

LAC 61 I. §4302. Pollution Control Devices and Systems Excluded from the Definition of "Sale at Retail"

A. This Section describes the conditions under which certain sale or lease transactions involving tangible personal property used for pollution control purposes may be excluded from the definition of *sale at retail* for purposes of the 3 percent tax levied by this Chapter and the Louisiana Tourism Promotion District. It contains the qualifications which must be met by the property under consideration, the requirements which are imposed upon the applicant for the tax relief granted under this Act, and the procedures to be followed in applying for the relief.

B. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein.

Act or This Act—Act 1019 of the 1991 Regular Session of the Louisiana Legislature.

Industrial Application—the use, construction, or installation of a pollution control device or system by a business which is primarily engaged in the exploration for or mining of minerals, the manufacture or processing of raw materials into tangible personal property for resale, or the processing, treatment, disposition, control or containment, of polluting materials produced by another business.

Pollution—the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment. Pollution includes solid waste, hazardous waste, sludge, chemical waste, radiological wastes, noise, and any other pollutants resulting from industrial emissions, discharges, or releases into air, water, or land.

Pollution Control Device or System—any one or more pieces of tangible personal property which is intended and installed 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 and which has been approved by the Department of Environmental Quality and the Department of Revenue and Taxation for the tax relief granted by this Act.

C. Qualifications. To qualify for the tax relief provided under this Act, a pollution control device or system must comply with the following requirements.

1. It must demonstrate to the Department of Environmental Quality its efficacy to a particular process or application. The equipment must be approved by both the Department of Environmental Quality and the Department of Revenue and Taxation in order to be excluded from the definition of *sale at retail* for state sales and use tax purposes.

2. It (or the applicant) must demonstrate either:

- a. 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

- b. that installation is necessary to comply with federal or state environmental laws or regulations.

3. It must be intended for use in an industrial application. Use in residential, commercial, recreational, or other applications do not qualify.

D. Restrictions. This exclusion and the tax relief provided under this Act does not apply to:

1. modifications to processes carried out primarily for reasons other than the reduction of pollution;

2. installation or replacement of existing process units carried out primarily for reasons other than the reduction of pollution;

3. vehicles used to assist in operations.

E. Application and Documentation

1. Applicants seeking relief under this Act must submit an application to the Department of Revenue and Taxation for a certification of the pollution control device or system.

2. The respective departments may require the applicant to provide cost estimates, engineering drawings, equipment specification sheets, and any other documentation necessary to establish the identity

and value of the property qualifying for the exclusion. The documentation must be sufficient to enable the Department of Environmental Quality to establish the efficacy of the pollution control device or system, and to allow the Department of Revenue and Taxation to ascertain the allowable tax relief.

3. After receiving certification from the Department of Environmental Quality, a certificate of tax exclusion and/or refund of taxes paid on approved pollution control equipment will be issued by the Department of Revenue and Taxation. Applicants must assemble and consolidate all invoices on purchases made by themselves and their subcontractors. Refunds will not be issued to subcontractors.

a. Owners and/or operators of qualifying pollution control devices or systems may apply for certification and refund of taxes paid on or after September 6, 1991, and prior to the date of certification.

b. In order for a pollution control device or system to qualify as tax free at the time of purchase, applicants must have received a certification of approval from the Department of Environmental Quality and the Department of Revenue and Taxation prior to the purchase or lease of the equipment. The applicant, or contractors who are duly authorized to act as an agent of the applicant, may present an approved certification in lieu of the tax at the time of purchase.

c. If the application for the tax exemption on the pollution control device or system cannot be processed and approved before purchases are made or property is imported into the state for the project, the state sales or use tax shall be paid at the time of purchase or importation. Tax refunds will be issued upon approval of the project and the filing of proper claims. Applicants filing for refunds will have purchased and installed, or intend to install, the pollution control device or system.

4. The owner and/or operator must report the final cost of the pollution control devices or systems to the Department of Revenue and Taxation. Audits and inspections may be performed by the respective departments to ascertain the efficacy of the equipment. The tax refund will be forfeited if the pollution control device or system does not meet the requirements of this Act.

5. Approval of the equipment for a sales tax refund does not relieve the applicant from obtaining any other permits otherwise required for the pollution control device or system, including permits to install or construct prior to start of construction.

6. Each application for tax relief must be signed by an officer, principal, or other person authorized to act in the behalf of the applicant, and must be accompanied by a certification affidavit executed by the owner and/or operator and a certification affidavit executed by a professional engineer. Both certification affidavits will be prepared on the application form supplied by the Department of Revenue and Taxation.

F. Confidentiality. Applications and all documentation and cost information which are submitted to the Department of Revenue and Taxation under this Act are considered confidential taxpayer information under the provisions of R.S. 47:1508. Information which pertains to pollution control devices or systems costs will be maintained only at the office of the Department of Revenue and Taxation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301(10)(l).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Division, LR 18:1414 (December 1992).