

TEN YEAR TAX EXEMPTION PROGRAM

Legal Citation - Article VII, Part II, Section 21 (F) of the Louisiana Constitution of 1974.

Intent of Law

To stimulate industrial expansion by offering to manufacturers certain tax benefits at the most critical stage of any business endeavor -- the beginning.

Description of the Law

The Industrial Tax Exemption Law (10-Year Tax Exemption Program) provides that any manufacturing establishment entering Louisiana or any manufacturing establishment expanding its existing Louisiana facility, is eligible to receive exemption from state, parish and local property taxes for a period up to 10 years (the exemption is for an initial term of no more than 5 calendar years and may be renewed for an additional 5 years). The exemption includes all buildings, machinery, and equipment that are used as part of the manufacturing process. Improvements to the industrial land are eligible to be tax exempt, but not the land itself. The exempt property must be located on the plant site at all times and must be used in conjunction with the manufacturing operation.

When property does go on the tax rolls in Louisiana, a fractional assessment procedure is used, that is, it is placed on the rolls at some percentage of fair market value or appraised value. The land of commercial and industrial enterprises is assessed at 10% of fair market value, while all other property, including inventory, is assessed at 15% of fair market value.

The terms "manufacturing establishment" and "addition", as used herein, mean a new plant or establishment, or an addition or additions to any existing plant or establishment, which engage in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.

All new or expanding manufacturing operations are eligible to be considered for 10-year property tax exemption based on the following criteria: (1) the operation must be manifestly manufacturing, (2) it must be determined by the Louisiana Board of Commerce and Industry to be in the best interest of the state to grant the exemption, and (3) it conforms to all rules of the Board.

The law is administered by the Louisiana Office of Business Development as part of the State's overall economic development program. While the Office of Business Development administers this law, it is the Louisiana Board of Commerce and Industry which actually approves or denies tax incentive applications. Therefore, this Board establishes the rules and regulations for applying for the 10-Year Program. The exemption can be granted only if the Board of Commerce and Industry and the Governor concur that such exemption is in the best interest of the state.

Its Effect

The net property tax savings amounts to approximately one percent (1%) per year of the value of the investment. For example, the tax exemption on a \$20 million facility would amount to approximately \$200 thousand a year, or approximately \$2 million over the ten-year life of the exemption.

Usage

The tax exemption has been the state's principal industrial inducement since 1936. Over 15,988 contracts have been written since the program's inception in 1937, and, over 281,230 new permanent jobs have resulted from the investments in these plants.

Figures compiled by the Louisiana Department of Commerce (now the Louisiana Department of Economic Development) on the Ten Year Tax Exemption Program show for a ten year period (1985 - 1995) that 50,913 new permanent jobs were created from the \$21.1 billion invested in 6,051 new and expanded industries in Louisiana.

The first industrial tax exemption law in Louisiana was passed by Act 19 of 1936, but was allowed to expire on December 8, 1941, as the nation entered World War II. The industrial tax exemption was reinstated through Act 401, a constitutional amendment approved by the Regular Session of 1946, and ratified by the electors of the State of Louisiana on November 5, 1946, and was made part of the new state constitution in 1974.

Title 13
ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 5. Industrial Ad Valorem Tax Exemption Program

501. Reserved

503. Rule 2, Time Limits for Filing of Advance Notifications and Applications

A. An advance notification of intent to apply for tax exemption shall be filed with the Office of Commerce and Industry on the prescribed form prior to the beginning of construction or installation of facilities. The Board may, in its discretion, extend the time for filing, for good cause shown by the applicant. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. An advance notification fee of one hundred dollars (\$100) shall be submitted with the form. This paragraph applies to all applications other than those covered in '505, Miscellaneous Capital Expenditures.

B. Application for tax exemption must be filed with the Office of Commerce and Industry on the forms prescribed not later than three (3) months after the beginning of operations. The deadline for filing the application may be extended pursuant to '523.

C. An application fee shall be submitted with the application based on the amount equal to 0.2% (.002) of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than two hundred dollars (\$200) and in no case shall a fee exceed five thousand dollars (\$5,000) per project. (Note attached Effective Milleage Rates sheet to calculate.)

D. The Office of Commerce and Industry reserves the right to return the advance notification or application if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications and applications which have been accepted for eligible projects, shall not be refundable.

E. In order to include an application for the next scheduled meeting of the Board of Commerce and Industry, applications must be received a minimum of one (1) month prior to the next scheduled Screening Committee meeting date. The Authorized Board Representative, at his discretion, may accept certain applications beyond this date.

F. If an application is submitted after the required due date established by paragraph B of this section, the term of the initial contract of exemption may be reduced by one year for each year or portion thereof, that the application is filed late. The Board may impose any other penalty for late submission that it deems appropriate.

G. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the Board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

505. Rule 3, Miscellaneous Capital Additions

Tax exemption applications for miscellaneous capital additions totaling five million dollars (\$5,000,000) or less; or, accumulated capital additions totaling five million dollars (\$5,000,000) or less may be filed. Any dollar amount above the five million dollar limit per application shall automatically be restricted from the total. This type application should be filed using the following guidelines:

A. Not later than March 31 of each year, with the exception of Orleans Parish (see Paragraph D of this section), applications for tax exemption shall be filed on the prescribed form with the Office of Commerce and Industry, listing the nature, the date and the amount of miscellaneous capital additions completed during the preceding calendar year, and deducting therefrom such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

B. An application fee shall be submitted with the application based on the amount equal to 0.2% (.002) of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than two hundred dollars (\$200) and in no case shall a fee exceed five thousand dollars (\$5,000) per project. (Note attached Effective Milleage Rates sheet to calculate.)

C. The Office of Commerce and Industry reserves the right to return the application or the affidavit of final cost to the applicant if the fee submitted is incorrect or the form is filed incomplete or with incorrect information. The document may be resubmitted with the correct fee. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for applications or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

D. Orleans Parish applications for tax exemption on miscellaneous capital additions should be filed not later than October 31 and should cover items completed since August 1 of the preceding year, and deducting from it such replacements made, if any, at their original cost. Such amounts shall be clearly identifiable on the records of the manufacturer.

E. The board may restrict the years of eligible exemption, on the initial contract, if applicant submits the application after the required due date established by Paragraphs A and D) of this section, which is relative to said location of new manufacturing establishment or addition. The term of the contract may be reduced by one (1) year for each calendar month, or portion thereof, that the application is filed late. The board may impose any other penalty for late submission that it deems appropriate.

F. A miscellaneous capital addition is an accumulation, over a twelve (12) month period, of small capital outlay purchases totaling a maximum of five million dollars (\$5,000,000). Normally, the accumulation should be within a taxing year.

G. Contractee's eligibility for exemption and the property exempted for the initial contract period will be reviewed by the Board based upon the facts and circumstances existing at the time the application is considered. The property exempted for the initial contract period may be increased or decreased based upon review of the application.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended and promulgated, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

507. Rule 4, Manufacturing Establishment Clarified

A. The terms "manufacturing establishment" and "addition", as used herein, mean a new plant or establishment, or an addition or additions to any existing plant or establishment, which engage in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.

B. The Board of Commerce and Industry shall consider for tax exemption, buildings and facilities used in the operation of new manufacturing establishments located within the State of Louisiana (subject to the limitations stated in '517, Rule 9), and additions for existing manufacturing establishments within the State of Louisiana. Exemptions are granted to the actual owners of buildings which house a manufacturing operation, and/or facilities which are operated specifically in the manufacturing of a product. The Board recognizes two (2) categories of ownership:

1. Owners who engage in manufacturing at said facilities, and,
2. Owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:
 - a. Buildings to house a manufacturing establishment, and/or,
 - b. Facilities which consist of manufacturing equipment operated specifically in the manufacturing process.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Subsection (A) was originally adopted by the State Board of Commerce and Industry, on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

509. Rule 5, Office Furniture and Fixtures

Office furniture and fixtures are eligible for tax exemption only when they are an integral part of the manufacturing operation and permanently located at the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and

511. Rule 6, Portable Equipment

Portable equipment is subject to exemption if it is **not** removed from the exempted property and if such equipment is necessary to the continued maintenance or operation of the manufacturing process. Such property, therefore, is not to be rented, leased or used outside facility boundaries.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

513. Rule 7, Relocations

A. A manufacturing establishment moved from one location in the state to another place within the state, shall be eligible for the unexpired consecutive years of the tax exemption contract granted at the original location.

B. Capital additions for remodeling an existing manufacturing facility may be exempted. If replacements are made, only the capital expenditures in excess of original cost shall be eligible for tax exemption.

C. Exemption may be granted on the cost of rebuilding partially or completely damaged facility, but only on the amount in excess of the original cost.

D. Original costs, deducted from replacements made or rebuilding, shall be clearly identifiable on the records of the manufacturer.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended by and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

515. Rule 8, Used Equipment

Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

517. Rule 9, Assessed Property

A. The Board of Commerce and Industry shall not consider for tax exemption any manufacturing establishment, or addition thereto, once such establishment or addition has been in operation for a period of six months unless the Assessor of the parish in which the establishment or addition is located, certifies in writing, that said establishment or addition is not on the taxable rolls. If the establishment or addition is on the taxable rolls the Board shall consider granting tax exemption if the Assessor and the Louisiana Tax Commission both agree, in writing, to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

B. Under no circumstances shall the Board consider for tax exemption any buildings, equipment and/or additions listed on an application submitted by a manufacturing establishment once ad valorem property taxes have been paid on the buildings and/or equipment listed on said application. Items listed on said application, where ad valorem property taxes have been paid, shall be considered as ineligible items and shall be restricted from the amount applied for.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

519. Rule 10, Land

The land on which a manufacturing establishment is located is not eligible for tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

521. Rule 11, Inventories

Inventories of raw materials used in the course of manufacturing and inventories of finished products are not eligible for tax exemption. However, materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing facility. Some examples of these are: ammonia in a freezing plant, solvent in an extraction plant and catalyst in a manufacturing process.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

523. Rule 12, Extension of Time

The Authorized Board Representative may, upon receipt of a written request, prior to the document due date, grant an extension of time for the submission of applications ('503, Rule 2 only), project completion reports, or affidavits of final cost for a period not to exceed six (6) months.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

525. Rule 13, Effective Date of Contract

A. The owner of a new manufacturing establishment or addition shall carefully document the beginning date of effective operation, and also document the date that construction is essentially complete. The owner must file that information on the Project Completion Report form with the Office of Commerce and Industry not later than thirty (30) days after receipt. The Authorized Board Representative shall indicate, with a return copy of that report, the effective date of the tax exemption contract, which shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever was sooner.

B. The assessment date for Orleans Parish is August 1. The effective date of contracts for a new manufacturing establishment or addition located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

527. Rule 14, Affidavit of Final Cost

Within six (6) months after construction has been completed, and/or receipt of the fully executed contract, whichever is later, the owner of a manufacturing establishment or addition shall file on the prescribed form an Affidavit of Final Cost showing complete cost of the exempted project. A fee of one hundred dollars (\$100) shall be filed with the Affidavit of Final Cost for an on site inspection that shall be conducted by a representative of the Office of Commerce and Industry. Upon request by the Office of Commerce and Industry, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

529. Rule 15, Renewal of Tax Exemption Contract

A. If a renewal of the exemption is desired, a renewal application and a renewal data form must be filed on the prescribed forms with the Office of Commerce and Industry not more than six (6) months prior to, and not later than, the expiration of the initial contract. A fee of fifty dollars (\$50) shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the Board of Commerce and Industry for an additional period up to but not exceeding five (5) years.

B. Contractee's eligibility for a renewal contract and the property exempted for the renewal period will be reviewed by the Board using the same criteria that was used for the initial contract and based upon the facts and circumstances existing at the time the renewal application is considered. The property exempted for the renewal period may be decreased based upon review of the renewal application. The term of the renewal contract may be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate. If a renewal application is not received prior to the date of the last Board meeting of the renewal year, the contract will automatically expire without an option to renew unless an error is made by the Office of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

531. Rule 16, Violation of Rules or Documents

On the Board's initiative, or whenever written complaint on an alleged violation of terms of tax exemption rules or documents is received, the Assistant Secretary for the Office of Commerce and Industry may cause to be made a full investigation on behalf of the Board and he shall have full authority for such investigation including, but not exclusively, authority to call for reports or pertinent records or other information from the contractees and complainants. Results of the investigation will be presented to the Board.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry on December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

533. Rule 17, Reporting Requirements for Changes in Operations

A. The Office of Commerce and Industry is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. The Board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any changes constitutes a breach of contract and, with approval by the

Board, shall result in restriction or cancellation of same.

B. The manufacturing establishment shall file annually with the assessor of the parish in which the manufacturing plant is located, a complete taxpayer's report on forms furnished by that assessor in order that the exempted property may be separately listed on the assessment rolls.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

535. Sale or Transfer of Exempted Manufacturing Establishment

In the event a Contractee should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within six (6) months of the date of such act of sale, apply to the Board for a transfer of the contract. The Board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the Contractee. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994).

**CONTACT: LORI WEBER, PROGRAM MANAGER
BUSINESS INCENTIVES
OFFICE OF BUSINESS DEVELOPMENT
P. O. BOX 94185
BATON ROUGE, LA 70804-9185**

TELEPHONE 225/342-6442

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