

# LEGISLATIVE DIGEST: 2009 REGULAR SESSION

## Sales Tax – Local Option

**Act 462 (HB 734)** Exempts state sales, use, lease and repairs of capital equipment and software used to operate same by qualifying radiation therapy centers. Defines “capital equipment” and “qualifying radiation therapy center”. Provides for local adoption.

**Act 459 (HB 320)** State sales tax exemption of manufacturing machinery and equipment by glass container manufacturers. Locals may adopt for immediate application, or phase in, or limited duration of time.

## Sales Tax – State & Local

**Act 464 (HB 756)** A “multipurpose” bill that affects certain domed stadiums, farm equipment, charitable organizations—

- Amends LRS 39:467. Exempts events, activities, admissions from state sales and use tax at domed facilities, under the operation of any political subdivision or commission, with a seating capacity of a least 12,500 located in a parish with a population of at least 185,000 but less than 250,000 (latest U.S. census). State only.
- Amends 47:305.14 Specifies that guest speaker fees, table and chair rentals, food and beverage utility related items are “necessary expenses” in the determination of the exempt gross proceeds at qualifying events. State & Local
- Amends 47:305.25 Requires purchaser of certain farm equipment to provide certificate attesting that purchaser is a farmer or is purchasing for an agricultural facility and that the purchaser will be held responsible for any tax due. State only
- Amends 47:305.59 Adds Fuller Center for Housing covenant partners located in this state as eligible for charitable, new residential construction material exemption. State & Local
- Enacts 47:305.62 Exempts construction materials for new construction, rehabilitation and renovations of dwellings destroyed by Hurricanes Katrina and Rita purchased by Hands on New Orleans and Together Rebuilding New Orleans from state & local sales and use tax. Caps the exemption at \$500,000 annually. State & Local

**Act 442 (SB9)** Another “multipurpose bill which:

- Amends 47:305 D. to add new boats, vessels or other water craft withdrawn from inventory by factory authorized dealers for demonstration purposes. Also provides for qualifying terms and usage of said boats (not more than 6 consecutive days/12 total days per month). State & local.
- Amends 47:305.50 Exempts from state and local sales & use tax purchases by railroads of railroad ties prior to long term preservative treatment which are installed on a track system outside the taxing jurisdiction where sold. State & Local
- Enacts 47:301(16)(q) Provides that for state and local sales tax purposes, “tangible personal property” shall not include property considered immovable prior to the enactment of Act 632, July 1 2008. Established a “working group”, on which the LATA has representation, to “assist in developing policy” regarding which items shall be considered “movable or immovable” for sales tax purposes. State & Local. See page 3 for list of appointees.

**Act 450 (SB 10)** Enacts exclusion from definition of “sale at retail” sale of anthropogenic carbon dioxide for use in qualified tertiary recovery projects approved by the La. Dept. of Natural Resources. State & Local.

**Act 453 (SB 52) Enacts 47:305.62\*\* called the “Annual Louisiana Second Amendment Act”. Exempts from state & local sales and use tax consumer purchases of firearms, ammunition and hunting supplies on the first consecutive Friday through Sunday of September each year ( Sept 4-6 in 2009). Defines “consumer purchases”, “hunting supplies”, and “firearms” and provides for certain sales arrangements. State & Local. [See also Emergency Rule and RIB No. 09-024]**

**Act 456 (HB 9) Excludes from the definition of “hotel” temporary lodging facilities operated by non-profit 501(3)(c) for no longer than 30 day duration, exclusively for homeless transients, and said facility cannot charge more than \$20 per day for such service. State & Local**

**Act 500 (HB 251) This bill amends 47:301(16)(g) as follows:**

- **For state & local sales tax purposes, changes the applicable exemption of “manufactured home to “factory built home”. Defines “factory built home”.**
- **Adds “travel trailer” as a type of non-qualifying “self-propelled vehicle”.**
- **Deletes obsolete provisions of current law (the “phase in” portion of current law already expired). Exclusion now limited to 54% of sales price.**
- **Effective January 1, 2010, the provisions of the proposed law apply notwithstanding LRS 9:1149.1 relative to immobilization of a manufactured home.**
- **Requires payment of state and local sales taxes to La. Dept. of Public Safety, Office of Motor Vehicles.**
- **Declares Act is retroactive but prior correctly computed taxes not paid under protest shall not be refunded. State & Local.**

## **Sales Tax – State Only**

**Other “State only” sales tax legislation and subject matter includes: Act 206 Removes expiration date of exempt purchases by private & parochial schools, Act 455 Crawfish bait and feed, Act 473 Sale of meals by educational institutions, but see amendments to LRS 47:305 D. (2) (a), Act 461 Certain farm irrigation equipment, Act 466 Certain tangible personal property consumed in manufacturing process by certain paper and wood producers and loggers, Act 519 La. Tax Delinquency Amnesty Act of 2009**

## **Ad Valorem**

**Act 201 (HB 261) Increase homestead exemption from seizure from \$25,000 to \$35,000 and prohibits seizure if judgment is based on credit card charges, provides relative to judicial mortgages, exceptions, and prescription**

**Act 507 (HB 446) Authorizes all parishes with regards to use of attorneys for tax collection purposes, authorizes collection of penalties, provides relative to title for sale of undivided interests, and penalty bid down procedures, and form of tax sale certificates**

**Act 540 (HB 509) Constitutional amendment relative to bidding procedures at property tax sales, payment of penalties by a bidder at tax sales, payment of interest, penalties and other charges with respect delinquent tax on movables; all to be put before the voters on November 2, 2010.**

**Act 511 (HB 563) Provides relative to assessment challenges, bid procedures at tax sales, tax sale title to undivided interests, public sale or donation of tax parcels, sales of adjudicated property to adjoining property owners and effectiveness of certain suits filed**

**Act 528 (HB 902) and Act 542 (SB 903), a statute and related constitutional amendment to provide for restrictions of non-elected taxing authorities to increase millage rates without voter approval**

### **Administrative:**

**Act 493 (SB 268) This three-part bill pertains to private counsel, attorney fees and alternative remedies for payments under protest.**

- **The Uniform Local Sales Tax Code was amended to provide for the retention of private (outside) counsel, to provide for the imposition of 10% attorney fees when an attorney is retained for a collection action, except with respect to amounts timely paid under protest on a return or to a vendor under existing law, and that the reasonableness of such fees shall be subject to the discretion of the court. 47:337.13.1 (Note: Locals had previously relied on the provisions of LRS 47:1512 for this authority)**
- **While the UTC, at 47:337.64, had previously provided for an alternative to payment under protest by the posting of a bond “or other security”, Act 493 delineates the types of “other security” that a court may consider in lieu of the payment under protest or posting of a bond.**
- **LRS 47:1512 was amended to provide for the payment of private attorney fees not to exceed 10% of the aggregate tax, penalty and interest due and for the imposition of 10% additional charges to a taxpayer for attorney fees when a final assessment is referred for collection purposes.**

### **Miscellaneous Other:**

**HCSR 12 Review of La.’s system of state and local taxation to address goals of simplification, equity and reduction**

**Act 442 “Collaborative Work Study Group” appointments:**

- (1) Louisiana Association of Business and Industry – John LeBlanc, LABI**
- (2) Louisiana Hospital Association- Patricia Jeter, LHA**
- (3) Louisiana Chemical Association- Chris Dicharry (Chairman), Kean Miller LLP**
- (4) Louisiana Pulp and Paper Association- George Guidry, Koch Companies**
- ((5) Louisiana Mid-Continent Oil and Gas Association.- Dave Cagnolatti, Conoco Phillips**
- (6) Society of Louisiana Certified Public Accountants- Bill Potter, Postlewaithe & Netterville**
- (7) Tax section of the Louisiana State Bar Association-“Jay” Adams, Jones Walker LLP**
- (8) Louisiana Association of Tax Administrators-Roger Bergeron (Vice Chairman), LATA**
- (9) Police Jury Association of Louisiana- Dan Garrett, PJAL General Counsel**
- (10) Louisiana Municipal Association-Bobby Craig, EBRP Revenue Manager**
- (11) Louisiana School Boards Association- Paula Jeansonne, St. Charles Parish Tax Director**
- (12) Three persons designated by the Louisiana Department of Revenue: Kevin Richard, Houston District Manager, Ted James, Office of the Secretary, Antonio Ferachi, LDR**