

NOTICE OF INTENT

Department of Revenue Policy Services Division

Ships and Ships' Supplies (LAC 61:I.4403)

Under the authority of R.S. 47:305.1 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 amend LAC 61:I.4403 relative to the exemption for ships and ships' supplies.

These proposed amendments are necessary due to changes made to R.S. 47:305.1 by Acts 40 and 41 of the 2002 Regular Legislative Session and legal jurisprudence since the Rule's adoption. These proposed amendments supersede any previously issued internal Policy and Procedure Memoranda or other oral or written instructions issued to taxpayers.

Title 61

REVENUE AND TAXATION

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

Chapter 44. Sales and Use Tax Exemptions

§4403. Ships and Ships' Supplies

A. To qualify for exemption under R.S. 47:305.1(A), materials, machinery, and equipment that become component parts of ships, vessels, or barges of 50 tons load displacement and over built in Louisiana must be added during construction. Materials, machinery and equipment that replace original components after construction are not exempt under R.S. 47:305.1(A).

B.1. For the purposes of the exemption provided in R.S. 47:305.1(B), vendors may assume that ships supplies and materials delivered to the dock will be loaded upon the vessel for use or consumption in the maintenance of the vessel.

2. The exemption provided in R.S. 47:305.1(B) for repair services performed upon ships and vessels operating exclusively in foreign or interstate coastwise commerce also applies to component parts removed from those ships, vessels, or barges and repaired elsewhere.

C. For the purposes of the exemption granted under R.S. 47:305.1, the following definitions apply.

*Commerce*Xthe transporting of goods or persons by ship, vessel, or barge for profit.

*Load Displacement*Xthe weight of the volume of water displaced by a ship, vessel, or barge when loaded to its maximum capacity.

Owner or *Operator*Xany person who has title to or possession of, or control over the operation of, any ship, vessel, or barge defined in R.S. 47:305.1.

*Ship, Vessel, or Barge*Xany craft used primarily for transporting persons or property by water, or any craft designed or altered to perform specialized marine-related services, such as dredging, fleetting, geological surveying, cargo transferring, and which possesses all of the following characteristics:

- a. performs its services in navigable waters;
- b. is capable of being moved by floatation from one location to another in navigable waters; and
- c. is registered as a vessel with the United States Coast Guard or is eligible for registration.

*Ships' Supplies and Materials*Xall tangible personal property loaded on and used or consumed in the maintenance or operation of a ship, vessel, or barge and its crew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by Department of Revenue, Policy Services Division, LR 29:

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, August 25, 2003. A public hearing will be held on Wednesday, August 27, 2003, at 1:30 p.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

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

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

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

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

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

Raymond E. Tangney
Senior Policy Consultant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ships and Ships' Supplies

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

There would be no implementation costs or savings to state or local authorities for this proposal.

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

There should be no impact on state or local sales tax revenues as a result of this proposed amendment, which implements the amendments to R.S. 47:305.1 enacted by Acts

2002, Nos. 40 and 41 and judicial interpretations of the statute. However, it was estimated that Acts 2002, Nos. 40 and 41, which amended the definition of "foreign or interstate coastwise commerce," resulted in a significant although indeterminable state and local sales and use tax revenue loss.

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

There should be no economic costs or benefits to builders of ships of 50 tons load displacement and over and vendors that sell to vessels engaged in foreign or interstate commerce. These amendments only reflect the changes that have been made to R.S. 47:305.1 by Acts 2002, Nos. 40 and 41 and court rulings involving the statute.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should have no effect on employment or competition between builders of vessels of 50 tons load displacement and vendors that sell to vessels operating in foreign or interstate commerce.

Cynthia Bridges
Secretary
0307#065

H. Gordon Monk
Staff Director
Legislative Fiscal Office