



# LATA Newsletter

SUMMER 2012 ISSUE 15

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*The objectives of the Association are to assist state and local tax administrators in the exchange of information and encourage uniformity in laws, regulations and administration, to disseminate information tending toward the more efficient operation of local tax offices, to encourage the practice of cooperation and the reciprocal exchange of information between all state and local tax administrators, to increase the efficiency of each state and local tax administrator, by encouraging cooperation and the exchange of information and to promote uniformity to the largest extent possible through uniform interpretation of statutes and local ordinances in regard to local sales and use taxes.*

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## Message from the Executive Director

As you know, the LATA Board of Directors named me to serve as your Executive Director, effective May1, 2012. First let me thank you for the opportunity and let me assure you that I am available to each and every one of you to assist you in meeting your goals and objectives, in addition to those of the organization.

One of my responsibilities is to publish a quarterly newsletter. Since this is the first newsletter for the year, this edition includes a Legislative update prepared by Barbara Davis, our Legislative Director and other information on rules and policy statements for first eight months of the year.

Other items of interest to all of us that I am monitoring are:

### The Marketplace Fairness Act and Marketplace Equity Act in Congress

These Acts would grant states the authority to require online and catalog retailers ("remote sellers"), no matter where they are located to collect sales tax at the time of a transaction and only **after** they have simplified their sales tax laws.

### Louisiana Revenue Study Committee

### LDR Resale Certificate

We will be discussing these items in more detail at the upcoming conference so I hope to see many of you there. In closing, please contact me at any time with questions or comments and I look forward to working with each of you.

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## Upcoming Events

LATA 3<sup>rd</sup> Qtr  
Conference

September 12-14  
Marksville, LA

LATA 46<sup>th</sup> Annual  
Conference

December 5-7  
Baton Rouge, LA

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Timothy D. Cefalu

## Legislative Update

### Barbara Davis, Legislative Director for LATA

The 2012 Session of the Louisiana Legislature was interesting as I know they all are! The biggest issue that we as local taxing authorities encountered centered on exempting prescription drugs. The proposed legislation ranged from one proposal to exempt certain prescription drugs through a proposal to exempt all prescription drugs. Any of the proposals would have had a significant negative fiscal impact on the revenues of the various local taxing authorities. Through the efforts of the LATA members and various other groups, such as the LMA, the Louisiana Sheriff's Association and the Police Jurors Association, as well as various other groups, all these bills were defeated. We continue to grapple with the issue of how to work with the pharmacies and the insurance companies and their representatives to insure that the proper taxes are being collected and remitted on sales of prescription drugs.

The most significant piece of sales tax legislation that passed clarified that services for resale are exempt from the tax provided that the retail sale of the service is taxable. Included in this legislation, Act 438, was a requirement for the local taxing authorities to accept a properly issued Louisiana state resale certificate under certain conditions. The state certificate must contain the parish for the primary business location and must also include account number assigned to the business by the parish tax collecting authority. If the transaction is an intra-parish transaction, the tax collector for the parish is not required to accept the state certificate but it may do so.

A number of other bills passed dealing with ad valorem taxes, etc., and a legislative digest of all legislation that passed is listed below.

Many thanks for the support of the Legislative Committee and its co-chairs, Bobby Craig and Mike Curtis, as well as all members of the LATA during this challenging session. Please contact me if you have any questions on legislation that was proposed, passed or defeated during the 2012 session.

## LEGISLATIVE DIGEST 2012 REGULAR SESSION OF THE LOUISIANA LEGISLATURE

### Sales Tax-State and Local

**Act 266 (HB 568)** Adds R.S. 47:305.71 and 337.9(D)(33). Exempts purchases by the "St. Bernard Project" organization. This organization is similar to Habitat for Humanity and rebuilds houses for persons in Orleans and Jefferson Parishes. This exemption applies to the state and local sales and use tax. Effective July 1, 2012.

**Act 438 (HB 1120)** Amends La. R. S. 47:301(10)(a)(ii) to provide that the resale of services is not taxable provided the retail sale of the service is subject to the sales tax in this state. This includes repairs services for resale. This legislation also requires the local taxing authorities to accept the state resale certificate if the parish location principal place of business and the local sales tax account number is shown on the certificate. This exemption certificate requirement does not apply to intra-parish sales transactions. Effective August 1, 2012.

**Act 787 (SB 475)** Adds R.S. 39:469. At this time this legislation applies only to Bayou Country Fest which is held in annually in Baton Rouge, LA. This rebate applies to all ticket and parking sales and will be administered by the East Baton Rouge Parish sales tax collector. Effective July 1, 2012.

## Sales Tax-State Only

**Act 800 (HB 754)** Adds R.S. 39:100.126 and R.S. 47:6301. Authorizes the secretary of the Dept. of Economic Development (DED) to enter into a contract with a procurement processing company which recruits purchasing companies to Louisiana. The contract shall provide for incentive rebate payments in exchange for the generation of new state tax revenue from new taxable sales to a purchasing company which is managed by the procurement processing company. Effective July 1, 2012.

## Ad Valorem

**Act 65 (HB 225)** Amends R.S. 47:1851(B). Removes overnight leisure passenger vessels from the definition of "barge line, towing, and other water transportation companies" for purposes of ad valorem tax assessment of public service properties. Effective August 1, 2012.

**Act 77 (HB 302)** Adds R.S. 47:2129.1. Authorizes tax collectors in Rapides Parish to accept quarterly payments of estimated ad valorem taxes and related statutory impositions subject to approval of the taxing authority levying the tax. Specifically provides that in Rapides Parish only, a collector shall have the discretionary authority to accept the payment of estimated ad valorem taxes and statutory impositions upon the approval of the taxing authority imposing the tax. Includes other provisions for the collection and accounting for such taxes. Effective May 11, 2012.

**Act 499 (HB 694)** Adds R.S. 47:4351-4355. Establishes a program to implement the ad valorem tax exemption provided by the proposed constitutional amendment contained in Act 871 (HB 674) for "targeted non-manufacturing businesses". The program shall be implemented and administered by the Department of Economic Development. Such an exemption contract shall be available only in a parish which has agreed to participate in the program. Participation by a parish is subject to the approval of the parish governing authority, all municipalities and school boards which levy an ad valorem tax, the law enforcement district and the assessor. This Act further provides that any one of the local entities which approve participation may also withdraw the participation of a parish by providing written notification to the secretary of DED of its intention to discontinue participation. This Act law defines "facility", "headquarters jobs", "shared service center jobs", and "new direct jobs" and makes further provisions for the oversight and administration of this Act and the proposed constitutional amendment. Effective for all calendar years commencing after the constitutional amendment proposed in Act 871 (HB 674 of this 2012) is adopted and becomes effective.

**Act 539 (SB 177)** Amends R.S. 47:1705(B)(2)(c)(i)(intro para), (ii), and (iii)(cc). Authorizes an extension of the deadline for publication of the notice in the official journal from July 15<sup>th</sup> to July 25<sup>th</sup> if the taxing authority submits the notice to the official journal by the date required for publication by July 15<sup>th</sup>, and the official journal fails to publish the notice by July 15<sup>th</sup>. Prior law required the notice by the political subdivision to be of a size not less than two inches by four inches. Act 539 changes the required size of the publication from not less than two inches by four inches to not less than two columns by four inches. Effective August 1, 2012.

**Act 554 (SB 397)** Amends R.S. 47:1991(A) to provide that when the correction of an assessment is related to an assessment for a closed business and the owner cannot be located by the assessor and the business is classified as inactive, the affidavit shall state that the correction of the assessment relates to a closed, inactive business and that the owner of the business cannot be located. Further exempts these corrections

from the requirement that the affidavit of the assessor be accompanied by the rendition of the taxpayer required in prior law in order for the Tax Commission to authorize and direct a correction to the assessment on the tax roll.

**Act 836 (SB 605)** Amends R.S. 47:2126, 2153(A) and (C), 2154, and 2156(B) and (C) relative to the authorization for the assessor to make separate assessments for undivided interests in each tax parcel. Act 836 clarifies that the tax collector may send more than one notice of sale and requires a tax collector, no later than the first Monday in March, to search the mortgage and conveyance records to identify the property's "tax sale parties" and that written notice by certified mail, return receipt requested, be sent to each "tax sale party" informing them that the taxes must be paid within twenty days or the tax sale title to the property will be sold according to law. Act 836 provides that the notice is deemed sufficient if in the form set forth in the Act and also provides that in the absence of actual notice of the sale or the demonstration of a reasonable effort to provide notice, where the name and address of the tax sale party were reasonably ascertainable or where the transfer was recorded after the tax collector completed his pre-sale tax sale party research, the tax collector is to cancel the sale of the property and refund the tax sale purchaser the tax sale purchase price. Act 836 requires that the collector send the transferee a tax notification, inclusive of tax sale costs accrued and requires that the tax sale be conducted on any weekday within the legal hours for judicial sales. This Act also requires that the notice specify the property upon which taxes are delinquent, the amount of taxes due, and the manner in which the property shall be redeemed. Effective August 13, 2012.

**Act 869 (HB 497)** Adds Const. Art. VII, §21(L) pending voter approval. The current constitutional provision authorizes various local governments to levy ad valorem taxes and specifies the property that is exempt from such taxes. The proposed constitutional amendment authorizes New Iberia to enter contracts providing for property tax exemptions for property annexed by the city after Jan. 1, 2013 and also provides that such contracts shall become effective only if approved by 2/3rds vote of the governing authority of New Iberia. The proposal also provides that a contract shall grant to the owner of the annexed property a tax exemption for up to five calendar years and may be renewed for an additional five years if renewal is approved by 2/3rds vote of the governing authority. The proposed constitutional amendment requires that all property exempted pursuant to a contract be listed on the assessment rolls, but no taxes shall be collected thereon during the period of exemption; however, the exemption shall in no way affect or impair the security of any bonds payable from the proceeds of a tax. The proposal also provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 6, 2012.

**Act 871 (HB 674)** Adds Const. Art. VII, §21(L) pending voter approval. This proposed constitutional amendment authorizes the granting of an exemption from ad valorem property tax for property owned or leased by, and used by, a "targeted non-manufacturing business" in the operation of its facility pursuant to a contract of exemption which contains such terms and conditions as provided by law. This proposed constitutional amendment provides that land underlying the facility and other property pertaining to the facility on which ad valorem taxes have previously been paid, inventories, consumables and property eligible for the manufacturing exemption in the present constitution shall not be exempt. Further, ad valorem taxes shall apply to the assessed valuation of the first \$10 million or 10% of fair market value of the business' property, whichever is greater. The proposed constitutional amendment defines "targeted non-manufacturing business" as a business which has at least 50% of its total annual sales from sites in the state to out-of-state customers or to in-state customers but the product or service is resold by the purchaser to an out-of-state customer for ultimate use, or to the federal government, or any combination thereof. Thus proposal authorizes the legislature to provide by law for the inclusion of sales by affiliates when appropriate in making this 50% determination. The proposed constitutional amendment authorizes the granting of exemption contracts only in parishes which have agreed to participate in the program. This proposal also provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 6, 2012.

**Act 875 (SB 337)** Article VII, Section 21(K)(1) currently exempts from ad valorem tax, property receiving the homestead exemption which is owned by the spouse of a deceased veteran with a service connected disability having a disability rating of 100% by the U.S. Dept. of Veterans Affairs. Act 875 proposes to require the spouse claiming the tax exemption to own and occupy the property receiving the tax exemption. The proposed constitutional amendment extends the exemption to the spouse of such deceased veteran if the veteran passed away prior to the enactment of the exemption. Effective January 1, 2013 if approved by voters. . Act 875 specifies submission of the amendment to the voters at the statewide election to be held on November 6, 2012.

**HCR 2** Urges and requests the La. Tax Commission to study and make recommendations relative to the practicality and feasibility of establishing a state-wide homestead exemption database.

## **Administration**

**Act 20 (HB 405)** Adds C.C.P. Art. 1922(C) to provide for a recording fee not to exceed \$25 for judgments or liens which do not contain the required social security number for purposes of affidavits of distinction. Effective July 1, 2012.

**Act 490 (HB 335)** Amends R.S. 33:9038.59(G) relative to the New Orleans City Park Taxing District and the use of state sales tax increments for tax increment financing, changes certain procedures for approval of the use of such state sales tax increments and of related agreements. Effective June 5, 2012.

**Act 708 (SB 564)** Adds R.S. 33:9038.66 to create the Grambling Legends Square Taxing District within Lincoln Parish. Authorizes the District to levy and collect a tax upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities only after a special election is held and the proposition received the favorable vote of a majority of the electors voting in the election. Act 708 makes other provisions as necessary for the administration and funding of the district. Effective June 13, 2012.

## **Tax Free Shopping**

**Act 435 (HB 1096)** Re-creates the Louisiana Tax Free Shopping Program and extends the sunset clause to July 1, 2017. Effective July 1, 2012.

## **Local Only Franchise Fee**

**Act 766 (SB 273)** Amends R.S. 33:4401; adds R.S. 33:4361(C) and R.S. 45:853 to exclude payments of a franchise fee or similar charge by an electric, gas, or water public utility to a political subdivision in excess of two percent of the annual gross receipts of the utility from adding the payment to the sales price and billing to customers in the political subdivision. Effective August 1, 2012.

## **Hotel Occupancy Tax**

**Act 390 (HB 412)** Amends R.S. 47:338.210(A)(1), (B), (C), and (D) to substitute the City of Bunkie in place of the current language, which provides that the governing authority of a municipality with a population between 4,150 and 4,250, subject to voter approval, to levy and collect a hotel occupancy tax. Act 390 specifies legislative intent to substitute Bunkie for municipalities in a certain population range and not to authorize an additional tax or require additional voter approval for a tax levied under existing law. Effective May 31, 2012.

**Act 673 (SB 600)** Amends R.S. 33:4574.1.1(Q)(1) and adds R.S. 33:4574.1.1(Q)(2)(g) and (3) to terminate the authorization that the Vermilion Parish Tourist Commission had to levy and collect an additional three percent tax on occupancy of hotel rooms, motel rooms, and overnight camping facilities. Act 673 provides that effective January 1, 2013, the tourist commission is authorized to levy and collect a tax upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the jurisdiction of the commission subject to approval by a majority of the voters residing in the parish voting in favor of the tax. The tax shall not exceed two percent of the rent or fee charged for such occupancy. Act 673 also allocates the tax collected. Effective June 7, 2012.

**Act 796 (HB 562)** Amends R.S. 33:9039.124(A)(1) and (4) to reduce the tax from 2 percent to 1 percent that the Abbeville Film and Visitors Commission District, through the board, is authorized to levy and collect upon the occupancy of hotel rooms, motel rooms, and overnight camping facilities within the district, subject to approval by a majority of the electors in the district on or after January 1, 2013.

## **Insurance Premium Tax**

**Act 774 (SB 391)** Exempts Medicaid Premiums from the Insurance Premium tax base. This bill also gives any local government that does not currently impose an Insurance Premium Tax the option to do so until August 15, 2012. Any local government not assessing this tax after August 15, 2012 is prohibited from collecting this tax in the future. Effective July 1, 2012.

## **Occupational License Tax**

**Act 827 (HB 1188)** Provides for the Scrap Metal Recycler Law. Effective June 14, 2012.

## **LDR News**

### **Governor announces Secretary of LDR**

Governor Bobby Jindal announced that Tim Barfield will serve as Secretary of the Louisiana Department of Revenue (LDR) beginning in October. The Governor said Barfield will lead the administration's efforts to reform Louisiana's tax system, which will be the Governor's top priority in the 2013 legislative session. Jane Smith will return to her role as Deputy Secretary of the Department of Revenue.

## **Louisiana Administrative Code - Adopted Rules**

### **Implementation of LAC 61:I.4372 Concerning Taxes on Constructing, Altering, or Repairing of Immovable Property [Click Here for Rule](#)**

An administrative rule, LAC 61:I.4372, has been adopted to create a presumption that sales of tangible personal property made to contractors for use in the construction, alteration, or repair of immovable property are sales to consumers or users, not sales for resale, and therefore the contractor is liable for sales and use taxes on its purchases or importations of such tangible personal property. The Department will prospectively apply the Rule upon its effective date of August 20, 2012.

The presumption applies to transactions occurring on or after the effective date of the Rule. Because Revenue Ruling No. 05-001, issued on March 1, 2005, places undue emphasis on the form or wording of the repair or alteration agreement, it is superseded by the Rule and repealed as of the effective date of the Rule.

**Repeal of LAC 61:I.4415 - Certain Self-Propelled Vehicles Removed from Inventory** [Click Here for Rule](#)

The Department of Revenue, Policy Services Division, repeals LAC 61:I.4415, which provides criteria for determining whether sales or use tax is due upon items of equipment described in R.S. 47:305.22. That statute was repealed by Act 2005, No. 413, so the Rule no longer serves any purpose.

## Louisiana Revenue Information Bulletins and Rulings

### Revenue Information Bulletins 2012

Number	Title	Date Issued
<a href="#">12-028</a>	Implementation of LAC 61:I.4372 Concerning Taxes on Constructing, Altering, or Repairing of Immovable Property	8/20/2012
<a href="#">12-027</a>	Resale Certificate Renewal Process	5/24/2012
<a href="#">12-019</a>	Annual State Sales Tax Holiday for Purchases of Hurricane-Preparedness Items Scheduled May 26 and 27, 2012	4/13/2012
<a href="#">12-014</a>	2012 Taxable Value for Refinery Gas	2/2/2012
<a href="#">12-007</a>	Exemption on Purchases Made by Qualifying Radiation Therapy Facility	1/4/2012
<a href="#">12-006</a>	Exemption for Parish Councils on Aging	1/4/2012
<a href="#">12-005</a>	Exemption for the Fore!Kids Foundation	1/4/2012
<a href="#">12-004</a>	Exclusion for Alternative Substances Used as Fuel by Manufacturers	1/4/2012
<a href="#">12-003</a>	Exclusion from State and Local Tax Collection for Event Providing Louisiana Heritage, Culture, Crafts, Art, Food, and Music	1/4/2012

### Revenue Rulings 2012

Number	Title	Date Issued
<a href="#">12-003</a>	Tax Collection by Veterinarians	5/24/2012
<a href="#">12-002</a>	Coating, Wrapping, Galvanizing of Tangible Personal Property	5/24/2012
<a href="#">12-001</a>	Taxability of Bulk Sales of Water Put in a Ship's Reservoir	5/17/2012

### Links to Related Sites

[Louisiana Department of Revenue and Taxation](#)

[Louisiana State Government](#)

[Louisiana Governor's Office](#)

[Louisiana State Legislature](#)

[Louisiana Municipal Association](#)

[Louisiana Sheriffs Association](#)

[Louisiana School Boards Association](#)

[Louisiana Police Jury Association](#)

[Louisiana Revenue and Taxation Revised Statutes](#)

[Louisiana Administrative Code - Title 61 Revenue and Taxations](#)

[Parish E-file](#)

[Sales Tax Online](#)

[Louisiana Supreme Court](#)

[Louisiana Court of Appeals and Others](#)

### Membership Invitation and Application

Member's Name \_\_\_\_\_

Department or Division \_\_\_\_\_

Representing \_\_\_\_\_

Title \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Extension \_\_\_\_\_ Fax \_\_\_\_\_

Email \_\_\_\_\_

General Membership Dues	Associate Member
Governmental        \$150	\$75
Business/Industry    \$125	\$75

General Membership consists of **one** representative from the tax collecting body or business/industry. All other members are Associate Members. To join, simply print this invitation/application and fill it out as complete as possible. Make your check payable to the Louisiana Association of Tax Administrators and submit the application and check to:

Louisiana Association of Tax Administrators  
c/o Thomas H. O'Neal, Secretary/Treasurer  
P. O. Box 398, Vidalia, Louisiana 71373



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