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# NOTICE OF INTENT

## Department of Economic Development
## Office of Business Development

Industrial Ad Valorem Tax Exemption Program (LAC 13:I.Chapter 5)

These rules are being published in the Louisiana Register as required by LA R.S. 47:4351, et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby proposes to enact Section 501 and 502 and to amend and reenact Sections 503 – Section 537 for the administration of the Industrial Ad Valorem Tax Exemption Program in LAC 13:I.Chapter 5 to implement programmatic changes in alignment with Executive Orders 16-26 and 16-73.

## Title 13
## ECONOMIC DEVELOPMENT
## Part I. Financial Incentive Programs
## Chapter 5. Industrial Ad Valorem Tax Exemption Program

§ 501 Statement of Purpose

**A.** New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the Industrial Tax Exemption Property Tax Exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the Industrial Tax Exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the Board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of Prior Rules. Just as the Board is promoting job growth and economic development and extending fairness to communities, the Board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the Industrial Property Tax Exemption and the renewal of the exemption and projects found to be pending as defined by Executive Orders JBE 16-26 and JBE 16-73 are to be treated fairly under the rules that were in place at the time of the Contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment. Therefore, only those applications with an advance notification form filed after June 24, 2016, are subject to the 2017 rules changes.

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C. Going Forward.

1. Louisiana values its manufacturers and their contributions to its economy. The Board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

§502 Definitions

*Addition to a manufacturing establishment*—
1. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

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2. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or
3. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness.
4. Maintenance capital, environmentally required capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment.
5. Expenses associated with the rehabilitation or restoration of an establishment as provided for in Section 511 shall be included as an addition to a manufacturing establishment

*Beginning of Construction*—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins

*Board*—Board of Commerce and Industry

*Capital Expenditure*—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including the purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business

*Environmentally Required Capital Upgrades*—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty

*Establishment* -- an economic unit at a single physical location

*Integral*—required to make whole the product being produced

*Job*—positions of employment that are:

1. New (not previously existing in the state) or retained;
2. Permanent (without specific term);
3. Full-time (working 30 or more hours per week);
4. Employed directly, by an affiliate or through contract labor;
5. Based at the manufacturing establishment;
6. Filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and
7. Any others terms of employment as negotiated in the Exhibit A or Exhibit B.

*LED*—Louisiana Economic Development

*Local Governmental Entity*—parish governing authority, school board, Sheriff, and any municipality in which the manufacturing establishment is or will be located

*Maintenance Capital*—costs incurred to conserve as nearly as possible the original condition

*Manufacture*r—a person or business who engages in manufacturing at a manufacturing establishment

*Manufacturing*-- working raw materials by means of mass or custom production, including fabrication, applying manual labor or ~~or custom fabrication and~~ machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be "suitable for use" as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

*Obsolescence*—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

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*Qualified Disaster*—

1. A disaster which results from:
    a. An act of terror directed against the United States of any of its allies; or
    b. Any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises
2. Any disaster which, with respect to the area in which the property is located, resulted in a subsequent determination by the President of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
3. A disaster which is determined by an applicable federal, state, or local authority (as determined by the Secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or
4. Any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable

*Rehabilitation*—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility

*Restoration*—repairs to bring a building or structure to at least its original form or an improved condition

*Secretary*—Secretary of Louisiana Economic Development

***Site***—One or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

### §503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the LED Office of Business Development (OBD) on the prescribed form prior to the beginning of construction or installation of facilities on all projects for tax exemption except as provided in Section 505(A) and (B) of these rules. An advance notification fee of $250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with OBD on the prescribed form:

1. either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;

2. the deadline for filing the application may be extended pursuant to §523;

3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with OBD on the prescribed form by December 31, until the Project Completion Report and Affidavit of Final Cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract.

D. In order to receive the Board's approval, applications with advance notifications filed after June 24, 2016, shall contain both of the following:

1. An Exhibit "A" consisting of a fully executed cooperative endeavor agreement between the state, Louisiana Economic Development and the applicant specifying the terms and conditions of the granting of the exemption contract.

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a. The terms and conditions of the Exhibit "A" shall include the following:

(i) either number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;

(ii) the term of the exemption contract which shall be for up to, but no more than five (5) years and may provide for an ad valorem exemption of up to 100% and terms for renewal may be included provided that the renewal of the contract shall be for a period up to, but no more than three (3) years and may provide for an ad valorem tax exemption of up to, but no more than 80%;

(iii) the percentage of property eligible for the exemption;

(iv) any penalty provisions for failure to create the requisite number of jobs or payroll at the project site, including but not limited to, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

(v) a statement of Return on Investment (ROI) as determined by the Secretary.

2. An Exhibit "B" consisting of resolutions adopted by the parish governing authority (speaking on behalf of the parish and all parish bodies who receive a millage), the school board, ~~the Sheriff,~~ and any municipality (speaking on behalf of the municipality and all municipal bodies who receive a millage~~-~~) and a letter from the Sheriff approving the project in which the manufacturing establishment is or will be located signifying whether each of these authorities is in favor of the project.

a. Exhibit "B" shall include provisions addressing the following:

(i) The number of jobs and payroll to be created at the project site required by the local governmental entity for approval of the exemption;

(ii) The term of the exemption contract approved by the local governmental entity; and

(iii) the percentage of property eligible for the exemption approved by the local governmental entity.

~~c.~~ b. Failure of the parish governing authority, the school board, or the municipality to issue a resolution or failure of the Sheriff to issue a letter within 120 days of a business' request for such resolution shall result in an exemption equal to the mathematical average of the term and percentage exemption granted by the other local governing bodies who have issued a resolution or letter.

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c. LED will provide guidance to local governmental entities as to suggested alternatives as it relates parameters for job creation, payroll, percentage of exemption and length of contract.

3. The Board shall consider the information collected and the provisions of Exhibits "A" and "B" in determining whether to approve the contract for exemption and the renewal thereof.

4. If the terms of Exhibit "A" and Exhibit "B" as it relates to the term of the exemption, and the percentage of property tax eligible for exemption are not the same, the provisions of Exhibit "B" shall prevail.

E. 1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the Board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following situations may be considered:

a. to prevent relocation to another state or country;

b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;

c. to employ best practice or innovative, state of the art technology for the establishment's industry;

d. to increase maximum capacity or efficiency; or

e. to provide the state a competitive advantage as determined by the Secretary or by the Board.

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F. An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than $500 and in no case shall a fee exceed $15,000 per project.

G. OBD reserves the right to return the advance notification, application, or Affidavit of Final Cost to the applicant if the form is incomplete or incorrect. or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

H. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

I. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

J. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the Board of Commerce and Industry. The property exempted may be increased or decreased based upon review of the application, Project Completion Report or Affidavit of Final Cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to review and approval of the Project Completion Report and Affidavit of Final Cost. If the applicant fails to timely file the Project Completion Report or Affidavit of Final Cost the board may, after notice to the applicant, terminate the contract.

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 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), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015).

**§505. Miscellaneous Capital Additions**

A. The renewal of Miscellaneous Capital Addition contracts approved in accordance with JBE 16-26 and 16-73 shall be treated in accordance with prior rules.

B. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the Board.

C~~B~~. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

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 Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015).

**§507. Eligible Property – Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials**

A.

The board 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 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two 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;

b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process.

3. Owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized 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 establishment. Some examples of these are:

1. ammonia in a freezing plant;

2. solvent in an extraction plant; and

3. catalyst in a manufacturing process.

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing . An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under Section 531.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Pan 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 Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011).

**§509. Integral Parts of the Manufacturing Operation**

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption. .

B. The following activities are considered to be integral to the manufacturing process:

1. Quality Control/Quality Assurance

2. Packaging

3. Transportation of goods on the site during the manufacturing process

4. Other on site essential activities as approved by the Secretary and the Board.

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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 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011).

**§511. Rehabilitation and Restoration of Property**

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed $50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

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 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011).

**§513. 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, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the parish governing authority, the school board, the Sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.

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 Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011).

**§515. Used Equipment**

A. 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 VD, Pan 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 20:886 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011).

**§517. Ineligible Property**

A. Maintenance capital, environmentally required capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.

B. If the establishment or addition is on the taxable rolls and property taxes have not been paid, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

C. The board shall not consider for tax exemption any property listed on an application on which ad valorem property taxes have been paid.

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), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011).

**§519. Land**

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

AUTHORITY NOTE: Promulgated in accordance with Article VU, 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 Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011).

**§521. Inventories**

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;
2. inventories of work-in-progress or finished products;
3. any other consumable items.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.
HISTORICAL NOTE: Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011).

### §523. Extension of Time

A. OBD may grant an extension of up to six months for the filing of an application (§503.B.), a Project Completion Report (§525), or an Affidavit of Final Cost (§527), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause.

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 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011).

### §525. Effective Date of Contract; Project Completion Report

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with OBD on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of $250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §523.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property 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, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015).

### §527. Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, 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 $250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by OBD, 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. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

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 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015).

### §529. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with OBD on the prescribed form not more than six months before, and not later than ,the expiration of the initial contract. A fee of $250 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 for an additional period of up to but not exceeding five years.

B. Eligibility of the applicant and the property for renewal of the exemption 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 increased or decreased based upon review of the renewal application. The term of the renewal contract shall 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.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Pan 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 Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015).

### §531. Violation of Rules or Documents; Final Inspection

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct a final inspection. During the final inspection OBD may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to the final inspection. If a final inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VU, 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 Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011).

### §533. Reporting Requirements for Changes in Operations

A. OBD 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. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. 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 material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

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 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015).

### §535. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of $250 shall be filed with a request to transfer 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 contracting applicant. 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 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015).

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**§537. Reporting to the Parish Assessor**

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Louisiana Tax Commission, 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: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011).

**Provider Impact Statement**

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

**Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

**Poverty Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on December 28, 2016.

**Public Hearing**

A public hearing to receive comments on the Notice of Intent will be held on December 29, 2016 at 10:00 a.m. at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
UnderSecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**
RULE TITLE: Industrial Ad Valorem Tax Exemption Program

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

**There will be no significant costs or savings to state or local governmental units as a result of the proposed rule changes. The Department of Economic Development (DED) intends to administer the program with existing resources and personnel. However, the DED, as well as the LA Department of Revenue may incur marginal administrative costs associated with implementing the proposed rule changes**

**Executive orders JBE 16-26 and 16-73 made significant changes to the Industrial Tax Exemption Program (ITEP) and the Board of Commerce and Industry is codifying those changes in the rules for the program. These changes include requiring all projects to file an advance notification, eliminating the miscellaneous capital addition process, and eliminating maintenance, repairs and environmentally required upgrades from eligibility for the tax exemption.**

**Additionally, the rule changes require that companies who want to participate in the program seek and receive approval from both local and state governments. Firms wishing to participate must file two exhibits, Exhibit "A" and Exhibit "B," which have separate requirements regarding state and local requirements to be eligible for the exemption, respectively. If the terms of Exhibits "A" and "B" differ on the term of the exemption and/for the percentage of property tax eligible for the exemption, the provisions of Exhibit "B" will take precedent.**

**Furthermore, the term of the renewal contracts is now limited to 3 years and the percentage of exemption for renewed contracts is now 80%. This is a change from the previous practice of**

**renewing contracts for up to 5 years at a 100% exemption percentage. However, advances filed and miscellaneous capital additions approved prior to June 24, 2016 are grandfathered in to the past practice of being renewed for up to 5 years at a 100% exemption percentage. Lastly, the rules establish a definitions section to further clarify and explain portions of the rules.**

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

**The proposed rule changes may increase revenues for local governments by an indeterminable amount for a number of reasons. First, some projects that previously filed miscellaneous capital additions, the process for which is being eliminated by the proposed rule changes, could previously file advances. Second, the DED has not previously captured how many ITEP program contracts are for maintenance, repairs, etc., that are no longer eligible for the exemption. As a result the corresponding aggregate value of the aforementioned contract types cannot be determined. Lastly, the DED does not know how many years or percentage of exemption local governing entities will grant, as local governing authorities have the ability to set contract terms and exemption percentages and supersede state terms and percentages under the authority of the proposed rule changes.**

**The proposed rule changes will not affect revenue collections for state governmental units.**

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

**The incomes of companies that are no longer eligible to participate in the program will decrease in the same amount as any increases in local revenues, as fewer exemptions will likely be granted due to the Executive Orders and the rule changes. The proposed rule changes narrow the scope of ITEP, eliminating the miscellaneous capital additions process and the eligibility of maintenance, repairs, and environmentally required upgrades from eligibility. Additionally, firms must file advance notices with the state if they seek approval to participate in ITEP. Furthermore, contract renewals for firms participating in the program will only have terms of three years at an exemption percentage of 80%, a reduction from the previous five-year terms at a 100% exemption percentage, though there is an exception for firms who filed advances or had miscellaneous capital additions approved prior to June 24, 2016. As a result of the narrowed scope of ITEP, the economic benefits available to firms who wish to participate in the program are similarly reduced.**

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

**Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be lessened in other competing businesses that do not participate in the program.**

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