



Postlethwaite
& Netterville

Louisiana Taxes & Incentives

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LOUISIANA TAX UPDATE

Suspended Exemptions

1. Expired as of June 30, 2009
2. Transactions now taxed at 1% unless specifically excluded from suspension by R.S. 47:321(H) or the exempting statute was enacted subsequent to the July 1, 2002 effective date of R.S. 47:321(H).
3. Electricity, natural gas, steam, and bulk/utility water for other than residential purposes are now completely tax exempt.
4. Refer to Revenue Information Bulletin No. 09-014

Manufacturing Machinery and Equipment

1. Phased in exclusion from sales, use and lease tax by R.S. 47:301(3) and R.S. 47:301(13).
2. Accelerated by Act 12 of the 2nd Extraordinary Legislative Session of 2008
3. Completely excluded from tax as of July 1, 2009
4. Requirements
 - a. *Must be manufacturing machinery and equipment*
 - b. *Must be used by manufacturer*
 - I. *NAICS Sector 11 or*
 - II. *NAICS Sectors 31-33*
 - III. *As they existed in 2002*
 - c. *Must apply for and receive a certificate of exclusion from LDR certifying manufacturer status.*
5. Local taxing authorities had the option to adopt exclusion
6. Refer to Revenue Information Bulletin No. 04-012-A

LOUISIANA TAX UPDATE

Tangible Personal Property Consumed in Manufacturing Process

1. Phased in exclusion at R.S. 47:301(3)(k)
2. Effective July 1, 2010, 25% of the price will be excluded from sales/use tax
3. Requirements
 - a. *NAICS designation of 3211 through 3222 or 113310 as they existed in 2007 (wood, paper, logging)*
4. Refer to Revenue Information Bulletin No. 09-050

Repeal of Advance Sales Tax

1. **Effective January 1, 2009**
2. **Began using form R-1042, which was available on the LDR website**
3. **Transition period ended on June 30, 2009**
4. **Current Administration**
 - a. *ATC line removed from sales tax returns*
 - b. *Form R-1042 is no longer a valid exemption certificate as of October 31, 2009*
 - c. *Any registrant with a sales tax account whose NAICS classification indicates that retail sales are the primary business receives a Resale Dealer Certificate, form R-1064*
 - d. *Other registrants making purchases for resale should apply to LDR on form R-1067, which is available on LDR's website*
 - e. *If approved, those registrants will receive a Limited Resale Dealer Certificate, form R-1055*
 - f. *Only accept form R-1064 and form R-1055 as exemption certificates for resale*
5. **Refer to Revenue Information Bulletin No. 09-015**

Definition of Tangible Personal Property

1. Important because sales, use and lease taxes are only imposed on tangible personal property
2. Difficult to determine because the term is not used in the Civil Code
3. Act 632 of 2008 amended Civil Code Articles 466 and 508
4. Act 442 of the 2009 Regular Legislative Session
 - a. *Amended R.S. 47:301(16)(q) to state that tangible personal property does not include any item that would have been considered immovable prior to enactment of Act 632*
 - b. *Establishes collaborative working group to study and develop proposals on the definition of tangible personal property and recommend it to the Legislature by January 31, 2011.*
5. Refer to Revenue Information Bulletin No. 09-036

Transactions for Remotely Accessed Software, Digital or Media Products

- 1. Taxable transactions include, but are not limited to, remotely accessed software, information materials, and entertainment media products, whether as a one-time use or through ongoing subscription, and whether only being viewed, or being downloaded when that transfer requires payment of consideration in any form**
- 2. Any consideration paid for electronic receipt or access to data, information, materials, media or other form of communications that are converted to readable, viewable or usable form by browsers or software installed on mobile hardware or system hardware located in Louisiana is subject to sales, use or lease tax in this state**
- 3. Refer to Revenue Ruling No. 10-001**

Sales Taxability of Cooking Oil & Shortening by Restaurant

1. Oil and butter purchased as an integral ingredient is exempt from sales/use tax as a purchase for resale
2. Oil and butter purchased as a cooking medium to fry food is deemed to become an integral part of the final product and is exempt from sales/use tax as a purchase for resale
3. Oil and butter purchased as a cooking medium to coat a pan does not qualify as an item purchased for resale or for “further processing” of a finished product and is not exempt from sales/use tax
4. **Recommendation for Dual Purpose Use**
 - a. *Use exemption certificate to purchase tax free*
 - b. *Develop a reasonable method to determine portion used for taxable purposes*
 - c. *Apply the ratio of taxable use to the total purchase price*
 - d. *Report the result on line 2 of the sales tax return*
5. **Refer to Revenue Ruling No. 09-002**

Prepaid Wireless 911 Service Charge

- 1. Imposed by Act 531 of the 2009 Legislative Session**
- 2. 2% of consumer's retail purchase of**
 - a. Cellular phones preloaded with minutes or units of air time or sold with rebates for air time*
 - b. Calling cards for cellular phones preloaded with units of air time*
 - c. Recharging of a reusable cellular phone calling card or the cellular phone itself with additional minutes or units of air time*
- 3. Effective January 1, 2010**
- 4. Returns filed quarterly**
- 5. Due by the twentieth day of the first month of the succeeding quarter**
- 6. Vendor's compensation**
 - a. Full amount of collections in the first quarter*
 - b. 4% of collections in subsequent quarters*
- 7. Returns must be filed electronically**
- 8. Refer to Revenue Information Bulletin No. 09-053**

Separate Sales Tax Return Filing Requirement

1. LAC 61:I.4351 allows LDR to require certain locations, normally included in a consolidated sales tax return, to file a separate sales tax return in instances where tax data is required for an individual sales location
2. Usually occurs in the event that one or more locations are located in tax increment financing districts, which requires LDR to determine exactly what amount of tax was collected within the boundaries, in order to properly distribute funds

Minimum Franchise Tax

1. Repealed by Act 476 of the 2009 Legislative Session
2. Effective for all taxable periods beginning on or after January 1, 2010
3. Return should still be filed
4. Amount of tax due should be paid
5. Initial Corporation Franchise tax is \$10
6. Refer to Revenue Information Bulletin No. 09-054

Phase-Out of Borrowed Capital from Franchise Tax Base

1. No borrowed capital to be included in Franchise Tax base beginning with 2010 income/2011 franchise tax returns
2. Debt and equity must be properly classified prior to the application of debt reduction
3. Requirements of R.S. 47:605.1
 - a. End of year balance in “Due to Subsidiaries and Affiliates” or similar account
 - b. Complete Schedule A-1 lines 1-11 on form CIFT-620
 - c. Reclassifies 50% of the excess in those accounts over total equity as equity, eliminating the phase-out of that portion from the franchise tax base
4. Refer to Revenue Information Bulletin No. 05-026

LOUISIANA TAX UPDATE

Transfer of Tax Credits Certified by Agencies Other Than LDR

- 1. LDR requires copy of certification from the agency to allow the credits to be claimed on a return**
- 2. Be certain to obtain the certification when purchasing credits from another party**
- 3. Refer to Revenue Information Bulletin No. 10-009**

FILING TIPS TO AVOID ISSUES WITH LDR

Sales Tax

1. Use correct version of form R-1029
2. Use bar coded return provided by LDR
3. Line Items
 - a. *Zero in line 1 only, if no taxable transactions*
 - b. *Never use “-0-”*
 - c. *Avoid any stray marks*
 - d. *Complete only applicable lines*
 - e. *Write numbers legibly*
 - f. *Write within appropriate boxes*
 - g. *Round all figures to the nearest dollar*
4. Other
5. LDR encourages electronic filing to eliminate the possibility of any items discussed earlier

Franchise Tax

- 1. File initial returns**
- 2. No \$10 minimum on subsequent returns**

Withholding Tax

1. **Electronic payments without a return are treated as tax payments and interest and penalties will be assessed on that amount**
2. **Adhere to the assigned filing frequency**
3. **Ensure that account number and filing frequency are both correct on the return**

All Taxes

1. Do not send checks without specific information
2. Make checks payable to LDR
3. Check accuracy of all information on returns
4. Include all pages of the primary form
5. Avoid multiple transactions
6. Avoid using damaged documents
7. Never ignore any correspondence

BUSINESS TAX INCENTIVES

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Enterprise Zone

1. Eligibility

- a. *Increase current workforce by 10% within the first 12 months or;*
- b. *Create a minimum of 5 net new jobs within the first 24 months*
- c. *35% of all jobs generating credits must be from 1 of 4 target groups*

2. Benefits

- a. *\$2,500 job tax credit for each certified net new job created, and:*
- b. *State sales tax rebate on materials, furniture, fixtures, machinery and equipment purchased and used exclusively on the site, or:*
- c. *1.5% investment tax credit on capitalized investment less some items and the portion of manufacturing machinery & equipment that is excluded from sales tax*

3. Refer to Enterprise Zone Program Fact Sheet

BUSINESS TAX INCENTIVES

Quality Jobs

1. Eligibility

- a. *Fall within one of the state's target industries*
- b. *Offer basic health plan*
- c. *Meet minimum annual payroll threshold for new jobs*
- d. *Must pay a minimum of \$14.50 per hour in wages & healthcare benefits*

2. Benefits

1. *5% - 6% rebate on annual payroll expenses for up to 10 years, and:*
2. *Sales tax rebate on capital expenditures, or;*
3. *1.5% investment tax credit on qualifying expenses*

3. Refer to Quality Jobs Program Fact Sheet

BUSINESS TAX INCENTIVES

Restoration Tax Abatement

1. Eligibility

- a. *Expand, restore, improve or develop an existing structure*
- b. *Located in Downtown Development Districts, Economic Development Districts, Historic Districts, or is on the National Register of Historic Places*

2. Benefits

- a. *5-year deferred assessment of the ad valorem property taxes assessed on renovations and improvements*
- b. *May be renewed for a second 5-year period upon approval by local governing authority*

3. Refer to Restoration Tax Abatement Fact Sheet

BUSINESS TAX INCENTIVES

Industrial Tax Exemption

1. Eligibility

- a. Must be a manufacturer
- b. Must be new land, buildings, machinery, equipment, and any other property that is part of the manufacturing process or improvements to them

2. Benefits

- a. Abates local ad valorem property taxes on the new investment and annual capitalized additions for 5 years
- b. May be renewed for an additional 5 year period

3. Refer to Industrial Ad Valorem Tax Exemption Program Fact Sheet

Research & Development Tax Credit

1. Eligibility

- a. *Claim federal credit under 26 U. S. C. § 41(a) for increasing research activities*
- b. *Receive federal Small Business Innovation Research Grant*
- c. *Employ up to 50 LA residents and incur qualified research expenses*

2. Benefits

- a. *8%, 20%, 25% or 40% refundable tax credit*
- b. *Determined by number of employees*

3. Refer to Research and Development Tax Credit Fact Sheet

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Sound Recording Investor Tax Credit

1. Eligibility

- a. *Engaged in sound recording and/or production of musical recording*
- b. *Invest minimum of \$15,000 in LA on project*
- c. *Infrastructure projects must be permanently domiciled in LA*

2. Benefits

- a. *Credit of 25% of all certified LA expenditures*
- b. *Credit is refundable*

3. Refer to Sound Recording Tax Incentives Program Fact Sheet

BUSINESS TAX INCENTIVES

Digital Media Incentive

1. Eligibility

- a. *Engaged in digital media industry*
- b. *Develop products including video games, simulation/training software and social media applications*

2. Benefits

- a. *Non-refundable, transferrable 25% tax credit for qualified LA expenditures*
- b. *Non-refundable, transferrable 35% tax credit for payroll expenditures for LA residents*

3. Refer to Digital Interactive Media Fact Sheet

Motion Picture Investor Tax Credit

1. Eligibility

- a. *Spend at least \$300,000 on motion picture productions in LA*

2. Benefits

- a. *Non-refundable, transferrable 30% tax credit for qualified LA expenditures*
- b. *Non-refundable, transferrable 35% tax credit for qualified LA payroll expenditures*

BUSINESS TAX INCENTIVES

Live Performance Tax Credit

1. Eligibility

- a. *Spend at least \$100,000 on live performance projects in LA*

2. Benefits

- a. *Up to 25% non-refundable, transferrable tax credit for the base investment*
- b. *Additional 10% credit for payroll of LA residents*
- c. *Transportation tax credit for shipping of live performance-related property*

BUSINESS TAX INCENTIVES

Louisiana FastStart™

1. Eligibility

- a. *Must be digital media, headquarters & business operations, service industries, advanced & traditional manufacturing, warehouse & distribution, or research & development*
- b. *Service industries, headquarters & business operations, and warehouse & distribution companies must also have a majority of sales out-of-state*
- c. *Must commit to creating a net of at least 15 new, permanent manufacturing jobs or a net of at least 50 new, permanent service-related jobs*

2. Benefits

- a. *Workforce development at no charge*
- b. *Workforce recruitment at no charge*
- c. *Workforce screening at no charge*
- d. *Workforce training at no charge*

BUSINESS TAX INCENTIVES

Economic Development Award Program

1. Eligibility

- a. *Public or quasi-public state entities*
- b. *Request a minimum of \$50,000*
- c. *Must create or retain at least 10 permanent jobs in LA*

2. Benefits

- a. *Loan/grant to provide funding for publicly owned infrastructure in support of business development projects*

Technology Commercialization Credit and Jobs Program

1. Eligibility

- a. *Must commercialize a technology developed in LA*
- b. *Must partner with a Louisiana higher education or research institution*

2. Benefits

- a. *40% refundable tax credit on costs related to the commercialization of technology*
- b. *6% payroll rebate for creation of new direct jobs*

3. Refer to Technology Commercialization & Jobs Program Fact Sheet

Modernization Tax Credit

1. Eligibility

- a. *Must improve entire facility's or specific unit's efficiency by greater than 10%*
- b. *Must be in competition for capital expenditures within a company's established capital expenditure budget plan*
- c. *Must make qualified capital investments of at least \$5 million*
- d. *Project must be pre-certified*
- e. *Project must be placed in operation after July 1, 2011*

2. Benefits

- a. *5% refundable tax credit (1% per year for 5 years) on capital expenditures*

New Markets Tax Credit

1. Eligibility

- a. *Must hold a “qualified equity investment” on a certain date, known as the credit allowance date*
- b. *Qualified equity investment for Louisiana purposes has the same meaning as for federal purposes since the Louisiana NMTC piggybacks the Federal NMTC*

2. Benefits

- a. *Non-refundable, transferrable tax credit of 10% for the first two credit allowance dates and 5% on the final credit allowance date*
3. *Refer to Revenue Ruling 08-011A for additional information.*

BUSINESS TAX INCENTIVES

Small Business Loan Program

1. Eligibility

- a. *Must be a small business as defined by the SBA*
- b. *Businesses must be domiciled in LA*
- c. *Owners or principal stockholders must be LA residents*
- d. *Cannot be restaurants, bars, gaming establishments, financing or real-estate speculation businesses*

2. Benefits

- a. *75% loan guarantees up to a maximum of \$1.5 million*
- b. *Up to 40% state direct loan participation to facilitate capital accessibility*

Micro Loan Program

1. Eligibility

- a. *Must be a LA small business as defined by SBA*

2. Benefits

- a. *Up to 80% guarantees for banks that fund loans from \$5,000 to \$50,000*
- b. *Up to 50% state direct loan participation for banks that fund loans from \$5,000 to \$50,000*

Bonding Assistance Program

1. Eligibility

1. *Must be certified in Small and Emerging Business Development Program*
2. *Must complete LED's Louisiana Contractors Accreditation Institute or have a waiver from LED*

2. Benefits

1. *Up to 25% collateral assistance for surety bond when bidding on private or public jobs*

3. Refer to Bonding Assistance Program Fact Sheet

BUSINESS TAX INCENTIVES

Veteran Initiative

1. Eligibility

- a. *Must be certified by LED*
- b. *Owned by veteran or service-connected, disabled veteran*
- c. *Independently owned & operated*
- d. *Not dominant in its professional field*
- e. *Owned by and having officers who are U. S. citizens or legal residents*
- f. *All owners must be LA residents*
- g. *Has principal business office in LA*
- h. *Has fewer than 50 full-time employees*
- i. *Has average annual gross receipts that do not exceed \$5 million per year (construction) and \$3 million per year (non-construction) for each of the previous 3 tax years*

2. Benefits

- a. *Preference in state procurement and public contract opportunities*

3. Refer to Veteran Initiative Fact Sheet

Mentor-Protégé Tax Credit

1. Eligibility

a. Mentors

- i. Committed & able to provide professional guidance and support to protégés
- ii. Demonstrate favorable financial health, including profitability for at least the last two years
- iii. Demonstrate the capability to provide managerial or technical skills transfer
- iv. Capable of contracting with private and public entities
- v. “good standing” with Secretary of State and not in violation of any state statutes, rules or governing policies

b. Protégés

- i. Certified active in Small and Emerging Business Development
- ii. or Registered in Hudson Initiative Program
- iii. “good standing” with Secretary of State and not in violation of any state statutes, rules or governing policies

Mentor-Protégé Tax Credit cont...

1. Benefits

- a. Up to \$50,000 in tax credits for mentors
- b. Technical assistance from experienced mentors for protégés

2. Refer to Mentor – Protégé Program Fact Sheet