

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Sales Tax Exclusions for Paper and Wood Products Manufacturing Facilities (LAC 61:I.4304)

Under the authority of R.S. 47:301(j), 301(13)(m), 302(T), 321(J), 331(R), and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4304 to provide guidance to taxpayers concerning the sales tax exclusions provided by Act 48 of the 2005 First Extraordinary Session of the Louisiana Legislature.

Act 48 amends the sales tax definitions of "cost price" and "sales price" to provide that paper and wood products manufacturers shall be liable for sales or use tax payment only on the first \$6.20 per MMBtu of the "cost price" or "sales price" of their purchases of natural gas during the period July 1, 2006, through December 31, 2008.

Act 48 also enacts R.S. 47:302(T), 321(J), and 331(R) to provide that paper or wood products manufacturing facilities shall not be liable for sales or use tax on their sales, purchases, or uses of electric power or energy during the same period.

This proposed Rule defines "paper manufacturing facility" and "wood products manufacturing facility" and provides for the application of the exclusion for facilities that engage in additional revenue-producing activities in the facility.

#### Title 61

#### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 43. Sales and Use Tax

#### §4304. Exclusions for Paper and Wood Products Manufacturing Facilities

A. For purposes of the sales tax exclusions provided by R.S. 47:301(j), 301(13)(m), 302(T), 321(J), and 331(R) for paper and wood products manufacturing facilities, the following definitions apply.

*Paper Products Manufacturing Facility*—a facility that manufactures paper through the introduction of wood, rags, and other raw materials into chemical processes. This includes the production of finished paper products, such as towels, packages, cartons, boxes, and wraps. Businesses that manufacture products using paper produced by others, such as printers, publishers, engravers, and sign makers are not considered to be paper products manufacturers for the purposes of the sales tax exclusions.

*Wood Products Manufacturing Facility*—a facility that produces products from saw logs, parts of saw logs, or wood residue, and includes lumber mills, saw mills, manufacturers of plywood, and manufacturers of particle board. Businesses that fabricate products from woods manufactured by others, such as cabinet makers and millwork producers are not considered to be wood products manufacturers for the purposes of the sales tax exclusions.

B.1. The sales tax exclusions extend to natural gas, electric power, and energy consumed for both manufacturing and non-manufacturing activities within paper or wood products manufacturing facilities, such as lighting, heating, and cooling, provided that:

a. no revenue producing activity, other than paper or wood products manufacturing, is conducted within the facility, and

b. any administrative functions conducted within the facility, such as human resources, sales, or accounting, relate solely to the local manufacturing facility.

2. If revenue producing activities other than paper or wood products manufacturing are conducted within a facility, or if administrative functions conducted within a facility relate other than to the local facility's paper or wood products manufacturing operations, the consumption of electric power or energy and natural gas must be apportioned between the paper and wood products manufacturing and the other business activities. The sales or use tax on the other business activities must be paid on the tax bases or at the tax rates that are applicable to those other business activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(j), 301(13)(l), 302(T), 321(J), 331(R), and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:

#### Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our Legislative oversight committees.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, November 27, 2006. A public hearing will be held on Wednesday, November 29, 2006, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney  
Senior Policy Consultant

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Sales Tax Exclusions for Paper and Wood Products Manufacturing Facilities

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 48 of the 2005 First Extraordinary Legislative Session provides that during the period July 1, 2006, through December 31, 2008, the taxable base on sales of natural gas to paper and

wood products manufacturing facilities shall not exceed any amount in excess of \$6.20 per MMBtu and that no state sales tax will be due on sales of electric power or energy to paper and wood products manufacturing facilities. This proposed rule defines the terms "paper products manufacturing facility" and "wood products manufacturing facility," for purposes of eligibility for these tax reductions.

Implementation of this proposed rule will have minimal impact on the Department of Revenue's costs. Costs will be incurred to prepare news releases and information to be posted on the department's web site to inform taxpayers of the tax reductions and to print and process applications for the rate reductions from eligible taxpayers.

The proposed rule will have no costs or savings to local governmental units, since local sales and use taxes are not levied on sales of electricity or natural gas.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The Enrolled Fiscal Note on Act 48 of the 2005 First Extraordinary Session estimated State revenue losses based on tax reductions for paper and wood products manufacturing facilities. The Fiscal Note estimated that such losses would be the following: \$5.5 million in FY 2006-07, \$5 million in FY 2007-08, and \$2.4 million in FY 2008-09. These amounts represent likely maximum revenue losses to the state because natural gas prices are currently lower than forecast in the fall of 2005 when the original estimates were developed. Actual revenue losses will depend on natural gas prices through FY 2008-09 and may not exceed the original estimates in the Fiscal Note.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Paper and wood products manufacturers will financially benefit from the rule and associated Act in the amounts indicated in the preceding paragraph.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This proposed rule should provide a positive effect on competition and employment in the paper and wood products manufacturing industries.

Cynthia Bridges  
Secretary  
0610#038

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office