

2016 First Extraordinary Session

HOUSE BILL NO. 64

BY REPRESENTATIVE MONTOUCET

TAX/SALES-USE, ST-EXEMPT: Provides for the extent of the state sales and use tax exemption for business utilities (Items #9 and 36)

1 AN ACT

2 To amend and reenact R.S. 47:301(10)(x), 305(D)(1)(a) through (d), (g), and (h), and
3 305.51(A), to enact R.S. 47:305.72, and to repeal R.S. 47:301(3)(j), (10)(c)(i)(bb)
4 and (ii)(aa), (n), (z), and (bb), (13)(m), and 18(l), relative to state sales and use
5 taxes; to provide with respect to the definitions used for the administration of the
6 taxes; to provide for an exemption for certain utilities consumed by businesses; to
7 provide for effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:301(10)(x), 305(D)(1)(a) through (d), (g), and (h), and 305.51(A)
10 are hereby amended and reenacted and R.S. 47:305.72 is hereby enacted to read as follows:

11 §301. Definitions

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

15 * * *

16 (10)

17 * * *

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

1 (h) All energy sources when used for boiler fuel except refinery gas. For
2 purposes of state taxes, the exemption is limited to the extent provided in R.S.
3 47:305.75.

4 * * *

5 §305.51. Exemption; utilities used by steelworks and blast furnaces

6 A. The sales and use tax imposed by ~~the state of Louisiana or any of its~~
7 political subdivisions shall not apply to sales or purchases of utilities used by
8 steelworks, blast furnaces, coke ovens, or rolling mills with more than one hundred
9 twenty-five full-time employees, which are classified by the Louisiana Workforce
10 Commission within Sector 331111 of the North American Industry Classification
11 System as it existed in 2002. However, this exemption shall not apply to utilities
12 used in and around the production of coke in oil refineries and the use of coke in oil
13 refineries and other chemical processes.

14 * * *

15 §305.72. Exclusions and exemptions; business utilities

16 A. There shall be an exemption from state sales and use taxes for the
17 purchase and use of business utilities. The extent of the exemption shall be subject
18 to the price of natural gas as determined by the method established in Subsection C
19 of this Section.

20 B. As used in this Section, the following words and phrases shall have the
21 following meanings:

22 (1) "Alternative substance used as fuel" means petroleum coke, landfill gas,
23 reclaimed or waste oil, unblended biodiesel, or tire-derived fuel. "Alternative
24 substance used as fuel" does not mean oil, natural gas, any product of oil or natural
25 gas, coal, lignite, refinery gas, nuclear fuel, or electricity.

26 (2) "Business utilities" means and includes any of the following:

27 (a) Steam.

28 (b) Water, excluding mineral and carbonated water and any other water
29 contained in a bottle or other receptacle.

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

4 (d) Natural gas.

5 (e) All energy sources including pelletized paper waste used for boiler fuel
6 except refinery gas.

7 (f) Butane.

8 (g) Propane.

9 (3) "Manufacturer" means a person whose principal activity is manufacturing
10 and who is assigned by the Louisiana Workforce Commission a North American
11 Industrial Classification System code within the agricultural, forestry, fishing, and
12 hunting Sector 11 or the manufacturing Sectors 31-33 as they existed in 2002.

13 C. The extent of the exemption shall be established each calendar year and
14 shall be based upon the Natural Gas Spot Price at Henry Hub (nominal dollars per
15 million BTU) as adopted by the Energy Information Administration and published
16 in the Annual Energy Outlook report. For purchases of business utilities on or after
17 April 1, 2016, and on or before December 31, 2016, the price of natural gas used for
18 purposes of the exemption shall be the price published in the February 2016 edition
19 of the Annual Energy Outlook report. For purchases of business utilities on or after
20 January 1, 2017, the extent of the exemption shall be based on the price published
21 in the annual edition of the Annual Energy Outlook report. The amount of the
22 exemption shall be as follows:

23 (1) There shall be no exemption if the price of natural gas is six dollars per
24 million BTU or less.

25 (2) The exemption shall be effective and applicable for purposes of the state
26 sales and use tax imposed under R.S. 47:331 if the price of natural gas is more than
27 six dollars per million BTU and not more than seven dollars per million BTU.

28 (3) The exemption shall be effective and applicable for purposes of the state
29 sales and use taxes imposed under R.S. 47:321 and 331 if the price of natural gas is

1 more than seven dollars per million BTU and not more than eight dollars per million
2 BTU.

3 (4) The exemption shall be effective and applicable for purposes of the state
4 sales and use taxes imposed under R.S. 47:302, 321, and 331 if the price of natural
5 gas is more than eight dollars per million BTU.

6 Section 2. R.S. 47:301(3)(j), (10)(c)(i)(bb) and (ii)(aa), (n), (z), and (bb), (13)(m),
7 and (18)(l) are hereby repealed in their entirety.

8 Section 3. This Act shall become effective on April 1, 2016.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 64 Engrossed 2016 First Extraordinary Session Montoucet

Abstract: Provides for the extent of state sales and use taxes on business utilities.

Present law imposes a 4% state sales tax on the sale, use, consumption, and storage of tangible personal property.

Present law excludes the following property from the tax base:

- (1) Sales of electricity for chlor-alkali manufacturing processes.
- (2) Pelletized paper waste used as combustible fuel by manufacturers.
- (3) Butane and propane.
- (4) Steam.
- (5) Water, other than mineral water, carbonated water, or water within a bottle or other receptacle.
- (6) 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.
- (7) Natural gas.
- (8) All energy sources when used for boiler fuel, other than refinery gas.
- (9) Utilities used by steelworks, blast furnaces, coke ovens, or rolling mills.

Proposed law removes the exclusions listed above from the definitions for sales and use tax, and instead provides for a tax exemption for the same property.

Proposed law provides for the extent of the new exemption based on the Natural Gas Spot Price at Henry Hub (nominal dollars per million BTU) adopted by the Energy Information

Administration and published in the Annual Energy Outlook report. For purchases of business utilities on or after April 1, 2016, through December 31, 2016, the price of natural gas used for purposes of the exemption shall be the price published in the February 2016 edition of the Annual Energy Outlook report. For purchases of business utilities on and after January 1, 2017, the price shall be the price published in the Annual Energy Outlook report.

Proposed law establishes the following price thresholds for the extent of the exemption from state sales and use taxes:

- (1) No exemption if the price of natural gas is at or below \$6 per million BTU.
- (2) An exemption from the 1% tax imposed under R.S. 47:331 if the price is above \$6 and at or below \$7 per million BTU.
- (3) An exemption from the 1% tax imposed under R.S. 47:321 and the 1% tax imposed under R.S. 47:331 [total of 2%] if the price is above \$7 and at or below \$8 per million BTU.
- (4) An exemption from the 2% tax imposed under R.S. 47:302, the 1% tax imposed under R.S. 47:321, and the 1% tax imposed under R.S. 47:331 [a total of 4%] if the price is above \$8 per million BTU.

Proposed law specifies that the exclusion for butane and propane is applicable to residential use only.

Effective April 1, 2016.

(Amends R.S. 47:301(10)(x), 305(D)(1)(a)–(d), (g), and (h), and 305.51(A); Adds R.S. 47:305.72; Repeals R.S. 47:301(3)(j), (10)(c)(i)(bb) and (ii)(aa), (n), (z), and (bb), (13)(m), and 18(l))