

Regular Session, 2003

ACT No. 73

SENATE BILL NO. 551

BY SENATORS B. JONES AND HOYT AND REPRESENTATIVES
LANDRIEU AND HAMMETT

AN ACT

To amend and reenact R.S. 36:459(A), R.S. 47:301(2), (3)(b), introductory paragraph of (4), (4)(a), (b), (c), (h), (j), and (l), (8)(b), (10)(a)(i), (ii), and (vi), (b), (c), and (l), (14)(g)(i) and (i)(i), (15), (16)(d)(i), (h)(i), (ii), (iii), and (iv), and the introductory paragraph of (i), and (18)(a)(i), 302(D), 305(A), (B), (C), the introductory paragraph of (D)(1), (D)(1)(j), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (u), (2), (3), and (4), (E), (F), (G), and (H), 305.1(A) and (B), 305.3, 305.6, 305.7, 305.8, 305.13, 305.14(A)(1), 305.19, 305.26, 305.31(B), 305.36(A), 305.39, the introductory paragraph of 305.40(A), 305.42, and 305.48, to enact R.S. 47:301(25), (26), and (27), and Chapter 2D of Subtitle II of Title 47 of the Louisiana Revised Statutes to be comprised of R.S. 47:337.1 through 337.87, and R.S. 36:459(H), and to repeal R.S. 33:2713.1, 2716(A), 2716.1, 2716.2, 2717, 2718, 2718.1, 2718.2, 2718.3, 2718.4, 2718.5, 2719, 2720, 2720.1, 2737(G), 2741.1, 2844, 2844.1, 2844.2, 2845, 2845.1, 2846, and 2847, and R.S. 47:1515, relative to the sales and use tax of political subdivisions; to enact a uniform local sales tax code; to provide for the levy, collection, enforcement, and administration of local sales and use taxes; to provide for certain civil and criminal penalties; to provide for construction and interpretation of the code; to prohibit the state from assuming collection of local sales

and use taxes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:301(2), (3)(b), introductory paragraph of (4), (4)(a), (b), (c), (h), (j), and (l), (8)(b), (10)(a)(i), (ii), and (vi), (b), (c), and (l), (14)(g)(i) and (i)(i), (15), (16)(d)(i), (h)(i), (ii), (iii), and (iv), and the introductory paragraph of (i), and (18)(a)(i), 302(D), 305(A), (B), (C), the introductory paragraph of (D)(1), (D)(1)(j), (k), (l), (m), (n), (o), (p), (q), (r), (s), and (u), (2), (3), and (4), (E), (F), (G), and (H), 305.1(A) and (B), 305.3, 305.6, 305.7, 305.8, 305.13, 305.14(A)(1), 305.19, 305.26, 305.31(B), 305.36(A), 305.39, the introductory paragraph of 305.40(A), 305.42, and 305.48 are hereby amended and reenacted and R.S. 47:301(25), (26), and (27), and Chapter 2D of Subtitle II of Title 47 of the Louisiana Revised Statutes to be comprised of R.S. 47:337.1 through 337.87 are hereby enacted to read as follows:

§301. Definitions

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

* * *

(2) "Collector" ~~means~~ **shall mean and include (a) the Collector secretary of the Department** of Revenue for the state of Louisiana and includes his duly authorized assistants, **when used in reference to a sales and use tax levied by the state, or (b) the individual or entity designated as collector of the appropriate single sales and use tax collection office, and his duly authorized assistants, of any political subdivision authorized under the constitution and laws of the state of Louisiana to levy and collect a sales and use tax, except a**

statewide political subdivision, when used in reference to a sales and use tax levied by such political subdivision.

(3) * * *

(b) In the case of tangible personal property which has acquired a Louisiana tax situs in a taxing jurisdiction and is thereafter transported outside the state of Louisiana taxing jurisdiction for repairs performed outside the state of Louisiana taxing jurisdiction and is thereafter returned to the state of Louisiana taxing jurisdiction, the cost price shall be deemed to be the actual cost of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice. If the applicable labor charges are not separately stated on the invoice, it shall be presumed that the cost price is the total charge reflected on the invoice.

* * *

(4) "Dealer" includes 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 ~~this state~~ a taxing jurisdiction. "Dealer" is further defined to mean:

(a) Every person, who imports, or causes to be imported, tangible personal property from any other state, ~~or foreign country, or~~ other taxing jurisdiction for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in ~~this state~~ a taxing jurisdiction.

(b) Every person who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, or consumption, or distribution, or storage to be used or consumed in ~~this~~

state ~~the taxing jurisdiction~~, tangible personal property as defined herein.

(c) Any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in ~~this state~~ **the taxing jurisdiction**, tangible personal property and who cannot prove that the tax levied by this Chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property.

* * *

(h) Any person engaging in business in ~~this state~~ **the taxing jurisdiction**. "Engaging in business in ~~this state~~ **the taxing jurisdiction**" means and includes any of the following methods of transacting business: maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or by having an agent, salesman, or solicitor operating within ~~the state~~ **the taxing jurisdiction** under the authority of the seller or its subsidiary irrespective of whether such place of business, agent, salesman, or solicitor is located in ~~this state~~ **such taxing jurisdiction** permanently or temporarily or whether such seller or subsidiary is qualified to do business in ~~this state~~ **such taxing jurisdiction**, or any person who makes deliveries of tangible personal property into ~~the state~~ **the taxing jurisdiction** other than by a common or contract carrier.

* * *

(j) Any person who makes deliveries of tangible personal property into ~~the state~~ **the taxing jurisdiction** in a vehicle owned or

operated by said person.

* * *

(1) ~~The term "dealer" include every~~ **Every** person who engages in regular or systematic solicitation of a consumer market in ~~this state~~ **the taxing jurisdiction** by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

* * *

(8) * * *

(b) **Solely** for purposes of the payment of state sales or use tax on the lease or rental or the purchase of tangible personal property or services, "person" shall not include a regionally accredited independent institution of higher education which is a member of the Louisiana Association of Independent Colleges and Universities, if such lease or rental or purchase is directly related to the educational mission of such institution. However, the term "person" shall include such institution for purposes of the payment of tax on sales by such institution if the sales are not otherwise exempt.

* * *

(10)(a)(i) **Solely** for the purposes of the imposition of the state sales and use tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for the lease of automobiles in an arm's length transaction, and shall mean and include all such transactions as the secretary, upon investigation, finds to be in lieu of sales; provided that sales for resale or for lease of automobiles in an arm's length

transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for the lease of automobiles, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax.

(ii) **Solely** for purposes of the imposition of the sales and use tax levied by a political subdivision or school board, "retail sale" or "sale at retail" shall mean a sale to a consumer or to any other person for any purpose other than for resale in the form of tangible personal property, and shall mean and include all such transactions as the collector, upon investigation, finds to be in lieu of sales; provided that sales for resale be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax.

* * *

(vi) **Solely** for purposes of the payment of state sales and use tax, until January 1, 2007, the term "sale at retail" shall not include purchases made in connection with the filming or production of a motion picture by a motion picture production company which has been relieved from the payment of state sales and use tax under the provisions of Chapter 12 **of Subtitle II** of Title 47, also known as the "Louisiana Motion Picture Incentive Act". This exclusion shall be retroactively revoked if it is determined that a motion picture production company that has been relieved from payment of state sales and use tax under Chapter 12 failed to meet the conditions of such relief.

(b)(i) Solely for purposes of the sales and use tax levied by the state, the sale of tangible personal property to a dealer who

purchases said property for resale through coin-operated vending machines shall be considered a "sale at retail", subject to ~~the~~ such tax levied by R.S. 47:302(A) and R.S. 47:321(A). The subsequent resale of the property by the dealer through coin-operated vending machines shall not be considered a "sale at retail".

(ii) Solely for purposes of the sales and use tax levied by political subdivisions, the term "sale at retail" shall include the sale of tangible personal property by a dealer through coin-operated vending machines.

(c)(i)(aa) The term "sale at retail" does not include sale of materials for further processing into articles of tangible personal property for sale at retail.

~~(bb) Natural~~ Solely for purposes of the sales and use tax levied by the state, natural gas when used in the production of iron in the process known as the "direct reduced iron process" is not a catalyst and is recognized by the legislature to be a material for further processing into an article of tangible personal property for sale at retail.

(ii)(aa) ~~The~~ Solely for purposes of the sales and use tax levied by the state, the term "sale at retail" does not include sales of electricity for chlor-alkali manufacturing processes.

~~(bb), nor does it~~ The term "sale at retail" does not include an isolated or occasional sale of tangible personal property by a person not engaged in such business.

* * *

(l) Solely for purposes of the state sales and use tax, the term "sale at retail" shall not include the sale of a pollution control device or

system. Pollution control device or system shall mean any tangible personal property approved by the Department of Revenue and the Department of Environmental Quality and sold or leased and used or intended for the purpose of eliminating, preventing, treating, or reducing the volume or toxicity or potential hazards of industrial pollution of air, water, groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the purposes of any sales and use tax levied by a political subdivision, the term "sale at retail" shall include the sale of a pollution control device or system. In order to qualify, the pollution control device or system must demonstrate either: a net decrease in the volume or toxicity or potential hazards of pollution as a result of the installation of the device or system; or that installation is necessary to comply with federal or state environmental laws or regulations.

* * *

(14) "Sales of services" means and includes the following:

* * *

(g)(i)~~(aa)~~ The furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment.

~~(bb) Charges~~ **Solely for purposes of the sales and use tax levied by the state, charges** for the furnishing of repairs to tangible personal property may be excluded from sales of services, as defined in this Subparagraph, when the repaired property is delivered to the customer in another state either by common carrier or the repair dealer's

own vehicle, however, as to aircraft, delivery may be by the best available means. This exclusion shall not apply to sales and use taxes levied by any parish, municipality or school board. However, any parish, municipality or school board may apply the exclusion as defined in this Subparagraph to sales or use taxes levied by any such parish, municipality, or school board. Offshore areas shall not be considered another state for the purpose of this Subparagraph.

* * *

(i)(i) **Solely for purposes of the sales and use tax levied by the state**, the furnishing of telecommunication services for compensation. **"Telecommunication services" shall not be subject to the sales and use tax of political subdivisions except as provided for in Item (vi) of this Subparagraph (i).**

* * *

(15) "Storage" means and includes any keeping or retention in ~~this state~~ **the taxing jurisdiction** of tangible personal property for use or consumption ~~in this state~~ **within the taxing jurisdiction** or for any purpose other than for sale at retail in the regular course of business.

* * *

(16) * * *

(d)(i) Notwithstanding any provision of law to the contrary and **solely** for **purposes of** state **sales and use tax** ~~purposes only~~, any sale of a prepaid telephone calling card or prepaid authorization number, or both, shall be deemed to be the sale of tangible personal property.

* * *

(h)(i) **Solely** for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are

coterminous with those of the state, for the period beginning July 1, 2002, and ending on June 30, 2003, the term "tangible personal property" shall not include one-quarter of the cost price of custom computer software.

(ii) **Solely** for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2003, and ending on June 30, 2004, the term "tangible personal property" shall not include one-half of the cost price of custom computer software.

(iii) **Solely** for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for the period beginning July 1, 2004, and ending on June 30, 2005, the term "tangible personal property" shall not include three-quarters of the cost price of custom computer software.

(iv) **Solely** for purposes of the imposition of the sales and use tax levied by the state or any political subdivision whose boundaries are coterminous with those of the state, for all taxable periods beginning on or after July 1, 2005, the term "tangible personal property" shall not include custom computer software.

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(i) **Solely** for purposes of the imposition of the state sales and use tax, the term "tangible personal property" shall not include digital television conversion equipment and digital radio conversion equipment as defined in this Section.

* * *

(18)(a)(i) **Solely** for purposes of the imposition of the state sales and use tax, "use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of a business. The term "use" shall not include the purchase, the importation, the consumption, the distribution, or the storage of automobiles to be leased in an arm's length transaction, nor shall the term "use" include the donation of food items to a food bank as defined in R.S. 9:2799(B).

* * *

R.S. 47:301(25) is all new law.

(25) "Taxing authority" shall mean and include both the state and a statewide political subdivision and any political subdivision of the state authorized under the Constitution or laws of the state of Louisiana to levy and collect a sales and use tax, unless the context indicates otherwise. For purposes of the Uniform Local Sales Tax Code provided for in Chapter 2D of this Subtitle, "taxing authority" shall mean any political subdivision of the state authorized under the Constitution or laws of the state of Louisiana to levy and collect a sales and use tax, except a statewide political subdivision.

R.S. 47:301(26) is all new law.

(26) "Taxing jurisdiction" shall mean the area within the physical boundaries of the taxing authority.

R.S. 47:301(27) is all new law.

(27) "Tax", "sales and use tax", and "sales tax" shall mean the sales and use tax imposed by the state pursuant to the provisions of this Chapter and Chapter 2-A and 2-B of this Subtitle and the tax imposed by political subdivisions under the constitution or laws of this state authorizing the imposition of a sales and use tax.

* * *

§302. Imposition of tax

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D. Notwithstanding any other provision of law to the contrary, ~~no state sales or use tax nor any such tax levied by a political subdivision~~ **of any taxing authority** shall be levied on any advertising service rendered by an advertising business, including but not limited to advertising agencies, design firms, and print and broadcast media, or any member, agent, or employee thereof, to any client whether or not such service also involves a transfer to the client of tangible personal property. However, a transfer of mass-produced advertising items by an advertising business which manufactures the items itself to a client for the client's use, which transfer involves the furnishing of minimal services other than manufacturing services by the advertising business shall be a taxable sale or use of tangible personal property; provided that in no event shall tax be levied on charges for creative services which are separately invoiced.

* * *

§305. Exclusions and exemptions from the tax

A.(1) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are

exempted from the tax levied by ~~this Chapter~~ **taxing authorities**, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products are made to consumers by any person other than the producer, they are not exempted from the tax imposed by ~~this Chapter~~ **taxing authorities**.

(2) The gross proceeds derived from the sale in this state of livestock at public sales sponsored by breeders' or registry associations or livestock auction markets are exempted from the **sales and use** tax levied by ~~this Chapter~~ **the state only**. When public sales of livestock are made to consumers by any person other than through a public sale sponsored by a breeders' or registry association or a livestock auction market, they are not exempted from the **sales and use** tax imposed by ~~this Chapter~~ **the state**. This Section shall be construed as exempting race horses entered in races and claimed at any racing meet held in Louisiana, whether the horse claimed was owned by the original breeder or not.

(3) Every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of ~~this Chapter~~ **the sales and use tax imposed by a taxing authority**, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted. For the

purposes of this Section, "agricultural commodity" means horticultural, viticultural, poultry, farm and range products, and livestock and livestock products.

(4)(a) The purchase of feed and feed additives for the purpose of sustaining animals which are held primarily for commercial, business, or agricultural use shall be exempted from the taxes levied by ~~this Chapter~~ **taxing authorities**.

(b) For purposes of this Subsection:

(i) "Commercial use" means the purchasing, producing, or maintaining of animals, including breeding stock, for resale;

(ii) "Business use" means the keeping and maintaining of animals which are used in performing services in conjunction with a business enterprise, such as sentry dogs and rental horses;

(iii) "Agricultural use" means the maintaining of work animals and beasts of burden which are utilized in the activity of producing crops or animals for market, in the production of food for human consumption, in the production of animal hides or other animal products for market, or in the maintaining of breeding stock for the propagation of such agricultural use animals.

(c) This exemption shall not apply to the purchase of feed or feed additives for animals kept primarily for personal, sporting, or other purposes, including but not limited to purchases for pets of any kind or hunting dogs.

(5) The **Solely for purposes of the sales and use** tax ~~imposed by this Chapter~~ **levied by the state, such tax** shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of crawfish. The

person who purchases the exempt items shall claim the exemption by executing a certificate at the time of purchase. The Department of Revenue shall provide the certificates to retail merchants. Any merchant who in good faith, and after examination of the applicability of the certificate to that purchase with due care, neglects or fails to collect the tax herein provided, due to the presentation by the purchaser of a tax exemption certificate issued by the Department of Revenue, including those issued pursuant to R.S. 47:305.10, shall not be liable for the payment of the tax.

(6) ~~The~~ **Solely for purposes of the sales and use tax imposed by this Chapter levied by the state, such tax** shall not apply to the sale or use of materials, supplies, equipment, fuel, bait, and related items other than vessels used in the production or harvesting of catfish. The person who purchases the exempt items shall claim the exemption by executing a certificate at the time of purchase. The Department of Revenue shall provide the certificates to retail merchants. Any merchant who in good faith, and after examination of the applicability of the certificate to that purchase with due care, neglects or fails to collect the tax herein provided, due to the presentation by the purchaser of a tax exemption certificate issued by the Department of Revenue, shall not be liable for the payment of the tax.

B. **For purposes of the sales and use tax of all taxing authorities,** the "use tax," as defined herein, shall not apply to livestock and livestock products, to poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

C.~~(2)~~ **For purposes of the sales and use tax of all taxing**

authorities, where a part of the cost price of a motor vehicle is represented by a motor vehicle returned to the dealer's inventory, the use tax is payable on the total cost price less the wholesale value of the article returned.

D.(1) The sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in ~~this state~~ the taxing jurisdiction of the following tangible personal property is hereby specifically exempted from the tax imposed by ~~this Chapter~~ taxing authorities, except as otherwise provided in this Paragraph:

* * *

(j) Solely for purposes of the state sales and use tax, drugs prescribed by a physician or dentists.

(k) Solely for purposes of the state sales and use tax, orthotic and prosthetic devices and wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors for personal consumption or use.

(l) Solely for purposes of the state sales and use tax, the sale or purchase of any ostomy, ileostomy or colostomy device or any other appliance including catheters or any related item which is required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste.

(m) Solely for purposes of the state sales and use tax, patient aids prescribed by a physician or a licensed chiropractor for home use.

(n) Solely for purposes of the state sales and use tax, food sold for preparation and consumption in the home including by way of extension and not of limitation bakery products.

(o) Solely for purposes of the state sales and use tax, dairy products.

(p) Solely for purposes of the state sales and use tax, soft drinks.

(q) Solely for purposes of the state sales and use tax, fresh fruits and vegetables.

(r) Solely for purposes of the state sales and use tax, package foods requiring further preparation by the purchaser.

(s) Solely for purposes of the state sales and use tax, any and all medical devices used exclusively by the patient in the medical treatment of various diseases or administered exclusively to the patient by a physician, nurse, or other health care professional or health care facility in the medical treatment of various diseases under the supervision of and prescribed by a licensed physician.

* * *

(u) Solely for purposes of the state sales and use tax, adaptive driving equipment and motor vehicle modifications prescribed for personal use by a physician, a licensed chiropractor, or a driver rehabilitation specialist licensed by the state.

(2) Sales of meals furnished to: the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates, and patients of mental institutions; and boarders of rooming houses, and occasional meals furnished in connection with or by educational, religious, or medical organizations, are exempt from the taxes imposed by the Chapter if the meals are consumed on the premises where purchased. However, sales by any of the above in facilities open to outsiders or to the general public are not

exempt from the taxes imposed by ~~this Chapter~~ **taxing authorities**.

(3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales made by an establishment not specifically exempted elsewhere who furnish facilities for the consumption of the food on the premises are not exempt from the taxes imposed by ~~this Chapter~~ **taxing authorities**.

(4)**(a)** The exemption for food, drugs, orthotic and prosthetic devices, and wheelchairs and wheelchair lifts prescribed by physicians or licensed chiropractors for personal consumption or use; for patient aids prescribed by a physician or licensed chiropractor for home use; and ostomy, ileostomy or colostomy devices, or other appliances including catheters or related items required as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste applies only to sales taxes imposed by the state of Louisiana and does not apply to such taxes authorized and imposed by any school board, municipality, or other local taxing authority notwithstanding any other provisions of law to the contrary, and specifically, but not exclusively, R.S. ~~33:2716.1~~, ~~except that~~ **47:337.8**.

(b) However, sales taxes authorized and imposed by any ~~school board, municipality or other local~~ taxing authority shall not apply to the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in his medical treatment when administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

* * *

E.(†) It is not the intention of ~~this Chapter~~ **any taxing authority** to levy a tax upon articles of tangible personal property imported into this state, or produced or manufactured in this state, for export; nor is it the intention of ~~this Chapter~~ **any taxing authority** to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent the collection of the taxes due on sales of tangible personal property into this state which are promoted through the use of catalogs and other means of sales promotion and for which federal legislation or federal jurisprudence enables the enforcement of ~~this Chapter~~ **the sales tax of a taxing authority** upon the conduct of such business. It is, however, the intention of ~~this Chapter~~ **the taxing authorities** to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state, of tangible personal property after it has come to rest in this state and has become a part of the mass of property in this state. At such time as federal legislation or federal jurisprudence as to sales in interstate commerce promoted through the use of catalogs and other means of sales promotions enables the enforcement of this Chapter **or any other law or local ordinance imposing a sales tax** against vendors that have no other nexus with ~~this state~~ **the taxing jurisdiction**, the following provisions shall apply to such sales on which sales and use tax would not otherwise be collected.

F. The sales, use and lease taxes imposed by ~~this Chapter~~ **taxing authorities** shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means

supplied by licensors thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensors or distributors thereof.

G. The sales, use, and lease taxes imposed by ~~Chapter 2 and Chapter 2A of this Title~~ **taxing authorities** shall not apply to the purchase or rental by private individuals of machines, parts therefor, and materials and supplies which a physician has prescribed for home renal dialysis.

H. "Demonstrators" as used in Subsection D of this Section **for purposes of the sales and use tax levied by all taxing authorities** shall mean new and used trucks and automobiles for which dealer inventory plates may be obtained pursuant to R.S. 47:473, and new aircraft titled in the dealer's name for use as demonstrators which are kept primarily on the dealer's premises during normal business hours and which are available for demonstration purposes; provided, however, that the occasional use of ~~such a~~ **a** demonstrator by authorized personnel of the dealer shall not disqualify such demonstrator from the exemption herein designated.

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§305.1. Exclusions and exemptions; ships and ships' supplies

A. The tax imposed by ~~R.S. 47:302(A)(1), 321(A)(1), and 331(A)(1)~~ **taxing authorities** shall not apply to sales of materials, equipment, and machinery which enter into and become component parts of ships, vessels, or barges, including commercial fishing vessels, drilling ships, or drilling barges, of fifty tons load displacement and over, built in Louisiana nor to the gross proceeds from the sale of such ships, vessels, or barges when sold by the builder thereof.

B. The taxes imposed by ~~R.S. 47:302 and R.S. 47:321~~ **taxing authorities** shall not apply to materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

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§305.3. Exclusions and exemptions; seeds used in planting of crops

The tax imposed by ~~R.S. 47:302(A)(1)~~ **taxing authorities** shall not apply to the sale at retail of seeds for use in the planting of any kind of crops. The ~~collector~~ **secretary** shall promulgate rules and regulations designed to carry out the provisions of this Section, and any transaction not strictly in compliance with such rules and regulations shall lose the exemption herein provided.

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§305.6. Exclusions and exemptions; Little Theater tickets

The sales tax imposed by ~~R.S. 47:302~~ **taxing authorities** shall not apply to the sale of admission tickets by Little Theater organizations.

§305.7. Exclusions and exemptions; tickets to musical performances
of nonprofit musical organizations

The sales tax imposed by ~~R.S. 47:302~~ **taxing authorities** shall not apply to the sale of admission tickets by domestic nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances; provided that this Section shall not apply to performances given by out-of-state or nonresident symphony companies, nor shall this Section apply to any performance intended to yield a profit to the promoters thereof.

§305.8. Exclusions and exemptions; pesticides used for agricultural
purposes

The tax imposed by ~~R.S. 47:302(A)~~ **taxing authorities** shall not apply to sale at retail of pesticides used for agricultural purposes, including particularly but not by way of limitation, insecticides, herbicides and fungicides.

* * *

§305.13. Exclusions and exemptions; admissions to entertainments
furnished by certain domestic nonprofit corporations

The sales tax imposed by ~~R.S. 47:302~~ **taxing authorities** shall not apply to the sale of admissions to entertainment events furnished by recognized domestic nonprofit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.

§305.14. Exclusions and exemptions; nonprofit organizations; nature

of exemption; limitations; qualifications; newspapers;
determination of tax exempt status

A.(1) The sales and use taxes imposed by ~~R.S. 47:302 and 331~~ **taxing authorities** shall not apply to sales of tangible personal property at, or admission charges for, outside gate admissions to, or parking fees associated with, events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expense connected therewith, are used for educational, charitable, religious, or historical restoration purposes, including the furtherance of the civic, educational, historical, charitable, fraternal, or religious purpose of the organization. In addition, newspapers published in this state by religious organizations shall also be exempt from such taxes, provided that the price paid for the newspaper or a subscription to the newspaper does not exceed the cost to publish such newspaper.

* * *

§305.19. Exclusions and exemptions; leased vessels used in the
production of minerals

The taxes imposed by ~~R.S. 47:302(B) and R.S. 47:321(B)~~ **taxing authorities** shall not apply to those vessels which are leased for use offshore beyond the territorial limits of this state for the production of oil, gas, sulphur, and other minerals or for the providing of services to those engaged in such production.

* * *

§305.26. Exclusions and exemptions; new vehicles furnished by
dealers for driver education purposes

Solely for purposes of the sales or use tax **levied by the state,**

such tax shall not be due on vehicles furnished by a dealer in new vehicles when withdrawn from inventory and furnished to a secondary school, college or public school board on a free loan basis for exclusive use in a driver education program accredited by the Louisiana Department of Education.

* * *

§305.31. Exclusions and exemptions; equipment facilitating energy conservation, conversion to alternate fuels

* * *

B. Solely for purposes of the sales and use taxes levied ~~under the provisions of this Chapter and Chapter 2-A~~ by the state, such taxes shall not apply to the sale at retail, the use, the consumption, the distribution, the storage for use or consumption in this state, and the lease or the rental of any energy conservation property if such energy conservation property is used or consumed in this state by an existing manufacturing establishment or public utility.

* * *

§305.36. Exclusions and exemptions; motor vehicles

A. Solely for purposes of the sales and use tax levied by the state, The such tax imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall not apply to the sale at retail, the purchase, lease, or the importation of motor vehicles, trailers, or semitrailers as defined by R.S. 47:451 that will be stored, used, or consumed in this state exclusively for lease or rental, provided that the gross proceeds derived from the lease or rental of the property not previously taxed shall be at reasonable market rates. If the secretary of the Department of Revenue finds that any person who has purchased, used, or imported motor

vehicles, trailers, or semitrailers tax free under this Subsection has subsequently leased or rented motor vehicles, trailers, or semitrailers in transactions not at arms length at below market rates, the secretary shall presume that the person was not entitled to claim the exemption provided herein, and the burden shall be on that person to prove otherwise.

* * *

§305.39. Exclusions and exemptions; butane, propane, or other liquefied petroleum gases purchased for private residential consumption

Solely for purposes of the sales and use taxes levied by the state, ~~The such~~ taxes imposed by R.S. 47:302(A), R.S. 47:321(A), and R.S. 47:331(A) shall not apply to direct consumer purchases of butane, propane, or other liquefied petroleum gases for the private residential purposes of cooking and heating.

§305.40. Exclusions and exemptions; purchases of Mardi Gras specialty items

A. Solely for purposes of the sales and use taxes levied by the state, ~~The such~~ sales and use taxes imposed by R.S. 47:302, R.S. 47:321, and R.S. 47:331 shall not apply to the purchases of specialty items for use in connection with Mardi Gras activities by the following organizations:

* * *

§305.42. Exclusions and exemptions; tickets to ballet performances of nonprofit ballet organizations

Solely for purposes of the sales and use taxes levied by the state, ~~The such~~ sales and use tax imposed by R.S. 47:302(A) and R.S.

47:321(A) shall not apply to the sale of admission tickets by any domestic nonprofit organization engaged in the preparation and presentation of any dance, drama, or any of the performing arts.

* * *

§305.48. Exemption; automobiles owned by military personnel

Solely for purposes of the sales and use taxes levied by the state, motor vehicles subject to the vehicle registration tax previously purchased in another state by active duty military personnel stationed in Louisiana, shall, at the time of transfer of registration, be exempt from ~~the~~ **such** use tax imposed by this Chapter if a sales tax was imposed and collected upon the purchase of the motor vehicle by the state in which the vehicle was purchased and the purchaser was a resident or stationed in the state where the taxes were paid. The motor vehicle shall continue to be exempt from ~~the~~ **such** use tax as long as the registered owner remains on active duty in any branch of the armed forces of the United States and is stationed in Louisiana.

* * *

CHAPTER 2D. UNIFORM LOCAL SALES TAX CODE

Chapter 2D is all new law.

PART A. GENERAL PROVISIONS

Part A is all new law.

§337.1. Short Title

R.S. 47:337.1 is all new law.

This Chapter shall be known as and may be cited as the "Uniform Local Sales Tax Code".

§337.2. Intent; application and interpretation of Chapter

R.S. 47:337.2 is all new law.

A.(1) The intention of the legislature in enacting the provisions of this Chapter is as follows:

(a) To exercise the authority provided to it in Article VI, Section 29 of the Constitution of Louisiana and recognized by a long line of jurisprudence to define and limit the scope of all state and local sales and use taxes, including all of the definitions and limitations in the statutes generally applicable to such taxes.

(b) To benefit both taxpayers and local tax collectors by promoting uniformity to the extent possible in the assessment, collection, administration, and enforcement of the sales and use taxes imposed by taxing authorities and, by compiling them, making them readily available in one place in the revised statutes.

(2) Nothing in this Chapter is intended to increase or decrease the amount or type of taxes imposed by local taxing authorities, nor is it intended to repeal any taxes, exemptions, exclusions, credits, rebates, or refunds existing on the effective date of this Chapter, including those taxes ratified by Article VI, Section 31 of the Constitution of Louisiana.

B.(1) Notwithstanding any other provision of law or local ordinance to the contrary, and except as provided for in Paragraph (3) of this Subsection, the provisions of this Chapter shall apply in the assessment, collection, administration, and enforcement of the sales and use tax of any political subdivision.

(2) In particular, the provisions of this Chapter shall apply notwithstanding any contrary provisions in Title 33 of the Louisiana Revised Statutes of 1950 providing with respect to the sales and use tax of a particular political subdivision.

(3) Other provisions of law or local ordinance shall control and

be applicable only with respect to the following:

- (a) The rate of the sales and use tax.
- (b) The effective date of such tax.
- (c) The term of the tax.
- (d) The purpose for which the proceeds of the tax shall be used.
- (e) Vendor's compensation.
- (f) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to such state law.
- (g) Exclusions and exemptions in the local ordinance which were adopted prior to July 1, 2003 pursuant to state law authorizing such adoption, but not allowed as an exclusion or exemption from state sales and use tax.
- (h) Exclusions and exemptions in the local ordinance adopted pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

C. Notwithstanding any other law to the contrary, in order to insure taxpayers of uniformity of tax collection, the regulations applicable to the sales and use tax of the tax authorities provided for in this Chapter shall be the following:

(1) For purposes of this Section, the following terms shall have the following definitions:

(a) "Board" means the board of directors of the Louisiana Association of Tax Administrators.

(b) "Common sales tax law" means a provision of law relative to the sales and use tax law of the state that is applicable to both the state and to local taxing authorities as expressly adopted in this Chapter.

(c) "Regulation" means a rule or regulation as those terms are defined in the Administrative Procedure Act.

(d) "Regulatory action" means the adoption, amendment, or repeal of a regulation.

(2) Until January 1, 2004, any collector may file a written request with the secretary for amendment in the manner provided for in Paragraph (4) of this Subsection of any regulation of the Department of Revenue in effect on July 1, 2003 concerning a common sales tax law. If no request for an amendment of a particular regulation has been received by the secretary by January 1, 2004, then that regulation shall be applicable to all local tax authorities. If the regulation is amended, then that regulation as amended shall be applicable to both the state and to local taxing authorities notwithstanding any prior construction of such law.

(3) If no regulation concerning a common sales tax law has been adopted by the secretary, any collector may file a written request with the secretary for the adoption of such regulation in the manner provided for in Paragraph (4) of this Subsection.

(4)(a) No regulatory action of the Department of Revenue concerning a common sales tax law shall be applicable to local tax authorities unless such regulatory action is proposed and adopted in accordance with the provisions of this Paragraph. The procedure provided for in this Paragraph shall be specifically applicable to the following regulatory actions:

(i) Regulations in effect on July 1, 2003 for which a written request for an amendment has been received as provided for in Paragraph (2) of this Subsection.

(ii) Written requests by a collector for the adoption of a regulation as provided for in Paragraph (3) of this Subsection.

(iii) Adoption, amendment, or repeal of regulations proposed after July 1, 2003 by the secretary.

(b)(i) Any regulatory action concerning the regulations provided for in this Section shall be the same as is provided for in the Administrative Procedure Act, except as follows:

(aa)(I) Before the secretary gives any notice of an intended regulatory action or submits a proposal to public review as required by R.S. 49:953(A) or (B), the secretary shall make a written request to the board for their input.

(II) The secretary shall also make the same request of the board when a request has been received for an amendment of a regulation as provided for in Paragraph (2) of this Subsection or for the adoption of a regulation as provided for in Paragraph (3) of this Subsection.

(bb)(I) Upon receipt of the secretary's request, the board may make a written request that the secretary convene a meeting at which she will receive the board's input and, if the board has requested such a meeting, it may appoint two representatives to attend the meeting. The meeting shall be held within fifteen days of such request, unless another time is agreed to by the board, at a time and location chosen by the secretary.

(II) In the same manner, the secretary shall provide for the receipt of input from a representative of any collector who has made a written request for the amendment of a regulation as provided for in Paragraph (2) of this Subsection or for the adoption of a regulation as provided for in Paragraph (3) of this Subsection. In that case, if the

collector also requests a meeting, the secretary shall convene such a meeting to receive such input from the collector within fifteen days of the request, unless another time is agreed to by the collector, at a time and place of the secretary's choosing; provided that, if more than two collectors have made a request for such a meeting, they shall select not more than two representatives to participate in such meeting on their behalf.

(ii) Only after the procedure provided for in this Subparagraph has been followed may the secretary proceed to adopt, amend, or repeal the regulation in accordance with the Administrative Procedure Act. Oversight of such regulatory action shall be with the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

(iii) After the regulation is finally adopted, amended, or repealed pursuant to the Administrative Procedure Act, any taxpayer or collector may file an action in any court of competent jurisdiction seeking a declaratory judgement to declare such regulatory action contrary to or inconsistent with the statute.

(iv) The regulatory action shall be effective for local taxing authorities in the same manner and at the same time it becomes effective for the state.

(5) Prior to the beginning of the 2004 Regular Session of the Legislature, the board shall make a written proposal to the governor, the President of the Senate and the Speaker of the House of Representatives for legislation which will provide a procedure for the adoption of uniform regulations for provisions of law relative to sales and use tax law or its administration that is applicable only to local

taxing authorities.

D. However, in the interest of making the assessment, collection, administration, and enforcement of state and local sales tax uniform, it is the intention of the legislature that both the provisions of this Chapter and the provisions of local ordinances which are similar to provisions in Chapters 2, 2-A, 2-B, and 18 of this Subtitle shall be interpreted by the courts of this state to have the same meaning and application as the provisions in those Chapters.

PART B. LEVY OF TAXES

Part B is all new law.

§337.3. Imposition of political subdivision tax

R.S. 47:337.3 is all new law.

A taxing authority may continue to levy sales and use taxes under authority provided for such political subdivisions by the statutes or Constitution of Louisiana.

§337.4. Levy of sales and use taxes

R.S. 47:337.4 is all new law.

A. Any political subdivision which is authorized by the constitution and laws of the state of Louisiana to levy and impose a sales and use tax which proposition is approved by a majority of those voting at an election called for the purpose after July 1, 2003 shall impose, levy, administer, and collect such tax by local ordinance in the manner required by this Chapter.

B. The local ordinance shall contain the following:

- (1) The rate of such sales and use tax.
- (2) The effective date of such tax.
- (3) The term of the tax.

(4) The purpose for which the proceeds of the tax shall be used.

(5) Vendor's compensation.

(6) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to state law.

(7) Exclusions and exemptions adopted pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

(8) Penalty, interest, or attorney fees due on the sales and use tax. The amount of such penalty, interest, and attorney fees, shall be limited as provided by law, including relevant jurisprudence, until such statute or jurisprudence is changed.

C. Any local ordinance adopted by a political subdivision levying the tax after July 1, 2003 shall incorporate by reference thereto the provisions of the Uniform Local Sales Tax Code. The incorporation of the provisions of the Uniform Local Sales Tax Code or other laws shall apply to such provisions as existed at the time of the adoption of the local ordinance and to such provisions as they may be thereafter amended.

D. Any political subdivision which has levied a local sales and use tax prior to July 1, 2003 shall collect and administer the tax in accordance with the provisions of this Chapter on that date without effect on the proposition imposing the tax and without the necessity of imposing, levying, or enacting the local ordinance again. However, the political subdivisions levying the tax before such date also may incorporate the code into such ordinances by reference.

§337.5. Local sales and use taxes effective date

R.S. 47:337.5 is all new law.

No political subdivision shall impose or increase a sale and use tax unless that tax or increase has an effective date of the first of January, the first of April, the first of July, or the first of October, and the secretary and the Uniform Electronic Local Return and Remittance Advisory Committee have been notified in advance as provided for in R.S. 47:337.23. Except for the notice to the secretary and the advisory committee, the provisions of this Section shall not apply to the renewal of an existing sales tax.

PART C. DEFINITIONS, EXCLUSIONS, EXEMPTIONS,
AND OTHER PROHIBITIONS

Part C is all new law.

§337.6. Definitions

R.S. 47:337.6 is all new law.

A. The following words, terms, and phrases used in this Chapter shall have the meaning ascribed to them in this Subsection, unless the context clearly indicates a different meaning:

(1) "Local ordinance", for purposes of this Chapter, shall include both ordinances and resolutions pursuant to which a political subdivision levies a sales and use tax and otherwise provides with respect thereto.

(2) "Political subdivision" means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to levy and collect a sales and use tax.

(3) "Secretary" or "secretary of revenue" means the secretary of the Department of Revenue for the state of Louisiana.

B. The words, terms, and phrases used in this Chapter shall have

the same meaning ascribed to them as provided for in R.S. 47:301, unless the context clearly indicates a different meaning, except to the extent expressly limited in that Section.

§337.7. Exemptions generally

R.S. 47:337.7 is all new law.

No exemption from sales and use tax enacted or granted after the effective date of this Chapter shall be applicable to any sales and use tax levied by any political subdivision unless such exemption is enacted as an amendment to this Chapter, except as provided by R.S. 47:337.8(B).

§337.8. Prohibited exemptions; specific application required

R.S. 47:337.8 is all new law.

A. After any sales tax revenue bonds of any local governmental subdivision, as defined in Article VI, Section 44(1) of the Louisiana Constitution, or any school board have been authorized, no sales tax exemptions created after the authorization of those bonds, shall apply to the sales and use tax dedicated as security for said bonds.

B.(1) No exemption from state sales and use tax enacted or granted after the initial effective date of this Chapter shall be applicable to the sales and use tax imposed by local taxing authorities unless the exemption expressly states within its statutory language that it applies to sales and use taxes imposed by local taxing authorities.

(2) Any exemption enacted after the effective date of this Chapter that expressly states within its statutory language that it applies to sales and use taxes imposed by local taxing authorities shall be effective as provided in the Act, and shall be added to this Chapter by the Law Institute pursuant to R.S. 47:337.87.

C. No suspension of the sales and use taxes of the state or a political subdivision whose boundaries are coterminous with those of the state, or a suspension of an exemption, exclusion, or other provision related to such taxes, shall be effective against the sales and use tax of political subdivisions unless the suspension instrument expressly applies to such taxes.

§337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B

R.S. 47:337.9 is all new law.

A. Except as provided for in this Chapter, the Uniform Local Sales Tax Code, the sales and use tax exemptions in Chapters 2, 2-A, and 2-B of this Title as set forth in the provisions of law cited in the following Subsections of this Section, and no other, shall apply to the sales and use taxes of political subdivisions. The use of the "key words" following the statutory citations in this Section are illustrative only, and they are intended to aid in clarity and ease of finding the law, and they are not intended to expand, contract, or otherwise modify or change the intent of the cited provisions of law.

B. R.S. 47:302(D), "key words": advertising services rendered by an advertising business.

C.(1) R.S. 47:305(A)(1), "key words": direct sales of livestock, poultry, and other farm products.

(2) R.S. 47:305(A)(3), "key words": the sale of agricultural commodities as a raw product.

(3) R.S. 47:305(A)(4), "key words": the purchase of feed and feed additives.

(4) R.S. 47:305(B), "key words": farm products used by farmers.

(5) R.S. 47:305(C), "key words": returned motor vehicles.

(6) R.S. 47:305(D)(1)(a), "key words": gasoline.

(7) R.S. 47:305(D)(1)(b), "key words": steam.

(8) R.S. 47:305(D)(1)(c), "key words": water.

(9) R.S. 47:305(D)(1)(d), "key words": electric power or energy and fuel.

(10) R.S. 47:305(D)(1)(e), "key words": newspapers.

(11) R.S. 47:305(D)(1)(f), "key words": farm fertilizer and containers.

(12) R.S. 47:305(D)(1)(g), "key words": natural gas.

(13) R.S. 47:305(D)(1)(h), "key words": boiler fuel except refinery gas.

(14) R.S. 47:305(D)(1)(i), "key words": demonstrators.

(15) R.S. 47:305(D)(1)(t), "key words": devices utilized or prescribed by dentists.

(16) R.S. 47:305(D)(2), "key words": sales of meals.

(17) R.S. 47:305(D)(4)(b), "key words": the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in his medical treatment.

(18) R.S. 47:305(D)(5)(a), "key words": the sale of prescription drugs under the pharmaceutical vendor program for Title XIX of the Social Security Act as administered by the Department of Health and Human Resources of the state of Louisiana.

(19) R.S. 47:305(D)(5)(a), "key words": Beginning January 1, 1999, for the sale of prescription drugs under Title XXI of the Social Security Act as administered by such department; retroactivity.

(20) R.S. 47:305(D)(5)(b), "key words": the administration of prescription drugs used exclusively by the patient in the medical

treatment of various diseases or injuries.

(21) R.S. 47:305(D)(6), "key words": exemptions from the state sales and use tax provided in R.S. 47:305 in existence as of the effective date of Act 205 of 1978, except as otherwise specifically provided in R.S. 47:305(D); the requirement concerning specifically providing in the title and body of any Act subsequent to the effective date of that Act that it is applicable to a political subdivision in order for such Act to be effective.

(22) R.S. 47:305(E), "key words": articles of tangible personal property imported into a taxing jurisdiction, or produced or manufactured in a taxing jurisdiction, for export, and for bona fide interstate commerce; the intention of any local ordinance and this Chapter that a tax be levied on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in the taxing jurisdiction, of tangible personal property after it has come to rest in the taxing jurisdiction and has become a part of the mass of property in the taxing jurisdiction.

(23) R.S. 47:305(F), "key words": broadcasters or exhibit rights.

(24) R.S. 47:305(G), "key words": home renal dialysis machines.

(25) R.S. 47:305(H), "key words": demonstrators.

(26) R.S. 47:305(I), "key words": drilling rigs and component parts.

D.(1) R.S. 47:305.1, "key words": property which becomes component parts of ships, vessels, or barges and for materials and supplies purchased for vessels operating exclusively in foreign or interstate coastwise commerce.

(2) R.S. 47:305.3, "key words": seeds used in planting crops.

- (3) R.S. 47:305.6, "key words:" Little Theater tickets.
- (4) R.S. 47:305.7, "key words": tickets to musical performances of nonprofit musical organizations.
- (5) R.S. 47:305.8, "key words": pesticides used for agricultural purposes.
- (6) R.S. 47:305.9, "key words": motion picture film rental.
- (7) R.S. 47:305.10, "key words": property purchased for first use outside the state.
- (8) R.S. 47:305.11, "key words": contracts prior to and within ninety days of tax levy.
- (9) R.S. 47:305.13, "key words": admissions to entertainments furnished by certain domestic nonprofit corporations.
- (10) R.S. 47:305.14, "key words": nonprofit organizations and certain newspapers.
- (11) R.S. 47:305.15, "key words:" sales or purchases by blind persons.
- (12) R.S. 47:305.16, "key words": cable television installation and repair.
- (13) R.S. 47:305.17, "key words": income from coin-operated washing and drying machines in a commercial laundromat.
- (14) R.S. 47:305.19, "key words": leased vessels used in the production of minerals.
- (15) R.S. 47:305.22, "key words": certain self-propelled vehicles removed from inventory.
- (16) R.S. 47:305.28, "key words": gasohol.
- (17) R.S. 47:305.38, "key words": sheltered workshops for the mentally retarded.

(18) R.S. 47:305.41, "key words": Ducks Unlimited and Bass Life.

(19) R.S. 47:305.43, "key words": nonprofit organizations dedicated to the conservation of fish or migratory waterfowl.

(20) R.S. 47:305.44, "key words": raw materials used in the printing process.

(21) R.S. 47:305.45, "key words": per diem or car hire on freight cars, piggy-back cars, and rolling stock.

(22) R.S. 47:305.46, "key words": purchases with United States Department of Agriculture Food Stamp Coupons; purchases made under the Women, Infants, and Children's Program.

(23) R.S. 47:305.47, "key words": pharmaceutical samples distributed without charge.

(24) R.S. 47:305.49, "key words": catalog distribution.

(25) R.S. 47:305.50, "key words": vehicles used in interstate commerce; rail rolling stock manufactured in this state for use in interstate commerce.

(26) R.S. 47:305.51, "key words": utilities used by steelworks and blast furnaces.

§337.10. Optional exclusions and exemptions

R.S. 47:337.10 is all new law.

A. As provided for in R.S. 47:305(D)(5)(c), for the time after July 1, 1999, a taxing authority may by ordinance or resolution provide for the following:

(1) An exemption for the sale of prescription drugs used in the treatment of various diseases or injuries, or an exemption for the procurement and administration of chemotherapy drugs, if such drugs

are used exclusively by the patient in his medical treatment if administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

(2) An amnesty for any person who may have been responsible to impose, collect, and/or remit the tax previously imposed on the transactions provided for in Paragraph (1) this Subsection prior to the time such exemption and/or amnesty is granted according to such reasonable terms and conditions as the respective taxing authorities may adopt.

B. As provided for in R.S. 47:305.25(B) and (C):

(1) In the parish of West Carroll, the parish school board may exempt the farm equipment as provided in R.S. 47:305.25(A) from additional sales and use taxes after approval by a majority of the qualified electors of the parish and the police jury may exempt the equipment as provided in that Section from all sales and use taxes which it is presently levying and collecting and shall exempt such equipment from any additional sales and use tax or taxes which it may hereafter levy and collect.

(2) Except as provided in Paragraph (1) of this Subsection:

(a) A city or parish school board may by resolution adopted by the board provide an exemption for farm equipment as defined in R.S. 47:305.25(A).

(b) The governing authority of a municipality may by resolution or ordinance provide an exemption for farm equipment as defined in R.S. 47:305.25(A) from all of its sales and use taxes.

(c) The governing authority of a parish may by resolution or

ordinance provide an exemption for farm equipment as defined in R.S. 47:305.25(A) from all of its sales and use taxes and all sales and use taxes of political subdivisions levied solely within the territory of the parish, except municipal and school board taxes.

C. As provided for in R.S. 47:305.30, notwithstanding the provisions of any other law to the contrary, the governing authority of any political subdivision in the parish of Plaquemines may exclude and exempt from any sales and use tax levied by such governing authority any item excluded and exempted from the sales and use taxes imposed by the state of Louisiana under Chapter 2 and Chapter 2-A of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. It is expressly provided that the provisions of this Subsection shall also be applicable to any sales and use taxes being imposed by such governing authority as of July 6, 1981; provided, that no bonds or other obligations payable from the proceeds of such taxes have been issued and are outstanding.

D. As provided for in R.S. 47:305.37(B) with regard to diesel fuel, propane, or other liquefied petroleum gases used or consumed for farm purposes, in any parish having a population of more than one hundred twenty thousand persons but less than one hundred forty thousand persons based on the latest federal decennial census:

(1) The parish school board may by resolution adopted by the board provide an exemption from its sales and use tax as is provided for state sales tax in R.S. 47:305.37(A).

(2) The governing authority of a municipality may by resolution or ordinance provide an exemption as is provided for state sales tax in R.S. 47:305.37(A) from its sales and use tax and all sales and use taxes of political subdivisions levied solely within the territory of the

municipality, except school board taxes.

(3) The governing authority of a parish may by resolution or ordinance provide an exemption as is provided for state sales tax in R.S. 47:305.37(A) from its sales and use tax and all sales and use taxes of political subdivisions levied within the territory of the parish and all sales taxes levied both within and without the municipality, except school board taxes.

E. As provided for in R.S. 47:305.52, a political subdivision may, by ordinance, provide for a sales and use tax exemption within the entire area of the political subdivision for sales of custom computer software.

F. As provided for in R.S. 47:301(14)(g)(i), any political subdivision may apply the exclusion as defined in R.S. 47:301(14)(g)(i) to sales or use taxes levied by any such political subdivision, so that a charge for the furnishing of repairs to tangible personal property may be excluded from sales of services, as defined in R.S. 47:301(14)(g)(i), when the repaired property is delivered to the customer in another state either by common carrier or the repair dealer's own vehicle, however, as to aircraft, delivery may be by the best available means. Offshore areas shall not be considered another state for the purpose of this Subsection and R.S. 47:301(14)(g)(i).

G. As provided for in R.S. 47:301(16)(i)(vi), taxing authorities are hereby authorized to provide an exemption from any local sales and use tax liability to any taxpayers holding a Federal Communications Commission license issued pursuant to 47 CFR Part 73 which have purchased any of the digital television conversion equipment and/or digital radio conversion equipment listed in R.S. 47:301(16)(i)(i) and

(i)(ii). Local taxing authorities are further authorized to provide a credit against any tax liability for the amount of local sales tax paid by taxpayers holding Federal Communications Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in Item (i) or (ii) of 47:301(16)(i) purchased subsequent to January 1, 1999, but prior to June 25, 2002.

H.(1) Political subdivisions are prohibited from levying a sales and use tax on telecommunication services as defined in R.S. 47:301(14)(i)(ii) not in effect on July 1, 1990.

(2) The provisions of this Paragraph shall not be construed to prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax or assessment by any political subdivision of the state as defined in Article VI, Section 44(2) of the Constitution of Louisiana. §337.11. Other provisions applicable to local sales and use tax

R.S. 47:337.11 is all new law.

In addition to the provisions of law applicable to the sales and use taxes of local taxing authorities as provided for in this Chapter, the following provisions outside this Chapter, and no others, shall be applicable to the sales and use taxes of local taxing authorities. The use of the "key words" following the statutory citations in this Subsection are illustrative only, and they are intended to aid in clarity and ease of finding the law, and they are not intended to expand, contract, or otherwise modify or change the intent of the cited provisions of law.

(1) R.S. 4:168, "key words": horse racing.

(2) R.S. 4:227, "key words": offtrack wagering facilities.

(3) R.S. 17:3389, "key words": tax rebates for university research and development parks.

(4) R.S. 33:4169, "key words": the construction and operation by private companies with contracts for the construction of sewerage or wastewater treatment facilities.

(5) R.S. 38:2212.4, "key words": the acquisition of materials, supplies, vehicles, or equipment made by certain public trusts.

(6) R.S. 39:467 and 468, "key words": certain publicly-owned facilities.

(7) R.S. 46:813.1, "key words": tax rebates for Louisiana Biomedical Research and Development Park.

(8) R.S. 47:6001, "key words": antique airplanes and certain other aircraft.

(9) R.S. 47:9052, "key words": lottery tickets.

(10) R.S. 51:1301 et. seq., "key words": tax refunds under the Louisiana Tax Free Shopping Program.

(11) R.S. 51:1787, "key words": tax rebates provided for in the Enterprise Zone program.

(12) R.S. 33:2718.3 and R.S. 40:582 through 582.7, "key words": tax refund for restoration, renovation, or rehabilitation of existing structure or for building or causing to be built new houses and associated improvements in an approved housing development.

(13) R.S. 47:315.3, "key words": tax refund for tax paid by or under the provisions of Medicare.

(14) R.S. 47:315.4, "key words": tax credit for the amount of ad valorem taxes paid on property upon which the taxpayer is entitled to a homestead exemption.

PART D. COLLECTIONS

Part D is all new law.

§337.12. Prohibition on levy or collection of tax on property or services performed outside territorial limits; prohibition regarding property stored for use outside the political subdivision

R.S. 47:337.12 is all new law.

A. No taxing authority shall levy or collect any sales tax on the sale of any goods or personal tangible property delivered or services performed outside the taxing jurisdiction.

B. This Section shall apply to every political subdivision in the state of Louisiana, whether levying and collecting such tax under authority of general or special laws of the state or under powers granted in their charters or under any other authority or grant of the power to levy and collect sales or other taxes. No provision in this Section shall be construed as infringing upon or limiting in any manner the right of political subdivisions to levy and collect in conformity with this Section any use tax heretofore or hereafter authorized.

C.(1) No taxing authority shall levy or collect any use tax on the storage of property which has been documented for use outside the taxing jurisdiction of the taxing authority although the property may be stored within its taxing jurisdiction if the owners of such property which is to be stored for exclusive use outside the taxing jurisdiction have acquired a tax exemption certificate from the taxing authority's collector.

(2) When a vendor is presented with a copy of a tax exemption certification from a vendee, the vendor shall be relieved from liability for the collection of use tax on such property.

(3) If the property is removed from storage and is used within

the taxing jurisdiction where it has been stored, the property shall be subject to taxation.

§337.13. Collection of sales and use taxes by political subdivisions

R.S. 47:337.13 is all new law.

A. Any sales and use tax levied by taxing authorities located within a single parish may be collected by a single tax collector for that parish.

B. In each parish, every taxing authority that levies a sales and use tax in that parish may contract and make such agreement between and among themselves with respect to the joint collection, enforcement, and administration of the sales and use taxes as may be deemed proper by their respective governing authorities. Such agreement, when concluded, shall be in writing and shall include a statement of the financial obligations of each of the parties to the agreement and may provide for the joint use of funds, facilities, personnel, or any combination thereof deemed necessary to accomplish the purposes of the agreement. No provision of such agreement shall have the effect of providing for a donation, in whole or in part, of the public funds or services of one of the parties for the benefit of the other. Such agreement may also provide for the collection, enforcement, and administration of taxes other than sales and use taxes which are levied by taxing authorities.

C.(1) Taxing authorities which levy sales and use taxes in a parish are hereby authorized to create a joint sales and use tax commission as an independent agency and instrumentality to collect, enforce, and administer the sales and use tax levied by all of the taxing authorities in that parish. The commission shall include two members

appointed by each governing authority of each taxing authority which has collections equal to or greater than twenty percent of the total sales and use tax collections in the parish; however, at no time shall there be fewer than three members serving on the commission. If any parish has only one taxing authority which has collections equal to or greater than twenty percent of the total collections in the parish, one representative shall be appointed from the next largest authority to serve on the commission in addition to the two members appointed from the one authority with twenty percent of the collections or more. The expenses of the commission shall be paid by the taxing authorities appointing members to the commission on a proportional basis computed from the annual tax collections.

(2) If any employee of a taxing authority that levies a sales and use tax becomes an employee of the commission, that employee may remain a member of the retirement system of which he had been a member prior to the enactment of this Section and shall retain his rights to the same employee benefits that he had been entitled to and participating in prior to the enactment of this Section.

(3) The commission shall be a body corporate under such corporate name and style as shall be provided for in such agreement. It shall have the power to sue and be sued and shall continue in existence for so long as the parties to the agreement may specify and shall have such powers and duties with respect to the operation and management of the commission as may be provided for in the agreement creating the commission.

D. The commission and any taxing authority not represented on the commission may enter into an agreement providing for the

collection, enforcement, and administration of any sales and use taxes authorized by said taxing authority. The commission may charge other taxing authorities a collection fee based on a percentage of collections.

E. The commission may, at its option, contract and make agreements with other local political subdivisions to collect taxes other than sales and use taxes.

F. The commission may establish a sales tax advisory committee, consisting of members representing each taxing jurisdiction for which the commission collects taxes. The advisory committee may make such investigations and recommendations as it deems appropriate to promote the proper administration of the commission.

G. This Section shall not be construed to prohibit the contracting between and among parishes for the collection, enforcement, and administration of sales and use taxes; nor shall it be construed to prohibit the state from collecting sales and use taxes or to prohibit the state from collecting sales and use taxes levied by a taxing authority at the request of the political subdivision as provided in R.S. 47:337.26.

§337.14. Central collection commission

R.S. 47:337.14 is all new law.

A. In accordance with the provisions of Article VII, Section 3 of the Constitution of Louisiana, the sales and use taxes levied by taxing authorities within a parish shall be collected by a central collection commission in those parishes where a single collector of sales and use taxes has not been established by July 1, 1992.

B.(1) The parish central collection commission shall consist of one representative from each political subdivision within the parish

which levies a sales and use tax.

(2) Except when authorized by the unanimous agreement of all taxing authorities within the parish levying a sales and use tax, only those taxing authorities levying a sales and use tax shall be authorized to participate on any commission established for the collection of such taxes.

(3) The expenses of the central collection commission shall be paid monthly by the taxing authorities levying a sales and use tax on a proportional basis; however, the cost of collection shall in no case exceed one and one-half percent of the tax collected for each political subdivision, unless otherwise authorized by the unanimous agreement of all taxing authorities within the parish levying a sales and use tax.

(4) The sales and use taxes collected by the central collection commission shall be remitted to the taxing authorities levying a sales and use tax no later than ten days after receipt of the taxes by the central collection commission.

(5) The central collection commission shall be a body corporate and have the power to sue and be sued. Any decision of the commission shall be made by a majority vote of the members of the commission.

(6) The provisions of this Section shall not apply in those parishes which have a single collector or a centralized collection arrangement for the collection of sales and use taxes levied by all taxing authorities within the parish as of July 1, 1992.

C.(1) Notwithstanding any other provision of this Section to the contrary, the central collection commission of the parish of Sabine shall be composed of nine members selected as follows:

(a) Each municipality in the parish which levies a sales tax shall select a representative.

(b) The parish school board shall select two representatives.

(c) The parish police jury shall select two representatives.

(d) One at-large member shall be selected to the commission jointly by the police jury and the school board.

(2) The expenses of the central collection commission of the parish of Sabine shall be paid monthly by the taxing authorities levying a sales and use tax on a proportional basis. The cost of collection shall be determined and authorized by an agreement approved by a majority vote of the central collection commission.

D. Notwithstanding any other provision of this Section to the contrary, the decisions of the central collection commission of the parish of Washington shall be determined by majority vote of the commission, however, each taxing authority levying a sales and use tax within the parish shall have a vote weighted by the proportion that its sales and use tax collections bear to the total sales and use tax collections by all taxing authorities in the entire parish for the year preceding July 1, 1992.

E. Notwithstanding any other provision of this Section to the contrary, the central collection commission of the parish of St. Landry shall be composed of nine members selected as follows:

(1) The parish school board shall select two representatives.

(2) The solid waste commission shall select two representatives.

(3) The city of Opelousas shall select two representatives.

(4) The city of Eunice shall select one representative.

(5) Two at-large members shall be selected to the commission

by the St. Landry Parish Municipal Association.

§337.15. Collection

R.S. 47:337.15 is all new law.

A. Collection from dealer. (1) The tax imposed under the local ordinance shall be collectible from all persons, as herein defined, engaged as dealers, as herein defined.

(2) On all tangible personal property imported, or caused to be imported, from other taxing jurisdictions, states or foreign countries, and used by him, the "dealer", as herein defined, shall pay the tax imposed by the local ordinance on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in the taxing jurisdiction. For the purposes of the local ordinance, the use, or consumption, or distribution, or storage to be used or consumed in the taxing jurisdiction of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(3)(a) A credit against the use tax imposed by the local ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another taxing jurisdiction, whether in this state or in another state. The credit provided herein shall be granted only in the case where the taxing authority to which a similar tax has been paid grants a similar credit as provided herein, provided that members of the armed forces who are citizens of this state and whose orders or enlistment contracts stipulate a period of active duty of two years or more and who purchase

automobiles outside of the state of Louisiana while on such tour of active duty shall be granted such credit in connection with the purchase of such automobiles whether or not the state to which such tax thereon has been paid grants a similar credit as herein provided.

(b) The amount of the credit shall be calculated as provided in R.S. 47:337.86. In no event shall the credit be greater than the tax imposed in the other taxing jurisdiction upon the particular tangible personal property which is subject to the tax imposed by local ordinances.

B. Collection of tax on vehicles.

(1) The tax imposed by the local ordinance on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax may be collected as provided in R.S. 47:303(B).

(2) However, the provision contained in R.S. 47:301(10)(c)(ii)(bb) which excludes isolated or occasional sales from the definition of a sale at retail shall not apply to the sale of vehicles which are the subject of this Subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to tax by local ordinance.

C. Auctioneers. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in the taxing jurisdiction. Such auctioneers, or the company, which they represent, shall be responsible for the collection of all local taxes on articles sold by them and shall report and remit to the collector as provided in the local ordinance.

D. Collection of tax on motorboats and vessels. The secretary of the Louisiana Department of Wildlife and Fisheries shall not register or issue a certificate of registration on any new boat or vessel purchased in this state until satisfactory proof has been presented to him that all sales taxes provided by the local ordinance have been paid; nor shall he register or issue a certificate of registration on any boat or vessel brought into this state until satisfactory proof has been presented to him that all use taxes required by the local ordinance have been paid.

E. Collection of tax on off-road vehicles. The vehicle commissioner shall not issue a title or a certificate of registration on any off-road vehicle purchased in this state or brought into this state from another state until satisfactory proof has been presented to him that all sales taxes required by the local ordinance have been paid. The purchaser of an off-road vehicle from a seller who is not registered with the Department of Public Safety and Corrections shall pay the sales tax at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of R.S. 47:303(B).

F. Collection of tax on membership in health and physical fitness clubs. The sales tax due under the provisions of the local ordinance on contracts for membership in a health and physical fitness club shall be assessed and shall be due and payable on a monthly basis computed on the amount paid each month less any actual or imputed interest or collection fees or unpaid reserve amounts not received by the health and fitness club.

G. Direct Payment Numbers. Notwithstanding any provision of law to the contrary, a Louisiana taxpayer who obtains a DP Number as

provided in R.S. 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible personal property and taxable services directly to the state and local taxing authorities to whom the sales and use taxes are due, and shall not be liable to remit the tax to the vendor or lessor of the tangible personal property and taxable services, as provided in R.S. 47:303.1.

H. In the event a taxpayer has average taxable purchases, leases, or services less than the amount prescribed by R.S. 47:303.1 (B)(3), and both the taxpayer and the collector for the taxing authorities desire to establish a direct pay authorization, the taxing authorities by local ordinance or the collector by rule, may establish such policies and procedures necessary to implement the authorization. Said local ordinance or rule shall in no way interfere or otherwise render ineffective all other provisions of R.S. 47:303.1 as they relate to the state sales and use tax.

I. For the time period July 1, 1998 to July 1, 2000 the contractor's direct pay number provision as found in R.S. 33:2716(B) shall be applicable.

§337.16. Authority to collect local sales and use taxes

R.S. 47:337.16 is all new law.

A. The secretary of the Department of Revenue is hereby authorized to contract with all the governing authorities of any taxing authority, at the request of the subdivisions, to collect and enforce the collection of any sales and use tax, and related penalty, interest, or other charge, levied by the taxing authorities. In order to collect and enforce any such tax, the secretary is vested with all the power and authority conferred by Title 47 of the Louisiana Revised Statutes of 1950.

B. The contract between the Department of Revenue and such taxing authorities shall be executed by the secretary of the Department of Revenue and the proper official or officials of the governing authorities of the taxing authorities. The contract shall provide the manner, the charges and costs of collection, if any, to be paid by the taxing authorities, and such other terms and conditions necessary to effectuate the contract.

§337.17. Treatment of tax by dealer

R.S. 47:337.17 is all new law.

A.(1) The tax levied by local ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of tax on motor vehicles in R.S. 47:337.15(B) and the collection of tax on property leased or rented for use offshore in R.S. 47:301(4)(d)(ii). The dealer shall collect the sales tax on off-road vehicles and remit them directly to the Department of Public Safety and Corrections upon application for certificate of title and registration as required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section. The dealer shall collect the sales taxes on off-road vehicles from out-of-state residents who purchase off-road vehicles in this state and remit the sales taxes due directly to the collector.

(2) The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services, and payable at the time of sale;

(3) The taxing authority may be joined as a party in any action or proceeding brought by the dealer to collect the tax.

(4) Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale, as imposed by the local ordinance, then in addition to all other rights, obligations, and remedies provided, such tax shall be payable by the purchaser directly to the taxing authority, and it shall be the duty of this purchaser to file a return thereof with the collector and pay the tax imposed thereon to the collector on the first day of the month after such sale was made or rendered, to be transmitted on or before the twentieth day of such month.

B. Every dealer located outside the taxing jurisdiction making sales of tangible personal property for distribution, storage, use, or other consumption, in the taxing jurisdiction, shall at the time of making sales collect the tax imposed by the local ordinance from the purchaser.

C. Dealers shall, as far as practicable, add the amount of the tax imposed under the local ordinance in conformity with the schedule or schedules to be prescribed by the secretary of the Department of Revenue pursuant to authority conferred herein, to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer, who neglects, fails, or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

D. Where the tax collected for any period is in excess of the tax rate provided by the local ordinance, the total local tax collected must be paid over to the collector less the compensation to be allowed the dealer as provided by the local ordinance. This provision shall be construed with other provisions of the local ordinance and given effect so as to result in the payment to the collector of the total local tax

collected if in excess of the tax rate provided.

E. Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars, or imprisoned for not more than three months, or both.

F.(1) No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax unless:

(a) The dealer includes in the advertisement that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer.

(b) The dealer furnishes the purchaser with written evidence that the dealer will be liable for and pay any tax the purchaser was relieved from paying under this Paragraph himself.

(2) If a dealer advertises that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer, the purchaser shall not be liable for the payment of that portion of the tax.

(3) Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars or more than two hundred fifty dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.

G. The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

H. The use of tokens is forbidden. The collector shall rely upon regulations promulgated by the secretary of the Department of Revenue

that prescribe the method and the schedule of the amounts to be collected from the purchasers, lessees, or consumers in respect to any receipt upon which a tax is imposed. The amount of tax to be collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided.

I. The sums of money collected by the dealer for payment of sales and use taxes imposed by the taxing authority shall be and remain the property of the taxing authority and deemed held in trust for the taxing authority.

PART E. RETURNS

Part E is all new law.

§337.18. Returns and payment of tax; penalty for absorption

R.S. 47:337.18 is all new law.

A. General provisions. (1)(a) Except as hereafter provided, the taxes levied by the local ordinance shall be due and shall be payable monthly on the first day of the month. For the purpose of ascertaining the amount of tax payable, all dealers shall transmit, on or before the twentieth day of the month following the month in which this tax becomes effective, to the collector, upon forms prescribed, prepared, and furnished by him, except as provided in R.S. 47:337.22 and 337.23, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payments for services, as the case may be, arising from all taxable transactions during the preceding calendar month. Thereafter, like returns shall be prepared and transmitted to the collector by all dealers on or before the twentieth day of each month for the preceding calendar month. These returns shall show any further

information the collector may require to enable him to correctly compute and collect the tax levied. Every dealer, at the time of making the return required hereunder, shall compute and remit to the collector the required tax due for the preceding calendar month, and failure to so remit such tax shall cause said tax to become delinquent.

(b)(i) However, whenever the taxes due hereunder from a dealer average less than thirty dollars per month, the taxes hereunder shall be due and payable quarterly on the first day of the month, and the return required from the dealer for the quarter shall be filed on or before the twentieth day of the first month of the next succeeding quarter. The collector shall provide by regulation for the period and method of determining, under this proviso, the average taxes due from a dealer. Any dealer who is required to file his sales tax return on a quarterly basis, as provided above, may file his returns and pay the tax on a monthly basis after first having received written approval from the collector to do so. Application to file monthly must be furnished to the collector in writing and will set forth complete justification for the shorter reporting period.

(ii) When any person or other entity with annual taxable gross receipts from sales of property or services of one hundred fifty thousand dollars or less makes no taxable sales of tangible personal property or services for three calendar months in a parish in which he does not have a business location, such taxpayer shall not be required to file thereafter either monthly or quarterly returns with any political subdivision in the parish until he has more than one such sale in the parish during a three month period. In lieu of such returns, the taxpayer may send a letter to the collector for the parish on or before the

twentieth of the month following the sale, describing the sale, the buyer, and the price, and remitting the tax due.

(c) Whenever the taxes due to a collector are from the state acting as a dealer through any department, agency, board, commission, or other state entity, the taxes shall be due and payable annually, and the return shall be filed and tax paid on or before the twentieth day of the month following the end of the state's fiscal year. However, if the accumulated sales taxes due hereunder to the state or any single tax collector equal or exceed five hundred dollars by the last day of any calendar month prior to the close of the state's fiscal year, the taxes shall be due and payable and the return shall be filed and the tax paid on or before the twentieth day of the calendar month following the calendar month during which the five hundred dollar threshold is exceeded.

(2)(a) Gross proceeds from rentals or leases shall be reported and the tax shall be paid with respect thereto, in accordance with rules and regulations for reporting as established by the collector following the month in which the payment for the lease or rental is actually collected by lessor.

(b) Notwithstanding any other provisions of law to the contrary, lessors of property to be used offshore as provided for in R.S. 47:301(4)(d)(ii) shall not be required to collect or otherwise pay rental taxes on the gross proceeds from such leases and rentals.

(3) For the purpose of compensating the dealer in accounting for and remitting the tax levied by the local ordinance, each dealer shall be allowed compensation at the rate specified in the local ordinance in the form of a deduction in submitting his report and paying the amount due

by him, provided the amount due was not delinquent at the time of payment. The amount of any credit claimed for taxes already paid to a wholesaler, as authorized by Subsection (B) of this Section, shall not be deducted in computing the compensation allowed the dealer.

(4) The collector, for good cause, may extend, for not to exceed thirty days, the time for making any returns required under the provisions of this Chapter.

(5) For the purpose of collecting and remitting to the taxing authority the tax imposed by the local ordinance, the dealer is hereby declared to be the agent of the taxing authority.

B. Collection by wholesalers.

(1) Parishes, municipalities, school boards and other local governing bodies, except as hereinafter set forth, which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers, or suppliers to collect such sales taxes in advance from dealers to whom they sell.

(2) The governing authority of each parish having a population in excess of two hundred thousand and taxing authorities within such parishes are hereby authorized to require manufacturers, wholesalers, jobbers and suppliers to collect taxes levied by them in advance from dealers to whom they sell, if said dealers and the wholesalers, manufacturers, jobbers, and suppliers are domiciled in said parish. Such advance collections shall be subject to the same laws, rules, and regulations as are applicable to advance collections of state sales taxes as provided by R.S. 47:306(B); provided, however, that the taxes so collected shall be remitted to the collector of the taxing authority imposing the tax.

(3) Notwithstanding any other provision of law to the contrary, and in accordance with the authority and procedures provided for under the provisions of R.S. 47:306(B), the taxing authorities of the parish in which the state capitol is located and of Caddo Parish are hereby authorized to require manufacturers, wholesalers, jobbers and suppliers to collect sales taxes levied by them in advance from dealers to whom they sell; provided, however, that such advance collections shall be subject to the same laws, rules, and regulations as are applicable to advance collections of state sales taxes, and provided further that dealers and the wholesalers, manufacturers, jobbers, and suppliers are domiciled in the parish in which said state capitol is located and in the case of Caddo Parish that said dealers and the wholesalers, manufacturers, jobbers, and suppliers are domiciled in the parish of Caddo.

(4) Absorption of said tax as defined in this Section by any retailer, wholesaler, manufacturer or other supplier shall constitute a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars or by imprisonment in the parish jail for not more than two years.

C. Registration by nonresident prime contractor. (1) Prior to commencing work on any construction contract which in the aggregate exceeds three thousand dollars, any nonresident prime contractor, as defined in R.S. 47:9(A)(2), shall:

(a) Register the contract with the Department of Revenue in accordance with the provisions of R.S. 47:9(A)(1) and obtain a certificate in a form to be determined by the secretary, which certificate shall identify the construction project registered and recite the total

amount of the contract.

(b) File with the department a surety bond or a blanket surety bond for all contracts, sufficient to cover all taxes due on the contract or contracts, in accordance with the provisions of R.S. 47:9(B)(1).

(c) Register the contract with the collector of sales and use taxes of the parish in which the contract is to be performed. The collector shall issue a certificate in a form determined by the secretary, following the requirements in Subparagraph (a) of this Paragraph, certifying that all requirements for surety bonds established by R.S. 47:306(D) applicable to the location of the project have been met.

(2)(a) No state entity, including but not limited to the office of the state fire marshal, or local governing authority charged with the responsibility of issuing any permit, license, or certificate necessary for the lawful commencement of any construction contract subject to the provisions of this Subsection, shall issue such permit, license, or certificate until sufficient proof of possession of the certificates obtained as provided in this Subsection for that project is shown by the applicant.

(b) Any person failing to execute any bond herein provided before beginning the performance of any contract shall be denied the right to perform such contract until he complies with such requirements. The secretary of the Department of Revenue shall have the right to enjoin the performance of the contract until a satisfactory bond is executed and filed, and the secretary may also impose a penalty for commencing of two hundred dollars or two percent of the construction contract, whichever is greater.

(3) Within thirty days of the completion and acceptance of the

contract project, the prime contractor shall submit to the Department of Revenue, on a form provided or approved by the department, a complete and accurate accounting of all state sales and use taxes which became due as a result of the contract. In the event that there are additional local taxes due, the contractor shall submit a copy of the accounting and the additional tax due to the taxing authority.

(4) The secretary of the Department of Revenue shall promulgate such rules and regulations and may have printed such forms as are necessary to effectuate the provisions of this Subsection.

(5) Nothing herein shall be construed so as to affect the licensing requirements of R.S. 47:341 et seq.

D. Payment of tax by a vehicle dealer. Notwithstanding any other provision of law to the contrary, including the provisions of Subsection A of this Section, every vehicle dealer who sells a vehicle at retail shall remit all taxes collected pursuant to R.S. 47:303(B) no later than forty days from the date of sale.

§337.19. Withholding of state funds; assessment and collection standards

R.S. 47:337.19 is all new law.

A. The secretary of the Department of Revenue, after consultation with representatives of the Louisiana Municipal Association, the Louisiana Police Jury Association, the Louisiana School Boards Association, and the Louisiana Association of Tax Administrators, is hereby authorized and directed to promulgate rules, pursuant to the enforcement of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a) and R.S.

47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection within six months of the effective date of such rules.

B. The secretary of the Department of Revenue shall evaluate and monitor parish and municipal permitting agencies to determine that each such agency is in compliance with the rules so promulgated. Upon a determination that a parish or municipal permitting agency has failed to comply with the rules provided for in this Section, the secretary shall notify the state treasurer of such determination.

C. Notwithstanding any other provision of law, the rules authorized by Subsection A of this Section may provide that the state treasurer may be directed to withhold any state funds administered by the treasurer's office and due to any local government whose permitting agencies have failed to comply with the rules authorized by this Section as determined by the secretary of the Department of Revenue. Prior to issuing such an order, the local governing body shall be given the opportunity for a hearing before the appropriate legislative committee that exercises legislative oversight over the department.

D. All rules promulgated by the secretary under this Section shall comply with all the provisions of the Administrative Procedure Act.

§337.20. Collection from interstate and foreign transportation dealers

R.S. 47:337.20 is all new law.

A. Persons, as defined in this Chapter, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft, or other means, may, at their option under rules and regulations prescribed by the secretary of revenue, register as dealers

and pay the taxes on the sale or use of tangible personal property imposed by the local ordinances on the basis of the formula hereinafter provided.

B.(1) Such persons, when properly registered as dealers, may make purchases in this state or import property into this state without payment of the sales or use taxes imposed at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the secretary of revenue. Thereafter, on or before the 20th day of the month following the purchase or importation, the dealer shall transmit to the collector, on forms secured by him, returns showing gross purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the taxing authority. The amount of such purchases and importations shall be multiplied by a fraction, the numerator of which is the taxing jurisdictions' mileage operated by the taxpayer and the denominator of which is the total mileage, to obtain the taxable amount of tax basis. This amount shall be multiplied by the tax rate to disclose the tax due. Each such dealer, at the time of making the return required hereunder, shall remit to the collector the tax due for the preceding calendar month as shown on the return.

(2) The provisions of this Subsection shall be given the same interpretation as similar provisions of law in Chapter 2 of this Subtitle on July 1, 2003, until such laws are amended or provisions of this Chapter are amended to provide with respect thereto.

§337.21. Termination or transfer of business

R.S. 47:337.21 is all new law.

A. If any dealer liable for any tax, interest, or penalty levied hereunder sells his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such time as the former owner shall produce a receipt from the collector showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods fails to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assigns.

B. In the case of a dealer who has quit a business, and who subsequently opens another similar business under the same ownership, whether that ownership is individual, partnership, corporation, or other, that dealer shall be liable for any tax, interest, or penalty owed by the original business.

§337.22. Sales and use tax returns

R.S. 47:337.22 is all new law.

A. The local collector shall furnish to all dealers, or make available to them, all necessary forms for filing returns, and instructions to insure full tax collection from dealers and an accounting for the taxes due; but failure of any dealer to secure these forms shall not relieve the dealer from the payment of the tax at the time in the manner provided by law.

B. Until the time provided for in Subsection C of this Section,

the local collector shall be responsible for the design, preparation, and printing of the return.

C.(1) In addition to the authority granted to the Uniform Electronic Local Return and Remittance Advisory Committee as provided for in R.S. 47:337.23, the committee shall also design a standard, uniform, paper return to be used by the collectors of the sales and use tax of political subdivisions. It shall also include a space requiring that the state tax identification number be provided by the taxpayer.

(2)(a) Except as provided for in Subparagraph (b) of this Paragraph, such return shall be utilized by all collectors beginning January first of the year following the year in which the uniform electronic local return and remittance system provided for in R.S. 47:337.23 becomes operative.

(b) Notwithstanding Subparagraph (a) of this Paragraph, a collector may deplete the inventory of the returns which is on hand before the date provided in that Subparagraph before he shall be required to use the returns provided for in this Paragraph.

D. Notwithstanding the provisions of this Section, the electronic return to be used with the uniform electronic local return and remittance system provided for in R.S. 47:337.23 shall be prepared in the manner provided for in that Section.

§337.23. Uniform electronic local return and remittance system;
official record of tax rates, and exemptions

R.S. 47:337.23 is all new law.

A.(1) The legislature recognizes both the need to make Louisiana a better environment in which to do business and the

complexities of the existing sales and use tax system. It is the intention of this Section to provide taxpayers with a simple, efficient, and cost effective means of transmitting accurate sales and use tax returns and remittances to political subdivisions of the state from a central site in the quickest manner possible.

(2) Notwithstanding any other law to the contrary, beginning on the date provided for in Subsection (H) of this Section, but no later than January 1, 2005, a taxpayer may file a sales and use tax return of a taxing authority and remit any tax, interest, penalty, or other charge due by means of the uniform electronic local return and remittance system provided for in this Section unless insufficient funds are appropriated to fund the system as provided for in Subsection (J) of this Section.

B.(1) The system by which such taxpayers file electronically and pay their taxes and by which the information provided for in Subsection (I) is to be posted on the Internet shall be established, managed, and supervised by the secretary of the Department of Revenue. The Uniform Electronic Local Return and Remittance Advisory Committee shall provide advice and may make enforceable recommendations to the secretary for her consideration with regard to the design, implementation, and operation of the system in the manner provided for by this Section. The advisory committee is hereby created within the Department of Revenue and shall be composed of the following members:

(a) The secretary of the Department of Revenue, or her designee.

(b) A representative of a local governmental subdivision who shall be appointed by the governor from a list of three names, one provided to him by the Louisiana Municipal Association, one by the

Police Jury Association of Louisiana, and one by the Louisiana School Board Association. The member shall serve at the pleasure of the governor. He shall serve as chair of the advisory committee.

(c) A member appointed by the governor from a list of three names provided to him by the Louisiana Society of Certified Public Accountants, to serve at the pleasure of the governor.

(d) The head of a collector's office, appointed by the governor from a list of three names provided to him by the board of directors of the Louisiana Association of Tax Administrators, to serve at the pleasure of the governor.

(e) A representative of a business which is required to file sales and use tax returns for multiple collectors in the state, who shall be appointed by the governor from a list of three names provided to him jointly by the Louisiana Retail Dealers Association and the Louisiana Association of Business and Industry. The member shall serve at the pleasure of the governor.

(2) Each appointment by the governor shall be submitted to the Senate for confirmation. All vacancies shall be filled in the same manner that is provided for the original member.

(3) The members of the advisory committee shall serve without additional compensation except for their reasonable and necessary expenses related to the performance of their duties as members of the committee, and then only in such amounts as is provided by law for state employees.

(4) Meetings shall be called by the chair at a time and place to be selected by the chair, or at a time and place provided for upon the written request of three members. Four members of the advisory

committee shall be considered a quorum and the committee may make official recommendations and take other official action upon the affirmative vote of four members.

(5)(a) If at any time the advisory committee believes the secretary has taken action contrary to the advice or recommendation of the committee, it may make a written request to the secretary specifying the advice or recommendation, the action which the committee believes the secretary has taken, and asking her to provide written reasons for such action. The secretary shall provide a written answer to the chairman of the committee within fifteen days or such longer time as the committee shall allow.

(b) If, after receiving and considering the written answer of the secretary, the committee believes it unsatisfactory, the committee may make a written request to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means specifying the recommendation and asking the committees to make it an enforceable recommendation.

(c)(i) The request of the advisory committee shall be considered as a proposed rule or regulation of the Department of Revenue and shall be subjected to the same oversight procedure as is set forth in the Administrative Procedure Act for such rules and regulations, except for the need for publication.

(ii) Notwithstanding any other law to the contrary, if the oversight procedure under the Administrative Procedure Act results in approval of the advisory committee's request to make its recommendation an enforceable recommendation, then the advisory committee's recommendation shall be followed by the secretary.

C. The uniform electronic local return and remittance system and the posting of the information required by Subsection (I) of this Section shall be established, managed, and supervised by the secretary with the advice of the advisory committee and the system shall include the following:

(1)(a) The system shall allow the taxpayer to file a sales and use tax return that is uniform for each taxing authority except for the following:

(i) The rate of the taxing authority's tax.

(ii) The vendor's compensation allowed.

(iii) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to such state law.

(iv) Exclusions and exemptions in the local ordinance which were adopted prior to July 1, 2003 pursuant to state law authorizing such adoption, but not allowed as an exclusion or exemption from state sales and use tax.

(v) Exclusions and exemptions adopted by local ordinance pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

(vi) Penalty, interest, or attorney fees due on the sales and use tax. The amount of such penalty, interest, and attorney fees, shall be limited as provided by law, including relevant jurisprudence, until such statute or jurisprudence is changed.

(b) The filing and remittance shall be done at no charge to the taxpayer by the state, the collector, or any taxing authority levying a

tax.

(2) A web page through which a secured electronic local sales and use tax return may be filed, which return shall be established by the Department of Revenue.

(3) A system to allow for the remittance of any tax, penalty, interest, or other amounts due.

(4) A system for the transmission and retrieval of the appropriate collector's data and funds to him.

D.(1) Each collector shall provide to the secretary and the advisory committee within ninety days of its written request, or such other time as may be allowed by the advisory committee, the information necessary to design and implement the system provided for in this Section. Each collector shall follow the data validation procedures established by the advisory committee. If the collector fails or refuses to timely provide such information, the secretary and the advisory committee shall design and implement the system from the best information available to them.

(2) Each collector shall provide written notification to the secretary and the advisory committee by certified mail, return receipt requested, of any change in the information provided to it pursuant to Subparagraph (C)(1)(a) thirty days prior to such changes becoming effective, or such other shorter time as may be allowed by the advisory committee. Each collector shall follow the data validation procedures established by the advisory committee.

E. A taxpayer may rely on the information on the uniform electronic local return and remittance system and such reliance shall be an absolute defense against any claim for a taxing authority's sales and

use tax.

F.(1) It shall be the duty of the state through the Department of Revenue, with the advice of the advisory committee, to design, implement, and operate the system required by this Section and to provide the staff and equipment necessary to receive and transmit to the collectors the electronic returns and funds.

(2)(a) It shall be the duty of the collector of each parish to provide and make available the appropriate staff, equipment, and information necessary for the receipt and transmission of electronic returns and funds. The Department of Revenue shall not be responsible for any loss of revenue attributable to the failure of a collector to comply with the provisions of this Paragraph.

(b) The advisory committee may determine alternate distribution methods and the appropriate fees to be charged for such methods when a collector fails to comply with the provisions of this Paragraph. The amount of the fee shall not exceed the cost of the alternate distribution method.

G.(1) It is the intention of this Section only to provide to taxpayers a simple, efficient, and cost effective means of transmitting accurate tax returns and taxes to taxing authorities of the state from a central site in the quickest manner possible. This Section shall not be construed to grant to the advisory committee or the Department of Revenue any authority to collect or administer such taxes. In addition, any funds transmitted through the system as provided for in this Section shall be considered the funds of the taxing authorities to be distributed by the collector in the manner provided by local ordinances and shall not in any way be considered state funds.

(2) The advisory committee shall provide a method for all questions related to the application and interpretation of the sales and use tax law of a particular taxing authority received by the committee or the Department of Revenue to be forwarded to the appropriate collector for response.

H.(1) The uniform electronic local return and remittance system provided in this Section shall become operative on a date that the advisory committee determines such system is ready, but no later than January 1, 2005.

(2) However, the system shall not become operative until all of the following occurs:

(a) Notice is provided to each collector of the date upon which the system is to be operative and the date of the public meeting provided for in Subparagraph (2)(b).

(b) After the notice is provided as required by Subparagraph (2)(a), but in no case less than thirty days before the date the system becomes operative, the advisory committee shall hold a public hearing to receive comments on the system.

I.(1)(a) In addition to the uniform electronic local return and remittance system provided for in this Section, a link shall be created on the Department of Revenue's web site to a web page where the following information provided by the collectors shall be posted:

(i) A list of tax rates.

(ii) A list of the optional exemptions enacted by a tax authority as provided for in R.S. 47:337.10.

(b) The secretary and the advisory committee shall be notified of any changes in such information as provided for in Subsection D of

this Section. Each collector shall follow the data validation procedures established by the advisory committee.

(2) The tax rates and optional exemptions posted on the web page as provided for in this Section shall be considered an official record of such tax rates and optional exemptions and any court, whether requested to do so or not, shall take judicial notice thereof. A taxpayer may rely on the optional exemptions and tax rates posted on the web page and such reliance shall be an absolute defense against any claim for a taxing authority's sales and use tax.

J. If the secretary of the Department of Revenue and the commissioner of administration certify to the advisory committee that there was not a separate line item in the general appropriations bill appropriating funds to the Department of Revenue for the design, implementation, and operation of the system provided for in this Section for the fiscal year, or that insufficient funds were appropriated in such line item, then such electronic filing and remittance shall not be available to taxpayers from the first of the month following such certification and the secretary may take such steps as she deems necessary to prevent access to the system until the secretary and the commissioner certify that such funds have been appropriated in a separate line item.

PART F. GENERAL ADMINISTRATIVE ENFORCEMENT

Part F is all new law.

§337.24. Miscellaneous administrative provisions

R.S. 47:337.24 is all new law.

The following shall continue to be applicable to local sales tax collection and administration:

(1) Authority provided to the secretary and the city of New Orleans pursuant to R.S. 33:2747 et seq.

(2) The provisions concerning obtaining a judgment requiring the tax collector of the parish or incorporated town or city to proceed forthwith to collect taxes as provided for in R.S. 33:2842.

(3) The provisions of R.S. 47:1508 and 1508.1 as they may apply to collectors and taxing authorities.

§337.25. Authority of collectors to sue

R.S. 47:337.25 is all new law.

Each collector of each taxing authority of this state, who is charged by law with the duty of collecting a tax, shall be the proper party to bring suits in his official capacity for the collection of such taxes.

§337.26. Contracts for purpose relating to collection of sales and use taxes

R.S. 47:337.26 is all new law.

A. Within the limits provided for in Article VII, Section 3(B) of the Constitution of Louisiana, the governing authority of any taxing authority may contract with the sheriff, the Louisiana Department of Revenue, any political subdivision of this state, or any other agency, whether public or private, for the examination or investigation of the place of business, if any; the tangible personal property; and the books, records, papers, vouchers, accounts, and documents of any taxpayer for the purposes of enforcement and collection of any tax imposed by that taxing authority.

B. Within the limits provided for in Article VII, Section 3(B) of the Constitution of Louisiana, for the purpose of auditing for

compliance with local sales and use tax ordinances, any taxing authority or other entity which collects local sales and use taxes may enter into a contract with a private auditing firm and, when so authorized by such contract, such firm may examine or investigate the place of business, if any; the tangible personal property; and the books, records, papers, vouchers, accounts, and documents of any taxpayer. The rate of compensation shall be on an hourly basis, plus reasonable expenses. In addition, all such contracts shall be approved by the majority of the affected taxing authorities.

C. Any private agency hired for the purposes of this Section and any employee of such private agency shall be governed by the provisions of R.S. 47:1508 et seq.

D.(1) Prior to initiating an examination or audit of a taxpayer, a taxing authority shall provide notice of the taxing authority's intent to audit by certified mail to the taxpayer at the taxpayer's last known address. Such notice shall:

- (a) Reasonably describe the nature of the audit.
- (b) Identify the name, office, address, and office telephone number of the firm or individual who will initiate the audit.
- (c) Advise the taxpayer of the right to review and copy the audit contract if the audit will be conducted by a private auditing firm.
- (d) Summarize the remedies available to the taxpayer if the taxpayer should choose to contest the audit findings.
- (e) Describe the interest, penalties, and costs, including audit costs, for which the taxpayer may be liable if taxes are determined to be due.

(2) During the course of the audit, the taxpayer shall be notified

of the name, office address, and office telephone number of each auditor assigned to the audit. Private auditing firms shall provide any taxpayer subject to an audit with access to an original or a copy of the audit contract specifying the terms under which the audit firm was engaged, which may be reviewed and copied by the taxpayer.

E. If the cost of a sales tax compliance audit is to be borne by the taxpayer, pursuant to R.S. 47:337.75, the cost to the taxpayer shall not exceed thirty percent of the amount of the additional taxes determined to be due as the result of the audit.

§337.27. Venue

R.S. 47:337.27 is all new law.

An action to enforce the collection of a sales or use tax, including any applicable interest, penalties, or other charges, levied by a taxing authority may be brought in the parish in which the taxing authority is situated.

§337.28. Collector's authority to determine the tax in certain cases

R.S. 47:337.28 is all new law.

A. In the event any dealer fails to make a report and pay the tax as provided in this Chapter or in case the dealer makes a grossly incorrect report or a report that is false or fraudulent, the collector shall make an estimate of the retail sales of such dealer for the taxable period, of the gross proceeds from rentals or leases of tangible personal property by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the taxing jurisdiction, and of the gross amounts paid or charged for services taxable; and it shall be the duty of the collector to assess and collect the tax together

with any interest and penalty that may have accrued thereon, which assessment shall be considered prima facie correct and the burden to show the contrary shall rest upon the dealer.

B. In the event the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost, then the collector shall ascertain in any manner feasible the true cost price and shall assess and collect the tax, together with any interest and penalties that may have accrued, on the basis of the true cost as assessed by him. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

C. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgment of the collector, represent the true or actual consideration, then the collector is authorized to ascertain in any manner feasible the true or actual consideration and assess and collect the tax thereon together with any interest and penalties that may have accrued. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

D. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the collector may add to the assessment the cost of such examination, together with any penalties accruing thereon.

§337.29. Dealers required to keep records

R.S. 47:337.29 is all new law.

A.(1) Every dealer required to make a report and pay any tax

under this Chapter shall keep and preserve suitable records of the sales, purchases, or leases taxable pursuant to this Chapter, and such other books of accounts as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the collector; and each dealer shall secure, maintain and keep until the taxes to which they relate have prescribed, a complete record of tangible personal property received, used, sold at retail, distributed, or stored, leased or rented, within the taxing jurisdiction by the said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the collector for the reasonable administration of the tax, and a complete record of all sales or purchases of services taxable as provided in this Chapter until the taxes to which they relate have prescribed.

(2) These records shall be open for inspection to the collector at all reasonable hours.

(3) The collector is authorized to require all dealers who take deductions on their sales tax returns for total sales under the minimum taxable bracket prescribed pursuant to R.S. 47:304 to support their deductions by keeping written or printed detailed records of said sales in addition to their usual books and accounts.

B. Any dealer subject to the provisions of this Chapter who violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than sixty days, or both, for any such offense.

§337.30. Wholesalers and jobbers required to keep records

R.S. 47:337.30 is all new law.

A. All wholesale dealers and jobbers in the taxing jurisdiction

shall keep a record of all sales of tangible personal property made in the taxing jurisdiction whether such sales be for cash or on terms of credit. These records shall contain and include the name and address of the purchaser, the date of the purchase, the article purchased and the price at which the article is sold to the purchaser. These records shall be kept until the taxes to which they relate have prescribed and shall be open to the inspection of the collector at all reasonable hours.

B. Whoever violates the provisions of this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both, for the first offense. For the second or each subsequent offense, the penalty shall be double.

§337.31. Collector's authority to examine records of transportation companies

R.S. 47:337.31 is all new law.

The collector is specifically authorized to examine at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in the taxing jurisdiction, whether they conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to the tax levied by the local ordinance. When any such transportation company refuses to permit the examination of its records, as provided in this Section, the collector may proceed by rule against it, in term time or in vacation, in any court of competent jurisdiction in the parish where such refusals occurred, to show cause why the collector should not be permitted to examine its books, records or other documents.

This rule may be tried in open court or in chambers, and in case the rule is made absolute, the same shall be considered a judgment of the court, and every violation thereof shall be considered as a contempt of court and punished according to law.

§337.32. Failure to pay tax on imported tangible personal property;
grounds for attachment

R.S. 47:337.32 is all new law.

A. The failure of any dealer to pay the tax and any interest, penalties, or costs due on any tangible personal property imported from outside the taxing jurisdiction for use, consumption, distribution or storage to be used in the taxing jurisdiction, or imported for the purpose of leasing or renting the same, shall make the tax, interest, penalties, or costs ipso facto delinquent. This failure shall moreover be a sufficient ground for the attachment of the personal property imported wherever it may be found, whether the delinquent taxpayer is a resident or nonresident, and whether the property is in the possession of the delinquent taxpayer or in the possession of other persons.

B. It is the intention of this law to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by the local ordinance, together with interest, penalties and costs, and authority to attach is hereby specifically granted to the collector. The procedure prescribed by law in attachment proceedings shall be followed except that no bond shall be required of the taxing authority.

§337.33. Failure to pay tax; rule to cease business

R.S. 47.337.33 is all new law.

A.(1) On motion in a court of competent jurisdiction, the

collector may take a rule on a taxpayer, to show cause in not less than two or more than ten days, exclusive of holidays, why the taxpayer should not be ordered to cease from further pursuit of his business for failure to pay to the taxing authority amounts collected from others by his business as sales and use tax, along with any interest, penalty, and costs related to such tax. Such rule may be taken only for amounts due as a result of assessments or judgments which have become final and non-appealable.

(2) This rule may be tried out of term and in chambers, and shall always be tried by preference.

(3)(a) If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the taxing authority, and the court shall enjoin and prohibit the taxpayer from the further pursuit of his business until such time as he has paid the delinquent tax, interest, penalties, and all costs or has entered into an agreement with the collector to do so.

(b) If the collector files a subsequent motion with the court alleging a violation of the injunction, the court shall hold a hearing in not less than two days or more than ten days, exclusive of holidays, to determine whether such violation has occurred. Upon a showing by the collector that there has been a violation of the injunction, the court shall consider the violation to be a contempt of the court and shall punish the violator in accordance with law, and every violation of the injunction shall be considered as a contempt of court.

(4) Whenever the pleadings filed on behalf of the collector shall be accompanied by an affidavit of the collector or of one of his assistants or representatives or of the attorney filing the same, that the

facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in the pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the taxpayer.

(5) The collection procedure provided for in this Subsection shall be in addition to any other collection procedure provided by law.

B. Failure to pay any tax due as provided in the local ordinance shall, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent and the collector has the authority, on motion in a court of competent jurisdiction, to take a rule on such person, to show cause in not less than two or more than ten days, exclusive of holidays, why such person should not be ordered to cease from further pursuit of business. This rule may be tried out of term and in chambers and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the taxing authority, prohibiting the person from the further pursuit of said business until he has paid the delinquent tax, interest, penalties, and costs, and every violation of the injunction shall be considered as a contempt of court and punished according to law.

C. For the purpose of the enforcement of the local ordinance and the collection of the tax levied therein, it is presumed that all tangible personal property imported or held in the taxing jurisdiction by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in the taxing jurisdiction, or leased or rented within the taxing jurisdiction, and is subject to the tax herein levied. This presumption shall be prima facie only, and subject to proof furnished to the collector.

D. The provisions of this Section shall not apply if the person has entered into an installment agreement for the payment of delinquent taxes with the collector and is in compliance with the terms of the agreement.

§337.34. Sales returned to dealer; credit or refund of tax

R.S. 47:337.34 is all new law.

A. Whenever tangible personal property sold is returned to the dealer by the purchaser or consumer or in the event the amount paid or charged for services is refunded or credited to the purchaser or consumer after the tax imposed by the local ordinance has been collected, or charged to the account of the purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the collector; and in case the tax has not been remitted by the dealer to the collector, the dealer may deduct the same in submitting his return. Upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by the signed statement, which period shall not be longer than ninety days, the collector shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for the tax collected. This memorandum shall be accepted by the collector at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of the local ordinance. In cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the collector that the tax paid was not due.

B.(1) Whenever the unpaid balance of an account due to the

dealer for the purchase of tangible personal property or the sale of services subject to sales taxation has been found to be bad in accordance with Section 166 of the United States Internal Revenue Code and has actually been charged off for federal income tax purposes, the dealer shall be entitled to reimbursement of the amount of tax previously paid by the dealer on such amounts.

(2) The prescription on such refund or credit shall begin to run from the date of signature on the federal income tax return charging off such debt.

(3) Whenever the balance of an account that had been determined to be worthless and sales tax refunded is recovered at a later date, the payment shall be reported as a new sale in the month recovered for sales tax purposes. The credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with the provisions of Paragraph (B)(1) of this Section.

§337.35. Collector's duty to determine correct tax

R.S. 47:337.35 is all new law.

A. As soon as practicable after each return or report is filed under any of the provisions of this Chapter the collector shall cause it to be examined and may make such further audit or investigation as he may deem necessary for the purpose of determining the correct amount of tax.

B. The taxpayer and the collector or his designee may enter into a binding agreement to use a sampling procedure as a basis for projecting audit findings, which may result in either an underpayment or overpayment of tax.

C.(1) Before using a sampling procedure to project the findings of an audit and establish a tax liability, the collector or his designee shall notify the taxpayer in writing of the sampling procedure he intends to use, including, but not limited to, how the tax will be computed, the population to be sampled, and the type of tax for which the tax liability will be established.

(2) The sampling procedure used shall produce a sample which shall reflect as nearly as possible the normal conditions under which the business was operated during the period to which the audit applies. If either the taxpayer or the collector can demonstrate that a transaction in a sample for a particular time period is not representative of the taxpayer's business operations during that time period, the transaction shall be eliminated from the sample and shall be separately determined in the audit.

(3) If the taxpayer demonstrates that any sampling procedure used by the collector was not developed or applied in accordance with generally recognized sampling techniques, that portion of the audit established by a projection based upon the development or application of the disputed sampling procedure shall be replaced by a projection based upon a new sample that conforms to generally recognized sampling techniques.

(4) Generally recognized sampling techniques and standards set forth by the American Institute of Certified Public Accountants shall be used as guidance in developing audit sampling techniques for purposes of this Section.

§337.36. Power to examine records and premises of taxpayer

R.S. 47:337.36 is all new law.

For the purpose of administering the provisions of the local ordinance and this Chapter, the collector, whenever he deems it expedient, may make or cause to be made by any of his authorized assistants, an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer. Every taxpayer and every director, officer, agent, or employee of every taxpayer, shall exhibit to the collector or to any of his authorized assistants, the place of business, the tangible personal property and all of the books, records, papers, vouchers, accounts, and documents of the taxpayer and to facilitate any such examination or investigation so far as it may be in his or their power so to do.

§337.37. Retention of records by taxpayers

R.S. 47:337.37 is all new law.

Notwithstanding any other provision of this Chapter, any document or record which a taxpayer is required to maintain in regard to a tax levied pursuant to the local ordinance, shall be retained by the taxpayer until the tax to which they relate have prescribed.

§337.38. Power to request records in machine-sensible format

R.S. 47:337.38 is all new law.

If a taxpayer retains records required to be maintained in regard to a tax levied pursuant to this Chapter in machine-sensible and hard-copy formats, the taxpayer shall make the records available to the collector or his designee in the machine-sensible format used by the taxpayer upon request of the collector or his designee.

§337.39. Power to examine the records of third parties

R.S. 47:337.39 is all new law.

For the purpose of administering the provisions of this Chapter, the collector whenever he deems it expedient may make or cause to be made by any of his authorized assistants, an examination of the books, records, papers, vouchers, accounts and documents of any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, bank, syndicate, or other group or combination, in so far as said books, records, papers, vouchers, accounts, and documents relate to, bear on, associate with, identify, clarify, or disclose, the liability of any person or group made liable for the tax, penalty, and interest imposed by the local ordinance or assist in the enforcement or collection of any such liability. Every individual, director, officer, agent, or employee of such individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, bank, syndicate or other group or combination, shall exhibit to the collector or to any of his authorized assistants, the pertinent books, records, papers, vouchers, accounts, and documents and to facilitate any such examination and investigation so far as it may be in his or their power so to do.

§337.40. Power to conduct hearings

R.S. 47:337.40 is all new law.

The collector or any of his authorized assistants, may conduct hearings, administer oaths to, and examine under oath, any taxpayer, and the directors, officers, agents, and employees of any taxpayer, and any other witnesses, relative to the business of such taxpayer in respect to any matter incident to the administration of the local ordinance and this Part.

§337.41. Power to subpoena witnesses; fees

R.S. 47:337.41 is all new law.

The collector or any of his authorized assistants may by subpoena compel the attendance of witnesses and production of any books, records, papers, vouchers, or accounts, of any taxpayer or any person who the collector has reason to believe has information pertinent to any matter under investigation by the collector at any hearing held pursuant to the provisions of this Part. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the district courts. These fees shall be paid in the manner provided for the payment of other expenses incident to the administration of the local ordinance and this Chapter.

§337.42. Notice to attend hearings; how given

R.S. 47:337.42 is all new law.

The notice or subpoena requiring a person to attend a hearing authorized by this Chapter, to be examined, or to answer any questions or to produce any books, records, papers, vouchers, accounts, or documents, shall be given by the collector or any of his authorized assistants, either through personal service on the person and endorsement of such service on the reverse of a copy of such notice, or by sending a notice by registered or certified mail to the last known address of such person. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it was addressed.

§337.43. Procedure to compel witnesses to attend and to testify at hearing

R.S. 47:337.43 is all new law.

If a person subpoenaed to attend any hearing under this Part refuses to appear, be examined, or answer any questions, or produce

any books, records, papers, vouchers, accounts, or documents, pertinent to the matter of inquiry, when subpoenaed so to do by the collector, or any of his authorized assistants, the collector or such assistant, in term time or vacation, may apply to any district court, upon proof by affidavit of such refusal, to make an order returnable in not less than two nor more than ten days, directing such person to show cause before the court why he should not obey the demand of the subpoena. Upon the return of such order, the court before whom the matter comes shall examine the person under oath, and the person shall be given an opportunity to be heard, and if the court determines that he has refused, without legal excuse, to obey the command of the subpoena, or to be examined, or to answer any question, or to produce any books, papers, vouchers, records, accounts, or documents, pertinent to the matter of inquiry, which he was by subpoena commanded to answer or produce, the court may order such person to comply forthwith with such subpoena or order, or to submit to such examination or to answer any such question, and any failure to obey such order of the court may be punished by the court as a contempt of the court.

§337.44. Rule to show cause and examination of judgment debtor

R.S. 47:337.44 is all new law.

A. Whenever the collector finds that any person has failed to file or refuses to file any return required by any provision of this Chapter the collector may institute against that person:

- (1) A rule to show cause why the return should not be filed, and
- (2) A rule to examine a judgment debtor, as provided for in Articles 2452 through 2456, Louisiana Code of Civil Procedure where the tax due has been duly and finally assessed as otherwise provided.

B. The proceedings outlined herein shall be consistent with Article 2592 of Louisiana Code of Civil Procedure.

§337.45. Alternative remedies for the collection of taxes

R.S. 47:337.45 is all new law.

A. In addition to following any of the special remedies provided in this Chapter, the collector may, in his discretion, proceed to enforce the collection of any taxes due under the local ordinance by means of any of the following alternative remedies or procedures:

(1) Assessment and distraint, as provided in R.S. 47:337.48 through 337.60.

(2) Summary court proceeding, as provided in R.S. 47:337.61.

(3) Ordinary suit under the provisions of the general laws regulating actions for the enforcement of obligations.

B. The collector may choose which of these procedures he will pursue in each case, and the counter-remedies and delays to which the taxpayer will be entitled will be only those which are not inconsistent with the proceeding initiated by the collector, provided that in every case the taxpayer shall be entitled to proceed under R.S. 47:337.63 except (a) when an assessment for the tax in question has become final or (b) when a suit involving the same tax obligation is pending against him; and provided further, that the fact that the collector has initiated proceedings under the assessment and distraint procedure will not preclude him from thereafter proceeding by summary or ordinary court proceedings for the enforcement of the same tax obligation.

§337.46. Special authority to enforce collection of taxes collected or withheld; personal liability of certain officers and directors

R.S. 47:337.46 is all new law.

A. Notwithstanding any other provision of law to the contrary, if any corporation, limited liability company, or limited partnership fails to file returns or to remit the sales and use taxes collected from purchasers or consumers under the local ordinance and this Chapter, the collector is authorized, as an alternative means of enforcing collection, to hold those officers or directors, or those managers or members as defined in R.S. 12:1301(12) and (13), having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes and who willfully fail to remit or account for such taxes collected, personally liable for the total amount of such taxes collected, and not accounted for or not remitted, together with any interest, penalties, and fees accruing thereon. Collection of the total amount due may be made from any one or any combination of such officers or directors, or managers or members as defined in R.S. 12:1301(12) and (13), who willfully fail to remit or account for such taxes collected, by use of any of the alternative remedies for the collection of taxes as provided in R.S. 47:337.45.

B. A corporation, limited liability company, or limited partnership by resolution of the board of directors or members may designate an officer or director, or a manager or member as defined in R.S. 12:1301(12) and (13) having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes, and such resolution shall be filed with the secretary of state.

§337.47. Special authority to recover rebates

R.S. 47:337.47 is all new law.

A. Rebates previously granted to a taxpayer, but later disallowed, may be recovered by the collector through any collection remedy authorized by R.S. 47:337.45 and initiated within the latter of any of the following:

(1) Two years from December thirty-first of the year in which the rebate or refundable tax credit was paid.

(2) Three years from December thirty-first of the year in which the taxes for the filing period were due.

(3) The time period for which prescription has been extended, as provided by R.S. 47:337.67.

B. The only interest which may be assessed and collected on recovered rebates is interest at a rate three percentage points above the rate provided in Civil Code Article 2924(B)(1), which shall be computed beginning on the date one year after the date of issuance of the rebate to the date payment is received by the collector.

C. The provisions of this Section are in addition to and shall not limit the authority of the collector to assess or to collect under any other provision of law.

§337.48. Determination and notice of tax due

R.S. 47:337.48 is all new law.

A. If a taxpayer fails to make and file any return or report required by the provisions of the local ordinance and this Chapter, the collector shall determine the tax, penalty, and interest due by estimate or otherwise. Having determined the amount of tax, penalty, and interest due, the collector shall send by mail a notice to the taxpayer at the address given in the last report filed by him pursuant to the provisions of this Chapter, or to any address that may be obtainable

from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the U.S. Postal Service or from U.S. Postal Service certified software, setting out his determination and informing the person of his purpose to assess the amount so determined against him after fifteen calendar days from the date of the notice.

B. If a return or report made and filed does not correctly compute the liability of the taxpayer, the collector shall cause an audit, investigation, or examination, as provided for by R.S. 47:337.35 to be made to determine the tax, penalty, and interest due. Having determined the amount of tax, penalty, and interest due, the collector shall send by mail a notice to the taxpayer at the address given in the last report filed by him pursuant to the provisions of this Chapter, or to any address that may be obtainable from the U.S. Postal Service or from U.S. Postal Service certified software, setting out his determination and informing the person of his purpose to assess the amount so determined against him after thirty calendar days from the date of the notice.

§337.49. Protest to collector's determination of tax due

R.S. 47:337.49 is all new law.

The taxpayer, within fifteen calendar days from the date of the notice provided in R.S. 47:337.48(A) or within thirty calendar days from the date of the notice provided in R.S. 47:337.48(B), may protest thereto. This protest must be in writing and should fully disclose the reasons, together with facts and figures in substantiation thereof, for objecting to the collector's determination. The collector shall consider the protest, and shall grant a hearing thereon, before making a final

determination of tax, penalty, and interest due.

§337.50. Assessment of tax, interest, and penalties

R.S. 47:337.50 is all new law.

A. At the expiration of fifteen calendar days from the date of the collector's notice provided in R.S. 47:337.48(A), or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty, and interest that he determines to be due under the provisions of the local ordinance and this Chapter. The assessment shall be evidenced by a writing in any form suitable to the collector, which sets forth the name of the taxpayer, the amount determined to be due, the kind of tax, and the taxable period for which it is due. This writing shall be retained as a part of the collector's official records. The assessment may confirm or modify the collector's originally proposed assessment.

B. At the expiration of thirty calendar days from the date of the collector's notice provided in R.S. 47:337.48(B), or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty, and interest that he determines to be due under the provisions of the local ordinance and this Chapter. The assessment shall be evidenced by a writing in any form suitable to the collector, which sets forth the name of the taxpayer, the amount determined to be due, the kind of tax, and the taxable period for which it is due. This writing shall be retained as a part of the collector's official records. The assessment may confirm or modify the collector's originally proposed assessment.

§337.51. Notice of assessment and right to appeal

R.S. 47:337.51 is all new law.

A. Having assessed the amount determined to be due, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at the address given in the last report filed by said taxpayer, or to any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. If no report has been timely filed, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal service certified software. This notice shall inform the taxpayer of the assessment and that he has sixty calendar days from the date of the notice to (a) pay the amount of the assessment; (b) request a hearing with the collector or; (c) pay under protest in accordance with R.S. 47:337.63.

B. If any dealer shall be aggrieved by any findings or assessment of the collector, he may, within thirty days of the receipt of notice of the assessment or finding, file a protest with the collector in writing, signed by himself or his duly authorized agent, which shall be under oath and shall set forth the reason therefor, and may request a hearing. Thereafter, the collector shall grant a hearing to said dealer, if a hearing has been requested, and may make any order confirming, modifying or

vacating any such finding or assessment. The filing of any such protest shall not abate any penalty for nonpayment, nor shall it stay the right of the taxing authority to collect the tax in any manner herein provided. Appeals from the decision of the collector shall be directed to any state, city or federal court of competent jurisdiction. This Section shall afford a legal remedy and right of action in any state, city or federal court having jurisdiction of the parties and subject matter for a full and complete adjudication of any and all questions arising in the enforcement of the local ordinance and this Chapter as to the legality of any tax accrued or accruing or the method of enforcement thereof.

C.(1) No assessment made by the collector shall be final if it is determined that the assessment was based on an error of fact or of law. An "error of fact" for this purpose means facts material to the assessment assumed by the collector at the time of the assessment to be true but which subsequently are determined by the collector to be false. "Error of law" for this purpose means that in making the assessment the collector applied the law contrary to the construction followed by the collector in making other assessments.

(2) The determination of an error of fact or of law under this Subsection shall be solely that of the collector, and no action against the collector with respect to the determination shall be brought in any court, and no court shall have jurisdiction of any such action, it being the intent of this Subsection only to permit the collector to correct manifest errors of fact or in the application of the law made by the collector in making the assessment; however, all reductions of assessments based on such errors, except estimated assessments made due to the failure of the taxpayer to file a proper tax return, must be approved and signed by

the collector. Estimated assessments made due to the failure of the taxpayer to file a proper tax return may be corrected by the acceptance of the proper tax return and must be approved by the collector or his designee.

§337.52. Waiver of restrictions and delays

R.S. 47:337.52 is all new law.

The taxpayer shall at any time have the right, by a signed notice in writing filed with the collector, to waive the restrictions and delays prescribed in R.S. 47:337.48 through 337.51 which must ordinarily be observed before an assessment may become final. When such a waiver is executed, the assessment is final when made and is immediately collectible by distraint and sale.

§337.53. Assessment and notice when tax is in jeopardy

R.S. 47:337.53 is all new law.

A. If the collector finds that a taxpayer designs quickly to depart from the taxing jurisdiction, or to remove therefrom any property subject to any tax or to any lien for a tax, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, he may immediately make a determination, from any available information or by estimate or otherwise, of the amount of tax, penalty, and interest such taxpayer is liable to pay. Having made such determination, the collector shall immediately assess said amount, and by a writing to be retained as part of his official records, indicate such assessment has been made, and without any notice, proceed to distraint, in the manner as hereinafter provided, any

property belonging to the taxpayer. This type of assessment may be made whenever a tax becomes due under the provisions of this Chapter, regardless of whether it is then payable or not.

B. As soon as is feasible after such assessment, and not later than two calendar days thereafter, the collector shall send by certified mail a notice to the taxpayer against whom the assessment lies, at the address given in the last report filed by said taxpayer, or to any such address as may be obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. Such notice shall inform the taxpayer of the assessment, its basis, and jeopardous nature; make demand for immediate payment thereof; and give notice that any property distrained or to be distrained will be subject to sale as provided in this Chapter to satisfy the assessment.

C. The taxpayer against whom the assessment lies can stay distraint of his property, or sale of his property already distrained, as the case may be, only by the immediate payment of the assessment or by posting with the collector a surety bond for twice the amount of such assessment, or of a lower amount acceptable to the collector, with such sureties as the collector deems necessary. The taxpayer shall have sixty calendar days from the date of payment, or the date of posting bond, to appeal to a court of competent jurisdiction for a redetermination of the assessment. During this period, the collector shall hold any payment made in an escrow account. If the taxpayer does not appeal, the collector shall immediately credit such payment to tax collections or proceed to collect from sureties, if any were given. In the event of an

appeal, such payment or demand for payment from sureties given shall be held in abeyance pending the redetermination or affirmation of the assessment by the court which last reviews the matter. Final payment, or collection from sureties, will be for the amount of the affirmed or redetermined assessment.

§337.54. Assessment and claims in bankruptcy and receivership

R.S. 47:337.54 is all new law.

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding, or the appointment of a receiver for any taxpayer in a receivership proceeding, before any court of this state or of the United States, the collector may immediately make a determination from any available information or by estimate or otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay and immediately assess said amount, and by a writing to be retained as a part of his official records indicate that such assessment has been made. Such assessment may be made whenever a tax becomes due under the provisions of this Chapter, regardless of whether it is then payable or not. Claims for such assessments, and additional interest and attorney fees thereon, shall be presented for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending despite the pendency of delays before assessment provided in R.S. 47:337.48 through 337.51, or the pendency of an appeal to the collector or the courts for a redetermination. Provided that no petition for the redetermination of an assessment shall be filed with the collector after an adjudication of bankruptcy or the appointment of a receiver, unless the petition is accompanied by a certified copy of an order of the court before which

the bankruptcy or receivership proceedings is pending, authorizing the trustee or receiver to prosecute such appeal.

§337.55. Assessment of tax shown on face of taxpayer's returns

R.S. 47:337.55 is all new law.

A. Whenever a taxpayer files returns and computes the amount of any tax due, such tax together with any penalty and interest due or accruing thereon, whether computed or not, shall be considered assessed and shall be entered by the collector as an assessment in his official records without the necessity of observing the delays or giving the notice ordinarily required prior to assessment.

B. If the taxpayer fails to accompany his return filed with a proper payment, as required by this Chapter, the collector shall immediately send a notice by mail to such person, addressed to the address appearing on the return or to any available address, informing him of the amount due, or the balance of the amount due if a partial payment has been made, and demanding payment of such amount within ten calendar days from the date of the notice. If payment has not been received at the expiration of such time, the assessment shall be collectible by distraint and sale as is hereinafter provided.

C. Nothing in this Section shall be construed as denying the right of the taxpayer to pay the assessment under protest or to claim a refund of the assessment after payment, all in a manner as is hereinafter set out in this Chapter.

§337.56. Collection by distraint and sale authorized

R.S. 47:337.56 is all new law.

When any taxpayer fails to pay any tax, penalty, and interest assessed, the collector may proceed to enforce the collection thereof by

distrain and sale.

§337.57. Distrain defined

R.S. 47:337.57 is all new law.

A. The words "distrain" or "distrain" as used in this Chapter, shall be construed to mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, of any property or rights to property of the taxpayer including goods, chattels, effects, stocks, securities, bank accounts, evidences of debt, wages, real estate and other forms of property, by the collector or his authorized assistants, for the purpose of satisfying any assessment of tax, penalty or interest due.

B. Property exempt from seizure as provided by law is exempt from distrain and sale herein.

§337.58. Distrain procedure

R.S. 47:337.58 is all new law.

Whenever the collector or his authorized assistants shall distrain any property of a taxpayer, he shall cause to be made a list of the property or effects distrained, a copy of which, signed by the collector or his authorized assistants shall be sent by certified mail or registered mail to the taxpayer at his last known residence or business address, or served on the taxpayer in person. This list shall be accompanied with a note of the sum demanded and a notice of the time and place where the property will be sold. Thereafter, the collector shall cause a notice to be published in the official journal of the parish wherein the distrain is made, specifying the property distrained, and the time and place of sale. The sale shall be held not less than fifteen calendar days from the date of the notice mailed or served on the taxpayer or the date of publication in the official journal, whichever is later. The collector may

postpone such sale from time to time, if he deems it advisable, but not for a time to exceed thirty calendar days in all. If the sale is continued to a new date it shall be readvertised.

§337.59. Surrender of property subject to distraint

R.S. 47:337.59 is all new law.

Any person subject to distraint, or upon whom a levy has been served, shall, upon demand by the collector or his authorized assistants making such levy, surrender such property, or rights to property of which he is in possession, or which he subsequently comes into possession, until such time as the levy is recalled, subject to distraint, to the collector or his authorized assistant, unless such property or right is, at the time of demand, subject to an attachment or execution under any judicial process. Any such person failing or refusing to surrender any such property or rights shall be liable to the taxing authority in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalties, and interest and other costs and charges which are due.

§337.60. Sale of distrained property

R.S. 47:337.60 is all new law.

A. After notifying all reasonably ascertainable interested third parties the collector or his authorized assistants shall sell at public auction for cash to the highest bidder so much of the property distrained by him as may be sufficient to satisfy the tax, penalties, interest, and costs due. The property shall not be sold if the price to the highest bidder is less than two-thirds of the appraised value. In that case, the collector shall readvertise the sale of the property in the same manner as the original sale, and the same delays must elapse. At the second

offering, the property shall be sold for cash at whatever price it will bring. He shall give to the purchaser a certificate of sale which will be prima facie evidence of the right of the collector to make the sale, and conclusive evidence of the regularity of his proceedings in making the sale, and which will transfer to the purchaser merchantable title in and to the property sold.

B. The purchaser shall be liable for nothing beyond the purchase price. He shall pay the full purchase price to the collector despite the existence of any mortgage, lien, or privilege on the property inferior in rank to that of the taxing authorities.

C. The collector shall give the purchaser a release from the security interest, mortgage, lien, or privilege of the taxing authorities and from all inferior security interests, mortgages, liens, and privileges, and shall direct the recorder of mortgages or proper filing officer to cancel their inscriptions insofar as they affect the property sold, and no further. All writings affecting the property which were recorded prior to distraint of the property shall not be affected by the sale of the property by the collector pursuant to this Chapter.

D. The collector shall pay or cause to be paid the inferior security interests, mortgages, liens, and privileges, after payment of the costs and the amount due the taxing authorities. When the sum remaining after payment of the cost and the amount due the taxing authorities is insufficient to pay such inferior claims in full, the collector shall deposit the remainder with the court and proceed by contradictory motion against the inferior creditors to have their claims referred to in the proceeds of the sale.

§337.61. Collection by summary court proceeding authorized

R.S. 47:337.61 is all new law.

In addition to any other procedure provided in this Chapter or elsewhere in the laws of this state; and for the purpose of facilitating and expediting the determination and trial of all claims for taxes, penalties, interest, attorney fees, or other costs and charges arising, there is hereby provided a summary proceeding for the hearing and determination of all claims by or on behalf of the taxing authority, or by or on behalf of the collector, for taxes and for the penalties, interest, attorney fees, costs or other charges due thereon, by preference in all courts, all as follows:

(1) All such proceedings, whether original or by intervention or third opposition, or otherwise, brought by or on behalf of the taxing authority, or by or on behalf of the collector, for the determination or collection of any tax, interest, penalty, attorney fees, costs or other charge claimed to be due shall be summary and shall always be tried or heard by preference, in all courts, original and appellate, whether in or out of term time, and either in open court or chambers, at such time as may be fixed by the court, which shall be not less than two nor more than ten days after notice to the defendant or opposing party.

(2) All defenses, whether by exception or to the merits, made or intended to be made to any such claim, must be presented at one time and filed in the court of original jurisdiction prior to the time fixed for the hearing, and no court shall consider any defense unless so presented and filed. This provision shall be construed to deny to any court the right to extend the time for pleading defenses; and no continuance shall be granted by any court to any defendant except for legal grounds set forth in the Louisiana Code of Civil Procedure.

(3) That all matters involving any such claim shall be decided within forty-eight hours after submission, whether in term time or in vacation, and whether in the court of first instance or in an appellate court; and all judgments sustaining any such claim shall be rendered and signed the same day, and shall become final and executory on the fifth calendar day after rendition. No new trial, rehearing or devolutive appeal shall be allowed. Suspensive appeals may be granted, but must be perfected within five calendar days from the rendition of the judgment by giving of bond, with good and solvent security, in a sum double that of the total amount of the judgment, including costs. Such appeals, whether to a court of appeals or to the supreme court, shall be made returnable in not more than fifteen calendar days from the rendition of the judgment.

(4) Whenever the pleadings filed on behalf of the taxing authority, or on behalf of the collector, shall be accompanied by an affidavit of the collector or of one of his assistants or representatives or of the counsel or attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in said pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the defendant or opposing party.

§337.62. Injunctions prohibited

R.S. 47:337.62 is all new law.

No court of this state shall issue any process whatsoever to restrain the collection of any tax, penalty, interest, or other charge imposed.

§337.63. Remittance of tax under protest; suits to recover

R.S. 47:337.63 is all new law.

A.(1) (a) Any taxpayer protesting the payment of any amount found due by the collector or the enforcement of any provision of law in relation thereto, shall remit to the collector the amount due and at that time shall give notice of intention to file suit for the recovery of such tax.

(b) In the case of sales or use taxes that are required to be collected and remitted by a selling dealer as provided for in R.S. 47:337.17, the purchaser, in order to avail himself of the alternative remedy provided by this Section, shall remit protested sales or use tax to the selling dealer, and shall retain copies of documentation evidencing the amount of the sales or use tax paid to the dealer on the transactions. On or before the twentieth day of the month following the month of the transactions on which the selling dealer charged the tax, the purchaser shall inform the collector by certified mail or other reasonable means of the dates and amounts of the protested taxes that were charged by the selling dealer, and shall give notice of the purchaser's intention to file suit for recovery of the tax.

(2) Upon receipt of this notice, the amount remitted to the collector or the amount of protested taxes that have been paid to the selling dealer shall be placed in an escrow account and held by the collector or his duly authorized representative for a period of thirty days. If suit is filed for recovery of the tax within the thirty-day period, the funds in the escrow account shall be further held pending the outcome of the suit.

(3) If the taxpayer prevails, the collector shall refund the amount

to the claimant, with interest at the rate established pursuant to R.S. 47:337.80.

B. This Section shall afford a legal remedy and right of action in any state court having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of the sales and use tax of a taxing authority as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such action, service of process upon the collector shall be sufficient service, and he shall be the sole necessary and proper party defendant in any such suit.

C. This Section shall be construed to provide a legal remedy in the state courts in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or the Constitution of Louisiana.

D. Upon request of a taxpayer and upon proper showing by such taxpayer that the principle of law involved in an additional assessment is already pending before the courts for judicial determination, the taxpayer, upon agreement to abide by the decision of the courts, may remit the additional assessment under protest, but need not file an additional suit. In such cases, the tax so paid under protest shall be placed in an escrow account and held by the collector until the question of law involved has been determined by the courts and shall then be disposed of as therein provided.

§337.64. Alternative remedy for dealers

R.S. 47:337.64 is all new law.

A. Any taxpayer who has received a final notice of assessment

for sales and use taxes from any collector or taxing authority and whose remedy is to make a payment under protest may alternatively post a commercial bond or other security, as provided in this Section, rather than making a payment under protest.

B. In order to post commercial bond or other security rather than make a payment under protest, the taxpayer, within thirty days of receipt of the notice of assessment, shall file suit in any state court of competent jurisdiction contesting the final assessment. In connection with the filing of such suit, the taxpayer shall file a rule to set bond, which shall be set for hearing within thirty days of the filing of the rule to set bond and shall attach to the petition evidence of the taxpayer's ability to post bond or other security.

C. The court shall authorize the posting of a commercial bond or other security in lieu of a payment under protest if the taxpayer establishes that it does not have the resources to pay the taxes, penalties, and interest under protest or that a payment under protest of the taxes, interest, and penalties would seriously disrupt the ability of the taxpayer to manage its business affairs. The court may either order the posting of commercial bond or other security in an amount determined by the court not to be less than the amount of unpaid taxes, interest, and penalties demanded in the assessment or may order the taxpayer to make a payment under protest pursuant to the provisions of state law and this Chapter in the amount of such unpaid taxes, interest, and penalties. The court may order that a portion of the unpaid taxes, interest, and penalties be paid under protest and the balance secured by the posting of a bond or other security as provided herein.

D. The posting of such bond or other security or the payment

under protest shall be made no later than thirty days after the mailing of the notice of the decision of the court authorizing the posting of bond or other security or requiring that a payment under protest be made.

E. If the taxpayer timely files the suit referred to herein, no collection action shall be taken in connection with the assessment of taxes, interest, and penalties, which are the subject of the taxpayer's suit, unless the taxpayer fails to post bond or other security or make the payment under protest required by the court.

F. To the extent not inconsistent with this Section, the nature and amount of the bond or security and the procedures for posting bond or providing other security shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

§337.65. Tax obligation to constitute a lien, privilege and mortgage

R.S. 47:337.65 is all new law.

Except as is specifically provided in the laws regulating building and loan associations, any tax, penalty, interest, attorney fees, or other costs due shall operate as a lien, privilege and mortgage on all of the property of the tax debtor, both movable and immovable, which said lien, privilege and mortgage shall be enforceable in any court of competent jurisdiction in an action, at law, or may be enforced as otherwise provided by this Chapter. The collector may cause notice of such lien, privilege and mortgage to be recorded at any time after the tax becomes due, whether assessed or not, and regardless of whether or not then payable, in the mortgage records of any parish wherein the collector has reason to believe the tax debtor owns property. The lien, privilege and mortgage created by this Section shall affect third parties

only from the date of recordation and shall take their respective ranks by virtue of recordation.

§337.66. Cancellation of lien, privilege, and mortgage

R.S. 47:337.66 is all new law.

A. In any case where the tax, penalty, or interest secured by a recorded lien, privilege, and mortgage have been paid, the collector or his authorized assistants or attorneys may authorize the cancellation thereof.

B. In other cases, the collector may authorize the cancellation or release of a lien, privilege, or mortgage subject to the following terms and conditions:

(1) The collector, upon application of a taxpayer, may authorize the cancellation of any lien, privilege, or mortgage or other encumbrance recorded by virtue of this Chapter, provided the taxpayer furnishes a surety bond in favor of the collector executed by a surety company duly qualified to do business in this state in an amount of not less than one and one-half times the amount of the obligation due, including penalties, interest, and other costs incurred.

(2) The collector may authorize the release of any real property from the effect and operation of any lien, privilege, mortgage, or other encumbrance, recorded by virtue of this Chapter, provided, that the collector is satisfied that the remaining real property belonging to the tax debtor and upon which said lien, privilege, and mortgage bears, is valued at not less than the amount of the remaining tax obligation, including all penalties, interest and other costs incurred, and the amount of all prior liens upon such property. In determining the value of the remaining property, due consideration shall be given to prior ranking

encumbrances, if any exist on said property.

(3) The collector may issue a certificate of release of any part of the property subject to any lien, privilege, mortgage, or other encumbrance recorded by virtue of this Chapter, if there is paid over to the collector in part satisfaction of liability an amount determined by the collector, which shall not be less than the value of the interest of the taxing authorities in the part to be so released.

§337.67. Suspension and interruption of prescription

R.S. 47:337.67 is all new law.

A. Sales and use taxes levied by any political subdivision shall prescribe as of three years from the thirty-first day of December of the year in which such taxes became due.

B. The prescriptive period running against any such sales and use tax shall be interrupted by any of the following:

(1) The action of the collector in assessing the amounts of such taxes in the manner provided by law.

(2) The filing of a summary proceeding in court.

(3) The filing of any pleading, either by the collector or the taxpayer, with any state or federal court.

(4) The filing of a false or fraudulent return.

(5) The failure to file a return, with the intent to defraud.

C. The running of such prescriptive period may also be suspended as follows:

(1) By means of a written agreement between the taxpayer and the collector made prior to the lapse of such period.

(2) With respect to bankruptcy, for any period from the time the taxpayer files for bankruptcy until six months after the bankruptcy case

is closed.

D.(1) The failure to file any return required to be filed by this Chapter shall interrupt the running of prescription, and prescription shall not commence to run again until the subsequent filing of such return. Once prescription commences to run, the tax, interest, and penalty, or other charge which is reported on such return shall prescribe in three years after the thirty-first day of December of the year of the filing of the return.

(2) However, if a taxpayer who does not file a tax return required to be filed by this Chapter later becomes responsible for the filing of such return due to a final court decision rendering a transaction or other activity as taxable, and the laws, regulations, or jurisprudence of this state previously classified that transaction or other activity as nontaxable, this provision shall not apply and prescription shall run as if the taxpayer had timely filed the return.

(3) The interruption of the running of prescription due to the failure to file a return reporting a tax shall not apply to any tax periods for which the collector and the taxpayer have entered into a valid and enforceable voluntary disclosure agreement.

(4) The provisions of the Subsection shall apply only to use tax returns when the amount due exceeds five hundred dollars for the tax levied.

§337.68. Prescription of assessments as judgments

R.S. 47:337.68 is all new law.

Any tax, penalty, interest, or other charges duly assessed under this Chapter, being the equivalent of a judgment, shall not be subject to the running of any prescription other than such prescription as would

run against a judgment in favor of the state of Louisiana in accordance with the constitution and laws of this state; and the recordation of such assessment shall have the same effect as the recordation of a judgment.

§337.69. Interest on unpaid taxes

R.S. 47:337.69 is all new law.

A. When any taxpayer fails to pay a tax, or any portion thereof, on or before the day where it is required to be paid under the provisions of this Chapter, interest shall be added to the amount of tax due. Such interest shall be computed from the due date until the tax is paid. The interest shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due and can be enforced in a separate action or in the same action for collection of the tax and shall not be waived or remitted.

B. Notwithstanding any provision of this Section or of this Chapter, the interest on any amount of tax outstanding on a specific date shall be computed at the rate applicable on such date.

§337.70. Penalty for failure to make timely return

R.S. 47:337.70 is all new law.

A.(1) When any taxpayer fails to make and file any return required to be made under the provisions of this Chapter before the time that the return becomes delinquent or when any taxpayer fails to timely remit to the collector the total amount of tax that is due on a return which he has filed, there shall be imposed, in addition to any other penalties provided, a specific penalty to be added to the tax.

(2) In the case of the filing of a return without remittance of the full amount due, the specific penalty imposed by this Paragraph for each thirty-day period shall be calculated only on the additional amount

due from the taxpayer after the deduction of payments timely submitted, or submitted during any preceding thirty-day period. The penalty provided by this Paragraph shall not be imposed for any thirty-day period for which a penalty for failure to file a tax return or for filing after the return becomes delinquent is assessed.

(3) The penalties provided for in this Subsection shall not be imposed for more than five thirty-day periods in total for each tax return required to be filed.

B. The penalties provided for by this Section shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

C.(1) Notwithstanding any other provision of the law to the contrary, any exemption granted to a taxpayer under a tax incentive contract except a contract granted pursuant to Article VII, Section 21(F) of the Constitution of Louisiana shall be suspended if at any time during the contract there is a final, non-appealable judgment against the taxpayer for non-payment of taxes.

(2) The collector shall send a notice by certified mail to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software informing him of the following:

(a) That there is a final, non-appealable judgment against him for non-payment of taxes.

(b) That he has thirty days from the date of the notice to pay the tax, penalty, and interest due or the exemptions granted under the tax incentive contract will be suspended.

(c) That the suspension will continue until the tax, penalty, and interest due under the final, non-appealable judgment are paid in full.

(3) The provisions of this Section shall not apply if the taxpayer has paid the amount due under protest in accordance with R.S. 47:337.63 or has entered into an installment agreement with the department for the payment of the amount due and is in compliance with the terms of the agreement.

(4) For the purposes of this Subsection, during the period of suspension, the exemptions granted under the tax incentive contract are inoperable and of no effect.

§337.71. Waiver of penalty for delinquent filing or delinquent payment

R.S. 47:337.71 is all new law.

If the failure to make any return at the time such return becomes due or the filing of a return without remittance of the full amount due, is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the collector, the collector may remit or waive payment of the whole or any part of the specific penalty provided for such failure.

§337.72. Penalty for false or fraudulent return

R.S. 47:337.72 is all new law.

When the taxpayer files a return that is false or fraudulent or grossly incorrect and the circumstances indicate that the taxpayer had intent to defraud the taxing authority of any tax due under the local ordinance and this Chapter, there shall be imposed, in addition to any

other penalties provided, a specific penalty on the tax found to be due. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

§337.73. Negligence penalty

R.S. 47:337.73 is all new law.

If any taxpayer fails to make any return required by this Chapter or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided, a specific penalty. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

§337.74. Insufficient funds check in payment of taxes; penalty

R.S. 47:337.74 is all new law.

In the event a check used to make payment of a tax, interest, penalty, or other charges due is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check is written, such shall constitute a failure to pay the tax, interest, penalty, or other charges due and a specific penalty shall be imposed on the taxpayer in addition to all other penalties provided by law; provided however, upon sufficient proof being furnished to the collector by the bank that the bank was at fault for the nonpayment of the check, the collector shall waive the penalty provided for in this Section. This specific penalty shall be an obligation to be collected and accounted for

in the same manner as if it were part of the tax, interest, penalty, or other charges that is due in payment of which the check was given and may be enforced in a separate action or in any action instituted for the collection of the tax, interest, penalty, or other charges. After receipt of three insufficient fund checks during any two-year period, the collector may require payment of the taxes, interest, penalties, or other charges due by the taxpayer to be paid by certified check, money order, or cash.

§337.75. Examination and hearing costs

R.S. 47:337.75 is all new law.

A. If any taxpayer fails to make any return required by this Chapter, or makes a grossly incorrect report, or a false or fraudulent report, and the collector, in performance of his duty to ascertain the amount of tax due, makes an examination of books, records, or documents, or an audit thereof, or conducts a hearing, or subpoenas witnesses, then there may be added to the amount of tax found to be due, a specific penalty, in addition to any other penalty provided, in an amount as itemized by the collector to compensate for all costs incurred in making such examination or audit, or in holding such hearing, or in subpoenaing and compensating witnesses. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

B. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Grossly incorrect report" means any report filed where there is a substantial understatement of tax for any taxable period. The

understatement is substantial if it exceeds the greater of:

(a) Ten percent of the tax required to be shown on the return for the taxable period, or

(b) Ten thousand dollars.

(2) "False or fraudulent report" means any report filed with the intent to evade taxes, or a willful attempt to defraud or evade taxes that are due.

C. Notwithstanding any other provision of law to the contrary, no penalty shall be imposed under this Section with respect to any portion of an underpayment when a taxpayer has made a grossly incorrect report if the taxpayer shows that there was a reasonable cause for the underpayment of such portion and that the taxpayer acted in good faith with respect to such portion.

D. Notwithstanding the provisions of this Section, in the event the examination or audit was conducted by a private auditing firm the limitations provided in R.S. 47:337.26 shall apply.

E. The amount of specific penalty due pursuant to this Section shall be the same as is provided by law on July 1, 2003, until such laws are amended or provisions of this Chapter are amended to provide with respect thereto.

§337.76. Distraint cost penalty

R.S. 47:337.76 is all new law.

Whenever the collector uses the distraint procedure to enforce the collection of any tax, there shall be imposed with respect to the tax for the collection of which the distraint procedure is used, a specific penalty of ten dollars to compensate for the costs of the distraint procedure. This specific penalty shall be in addition to any penalty

assessed as provided by law and shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and may be enforced either in a separate action or in the same action for the collection of the tax.

§337.77. Refunds of overpayments authorized

R.S. 47:337.77 is all new law.

A. For the purpose of this Section, "overpayment" means a payment of tax, penalty or interest when none was due; the excess of the amount of tax, penalty or interest paid over the amount due; or the payment of a penalty that is later waived or remitted by the collector, provided that the power of the collector to refund overpayments shall be as prescribed and limited in this Section.

B. The collector shall make a refund of each overpayment where it is determined that:

(1) The tax was overpaid because of an error on the part of the taxpayer in mathematical computation on the face of the return or on any of the supporting documents.

(2) The tax was overpaid because of a construction of the law on the part of the taxpayer contrary to the collector's construction of the law at the time of payment.

(3) The overpayment was the result of an error, omission, or a mistake of fact of consequence to the determination of the tax liability, whether on the part of the taxpayer or the collector.

(4) The overpayment resulted from a change made by the collector in an assessment, notice, or billing issued under the provisions of this Chapter.

(5) The overpayment resulted from a subsequent determination

that the taxpayer was entitled to pay a tax at a reduced tax rate.

(6) The overpayment was the result of a payment that exceeded either the amount shown on the face of the return or voucher, or which would have been shown on the face of the return or voucher if a return or voucher were required.

C. Notwithstanding the provisions of Subsection B of this Section, where it is determined that there is clear and convincing evidence that an overpayment has been made, the collector shall make a refund, subject to conditions or limitations provided by this Chapter.

D.(1) Such refunds shall be made out of any current collections of the particular tax which was overpaid.

(2) If a taxpayer has overpaid a particular tax for more than one taxable year and seeks a refund of the total amount, the collector may issue the refund incrementally. The number of increments shall not exceed the total number of years the tax was overpaid.

E. The collector may recover any refunded amount determined not to be an overpayment through any collection remedy authorized by R.S. 47: 337.45 within two years from December thirty-first of the year in which the refund was paid. Any refunded amount determined not to be an overpayment shall bear interest at the rate provided for in this Chapter, which shall be computed from the date the refund was issued to the date payment is received by the collector.

F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith,

his remedy is by payment under protest and suit to recover.

§337.78. Crediting or offset of overpayments against other obligations

R.S. 47:337.78 is all new law.

Before refunding any overpayment, the collector may first determine whether the taxpayer who made the overpayment owes any other liability under any ordinance administered by him. If such be the case, the collector may credit the overpayment against such liability and notify the taxpayer of the action taken.

§337.79. Prescription of refunds or credits

R.S. 47:337.79 is all new law.

A. After three years from the 31st day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever is the later, no refund or credit for an overpayment shall be made unless a claim for credit or refund has been received by the collector from the taxpayer claiming such credit or refund before the expiration of said three-year or one-year period. The maximum amount, which shall be refunded or credited, shall be the amount paid within said three-year or one-year period. The collector shall prescribe the manner of filing claims for refund or credit.

B. Provided that in any case where a taxpayer and the collector have consented in writing to an extension of the period during which an assessment of tax may be made, the period of prescription for refunding or crediting overpayments as provided in this Section shall be extended in accordance with the terms of the agreement between the taxpayer and the collector.

§337.80. Interest on refunds or credits

R.S. 47:337.80 is all new law.

A. Each collector shall compute on all refunds or credits and allow interest as part of the refund or credit as follows:

(1) From date of payment of the taxes, but prior to submission by the taxpayer of a claim for refund, interest shall be computed at a rate of not less than two per cent per annum.

(2) From date of submission by the taxpayer of a claim for refund, or from payment under protest, or from the date that the taxpayer gave the political subdivision notice of the taxpayer's intention to file suit for the recovery of any taxes paid, interest shall be at the average prime or reference rate as computed by the commissioner of financial institutions pursuant to R.S. 13:4202(B), per year, but without the addition of one percentage point to the average prime or reference rate and without regard to the limitations contained in R.S. 13:4202(B).

(3) The interest rate provided for in Paragraph (2) of this Subsection shall not be applicable for a sixty-day period from the date the taxpayer makes a claim for refund, if a refund is the result of the taxpayer's administrative error; however, the interest for this sixty-day period shall be computed under the provisions of Paragraph (1) of this Section.

B. No interest on refunds or credits shall be allowed if it is determined that a person has deliberately overpaid a tax in order to derive the benefit of the interest allowed by this Section. Payments of interest authorized by this Section shall be made from funds derived from current collections of the tax to be refunded or credited.

C. As of the date a person files a petition for relief under the uniform bankruptcy laws of the United States as provided in Title 11 USC 101 et seq., no interest shall be allowed to accrue as a part of any

refund or credit which relates to a pre-petition tax period.

§337.81. Appeals from the collector's disallowance of refund claim

R.S. 47:337.81 is all new law.

A. If the collector fails to act on a properly filed claim for refund or credit within one year from the date received by him or if the collector denies the claim in whole or in part, the taxpayer claiming such refund or credit may within thirty days of the notice of disallowance of the claim request a hearing with the collector for redetermination. The collector shall render a decision within thirty days of the request by the taxpayer. The taxpayer may appeal to a court of competent jurisdiction. No appeal may be filed before the expiration of one year from the date of filing such claim unless the collector renders a decision thereon within that time, nor after the expiration of ninety days from the date of mailing by certified or registered mail by the collector to the taxpayer of a notice of the disallowance of the part of the claim to which such appeal relates.

B. Any consideration, reconsideration, or action by the collector with respect to such claim following the mailing of a notice by certified or registered mail of disallowance shall not operate to extend the period within which an appeal may be taken.

C. In answering any such appeal, the collector is authorized to assert a demand for any tax and additions thereto that he may deem is due for the period involved in the claim for refund or credit.

§337.82. Criminal penalty for failing to account for local tax monies

R.S. 47:337.82 is all new law.

Any person required under the local ordinance and this Chapter to collect, account for, or pay over any tax, penalty, or interest, who

willfully fails to collect or truthfully account for or pay over such tax, penalty, or interest, shall in addition to other penalties provided by law, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

§337.83. Criminal penalty for evasion of tax

R.S. 47:337.83 is all new law.

Any person who willfully fails to file any return or report required to be filed by the provisions of this Chapter, or who willfully files or causes to be filed, with the collector, any false or fraudulent return, report or statement, or who willfully aids or abets another in the filing with the collector of any false or fraudulent return, report or statement, with the intent to defraud the taxing authority or evade the payment of any tax, fee, penalty or interest, or any part thereof, shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

§337.84. Running of time limitations for criminal offenses

R.S. 47:337.84 is all new law.

No person shall be prosecuted, tried or punished for a criminal offense under this Chapter unless the prosecution is instituted within a period of four years after the offense has been committed.

§337.85. Payment of taxes by receivers, referees, trustees or liquidators

R.S. 47:337.85 is all new law.

A. All receivers, referees, trustees, or other officers appointed by any court, both state and federal, to administer or conduct any business in this state, or liquidators, whether judicial or extrajudicial, shall be subject to all local taxes applicable to such business the same as if such business were conducted by an individual or corporation, and

before deducting or paying any salaries, fees or compensation to themselves or to any employees or agents, they shall pay all taxes owed by the said individual, partnership, association or corporation for whom they act, to the taxing authority.

B. Such receivers, referees, trustees, or liquidators, upon assuming their official duties, shall immediately ascertain from the proper authority the amount of taxes owed by said individual, partnership, association or corporation, whose estate they are administering, and in the event of their failure to so ascertain or pay all such taxes, shall be personally responsible for the unpaid taxes.

C. If the assets of any partnership, association, or corporation are disposed of through liquidation by the officers or directors thereof without clearance from the collector of all unpaid taxes first being obtained, such officers or directors who disposed of such assets shall be personally liable, in solido, for the full amount of such taxes and any penalty and interest due thereon.

§337.86. Credit for monies paid

R.S. 47:337.86 is all new law.

A. A credit against the sales and use tax imposed by any taxing authority of the state shall be granted to a taxpayer who paid monies, whether or not paid in error, absent bad faith, based upon a similar tax, levy, or assessment upon the same tangible personal property in a taxing jurisdiction of this state or another state. The credit granted herein shall be applicable only when a similar taxing authority is seeking to impose and collect a similar tax, levy or assessment from a taxpayer upon the same tangible personal property for which the taxpayer has paid a similar tax, levy or assessment to a similar taxing

authority.

B.(1) The credit provided herein for monies paid to a taxing authority of another state shall be granted only in the case where such authority of another state to which monies have been paid grants a similar credit.

(2) The credits granted by this provision shall not exceed the amount of money paid to the taxing authority of this state or another state.

C.(1) The proof of payment to a taxing authority shall be made in accordance with the rules adopted by the secretary of the Department of Revenue under R.S. 47:303(A). Except as provided in Paragraph (2) of this Subsection, in no event shall the credit be greater than the tax imposed by the taxing authority upon the particular tangible personal property that is subject of the sales and use tax.

(2) The credit granted for taxes in any taxing jurisdiction of a parish in which no local sales and use tax is levied and imposed shall be the amount of taxes that would have been collected by the taxing authority at the tax rate imputed to that taxing authority. The imputed tax rate shall be the lowest tax levied and imposed by a similar taxing authority in this state as determined by the Department of Revenue.

D. For purposes of this Section, "taxpayer" shall mean the final consumer who has paid the applicable local tax directly to the collector or the vendor or seller who has collected the tax from the final consumer and remitted the tax to the taxing authority. In no instance shall a vendor or seller be denied a credit for taxes paid in error to a political subdivision.

E.(1) Notwithstanding any other law to the contrary, no person

shall be taxed with respect to a particular event more than once, provided that the person collecting and remitting taxes can produce to the collector documentary evidence to show a good faith effort to recover taxes paid to the incorrect taxing authority. Such documentary evidence shall consist of the following:

(a) A formal request for refund by certified mail which includes all evidence supporting such claim to the taxing authority paid in error.

(b) A second request for refund by certified mail if no response was received within sixty days of the first refund request.

(c) Either the response approving or denying the first or second refund request, whichever may be applicable, or an affidavit from the person stating that no response was received within sixty days of the second refund request.

(2)(a) The collector shall not impose penalties or interest on taxes erroneously paid to another taxing authority unless the erroneous payment was the result of intentional conduct of gross negligence on the part of the persons collecting and remitting taxes. In instances where a legitimate disagreement exists as to which taxing authority is owed, the involved taxing authorities shall resolve the dispute among themselves through any legal means.

(b) For the purposes of this Section, a "similar taxing authority" means a political subdivision having and performing the same governmental functions as the political subdivision seeking to impose the sales or use tax.

PART G. POST SESSION UPDATE PROCEDURE

Part G is all new law.

§337.87. Post-session update procedure

R.S. 47:337.87 is all new law.

A. The purpose of this code is to benefit both taxpayers and local tax collectors by promoting uniformity in the assessment, collection, administration, and enforcement of state and local sales and use tax and by compiling them, and making them readily available in one place in the revised statutes.

B.(1) Therefore, beginning with the 2003 Regular Session of the Legislature, it is the intention of the legislature that all or a portion of any Act enacted in any regular or in any extraordinary session which has the effect of amending or enacting any provision of Title 33, Title 47, or other title of the Louisiana Revised Statutes of 1950, which Act is relative to, or which Act affects, the assessment, collection, administration, and enforcement of the sales tax of any taxing authority which is not a state-wide political subdivision, and any penalties, interest, and other charges due which are related to such tax, shall be included within the Uniform Local Sales Tax Code provided for in this Chapter.

(2) To that end, after considering any opinions as provided for in Subsection (C) of this Section, the Louisiana State Law Institute shall place into such code all or a portion of any such Acts enacted in such sessions which have the effect of amending or enacting any provision of Title 33, Title 47, or other title of the Louisiana Revised Statutes of 1950 relative to, or which affect, those matters. In particular, it is the intention of the legislature that any Act extending the time period for which a sales and/or use tax exemption, exclusion, or other tax benefit is applicable shall be placed into such code.

C.(1) Prior to the placement of all or a portion of an Act into this

code, the institute shall provide to the following organizations for their review the Acts or portions of Acts which it intends to place within the code:

(a) The Louisiana Society of Certified Public Accountants.

(b) The Tax Section of the Louisiana Bar Association.

(c) The Louisiana Association of Tax Administrators.

(2) Such organizations may reply, in writing, to the institute with any opinion concerning such placement that they believe is warranted within the time specified by the institute.

Section 2. R.S. 36:459(A) is hereby amended and reenacted and R.S. 36:459(H) is hereby enacted, to read as follows:

§459. Transfer of agencies or their powers to the Department of Revenue

A. **Except as provided for in Subsection (H) of this Section,**

the transfers and abolitions of agencies hereinafter made in this Section shall be effective as provided in Chapter 24 of this Title.

* * *

R.S. 36:459(H) is all new law.

H. The Uniform Electronic Local Return and Remittance Advisory Committee as provided for in R.S. 47:337.23 is placed within the Department of Revenue and shall exercise and perform its powers, duties, functions, and responsibilities as provided for agencies transferred in accordance with the provisions of R.S. 36:901.

Section 3. R.S. 33:2713.1, 2716(A), 2716.1, 2716.2, 2717, 2718, 2718.1, 2718.2, 2718.3, 2718.4, 2718.5, 2719, 2720, 2720.1, 2737(G), 2741.1, 2844, 2844.1, 2844.2, 2845, 2845.1, 2846, and 2847, and R.S. 47:1515 are hereby repealed.

Section 4.A. It is not intended, and this Act shall not be interpreted, so as to require or enable the state in any way to assume collection of the sales and use taxes of any political subdivision without the consent of a political subdivision.

B. The amount of penalty, interest, or attorney fees due on the sales and use tax of a political subdivision shall be limited as provided by law, including relevant jurisprudence, until such statute or jurisprudence is changed.

Section 5. This Act shall apply to the sales and use tax of any political subdivision of the state which is not a state-wide political subdivision, and any interest, penalty, and other charges related to such tax, which become due on and after July 1, 2003.

Section 6. This Act shall be effective on July 1, 2003.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____