

§305. Exclusions and exemptions from the tax

A.(1) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by taxing authorities, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products are made to consumers by any person other than the producer, they are not exempted from the tax imposed by taxing authorities.

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

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

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

(b) For purposes of this Subsection:

(i) "Commercial use" means the purchasing, producing, or maintaining of animals, including breeding stock, for resale;

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

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

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

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

(b) Solely for purposes of the sales and use tax levied by the state, such tax shall not apply to the sale or use of bait and feed used in the production or harvesting of crawfish. The person who purchases the exempt items shall claim the exemption by executing a certificate at the time of purchase. The Department of Revenue shall provide the certificates to retail merchants. Any merchant who in good faith, and after examination of the applicability of the certificate to that purchase with due care, neglects or fails to collect the tax herein

provided, due to the presentation by the purchaser of a tax exemption certificate issued by the Department of Revenue, including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment of the tax.

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

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

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

NOTE: See H.C.R. No. 8, re: suspension of exemptions in (D)(1)(b), (c), (d), and (g).

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

(a) Gasoline.

(b) Steam.

(c) Water (not including mineral water or carbonated water or any water put in bottles, jugs, or containers, all of which are not exempted).

(d) Electric power or energy and any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration.

(e) Repealed by Acts 2007, No. 480, §2.

(f) Fertilizer and containers used for farm products when sold directly to the farmer.

(g) Natural gas.

(h) All energy sources when used for boiler fuel except refinery gas.

(i)(i) New trucks, new automobiles, new motorcycles, new aircraft, and new boats, vessels, or other water craft withdrawn from stock or kept in a dealer's inventory by factory authorized new truck, new automobile, new motorcycle, new aircraft dealers, and factory-authorized dealers of new boats, vessels, or other water craft, for use as demonstrators.

(ii) Used trucks and used automobiles withdrawn from stock or kept in a dealer's inventory by new or used motor vehicle dealers for use as demonstrators.

(j) Solely for purposes of the state sales and use tax, drugs prescribed by a physician or dentist.

(k)(i) Solely for purposes of the state sales and use tax, orthotic, including prescription eyeglasses and contact lenses, and prosthetic devices and wheelchairs and wheelchair lifts prescribed by physicians, optometrists or licensed chiropractors for personal consumption or use.

(ii) Solely for purposes of the sales and use tax of political subdivisions, the sale to, or the purchase by, an individual or by a medical service provider such as a physician, clinic, surgical center, or other healthcare facility of a prosthetic device which is sold or purchased with the intention of being personally used or consumed by individuals pursuant to a prescription by a physician when the individual is covered by the state of Louisiana Medicaid insurance program or a Medicaid insurance program administered by a third party on behalf of the state of Louisiana.

(l) Solely for purposes of the state sales and use tax, the sale or purchase of any ostomy, ileostomy or colostomy device or any other appliance including catheters or any related item which is 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.

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

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

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

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

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

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

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

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

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

(2)(a) Sales of meals furnished as follows shall be exempt:

(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 and to the staff and residents of nursing homes, adult residential care providers, and continuing care retirement communities.

(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)(a) Except as provided in Subparagraph (b) of this Paragraph, 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.

(b) Bakery products sold for consumption in the home when purchased at grocery stores, bakeries, and donut shops, regardless of whether such businesses furnish facilities for the consumption of food on the premises, shall be exempt from state sales and use taxes.

(4)(a) The exemption for food, drugs, orthotic devices, prosthetic devices except for those provided for in Item (1)(k)(ii) of this Subsection, 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 Louisiana and does not apply to such taxes authorized and imposed by any school board, municipality, or other local taxing authority notwithstanding any other provisions of law to the contrary, and specifically, but not exclusively, R.S. 47:337.8.

(b) However, sales taxes authorized and imposed by any taxing authority shall not apply to the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in his medical treatment when administered exclusively to the patient by a physician, nurse, or

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

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

(b) The administration of prescription drugs used exclusively by the patient in the medical treatment of various diseases or injuries when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more shall be a professional service.

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

(i) An exemption for the sale of prescription drugs administered as provided for in Subparagraph (b) of this Paragraph, or an exemption for the procurement and administration of chemotherapy drugs used exclusively by the patient in his medical treatment if administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

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

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

E. It is not the intention of any taxing authority to levy a tax upon articles of tangible personal property imported into this state, or produced or manufactured in this state, for export; nor is it the intention of any taxing authority to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent the collection of the taxes due on sales of tangible personal property into this state which are promoted through the use of catalogs and other means of sales promotion and for which federal legislation or federal jurisprudence enables the enforcement of the sales tax of a taxing authority upon the conduct of such business. It is, however, the intention of the taxing authorities to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state, of tangible personal property after it has come to rest in this state and has become a part of the mass of property in this state. At such time as federal legislation or federal jurisprudence as to sales in interstate commerce promoted through the use of catalogs and other means of sales promotions enables the enforcement of this Chapter or any other law or local ordinance imposing a sales tax against vendors that have no other nexus with the taxing jurisdiction, the following provisions shall apply to such sales on which sales and use tax would not otherwise be collected.

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

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

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

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

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

(a) They are registered in a boat, vessel, or water craft dealer's name with the appropriate agency.

(b) They are reported by the dealer to the department as demonstrators and are clearly identified as demonstrators in the manner required by the department.

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

(d) They are ultimately sold at retail.

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

Acts 1962, No. 182, §3; Acts 1972, No. 234, §1; Acts 1973, Ex.Sess., No. 13, §1, eff. Jan. 1, 1974; Acts 1974, No. 186, §1; Acts 1974, No. 627, §1; Acts 1975, No. 200, §1; Acts 1975, No. 372, §1; Acts 1976, No. 662, §1; Acts 1977, No. 516, §1; Acts 1978, No. 652, §1, eff. Jan. 1, 1979; Acts 1979, No. 145, §1; Acts 1979, No. 796, §1; Acts 1980, No. 159, §1; Acts 1980, No. 710, §1, eff. July 24, 1980; Acts 1983, No. 673, §1, eff. July 1, 1984; Acts 1984, No. 183, §1, eff. July 1, 1984; Acts 1985, No. 258, §1, eff. June 6, 1985; Acts 1985, No. 530, §1; Acts 1985, No. 901, §1, eff. Sept. 1, 1985; Acts 1986, No. 677, §1; H.C.R. No. 55, 1986 R.S.; Acts 1987, No. 156, §1, eff. Sept. 1, 1987; Acts 1987, No. 364, §1, eff. Sept. 1, 1987; Acts 1987, No. 847, §1, eff. July 20, 1987; Acts 1988, No. 948, §1, eff. Sept. 1, 1988; Acts 1990, No. 155, §1, eff. July 1, 1990; Acts 1990, No. 476, §1, eff. July 18, 1990; Acts 1991, No. 495, §1, eff. July 15, 1991; Acts 1991, No. 1065, §1, eff. Aug. 1, 1991; Acts 1994, No. 18, §2; Acts 1996, No. 29, §1, eff. July 2, 1996; Acts 1998, No. 4, §1, eff. June 4, 1998; Acts 1998, No. 37, §1, eff. June 24, 1998; Acts 1998, No. 38, §1, eff. June 24, 1998; Acts 2002, No. 4, §1, eff. June 30, 2002; Acts 2002, No. 31, §1, eff. July 1, 2002; Acts 2002, No. 37, §1, eff. June 25, 2002; Acts 2002, No. 42, §1, eff. July 1, 2002; Acts 2002, No. 62, §1, eff. June 25, 2002; Acts 2002, No. 72, §1, eff. June 25, 2002; Acts 2003, No. 73, §1, eff. July 1, 2003; Acts 2007, No. 463, §1, eff. July 1, 2007; Acts 2007, No. 480, §2; Acts 2009, No. 442, §1, eff. July 1, 2009; Acts 2009, No. 455, §1, eff. July 1, 2009; Acts 2009, No. 473, §1, eff. July 9, 2009; Acts 2013, No. 271, §1, eff. June 13, 2013; Acts 2015, No. 102, §1, eff. July 1, 2015; Acts 2015, No. 468, §1, eff. July 1, 2015; H.C.R. No. 8, 2015 R.S.; Acts 2019, No. 102, §1, eff. July 1, 2019.

NOTE: Act No. 205 of the 1978 R.S. became effective June 29, 1978. See Paragraph (D)(6) of this Section.

NOTE: See R.S. 47:302(j) and 331(i) for §305(D)(1)(t).

NOTE: See Acts 2002, No. 4, re (D)(1)(h).

NOTE: See H.C.R. No. 8, 2015 R.S., re: suspension of exemptions in (D)(1)(b), (c), (d), and (g).