HLS 23RS-108 ORIGINAL

2023 Regular Session

HOUSE BILL NO. 423

BY REPRESENTATIVE NELSON

TAX: Provides relative to state and local sales and use taxes

1 AN ACT 2 To amend and reenact R.S. 33:4169(D), R.S. 39:467(H) and 468(G), and R.S. 3 47:301(4)(introductory paragraph) and (14)(b)(i)(aa), 305.14(A)(1)(a), 305.20(A) 4 and (C), 305.62(B)(1), 306(A)(3)(a), 318(A), 321(A)(introductory paragraph) and 5 (B)(introductory paragraph), 331(A)(introductory paragraph) and (B)(introductory 6 paragraph), 337.9(C)(7) through (9), (12), and (13), 2301, 2303, 2304(A), 7 2305(B)(1), and 2322, to enact R.S. 47:301(14)(1) through (v) and (32), 305.79, and 8 331.1, and to repeal R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), 9 (7)(d), (j), and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v) 10 through (y), (bb), and (ee) through (hh), (13)(e) through (j), (l), and (m), (14)(b)(ii) 11 through (iv) and (k), (16)(b)(iii), (c), (h), (i), (m), (n), and (p), and (18)(a)(iv), (d), 12 (f) through (k), (o), and (p), 302(F) through (J) and (L) through (CC), 305(D)(1)(b) through (d), (g), (h), (j), and (m) and (3) through (5) and (F), 305.2, 305.9, 305.11, 13 14 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36, 305.40 through 15 305.44, 305.50(B), 305.51 through 305.54, 305.57 through 305.61, 305.63, 305.65, 16 305.67 through 305.71, 305.74, 321(E) through (Q), 321.1, 331(F) through (W), 17 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (17) through (19), (25) through (32), 18 and (35), 337.10(E), (G), and (M), 337.11(4) and (8), 2302(C), 6001, 6003, and 19 6040, relative to state and local taxation; to provide with respect to sales and use 20 taxes on sales of tangible personal property; to provide with respect to sales and use

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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taxes on sales of certain services; to amend the definition of "dealer" for purposes of sales and use taxes; to define "specified digital products" and provide for treatment of such products as tangible personal property for purposes of sales and use taxes; to provide with respect to various sales and use tax exemptions; to provide with respect to sales and use taxes associated with private companies contracted to construct or operate certain sewerage or wastewater treatment facilities; to provide with respect to sales and use taxes on certain labor charges; to provide with respect to sales and use taxes on rentals or purchases of certain airplanes; to provide with respect to sales and use taxes on certain manufacturing and machinery equipment; to provide with respect to sales and use taxes on pallets; to provide with respect to the sales and use taxes on certain bibles, song books, and literature; to provide with respect to sales and use taxes on certain school buses; to provide with respect to sales and use taxes on certain pollution control devices; to provide with respect to sales and use taxes on pelletized paper waste; to provide with respect to sales and use taxes on funeral services; to provide with respect to sales and use taxes on sales of telephone directories; to provide with respect to sales and use taxes on telecommunication services; to provide with respect to sales and use taxes on natural gas; to provide with respect to sales and use taxes on storm shutter devices; to provide with respect to sales and use taxes on items sold on property owned by the military department of this state; to provide with respect to sales and use taxes on anthropogenic carbon dioxide used in certain projects; to provide with respect to sales and use taxes at, or for admission to, certain Louisiana heritage and cultural events; to provide with respect to sales and use taxes at festivals; to provide with respect to sales and use taxes on specialty items sold to members of nonprofit carnival organizations by those organizations; to provide with respect to sales and use taxes on admissions to certain athletic and entertainment events; to provide with respect to sales and use taxes on admissions to certain places of amusement; to provide with respect to sales and use taxes on computer software; to provide with respect to sales and use taxes on purchases by motor vehicle manufacturers; to

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provide with respect to sales and use taxes on sales of newspapers; to provide with respect to sales and use taxes on certain medical devices and equipment; to provide with respect to sales and use taxes on sales to nonprofit literacy organizations; to provide with respect to sales and use taxes on certain installation services; to provide with respect to sales and use taxes on motor vehicles; to provide with respect to sales and use taxes on purchases of certain construction materials by charitable or nonprofit organizations; to provide with respect to sales and use taxes on specialty Mardi Gras items; to provide with respect to sales and use taxes on sales by Ducks Unlimited and Bass Life; to provide with respect to sales and use taxes on tickets to dances, dramas, or performing arts presentations or events; to provide with respect to sales and use taxes on materials used in the printing process; to provide with respect to sales and use taxes on certain carrier buses; to provide with respect to sales and use taxes on purchases of breastfeeding items; to provide with respect to sales and use taxes on certain materials for Louisiana commercial fishermen; to provide with respect to sales and use taxes on certain antique motor vehicles and airplanes; to provide with respect to sales and use taxes on rentals of motion-picture film; to provide with respect to sales and use taxes on purchases and sales by certain nonprofit organizations dedicated to the conservation of fish and migratory waterfowl; to provide with respect to sales and use taxes on certain one-of-a-kind works of art; to repeal certain state and local sales and use tax exemptions; to provide with respect to sales and use tax holidays; to levy a sales and use tax on certain advertising services; to levy an additional state sales and use tax; to provide for a sales and use tax exemption for certain residential utilities; to provide relative to eligibility of certain lands for use value assessment for purposes of ad valorem taxation; to provide relative to valuation of marsh lands for purposes of ad valorem taxation; to provide for certain requirements and limitations; to make technical and conforming changes; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:4169(D) is hereby amended and reenacted to read as follows:

1	§4169. Collection contracts for sewerage service charges; access charges;
2	enforcement procedures for delinquent charges
3	* * *
4	D. Any municipal corporation, parish, or sewerage or water district shall
5	have the power to execute and enter into a contract with any private company for the
6	construction of sewerage or wastewater treatment facilities and for the operation of
7	such facilities. Any such private company shall have in its construction and
8	operation of such facilities the same ad valorem and sales tax liability exemption as
9	the municipal corporation, parish, or sewerage or water district with which it
10	contracts for such purpose.
11	* * *
12	Section 2. R.S. 39:467(H) and 468(G) are hereby amended and reenacted to read as
13	follows:
14	§467. Sales of services and tangible personal property at a publicly owned domed
15	stadium facility or baseball facility; sales and use tax; exemptions
16	* * *
17	H. Notwithstanding any provision of law to the contrary, including any
18	contrary provisions of R.S. 47:302(X) and (Y) as enacted by Act No. 25 of the 2016
19	First Extraordinary Session of the Legislature, R.S. 47:321(L) and (M), R.S.
20	47:321.1(F), or R.S. 47:331(S) and (T), and except as otherwise specifically provided
21	for in Subparagraphs (B)(1)(a), (d), and (f) and Paragraph (C)(6) of this Section, the
22	exemptions from state sales and use taxes authorized in this Section shall be
23	applicable and effective on and after April 1, 2016.
24	§468. Sales of services and tangible personal property at certain public facilities;
25	sales and use tax; exemptions
26	* * *
27	G. Notwithstanding any provision of law to the contrary, including any
28	contrary provisions of R.S. 47:302(X) and (Y) as enacted by Act No. 25 of the 2016
29	First Extraordinary Session of the Legislature, R.S. 47:321(L) and (M), R.S.

1	47:321.1(F), or R.S. 47:331(S) and (T), and except as otherwise specifically provided
2	for in Subparagraph (C)(2)(f) of this Section, the exemptions from state sales and use
3	taxes authorized in this Section shall be applicable and effective on and after April
4	1, 2016.
5	* * *
6	Section 3. R.S. 47:301(4)(introductory paragraph) and (14)(b)(i)(aa),
7	305.14(A)(1)(a), $305.20(A)$ and $(C)$ , $305.62(B)(1)$ , $306(A)(3)(a)$ , $318(A)$ ,
8	321(A)(introductory paragraph) and (B)(introductory paragraph), 331(A)(introductory
9	paragraph) and (B)(introductory paragraph), 337.9(C)(7) through (9), (12), and (13), 2301,
10	2303, 2304(A), 2305(B)(1), and 2322 are hereby amended and reenacted and R.S.
11	47:301(14)(1) through (v) and (32), 305.79, and 331.1 are hereby enacted to read as follows:
12	§301. Definitions
13	As used in this Chapter, the following words, terms, and phrases have the
14	meanings ascribed to them in this Section, unless the context clearly indicates a
15	different meaning:
16	* * *
17	(4) "Dealer" includes every person who manufactures or produces tangible
18	personal property or who delivers any specified digital product into this state for sale
19	at retail, for use, or consumption, or distribution, or for storage to be used or
20	consumed in a taxing jurisdiction. "Dealer" is further defined to mean:
21	* * *
22	(14) "Sales of services" means and includes the following:
23	* * *
24	(b)(i)(aa) The sale of admissions to places of amusement, to an athletic and
25	entertainment other than that of schools, colleges, and universities, and recreational
26	events, and the furnishing, for dues, fees, or other consideration of the privilege of
27	access to clubs or the privilege of having access to or the use of amusement,

1	entertainment, athletic, or recreational facilities event held for or by an elementary
2	or secondary school.
3	* * *
4	(l) The sale of any subscription which allows electronic access to any
5	computer software or specified digital product regardless of the location of the server
6	from which the computer software or specified digital product is accessed.
7	(m) The sale of cable television services. For purposes of this Subparagraph,
8	"cable television service" means the distribution of video programming with or
9	without use of wires to subscribing or paying customers.
10	(n)(i) The sale of internet access services. For purposes of this
11	Subparagraph, "internet access service" means a service that enables users to access
12	content, information, electronic mail, or other services offered over the internet.
13	(ii) The term "internet access service" shall not include any service defined
14	in this Section as a telecommunications service.
15	(o) The sale of information services. For purposes of this Subparagraph,
16	"information service" means all of the following:
17	(i) Furnishing general or specialized news or other current information,
18	including financial information, unless furnished to one or more of the following:
19	(aa) A newspaper.
20	(bb) A radio or television station licensed by the Federal Communications
21	Commission.
22	(cc) A member of a homeowners association of a residential subdivision or
23	condominium development, and is furnished by the association or on behalf of the
24	association.
25	(ii) Electronic data retrieval or research.
26	(p) The sale of data processing services. For purposes of this Subparagraph,
27	"data processing service" means and includes all of the following:

1	(i) Word processing, data entry, data retrieval, data search, information
2	compilation, payroll and business accounting data production, and other
3	computerized data and information storage or manipulation.
4	(ii) The use of a computer or computer time for data processing whether the
5	processing is performed by the provider of the computer or computer time or by the
6	purchaser or other beneficiary of the service.
7	(q)(i) The sale of telephone answering services. For purposes of this
8	Subparagraph, "telephone answering service" means the receiving and relaying of
9	telephone messages by a human operator.
10	(ii) The term "telephone answering service" shall not include any service
11	defined in this Section as a telecommunications service.
12	(r) The sale of credit reporting services. For purposes of this Subparagraph,
13	"credit reporting service" means assembling or furnishing credit history or credit
14	information relating to any person.
15	(s)(i) The sale of debt collection services. For purposes of this
16	Subparagraph, "debt collection service" means activity to collect or adjust a
17	delinquent debt, to collect or adjust a claim, or to repossess property subject to a
18	<u>claim.</u>
19	(ii) The term "debt collection service" does not include any of the following:
20	(aa) The collection of a judgment by an attorney or by a partnership or
21	professional corporation of attorneys if the attorney, partnership, or corporation
22	represented the person in the suit from which the judgment arose.
23	(bb) The collection of court-ordered child support or medical child support.
24	(cc) A service provided by a person acting as a trustee in connection with the
25	foreclosure sale of real property under a lien created by a mortgage, deed of trust, or
26	security instrument.
27	(t)(i) The sale of insurance services. For purposes of this Subparagraph,
28	"insurance service" means insurance loss or damage appraisal, insurance inspection,

1	insurance investigation, insurance actuarial analysis or research, insurance claims
2	adjustment or claims processing, or insurance loss prevention service.
3	(ii) The term "insurance service" does not include insurance coverage for
4	which a premium is paid or commissions are paid to insurance agents for the sale of
5	insurance or annuities.
6	(u) The sale of real property services. For purposes of this Subparagraph,
7	"real property service" means and includes all of the following:
8	(i) Landscaping.
9	(ii) The care and maintenance of lawns, yards, or ornamental trees or other
10	plants.
11	(iii) The removal or collection of garbage, rubbish, or other solid waste other
12	than the following types of waste:
13	(aa) Hazardous waste.
14	(bb) Industrial solid waste.
15	(cc) Waste material that results from an activity associated with the
16	exploration, development, or production of oil, gas, geothermal resources, or any
17	other substance or material regulated by the Department of Natural Resources.
18	(dd) Domestic sewage or an irrigation return flow, to the extent the sewage
19	or return flow does not constitute garbage or rubbish.
20	(ee) Industrial discharges subject to regulation by the Department of
21	Environmental Quality.
22	(iv) Building or grounds cleaning, janitorial, or custodial services.
23	(v) A structural pest control service.
24	(vi) The surveying of real property.
25	(v) Security services provided by a person, firm, association, company,
26	partnership, corporation, nonprofit organization, or other legal entity licensed in
27	accordance with the Private Security Regulatory and Licensing Law, R.S. 37:3270
28	<u>et seq.</u>
29	* * *

1	(32)(a)(i) "Specified digital product" means an electronically transferred
2	digital audio-visual work, digital audio work, digital book, or electronic game as
3	defined more specifically in this Paragraph.
4	(ii) Specified digital products shall be considered tangible personal property
5	for purposes of sales and use taxes imposed by the state and any political subdivision
6	of the state.
7	(b) For purposes of this Paragraph, "digital audio-visual work" means a
8	series of related images which, when shown in succession, impart an impression of
9	motion, together with accompanying sounds, if any, that are transferred
10	electronically. Digital audio-visual works include, without limitation, electronically
11	transferred motion pictures, musical videos, news and entertainment programs, and
12	live events.
13	(c)(i) For purposes of this Paragraph, "digital audio work" means a work that
14	results from the fixation of a series of musical, spoken, or other sounds, that are
15	transferred electronically. Digital audio works include, without limitation,
16	prerecorded or live songs, music, readings of books or other written materials,
17	speeches, ringtones, and other sound recordings.
18	(ii) For purposes of this Subparagraph, "ringtones" means digitized sound
19	files that are downloaded onto a device and that may be used to alert the customer
20	with respect to a communication.
21	(d)(i) For purposes of this Paragraph, "digital book" means any work that is
22	generally recognized as a book, in the ordinary and usual sense of the word "book",
23	and that is transferred electronically. Digital books include, without limitation,
24	works of fiction, nonfiction, poetry, and short stories.
25	(ii) The term "digital book" does not include a newspaper, magazine,
26	periodical, chat room discussion, or weblog.
27	(e) For purposes of this Paragraph, "electronic game" means an interactive
28	game which is operated by computer circuitry.

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2	obtained by the purchaser by means other than tangible storage media.
3	* * *
4	§305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;
5	limitations; qualifications; newspapers; determination of tax exempt status
6	A.(1)(a) The sales and use taxes imposed by taxing authorities shall not
7	apply to sales of tangible personal property at, or admission charges for, outside gate
8	admissions to, or parking fees associated with, events sponsored by domestic, civic,
9	educational, historical, charitable, fraternal, or religious organizations, which are
10	nonprofit, when the entire proceeds, except for necessary expenses such as fees paid
11	for guest speakers, chair and table rentals, and food and beverage utility related items
12	connected therewith, are used for educational, charitable, religious, or historical
13	restoration purposes, including the furtherance of the civic, educational, historical,
14	charitable, fraternal, or religious purpose of the organization. <del>In addition,</del>
15	newspapers published in this state by religious organizations shall also be exempt
16	from such taxes, provided that the price paid for the newspaper or a subscription to
17	the newspaper does not exceed the cost to publish such newspaper.
18	* * *
19	§305.20. Exclusions and exemptions; Louisiana commercial fishermen
20	A. A Louisiana resident, domiciled in Louisiana, who possesses such valid
21	Louisiana commercial fishing license(s) as may be necessary for commercial fishing
22	ventures, including but not limited to a vessel license issued pursuant to R.S. 56:304,
23	and who is an owner of a vessel operated primarily for the conduct of commercial
24	fishing as a trade or business and which the Louisiana Department of Wildlife and
25	Fisheries determines will be predominantly and principally used for commercial
26	fishing ventures and whose catch is for human consumption shall be exempt from

(f) For purposes of this Paragraph, "electronically transferred" means

state sales, use, lease, and services taxes as set forth in Subsection C of this Section.

Possession of a commercial fishing license issued by the Department of Wildlife and

Fisheries shall not be used as the sole determination that a vessel will be used

1	predominantly and principally for commercial fishing ventures. This exemption
2	shall also apply to facilities which process the catch from owners of commercial
3	fishing vessels for which this exemption is granted when such vessels are owned by,
4	or leased or contracted exclusively to, the seafood processing facility.
5	* * *
6	C. An owner who has obtained a certificate of exemption shall, with respect
7	to the vessel identified in the certificate for the harvesting or production of fish and
8	other aquatic life, including shrimp, oysters, and clams, and certain seafood
9	processing facilities described in Subsection A, be exempt from the taxes described
10	in Subsection A, as follows:
11	(1) Taxes applied to the materials and supplies necessary for repairs to the
12	vessel or facility if they are purchased by the owner and later become a component
13	part of the vessel or facility.
14	(2) Taxes applied to materials and supplies purchased by the owner of the
15	vessel or facility where such materials and supplies are loaded upon the vessel or
16	delivered to the facility for use or consumption in the maintenance and operation
17	thereof for commercial fishing and processing ventures. For purposes of this
18	Paragraph, it shall make no difference whether the vessel is engaged in interstate,
19	foreign, or intrastate commerce.
20	(3) Taxes applied to repair services performed upon the vessel or facility.
21	For the purposes of this Paragraph, it shall make no difference whether the vessel is
22	engaged in intrastate, interstate, or foreign commerce.
23	(4) Taxes applied to the purchase of gasoline, diesel fuel, and lubricants for
24	the vessel and to sources of energy and fuels for the facility.
25	* * *
26	§305.62. Exemption; Annual Louisiana Second Amendment Weekend Holiday
27	* * *
28	B.(1) Notwithstanding any other provisions of law to the contrary, the sales
29	and use tax levied by the state of Louisiana and its political subdivisions of the state

1	of Louisiana shall not apply to the sales price or cost price of any consumer
2	purchases of firearms, ammunition, and hunting supplies that occur each calendar
3	year on the first consecutive Friday through Sunday of September. The exemption
4	provided for in this Section shall not apply to state sales and use taxes.
5	* * *
6	§305.79. Exemption; utilities
7	The sale at retail, the use, the consumption, the distribution, and the storage
8	to be used or consumed within the applicable taxing authority of the following
9	utilities shall be exempt from the sales and use taxes levied in R.S. 47:302, 321, 331,
10	and 331.1:
11	(1) Steam.
12	(2) Water, not including mineral water, carbonated water, or any water put
13	in bottles, jugs, or containers.
14	(3) Electric power or energy and any materials or energy sources used to fuel
15	the generation of electric power for resale or use by an industrial manufacturing plant
16	for self-consumption or cogeneration.
17	(4) Natural gas.
18	(5) All energy sources used for boiler fuel, not including refinery gas.
19	* * *
20	§306. Returns and payment of tax; penalty for absorption
21	A. General provisions.
22	* * *
23	(3)(a) For the purpose of compensating the dealer in accounting for and
24	remitting the tax levied by this Chapter, each dealer shall be allowed one and five
25	hundredths percent of the amount of tax due and accounted for and remitted to the
26	secretary in the form of a deduction in submitting his report and paying the amount
27	due by him, provided the amount of any credit claimed for taxes already paid to a
28	wholesaler shall not be deducted in computing the commission allowed the dealer
29	hereunder. The aggregate state compensation for a dealer who operates one or more

business locations within Louisiana shall not exceed one thousand five hundred dollars per calendar month. This compensation shall be allowed only if the payment of the dealer is timely paid and the return is timely filed. Notwithstanding any other provision of law, the calculation of this deduction shall be based only on the taxes levied pursuant to R.S. 47:302, 321, 331, and R.S. 51:1286. There shall be no compensation for the taxes accounted for and remitted pursuant to R.S. 47:321.1 or any other sales tax levied by the state.

\* \* \*

# §318. Disposition of collections

A. All monies collected under this Chapter shall be immediately paid into the state treasury, upon receipt, and first credited to the Bond Security and Redemption Fund as provided in Article VII, Section 9(B) of the Constitution of Louisiana; then an amount equal to four-tenths of one percent of all monies collected under this Chapter, and Chapters 2-A and 2-B of this Subtitle, and R.S. 51:1286 shall be used as provided in this Section. The dedication of revenues provided for in this Subsection shall in no way be interpreted to include any monies collected pursuant to the taxes imposed under R.S. 47:321.1.

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# §321. Imposition of tax

A. In addition to the tax levied by R.S. 47:302(A), and 331(A), and 331.1(A) and collected under the provisions of Chapter 2 of this Subtitle H of this Title, there is hereby levied an additional tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property, as defined in Chapter 2 of this Subtitle H of this Title. The levy of said the tax shall be as follows:

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B. In addition to the tax levied by R.S. 47:302(B), and 331(B), and 331.1(B) and collected under the provisions of Chapter 2 of this Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950, there is hereby levied a tax upon the lease or

1	rental within this state of each item or article of tangible personal property, as
2	defined by said in Chapter 2 of this Subtitle II of Title 47 of the Louisiana Revised
3	Statutes of 1950; the. The levy of said the tax to shall be as follows:
4	* * *
5	§331. Imposition of tax
6	A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331.1(A) and
7	collected under the provisions of Chapter 2 of this Subtitle H of Title 47 of the
8	Louisiana Revised Statutes of 1950, there is hereby levied an additional tax upon the
9	sale at retail, the use, the consumption, the distribution, and the storage for use or
10	consumption in this state of each item or article of tangible personal property; as
11	defined in Chapter 2 of this Subtitle H of Title 47 of the Louisiana Revised Statutes
12	of 1950; the. The levy of said the tax to shall be as follows:
13	* * *
14	B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331.1(B) and
15	collected under the provisions of Chapter 2 of this Subtitle H of Title 47 of the
16	Louisiana Revised Statutes of 1950, there is hereby levied a tax upon the lease or
17	rental within this state of each item or article of tangible personal property, as
18	defined by said in Chapter 2 of this Subtitle H of Title 47 of the Louisiana Revised
19	Statutes of 1950; the. The levy of said the tax to shall be as follows:
20	* * *
21	§331.1. Imposition of tax
22	A. In addition to the taxes levied in R.S. 47:302(A), 321(A), and 331(A) and
23	collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied an
24	additional tax upon the sale at retail, the use, the consumption, the distribution, and
25	the storage for use or consumption in this state of each item or article of tangible
26	personal property, as defined in Chapter 2 of this Subtitle, delivered into the state.
27	The levy of the tax shall be as follows:
28	(1)(a) For the period of January 1, 2024, through December 31, 2024, at the
29	rate of three tenths of one percent of the sales price of each item or article of tangible

1	personal property when sold at retail in this state, the tax to be computed on gross
2	sales for the purpose of remitting the amount of tax to the state, and to include each
3	and every retail sale.
4	(b) For the period of January 1, 2024, through December 31, 2024, at the rate
5	of three tenths of one percent of the cost price of each item or article of tangible
6	personal property when the same is not sold but is used, consumed, distributed, or
7	stored for use or consumption in this state, provided that there shall be no duplication
8	of the tax.
9	(2)(a) For the period of January 1, 2025, through December 31, 2025, at the
10	rate of ninety-five hundredths of one percent of the sales price of each item or article
11	of tangible personal property when sold at retail in this state, the tax to be computed
12	on gross sales for the purpose of remitting the amount of tax to the state, and to
13	include each and every retail sale.
14	(b) For the period of January 1, 2025, through December 31, 2025, at the rate
15	of ninety-five hundredths of one percent of the cost price of each item or article of
16	tangible personal property when the same is not sold but is used, consumed,
17	distributed, or stored for use or consumption in this state, provided that there shall
18	be no duplication of the tax.
19	(3)(a) For the period of January 1, 2026, through December 31, 2026, at the
20	rate of one and six tenths percent of the sales price of each item or article of tangible
21	personal property when sold at retail in this state, the tax to be computed on gross
22	sales for the purpose of remitting the amount of tax to the state, and to include each
23	and every retail sale.
24	(b) For the period of January 1, 2026, through December 31, 2026, at the rate
25	of one and six tenths percent of the cost price of each item or article of tangible
26	personal property when the same is not sold but is used, consumed, distributed, or
27	stored for use or consumption in this state, provided that there shall be no duplication
28	of the tax.

1	(4)(a) On January 1, 2027, and thereafter, at the rate of two and twenty-five
2	hundredths percent of the sales price of each item or article of tangible personal
3	property when sold at retail in this state, the tax to be computed on gross sales for the
4	purpose of remitting the amount of tax to the state, and to include each and every
5	retail sale.
6	(b) On January 1, 2027, and thereafter, at the rate of two and twenty-five
7	hundredths percent of the cost price of each item or article of tangible personal
8	property when the same is not sold but is used, consumed, distributed, or stored for
9	use or consumption in this state, provided that there shall be no duplication of the
10	<u>tax.</u>
11	B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
12	collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied a
13	tax upon the lease or rental within this state of each item or article of tangible
14	personal property, as defined in Chapter 2 of this Subtitle, delivered into this state.
15	The levy of the tax shall be as follows:
16	(1)(a) For the period of January 1, 2024, through December 31, 2024, at the
17	rate of three tenths of one percent of the gross proceeds derived from the lease or
18	rental of tangible personal property where the lease or rental of such property is in
19	an established business, or part of an established business, or the same is incidental
20	or germane to the business.
21	(b) For the period of January 1, 2024, through December 31, 2024, at the rate
22	of three tenths of one percent of the monthly lease or rental price paid by a lessee or
23	rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the
24	tangible personal property.
25	(2)(a) For the period of January 1, 2025, through December 31, 2025, at the
26	rate of ninety-five hundredths of one percent of the gross proceeds derived from the
27	lease or rental of tangible personal property where the lease or rental of such
28	property is in an established business, or part of an established business, or the same
29	is incidental or germane to the business.

1	(b) For the period of January 1, 2025, through December 31, 2025, at the rate
2	of ninety-five hundredths of one percent of the monthly lease or rental price paid by
3	a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the
4	owner of the tangible personal property.
5	(3)(a) For the period of January 1, 2026, through December 31, 2026, at the
6	rate of one and six tenths percent of the gross proceeds derived from the lease or
7	rental of tangible personal property where the lease or rental of such property is in
8	an established business, or part of an established business, or the same is incidental
9	or germane to the business.
10	(b) For the period of January 1, 2026, through December 31, 2026, at the rate
11	of one and six tenths percent of the monthly lease or rental price paid by a lessee or
12	rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the
13	tangible personal property.
14	(4)(a) On January 1, 2027, and thereafter, at the rate of two and twenty-five
15	hundredths percent of the gross proceeds derived from the lease or rental of tangible
16	personal property where the lease or rental of such property is in an established
17	business, or part of an established business, or the same is incidental or germane to
18	the business.
19	(b) On January 1, 2027, and thereafter, at the rate of two and twenty-five
20	hundredths percent of the monthly lease or rental price paid by a lessee or rentee, or
21	contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible
22	personal property.
23	C. In addition to the tax levied on sales of services, as defined in Chapter 2
24	of this Subtitle, by R.S. 47:302(C), 321(C), and 331(C) and collected under the
25	provisions of Chapter 2 of this Subtitle, there is hereby levied a tax upon all sales of
26	services in this state. The levy of the tax shall be as follows:
27	(1) For the period of January 1, 2024, through December 31, 2024, at the rate
28	of three tenths of one percent of the amounts paid or charged for the services.

1	(2) For the period of January 1, 2025, through December 31, 2025, at the rate				
2	of ninety-five hundredths of one percent of the amounts paid or charged for the				
3	services.				
4	(3) For the period of January 1, 2026, through December 31, 2026, at the rate				
5	of one and six tenths percent of the amounts paid or charged for the services.				
6	(4) On January 1, 2027, and thereafter, at the rate of two and twenty-five				
7	hundredths percent of the amounts paid or charged for the services.				
8	D. The tax levied by the provisions of this Section shall be collected from				
9	the dealer or wholesaler as provided for and defined in Chapter 2 of this Subtitle.				
10	The tax shall be paid at the time and in the manner provided in Chapter 2 of this				
11	Subtitle; shall be in addition to all other taxes, whether levied in the form of sales,				
12	excise, license, or privilege taxes; and shall be in addition to all other applicable				
13	taxes levied under the provisions of this Subtitle.				
14	* * *				
15	§337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other				
16	exemptions applicable				
17	* * *				
18	C.				
19	* * *				
20	(7) R.S. 47:305(D)(1)(b) R.S. 47:305.79(1), "key words": steam.				
21	(8) R.S. 47:305(D)(1)(c) R.S. 47:305.79(2), "key words": water.				
22	(9) R.S. 47:305(D)(1)(d) R.S. 47:305.79(3), "key words": electric power or				
23	energy and fuel.				
24	* * *				
25	(12) R.S. $47:305(D)(1)(g)$ R.S. $47:305.79(4)$ , "key words": natural gas.				
26	(13) R.S. 47:305(D)(1)(h) R.S. 47:305.79(5), "key words": boiler fuel except				
27	refinery gas.				
28	* * *				

§2301. Use value; defined

Use value of bona fide agricultural, horticultural, and timber lands means the highest value of such land when used by a prudent agricultural, horticultural, or timber operator for the sole purpose of continuing the operation, as a commercial agricultural, horticultural, or timber enterprise, of an existing bona fide agricultural, horticultural, or timber use. Use value of bona fide marsh lands is the highest value of such land for the sole purpose of continuing the traditional use of the marsh lands for hunting, fishing, trapping or various types of aquaculture by a prudent manager of marsh lands. Use value of such land shall be so established without reference to any other criteria of value particularly, but not as a limitation, without reference to fair market value or value to the public in general.

\* \* \*

# §2303. Eligibility for use value assessment

In order to be classified as bona fide agricultural, horticultural, marsh or timber land and assessed at its use value under the provisions of Article VII, Section 18(C) of the Louisiana Constitution of 1974, it must shall meet the definition of bona fide agricultural, horticultural, marsh or timber land as described in R.S. 47:2302 and, in the case of bona fide agricultural, horticultural, or timber land shall satisfy all of the following conditions:

A. Be (1) It is at least three ten acres in size, or have or has produced an average gross annual income of at least two thousand dollars in one or more of the designated classifications for the four preceding years, and.

B. (2) The landowner has signed an agreement providing that the land will be devoted to one or more of the designated uses as defined in R.S. 47:2302.

§2304. Application for use value assessment

A. A landowner, desiring a use value assessment under this Act shall be required to file an application with the assessor in the parish or district where the property is located certifying that the property is eligible for use value assessment

1	as bona fide agricultural, horticultural, marsh or timber land as defined in Section 2			
2	of this Act.			
3	* * *			
4	§2305. Loss of eligibility			
5	* * *			
6	B.(1) If land having a use value assessment is sold for a price four times			
7	greater than its use value, the land shall be presumed to be no longer eligible to be			
8	classified as bona fide agricultural, horticultural, marsh, or timber land. Upon			
9	application as provided in R.S. 47:2304, the purchaser shall be given the opportunity			
10	to demonstrate either of the following to the full satisfaction of the assessor:			
11	(a) That the sales price paid includes things of value which are susceptible			
12	of appraisal including, but not by way of limitation, standing crops or timber,			
13	improvements, equipment, etc. <del>; or</del>			
14	(b) That the land is actually in bona fide agricultural, horticultural, marsh,			
15	or timber land use and meets the requirements of R.S. 47:2302 and R.S. 47:2303.			
16	Such demonstration of bona fide operations may include the preparation and			
17	implementation of farm or forestry plans or programs within two years following the			
18	purchase.			
19	* * *			
20	§2322. Definitions			
21	For the purposes of this Act, the following words and phrases shall have the			
22	meanings ascribed to them in this Section unless the context clearly indicates			
23	otherwise:			
24	(1) "Improvements for residential purposes" shall mean single family			
25	dwellings, duplex, triplex, fourplex, apartment buildings, condominiums, and mobile			
26	homes used as a residence, whether on land owned, rented, or leased.			
27	A. (2) "Land" shall mean all land other than those lands assessed as			
28	agricultural, horticultural, marsh and timber lands as defined by law.			

1	(3) "Other property" shall mean all properties other than land and
2	improvements for residential purposes, as defined in this Section, and shall include
3	both real property and personal property as defined in this Section.
4	(4) "Personal property" shall mean tangible property that is capable of being
5	moved or removed from real property without substantial damage to the property
6	itself or the real property from which it is capable of being removed. Personal
7	property shall include but not necessarily be limited to inventory, furniture, fixtures,
8	machinery and equipment, and all process and manufacturing machinery and
9	equipment, including the foundations therefor.
10	B. "Improvements for residential purposes" shall mean single family
11	dwellings, duplex, triplex, fourplex, apartment buildings, condominiums, and mobile
12	homes used as a residence, whether on land owned, rented, or leased.
13	C. "Other property" shall mean all properties not included in A or B above
14	and shall include both real and personal property as defined herein.
15	D. (5) "Real property" shall mean land and all things permanently affixed to
16	the land.
17	E. "Personal property" shall mean tangible property that is capable of being
18	moved or removed from real property without substantial damage to the property
19	itself or the real property from which it is capable of being removed. Personal
20	property shall include but not necessarily be limited to inventory, furniture, fixtures,
21	machinery and equipment, and all process and manufacturing machinery and
22	equipment, including the foundations therefor.
23	Section 4. R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j),
24	and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v) through (y), (bb), and
25	(ee) through (hh), (13)(e) through (j), (l), and (m), (14)(b)(ii) through (iv) and (k),
26	(16)(b)(iii), (c), (h), (i), (m), (n), and (p), and (18)(a)(iv), (d), (f) through (k), (o), and (p),
27	$302(F)\ through\ (J)\ and\ (L)\ through\ (CC), \\ 305(D)(1)(b)\ through\ (d), \\ (g), (h), (j), and\ (m)\ and\ (m)$
28	(3) through (5) and (F), 305.2, 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17,
29	305.26, 305.33, 305.36, 305.40 through 305.44, 305.50(B), 305.51 through 305.54, 305.57

- 1 through 305.61, 305.63, 305.65, 305.67 through 305.71, 305.74, 321(E) through (Q), 321.1,
- 2 331(F) through (W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (17) through (19), (25)
- 3 through (32), and (35), 337.10(E), (G), and (M), 337.11(4) and (8), 2302(C), 6001, 6003, and
- 4 6040 are hereby repealed in their entirety.
- 5 Section 5. This Act shall take effect and become operative if and when the proposed
- 6 amendment of Articles VI, VII, and VIII of the Constitution of Louisiana contained in the
- 7 Act which originated as House Bill No. \_\_\_\_ of this 2023 Regular Session of the Legislature
- 8 is adopted at a statewide election and becomes effective.

#### 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 423 Original

2023 Regular Session

Nelson

**Abstract:** Provides relative to state and local sales and use taxes, exemptions and exclusions from such taxes, levies of state sales and use taxes, items and services to which state sales and use taxes apply, and assessment of certain lands for ad valorem tax purposes.

<u>Present law</u> imposes a state sales and use tax on the sale, use, lease, or rental of tangible personal property, which tax is composed of the following levies in the following amounts:

R.S. 47:302	 2.00%
R.S. 47:321	 1.00%
R.S. 47:321.1	 0.45%
R.S. 47:331	 0.97%
R.S. 51:1286	 0.03%

<u>Proposed law</u> repeals the 0.45% levy provided in <u>present law</u> (R.S. 47:321.1) and imposes a new state sales and use tax levy of 2.25%. <u>Proposed law</u> imposes the new levy incrementally over four years, bringing the total state sales and use tax rate to 6.25% beginning Jan. 1, 2027.

<u>Present law</u> authorizes numerous exemptions to and exclusions from the state sales and use tax, but suspends many of these exemptions and exclusions through June 30, 2025. <u>Present law</u> provides an exclusive list of exemptions and exclusions that are currently effective.

<u>Proposed law</u> repeals exemptions and exclusions that are currently suspended including those for the following:

- (1) Purchases, services and rentals for private companies working for local authorities on construction of sewerage and waste water treatment facilities.
- (2) Certain labor charges.
- (3) Purchases of certain utilities.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

- (4) Rentals or purchases of certain airplanes.
- (5) Certain manufacturing and machinery equipment.
- (6) Certain pallets used in packaging products.
- (7) Certain bibles, song books, and literature.
- (8) Certain school buses.
- (9) Certain pollution control devices.
- (10) Pelletized paper waste.
- (11) Telephone directories.
- (12) Certain telecommunication services.
- (13) Natural gas.
- (14) Storm shutter devices.
- (15) Certain heritage and cultural events.
- (16) Festivals.
- (17) Specialty items sold by nonprofit carnival organizations to organization members.
- (18) Admissions to certain athletic and entertainment events.
- (19) Admissions to certain places of amusement.
- (20) Computer software.
- (21) Purchases by motor vehicle manufacturers.
- (22) Newspapers.
- (23) Medical devices and equipment.
- (24) Sales to nonprofit literacy organizations.
- (25) Certain installation services.
- (26) Motor vehicles, trailers, and semitrailers used exclusively for lease or rental.
- (27) Purchases of certain construction materials by certain charitable or nonprofit organizations.
- (28) Specialty Mardi Gras items.
- (29) Sales by Ducks Unlimited and Bass Life.
- (30) Tickets to dances, dramas, or performing arts presentations or events.
- (31) Materials used in the printing process.
- (32) Certain carrier buses.

- (33) Purchases of breastfeeding items.
- (34) Certain materials for La. commercial fishermen.
- (35) Certain antique motor vehicles and airplanes.
- (36) Certain rentals of motion-picture film.
- (37) Purchases by and sales by certain nonprofit organizations dedicated to the conservation of fish and migratory waterfowl.
- (38) Certain one-of-a-kind works of art.

<u>Proposed law</u> defines "specified digital product" as an electronically transferred digital audio-visual work, digital audio work, digital book, or electronic game. Stipulates that specified digital products shall be considered tangible personal property for purposes of sales and use taxes imposed by the state and any political subdivision of the state, therefore subjecting specified digital products to those taxes.

<u>Proposed law</u> provides the following definitions for the component items comprising specified digital products:

- (1) "Digital audio-visual work" means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. Digital audio-visual works include, without limitation, electronically transferred motion pictures, musical videos, news and entertainment programs, and live events.
- (2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically. Digital audio works include, without limitation, prerecorded or live songs, music, readings of books or other written materials, speeches, ringtones, and other sound recordings.
- (3) "Digital book" means any work that is generally recognized as a book, in the ordinary and usual sense of the word "book", and that is transferred electronically. Digital books include, without limitation, works of fiction, nonfiction, poetry, and short stories.
- (4) "Electronic game" means an interactive game which is operated by computer circuitry.

<u>Present law</u> defines "dealer", for purposes of state and local sales and use taxes, to include every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction. <u>Proposed law</u> amends <u>present law</u> to include within the definition of "dealer" every person who delivers any specified digital product into this state for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a taxing jurisdiction.

<u>Present law</u> subjects sales of services to state and local sales and use taxes. Defines "sales of services" to include an enumerated list of services. <u>Proposed law</u> adds the following into the "sales of services" definition, thereby making these services taxable:

(1) The sale of any subscription which allows electronic access to any computer software or specified digital product.

- (2) The sale of cable television services. For purposes of <u>proposed law</u> "cable television service" means the distribution of video programming with or without use of wires to subscribing or paying customers.
- (3) The sale of internet access services other than services defined in <u>present law</u> as telecommunications services.
- (4) The sale of information services such as furnishing of general or specialized news or other current information, with certain exceptions, and electronic data retrieval or research.
- (5) The sale of data processing services such as word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, and other computerized data and information storage or manipulation.
- (6) The sale of telephone answering services.
- (7) The sale of credit reporting services.
- (8) The sale of debt collection services.
- (9) The sale of insurance services such as insurance loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service.
- (10) The sale of real property services such as landscaping; care and maintenance of lawns, yards, or ornamental trees or other plants; removal or collection of garbage, rubbish, or other solid waste other than hazardous or industrial waste; building or grounds cleaning, janitorial, or custodial services; structural pest control service; and surveying of real property.
- (11) Security services provided by a person or firm licensed in accordance with <u>present</u> <u>law</u> known as the Private Security Regulatory and Licensing Law (R.S. 37:3270 et seq.).

<u>Proposed law</u> repeals the following provisions of <u>present law</u> establishing the following state sales tax holidays (dates on which purchases of certain items are exempt from state sales tax):

- (1) The Annual Louisiana Sales Tax Holidays Act (R.S. 47:305.54).
- (2) The annual sales tax holiday for purchases of hurricane-preparedness items or supplies (R.S. 47:305.58).

<u>Proposed law</u> amends <u>present law</u> providing for the Annual Louisiana Second Amendment Weekend Holiday Act (R.S. 47:305.62) to stipulate that the sales tax exemption provided therein shall apply only to local sales taxes and not to the state sales tax.

<u>Present law</u> stipulates that in order to be classified as bona fide agricultural, horticultural, marsh, or timber land and assessed for ad valorem tax purposes at its use value instead of fair market value, a parcel of land must be at least three acres in size or have produced an average gross annual income of at least \$2,000 in one or more of the designated classifications for the previous four years.

<u>Proposed law</u> removes marsh lands from the set of lands qualifying for assessment based on use value and changes the minimum acreage necessary for land to qualify for assessment based on use value <u>from</u> three acres <u>to</u> ten acres. Otherwise, retains <u>present law</u>.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

Effective if and when the proposed amendment of Articles VI, VII, and VIII of the Constitution of La. contained in the Act which originated as House Bill No. \_\_\_\_ of this 2023 R.S. is adopted at a statewide election and becomes effective.

(Amends R.S. 33:4169(D), R.S. 39:467(H) and 468(G), and R.S. 47:301(4)(intro. para.) and (14)(b)(i)(aa), 305.14(A)(1)(a), 305.20(A) and (C), 305.62(B)(1), 306(A)(3)(a), 318(A), 321(A)(intro. para.) and (B)(intro. para.), 331(A)(intro. para.) and (B)(intro. para.), 337.9(C)(7)-(9), (12), and (13), 2301, 2303, 2304(A), 2305(B)(1), and 2322; Adds R.S. 47:301(14)(1)-(v) and (32), 305.79, and 331.1; Repeals R.S. 38:2212.4(C) and R.S. 47:301(3)(b), (g), and (j), (4)(i), (7)(d), (j), and (l), (8)(d) and (e), (10)(a)(iv), (b)(ii), (i), (k), (l), (n), (s), (t), (v)-(y), (bb), and (ee)-(hh), (13)(e)-(j), (l), and (m), (14)(b)(ii)-(iv) and (k), (16)(b)(iii), (c), (h), (i), (m), (n), and (p), and (18)(a)(iv), (d), (f)-(k), (o), and (p), 302(F)-(J) and (L)-(CC), 305(D)(1)(b)-(d), (g), (h), (j), and (m) and (3)-(5) and (F), 305.2, 305.9, 305.11, 305.14(A)(1)(b) and (5), 305.16, 305.17, 305.26, 305.33, 305.36, 305.40-305.44, 305.50(B), 305.51-305.54, 305.57-305.61, 305.63, 305.65, 305.67-305.71, 305.74, 321(E)-(Q), 321.1, 331(F)-(W), 337.9(C)(23) and (D)(6), (8), (10), (12), (13), (17)-(19), (25)-(32), and (35), 337.10(E), (G), and (M), 337.11(4) and (8), 2302(C), 6001, 6003, and 6040)