

2024 Regular Session

HOUSE BILL NO. 827

BY REPRESENTATIVES TURNER, MARCELLE, MUSCARELLO, STAGNI,
THOMPSON, AND YOUNG

1 AN ACT

2 To amend and reenact R.S. 47:305.73 and to enact R.S. 47:303.1(B)(5), relative to sales and
3 use tax rebates; to provide relative to a state and local sales and use tax rebate on the
4 sale of certain communications service equipment and data center equipment; to
5 provide for definitions; to provide for issuance of direct payment numbers to certain
6 taxpayers; to provide for other limitations and conditions; to provide an effective
7 date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:305.73 is hereby amended and reenacted and R.S. 47:303.1(B)(5)
10 is hereby enacted to read as follows:

11 §303.1. Direct Payment Numbers

12 * * *

13 B.

14 * * *

15 (5) A DP Number shall be issued to a taxpayer who has entered into an
16 agreement with the state pursuant to the provisions of R.S. 47:305.73 and who
17 obtains the required approvals and meets all of the qualifications provided in
18 Paragraph (1) of this Subsection. The taxpayer may possess the DP Number for the
19 entire term of the agreement that the taxpayer enters into pursuant to R.S. 47:305.73.

20 * * *

21 §305.73. Rebates; sales and use tax for fiber-optic cable equipment and data center
22 facility equipment

23 A. As used in this Section, the following terms shall have the meanings
24 ascribed to them in this Subsection unless the context clearly indicates otherwise:

1 (1) "Approved data center facility" means a data center facility that is located
2 in Louisiana and certified by the Department of Economic Development.

3 (2) "Data center" and "data center facility" mean a facility, campus of
4 facilities, or interconnected facilities located within Louisiana which has a primary
5 business purpose of processing, storage, retrieval, or communication of data, and was
6 developed to power, cool, secure, or connect its own equipment or the equipment of
7 its customers.

8 (3)(a) "Data center equipment" means equipment or software purchased or
9 leased for the processing, storage, retrieval, or communication of data including all
10 of the following:

11 (i) Servers, routers, connections, and other enabling machinery, equipment,
12 software, and hardware, regardless of whether the property is affixed to or
13 incorporated into immovable property used in the processing, storage, retrieval, or
14 communication of data.

15 (ii) Equipment used in the operation of computer equipment or software,
16 including component parts, refreshments, replacements, and upgrades, regardless of
17 whether the property is affixed to or incorporated into immovable property.

18 (iii) Equipment necessary for the transformation, generation, distribution, or
19 management of electricity required to operate computer server equipment, including
20 substations, generators, uninterruptible energy equipment, fuel piping and storage,
21 cabling, duct banks, switches, switchboards, batteries, testing equipment, and backup
22 generators.

23 (iv) Equipment necessary to cool and maintain a controlled environment for
24 the operation of computer servers and the data center, including chillers, refrigerant
25 piping, fuel piping and storage, adiabatic and free cooling systems, cooling towers,
26 water softeners, air handling units, indoor direct exchange units, fans, ducting, and
27 filters.

28 (v) Water conservation systems, including facilities or equipment designed
29 to collect, conserve, and reuse water.

30 (vi) Computer server equipment, including chassis, networking equipment,
31 switches, racks, fiber optic and copper cabling, trays, and conduit.

32 (vii) Monitoring equipment and security systems.

1 (viii) Conduits, ducting, and fiber-optic and copper cabling, including any
 2 such items that are located outside the data center but within Louisiana, directly
 3 related to connecting one or more distributed approved data center locations.

4 (ix) Equipment, materials, and services necessary for the development,
 5 acquisition, construction, expansion, and renovation of a qualified data center,
 6 including but not limited to construction and building materials, site characterization
 7 and assessment services, engineering services, and design services used directly and
 8 exclusively in a qualified data center.

9 (x) Modular data centers and pre-assembled components used in the
 10 manufacturing of such centers.

11 (xi) Pre-assembled components of any item listed in this Subparagraph.

12 (b) The term "data center equipment" shall not mean office equipment or
 13 supplies, equipment or supplies used primarily in sales activities or transportation
 14 activities, tangible personal property not listed in Subparagraph (a) of this Paragraph
 15 that is incorporated into immovable property, and tangible personal property that is
 16 rented or leased for a term of one year or less.

17 (4) "Department" means the Department of Revenue.

18 (5) "Fiber-optic cable equipment" means:

19 (a) Telecommunications fiber.

20 (b) Wires.

21 (c) Poles.

22 (d) Supports.

23 (e) Lashing cable.

24 (f) Conduit.

25 (g) Communication handholes.

26 (h) Customer premise equipment.

27 (6) "Unserved area" means an area that has service levels below the
 28 minimum acceptable level of fixed broadband service as defined in 7 U.S.C.
 29 950bb(e)(1).

30 B.(1) A winning bidder that is awarded a census block by the Federal
 31 Communications Commission in the Rural Digital Opportunity Fund Auction; shall
 32 be eligible for a rebate of state and local sales and use taxes paid by the winning

1 bidder on fiber-optic cable equipment used to distribute fixed and mobile broadband
 2 networks to eligible rural unserved areas in Louisiana. The amount of the rebate
 3 shall equal fifty percent of the sales and use tax paid by the winning bidder on
 4 fiber-optic cable equipment.

5 ~~(2) The following words shall have the following meanings unless the~~
 6 ~~context clearly indicates otherwise:~~

7 (a) "Fiber-optic cable equipment" means:

8 (i) ~~Telecommunications fiber.~~

9 (ii) ~~Wires.~~

10 (iii) ~~Poles.~~

11 (iv) ~~Supports.~~

12 (v) ~~Lashing cable.~~

13 (vi) ~~Conduit.~~

14 (vii) ~~Communication handholes.~~

15 (viii) ~~Customer premise equipment.~~

16 (b) "Unserved area" means an area that has service levels below the minimum
 17 acceptable level of fixed broadband service as defined in 7 U.S.C. 950bb(c)(1).

18 ~~(3)~~ (2) Each item of fiber-optic cable equipment shall be eligible for only a
 19 single rebate pursuant to this Section. Subsequent transactions involving the sale or
 20 resale of the same item of fiber-optic cable equipment shall not be eligible for ~~this~~
 21 ~~rebate~~ any rebate authorized pursuant to this Section.

22 ~~(4)~~ (3) The rebate authorized pursuant to this Section shall not be allowed
 23 for the purchases of fiber-optic cable equipment that are paid for with state or federal
 24 funds, unless the state or federal funds are reported as taxable income or are
 25 structured as repayable loans.

26 C.(1)(a) Subject to the limitation provided in Subparagraph (b) of this
 27 Paragraph, an approved data center facility shall be eligible for a rebate, to be paid
 28 annually, of Louisiana state and local sales and use taxes paid for the purchase of
 29 eligible data center equipment and for sales tax paid on expenditures for the
 30 development, acquisition, construction, lease, repair, refurbishment, expansion, and
 31 renovation of a qualified data center, including but not limited to costs of
 32 construction and building materials, site characterization and assessment,

1 engineering, design, and labor and installation services used directly and exclusively
2 in a qualified data center.

3 (b) Only purchases made on or after July 1, 2024, shall be eligible for the
4 rebate authorized in this Subsection.

5 (2) To be certified as an approved data center by the Department of
6 Economic Development, the data center facility operator shall provide a sworn
7 attestation that the project will create a minimum of fifty new direct, permanent jobs
8 in Louisiana and intends to expend at least two hundred million dollars in new
9 capital investment in Louisiana on or after July 1, 2024, and before July 1, 2029. An
10 approved data center shall be issued a Direct Payment Number in accordance with
11 the applicable provisions of R.S. 47:303.1.

12 (3)(a) A facility that has been certified as an approved data center facility
13 shall enter into an agreement with the Department of Economic Development that
14 comports with the requirements of this Paragraph.

15 (b) The agreement shall provide a term of rebate eligibility, an initial term
16 of twenty years, a list of all eligible recipients of the rebate, and language that
17 authorizes the state to terminate the agreement and recapture any rebates if the data
18 center facility fails to fulfill, or the Department of Economic Development
19 determines that the facility will be unable to fulfill, its statutory and contractual
20 obligations.

21 (c) Upon the expiration of the initial term of the agreement, the Department
22 of Economic Development may renew the agreement for an additional ten years.

23 (d) The Department of Economic Development may include in the
24 agreement any additional conditions it deems appropriate.

25 (4) The department may utilize any collection remedy authorized by R.S.
26 47:1561.2 for any rebates subject to recapture based on termination of the agreement
27 with the Department of Economic Development or a determination that the purchase
28 did not qualify for the rebate. If a rebate is subject to recapture, the approved data
29 center facility shall reimburse the department or its agent for any costs incurred.

30 ~~B: D.(1)~~ Requests for the rebates of state sales and use taxes pursuant to the
31 provisions of this Section shall be processed by the ~~Department of Revenue~~

~~department.~~ A purchaser shall claim taxpayer shall request a state rebate using the form and in the manner prescribed by the ~~Department of Revenue~~ department.

~~(2) The purchaser who claims a rebate shall submit documentation to the secretary of the Department of Revenue~~ A taxpayer who requests a rebate pursuant to Subsection B of this Section shall submit documentation to the department evidencing the purchase of fiber-optic cable equipment and ~~documentation evidencing~~ that the purchaser is a winning bidder that was awarded a census block by the Federal Communications Commission in the Rural Digital Opportunity Fund Auction. ~~The secretary of the Department of Revenue may promulgate rules in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section, including rules to provide for the form and manner for claiming a rebate.~~

(3) A taxpayer who requests a rebate pursuant to Subsection C of this Section shall do all of the following:

(a) Obtain certification from the Department of Economic Development that the data center is an approved data center facility eligible to receive a rebate provided for in Subsection C of this Section, in accordance with administrative rules. A copy of the certification shall be submitted to the department with the request for rebate.

(b) Submit documentation to the department evidencing the purchases eligible for the rebate.

~~€.~~ E.(1) Requests for the rebate of local sales and use taxes pursuant to the provisions of this Section shall be processed by the appropriate local taxing authority. ~~A purchaser~~ taxpayer shall claim a local rebate using the form and in the manner required by the local taxing authority.

~~(2) The purchaser who claims the~~ A taxpayer who requests a rebate pursuant to Subsection B of this Section shall submit documentation to the local taxing authority evidencing the purchase of fiber-optic cable equipment and documentation evidencing the purchaser is a winning bidder that was awarded a census block by the Federal Communications Commission in the Rural Digital Opportunity Fund Auction.

1 (3) A taxpayer who requests a rebate pursuant to Subsection C of this
2 Section shall submit documentation to the applicable local taxing authority
3 evidencing the purchases eligible for the rebate.

4 F.(1) The department and the Louisiana Uniform Local Sales Tax Board,
5 respectively, may promulgate rules and regulations in accordance with the
6 Administrative Procedure Act as necessary for the implementation of this Section.

7 (2) The rules of the department may include, without limitation, the method
8 for processing and paying rebates of state sales and use taxes authorized by this
9 Section. The method may comprise a first come, first-served system, or any other
10 procedure which the department, in its discretion, may find beneficial for
11 administration of the rebate.

12 Section 2. This Act shall become effective on July 1, 2024; if vetoed by the governor
13 and subsequently approved by the legislature, this Act shall become effective on July 1,
14 2024, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____