levied and imposed by this Chapter:

17 (a) Industry 213112 Support Activities for Oil and Gas Operations.

18 (b) Sector 22 Utilities.

19 (c) Sector 23 Construction.

20 (d) Subsector 481 Air Transportation.

21 (e) Subsector 482 Rail Transportation.

22 (f) Subsector 483 Water Transportation.

23 (g) Subsector 484 Truck Transportation.

24 (h) Subsector 486 Pipeline Transportation.

25 (i) Subsector 491 Postal Service.

26 (j) Industry 51913 Internet Publishing and Broadcasting and Web Search

27 Portals

1 (k) Sector 52 Finance and Insurance, except Industry Group 5242 Agencies,
2 Brokerages, and Other Insurance Related Activities.

3 (l) Subsector 531 Real Estate, except Industry 53113 Lessors of
4 Miniwarehouses and Self-Storage Units and Industry 531130 Lessors of
5 Miniwarehouses and Self-Storage Units.

6 (m) Industry Group 5411 Legal Services.

7 (n) Sector 55 Management of Companies and Enterprises.

8 (o) Sector 61 Educational Services.

9 (p) Sector 62 Health Care and Social Assistance.

10 (q) Industry Group ~~8122~~ Death Care Services.

11 (r) Industry Group 8131 Religious Organizations.

12 (s) Industry Group 8132 Grantmaking and Giving Services.

13 (t) Industry Group 8133 Social Advocacy Organizations.

14 (u) Industry group 8134 Civic and Social Organizations.

15 (v) Industry group 8139 Business, Professional, Labor, Political, and Similar
16 Organizations.

17 D.(1) All sales of services shall be sourced as follows:

18 (a) If the customer receives the service at the dealer's place of business, the
19 sale shall be sourced to that place of business.

20 (b) If the service is not received at a dealer's place of business, the sale shall be
21 sourced to the location known to the dealer where the customer receives service.

22 (c) If Subparagraphs (a) and (b) of this Paragraph do not apply, the sale shall
23 be sourced to the location indicated by an address for the customer that is available
24 from the dealer's business records maintained in the ordinary course of the dealer's
25 business, when use of that address does not constitute bad faith.

26 (d) If Subparagraphs (a), (b), and (c) of this Paragraph do not apply, the sale
27 shall be sourced to the location indicated by an address for the customer obtained

1 during the consummation of the sale, including the address associated with the
2 customer's payment instrument, if no other address is available, when use of that
3 address does not constitute bad faith.

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

9 (2) As used in this Paragraph, "receive" shall mean making first use of a
10 service.

11 E. Bundled transactions are subject to the tax levied and imposed by this
12 Chapter if the sale of any of its components would be subject to the tax levied and
13 imposed under R.S. 47:301 or this Chapter.

14 F.(1) Sellers of services with total gross receipts of ten thousand dollars or less
15 in the previous calendar year who reasonably expect that their total gross receipts in
16 the current calendar year will be less than ten thousand dollars shall not be required to
17 collect and remit the tax imposed by this Chapter.

18 (2) If a service that is subject to the tax levied and imposed by this Chapter is
19 purchased within or imported into this state tax free, the service shall be subject to the
20 state use tax as of the time it is brought into the state, subject to the credit provided for
21 in R.S. 47:303(A).

22 G. The tax levied and imposed by this Chapter shall be collected from the
23 dealer or wholesaler as provided for and as defined by Chapter 2 of Subtitle II of Title
24 47 of the Louisiana Revised Statutes of 1950; shall be paid at the time and in the
25 manner provided by said Chapter; shall be in addition to all other taxes, whether levied
26 in the form of sales, excise, license, or privilege taxes; and shall be in addition to taxes
27 levied and imposed under the provisions of Chapter 3 of Subtitle II of Title 47 of the

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§6001. Antique airplanes and certain other aircraft

A. No tax imposed by ~~the state or~~ by any parish, municipality, school board, or any political subdivision of the state shall be imposed on antique airplanes which are maintained by private collectors and not used for commercial purposes, and no personal property tax shall be imposed on any aircraft weighing less than six thousand pounds which is owned by a private individual and not used for commercial or profit making purposes. The exemption from local taxes contained in this Section is granted notwithstanding the provisions of R.S. 47:302, and such exemption shall apply to any sales and use tax levied by any local governmental subdivision or school board.

* * *

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END

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