State of Louisiana
Parish of St. Mary

Sales Tax Ordinance

Adopted by
THE ST. MARY PARISH
POLICE JURY
Effective February 1, 1966
SALES TAX ORDINANCE

Sec.

I Definitions.
II Imposition of tax.
III Collection.
   A. Collection from dealer.
   B. Collection of tax on vehicles.
IV Treatment of tax by dealer.
V Exclusions and exemptions from tax.
V-1 Exclusions and exemptions; ships and ships' supplies.
V-2 Exclusions and exemptions; seeds.
V-3 Sales of tubular goods—offshore use.
V-4 Exclusions and exemptions; Little Theater tickets.
V-5 Exclusions and exemptions; tickets to musical performances of non-profit musical organizations.
V-6 Exclusions and exemptions; pesticides used for agricultural purposes.
V-7 Exclusions and exemptions; motion picture film rental.
V-8 Exclusions and exemptions; property purchased for use outside the parish.
VI Returns and payment of tax; Penalty for absorption of tax.
VI-1 Collection from interstate and foreign transportation dealers.
VII Director's authority to determine the tax in certain cases.
VIII Termination or transfer of business.
IX Dealers required to keep records.
X Wholesalers and jobbers required to keep records.
XI Director's authority to examine records of transportation companies.
XII Failure to pay tax on imported tangible personal property; grounds for attachment.
The following resolution was offered by Mr. George A. Boudreaux and seconded by Mr. Berlin J. Hebert:

RESOLUTION

A resolution levying within the Parish of St. Mary, State of Louisiana, a tax of one (1%) per cent upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and upon the sale of services, as presently defined in R. S. 47:301 to 47:317, inclusive, providing for the assessment, collection, payment, dedication and distribution of such tax and the purposes for which the proceeds of said tax may be expended.

WHEREAS, Act No. 27 of the Extra Session of the Legislature of Louisiana for the year 1956, as amended, authorizes the governing body of the Parish of St. Mary, Louisiana, to levy and collect within said Parish a tax of one (1%) per cent upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and upon the sale of services, as presently defined in R. S. 47:301 to 47:317, inclusive, with the avails or proceeds of the tax to be allocated according to a formula established by the governing body of said Parish, and authorizes the recipients to fund into bonds the avails or proceeds of said tax, all provided that the qualified electors of said Parish shall have first approved the levy and collection of said tax and the funding thereof into bonds; and

WHEREAS, pursuant to the provisions of the aforesaid Act No. 27 of the Extra Session of the Legislature of Louisiana for the year 1956, as amended, a special election was held in said Parish on December 7th, 1965, at which election the following proposition was submitted and duly approved by a majority of the qualified electors voting in said election, to-wit:

PROPOSITION

"Shall the Parish of St. Mary, State of Louisiana, under the provisions of Act No. 27 of the Extra Session of the Legislature of Louisiana for the year 1956, as amended, be authorized to levy and collect a tax of one per cent (1%) upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and upon the sale of services, as presently defined in R. S. 47:301 to 47:317, inclusive, with the avails or proceeds of said tax (after paying reasonable and necessary costs and expenses of collecting and administering the tax) being allocated and distributed monthly between the City of Morgan City, the Towns of Berwick, Patterson, Franklin and Baldwin, St. Mary Parish, Louisiana, the School Board of the Parish of St. Mary, Louisiana, and the Police Jury of the Parish of St. Mary, Louisiana, as follows, to-wit:

Of the first One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars of net taxes collected each calendar
year, 22.1502% shall be payable to the City of Morgan City, 14.583% shall be payable to the Town of Franklin, 6.3473% shall be payable to the Town of Berwick, 4.7818% shall be payable to the Town of Patterson and 2.5324% shall be payable to the Town of Baldwin. 50% of net taxes collected each calendar year, in excess of said sum of One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars, shall be distributed among the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin, proportionately, according to their respective populations as reflected by the most recent Federal Census as of the time of collection of said sums in excess of One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars. 20% of net taxes collected shall be payable to the School Board of the Parish of St. Mary and 20% of net taxes collected shall be payable to the Police Jury of the Parish of St. Mary;

Until the State of Louisiana provides funds sufficient to implement the salary schedule set forth in Act No. 28 of the Extra Session of the Legislature of Louisiana for the year 1964 and in the event the sum received by the School Board of the Parish of St. Mary should not be sufficient to provide implementation of salaries provided for in said act, a sum sufficient to provide said implementation shall be deducted each month from the fifty (50%) per cent share of the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin and shall be withheld, placed in a special fund and shall, at the end of every twelve month period, be paid to the School Board of the Parish of St. Mary to be used for the purpose of implementing salaries as set forth in said Act No. 28 of the Extra Session of the Legislature of Louisiana for the year of 1964, provided that any such deductions from the share of the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin shall not exceed a sum sufficient to bring the total sales tax receipts of the School Board of the Parish of St. Mary hereunder, during any twelve (12) month period, to the sum and amount of Three Hundred Sixty Six Thousand and 00/100 ($366,000.00) Dollars, and any excess thereof remaining in said special fund shall be returned to the City of Morgan City, the Towns of Berwick, Patterson, Franklin and Baldwin in the proportions set forth above;

And shall the avails or proceeds of the tax be subject to funding into negotiable bonds by the several political subdivisions receiving the benefit of the avails of said tax in the manner provided in Act 27 of the Extra Session of the Legislature of Louisiana for the year of 1956 as amended, such avails or proceeds to be dedicated and used by the various political subdivisions for the following purposes:

1. The avails or proceeds of said tax received by the School Board of the Parish of St. Mary, shall be dedicated and used exclusively to supplement other revenues available to said School Board for the payment of salaries of teachers employed by the public elementary and secondary schools of St. Mary Parish and for the operation of the public elementary and secondary schools of St. Mary Parish, including the payment of salaries of all school employees;

2. The avails or proceeds of said tax received by the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin shall be used for the purposes of the construction, acquisition, improvement, maintenance and repair of streets, capital improvements, public works and buildings, including the acquisition of sites and necessary fixtures, equipment, furnishings and appurtenances, and including the payment of obligations and refunding obligations which have been or may be issued for the purpose of acquiring and improving public works and buildings, for paying or supplementing the salaries of all municipal employees, for the operation of recreational facilities, and for the acquisition, maintenance, repair and payment of operating expenses of equipment and vehicles and other machinery owned or acquired by said municipalities, individually and in conjunction with other public bodies or agencies and for any other public purpose authorized by the Constitution and Statutes of the State of Louisiana;

3. The avails or proceeds of said tax received by the Police Jury of the Parish of St. Mary shall be used for the purpose of the acquisition, construction, improvement, maintenance and repair of roads, capital improvements, public works and buildings, including particularly the construction and improvement of navigation channels and water and flood control projects, both within and without the boundaries of St. Mary Parish, including the acquisition of sites and necessary fixtures, equipment, furnishings and appurtenances, and including the payment of obligations and refunding obligations which have been or may be issued for the purpose of acquiring and improving public works and buildings, for paying or supplementing the salaries of all parish employees, for the operation of recreational facilities, and for the acquisition, maintenance and repair and payment of operating expenses of equipment and vehicles and other machinery owned or acquired by said Police Jury, individually and in conjunction with other public bodies or agencies and for any other public purpose authorized by the Constitution and Statutes of the State of Louisiana. A minimum of Two Hundred Thousand and 00/100 ($200,000.00) Dollars of the surplus of funds received by the Police Jury of the Parish of St. Mary in any calendar year in excess of an amount necessary to pay the annual payments of principal of and interest on an initial issue of bonds to be issued by said Police Jury, in a principal amount or amounts not exceeding a total of Three Million and 00/100 ($3,000,000.00) Dollars, shall be expended without the
corporate limits of the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin. Said Two Hundred Thousand and 00/100 ($200,000.00) Dollars and any sums in excess thereof may also be funded into bonds. "; and

WHEREAS, in compliance with the aforesaid Act No. 27 of the Extra Session of the Legislature of Louisiana for the year 1956, as amended, and said election of December 7th, 1965, it is the desire of the Police Jury of the Parish of St. Mary to levy said tax and provide for the assessment, collection, payment, distribution, dedication and other matters in connection therewith as hereinafter provided;

NOW, THEREFORE, BE IT RESOLVED by the Police Jury of the Parish of St. Mary, State of Louisiana, acting as the governing authority of said Parish that:

SECTION 1. "Definitions"

As used in this Chapter, the following words, terms and phrases have the meaning ascribed to them in this Section, except when the context clearly indicates a different meaning.

(1) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect. The term "business" shall not be construed to include the occasional and isolated sales by a person who does not hold himself out as engaged in business.

(2) "Director" means the Director of the Sales and Use Tax Department which has been or will be established by this Police Jury for the administration and collection of the tax herein levied, or the duly authorized assistants of said Director.

(3) "Cost price" means the actual cost of the articles of tangible personal property without any deductions therefrom or account of the cost of materials used, labor or service cost, transportation charges or any other expenses whatsoever.

(4) "Dealer" includes every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution or for storage to be used or consumed in this parish.

"Dealer" is further defined to mean:

(a) every person who imports, or causes to be imported, tangible personal property from without this parish for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in this parish.

(b) every person who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use or consumption, or distribution, or storage to be used or consumed in this parish, tangible personal property as defined herein;

(c) any person who has sold at retail, or used, or consumed or distributed, or stored for use or consumption in this parish, tangible personal property and who cannot prove that the tax levied in this ordinance has been paid on the sale at retail, the use, the consumption, the distribution or the storage of said tangible personal property;

(d) any person who leases or rents tangible personal property for a consideration, permitting the use or possession of the said property without transferring title thereto;

(e) any person who is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

(f) any person, who sells or furnishes any of the services subject to tax under this ordinance;

(g) any person, as used in this act, who purchases or receives any of the services subject to tax under this ordinance;

(h) any person engaging in business in this parish. "Engaging in business in this parish" means and includes any of the following methods of transacting business: maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse or other place of business or by having an agent, salesman or solicitor operating within the parish under the authority of the seller or its subsidiary irrespective of whether such place of business, agent, salesman or solicitor is located in this parish permanently or temporarily or whether such seller or subsidiary is licensed to do business in this parish.

(5) "Gross sales" means the sum total of all retail sales of tangible personal property, without any deduction whatsoever of any kind or character except as provided in this ordinance.

(6) "Hotel" means and includes any establishment engaged in the business of furnishing sleeping rooms primarily to transient guests where such establishment consists of ten or more guest rooms under a single roof.

(7) "Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or rentee, for a consideration, without transfer of the title of such property.

(8) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any parish, city or parish, municipality, district or other political subdivision thereof or any board, agency, instrumentality or other group or combination acting as a unit, and the plural as well as the singular number.

(9) "Purchaser" means and includes any person who acquires or receives any tangible personal property, or the privilege of using any
tangible personal property, or receives any services pursuant to a transaction subject to tax under this ordinance.

(10) "Retail sale" or "sale at retail", means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property, and shall mean and include all such transactions as the director, upon investigation, finds to be in lieu of sales; provided that sales for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax.

The term "sale at retail" does not include sales of materials for further processing into articles of tangible personal property for sale at retail, nor does it include an isolated or occasional sale of tangible personal property by a person not engaged in such business.

(11) "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use or consumption, or storage to be used or consumed in this parish.

(12) "Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(13) "Sales price" means the total amount for which tangible personal property is sold, including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed 5% of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.

(14) "Sales of services" means and includes the following:

(a) the furnishing of rooms by hotels and tourist camps;

(b) the sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges and universities, and recreational events, and the furnishing, for dues, fees, or other consideration, of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities.

(c) the furnishing of storage or parking privileges by auto hotels and parking lots;

(d) the furnishing of printing or overprinting, lithographic, multilith, blue printing, photostating or other similar services of reproducing written or graphic matter;

(e) the furnishing of laundry, cleaning, pressing and dyeing services, including by way of extension and not of limitation, the cleaning and renovation of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, fur and rugs.

(f) the furnishing of cold storage space and the furnishing of the service of preparing tangible personal property for cold storage where such service is incidental to the operation of storage facilities; and

(g) the furnishing of repairs to tangible personal property, including by way of illustration and not of limitation, the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and other equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment.

(15) "Storage" means and includes any keeping or retention in this parish of tangible personal property for use or consumption in this parish or for any purpose other than for sale at retail in the regular course of business.

(16) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, or other obligations or securities.

(17) "Tourist camps" means and includes any establishment engaged in the business of furnishing rooms, cottages or cabins to tourists or other transient guests, where the number of guest rooms, cottages, or cabins at a single location is five or more.

(18) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business.

(19) "Use tax" includes the use, the consumption, the distribution and the storage, as herein defined.

SECTION II. "Imposition of tax"

A. There is hereby levied a tax upon the sale at retail, the use, the consumption in this parish, of each item or article of tangible personal property, as defined herein, the levy of said tax to be as follows:

(1) At the rate of one per centum (1%) of the sales price of each item or article of tangible personal property when sold at retail
in this parish; the tax to be computed on gross sales for the purpose of remitting the amount of tax due the parish, and to include each and every retail sale.

(2) At the rate of one per centum (1%) of the cost price of each item or article of tangible personal property when the same is not sold but used, consumed, distributed, or stored for use or consumption in this parish; provided there shall be no duplication of the tax.

B. There is hereby levied a tax upon the lease or rental within this parish of each item or article of tangible personal property, as defined herein; the levy of said tax to be as follows:

(1) At the rate of one per centum (1%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business.

(2) At the rate of one per centum (1%) of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property.

C. There is hereby levied a tax upon all sales of services, as herein defined, in this parish, at the rate of one per centum (1%) of the amounts paid or charged for such services.

The tax levied in this Section shall be collected from the dealer, as defined herein, shall be paid at the time and in the manner hereinafter provided, and shall be, in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to taxes levied under the provisions of Chapter 3 of Sub-title II of Title 47 of the Louisiana Revised Statutes of 1950 as amended.

D. Sales or use tax paid to this parish on the purchase of new motor trucks and new motor tractors licensed and registered for 120,000 pounds or more under the provisions of R. S. 47:462, new trailers and new semi-trailers licensed and registered for 16,000 pounds or more under the provisions of R. S. 47:462 for rental may be deducted as a credit against the tax due on the rental of that item of property so that no tax is payable on rental income until the tax paid on the purchase price has been exceeded. Sales taxes paid to another county or parish on the purchase price of property are not deductible from the tax subsequently due on the rental of such property in this parish. Property imported by the lessee for use in this parish that has been previously used by him in another county or parish is not subject to any tax on the value when imported, but is only subject to the tax that applies on rental payments.

If the tax on rental income fails to exceed the credits for sales or use tax paid, no refund is due the purchaser.

A St. Mary Parish dealer who ordinarily purchases personal property for sale and who withdraws a piece of property from stock for rental is not liable for a sales or use tax on the purchase price of the property when withdrawn from stock. Such person is liable only for the tax applicable on the rental income.

Any sales tax paid on any maintenance or operation expense of a rental business is not deductible as a credit against the tax due on a rental income; such expenses are part of the cost of doing business and do not constitute a part of the cost of the identical property being rented.

SECTION III. "Collection"

A. Collection from dealer. The tax imposed under Section II above shall be collectible from all persons, as hereinafter defined, engaged as dealers, as hereinafter defined.

On all tangible personal property imported, or caused to be imported, from other states, parishes or foreign countries, and used by him, the "dealer;" as hereinafter defined, shall pay the tax imposed by this ordinance on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in this parish. For the purposes of this ordinance, the use, or consumption, or distribution, or storage to be used or consumed in this parish of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

A credit against the use tax imposed by this ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another parish. The credit provided herein shall be granted only in the case where the parish to which a similar tax has been paid grants a similar credit as provided herein, provided that members of the armed forces who are citizens of this parish and whose orders or enlistment contracts stipulate a period of active duty of two years or more and who purchase automobiles outside of this parish while on such tour of active duty shall be granted such credit in connection with the purchase of such automobiles whether or not the state or parish to which such tax thereon has been paid grants a similar credit as herein provided. The proof of payment of a similar tax to another state or parish shall be made according to rules and regulations promulgated by the collector of revenue. In no event shall the credit be greater than the tax imposed by this parish upon the particular tangible personal property which is the subject of the St. Mary Parish use tax.

B. Collection of tax on vehicles. The tax imposed by Section II-A on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax shall be collected as provided in this subsection.
1. The tax levied by Section II-A on any such vehicle shall be paid to the collector of revenue at the time of application for a certificate of title or vehicle registration license and no certificate of title or vehicle registration license shall be issued until the tax has been paid.

(a) The tax levied by Section II-A (1) on the sale of any such vehicle shall be due at the time registration or any transfer of registration is required by the Vehicle Registration License Tax Law (R. S. 47:451 et seq).

(b) The tax levied by Section II-A (2) on the use of any such vehicle in this state shall be due at the time first registration in this state is required by the Vehicle Registration License Tax Law (R. S. 47:451 et seq).

2. Every vendor of such a vehicle shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number, type, year, and model of the vehicle sold, the total sales price, any allowance for and a description of any vehicle taken in trade, and the total cash difference paid or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as the director may by regulation require. All labor, parts, accessories, and other equipment which are attached to the vehicle at the time of sale and which are included in the sale price are to be considered a part of the vehicle.

3. It is not the intention of this Sub-section to grant an exemption from the tax levied by Section II to any sale, use, item or transaction which has heretofore been taxable and this Sub-section is not to be construed as so doing. It is the intention of this Sub-section to transfer the collection of the sales and use tax on vehicles from the vendor to the Collector of Revenue and to provide a method of collecting the tax directly from the vendee or user by the Collector of Revenue. The governing body of this parish shall enter into an agreement by which the collector of revenue may collect said tax on behalf of this parish. The collector shall withhold from any such taxes collected for this parish one per cent (1%) of the proceeds of such tax so collected, which shall be used by the collector to pay the cost of collecting and remitting the tax to the parishes and municipalities.

4. The provision contained in Section I (10) in the second unnumbered paragraph which excludes isolated or occasional sales from the definition of a sale at retail is not to apply to the sale of vehicles which are the subject of this subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

SECTION IV. "Treatment of tax by dealer"

The tax levied in this ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section III.

Every dealer located inside the parish making sales of tangible personal property for distribution, storage, use, or consumption, in this parish, shall at the time of making sales collect the tax imposed by this ordinance from the purchaser.

Dealers shall, as far as practicable, add the amount of the tax imposed under this ordinance in conformity with the schedule or schedules prescribed by the collector of revenue pursuant to authority conferred by R. S. 47:304 to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who neglects, fails or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

Where the tax collected for any period is in excess of one per cent (1%) the total tax collected must be paid over to the director, less the compensation to be allowed the dealer, as hereinafter set forth. This provision shall be construed with other provisions of this ordinance and given effect so as to result in the payment to the director the total tax collected if in excess of one per cent (1%).

Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.

The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

The use of tokens is forbidden. The integrated bracket schedule prescribed by the Collector of Revenue, State of Louisiana, by order issued pursuant to Section 304 of Title 47 of the Louisiana Revised Statutes of 1950 (R. S. 47:304) is established for the purpose of tax collection within the meaning of this resolution, said schedule in part being as follows:

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<th>Tax To Be Collected</th>
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14
SECTION V. “Exclusions and exemptions from the tax”

(1) The gross proceeds derived from the sale in this parish of livestock, poultry and other farm products direct from the farm are exempted from the tax levied by this ordinance, provided that such sales are made directly by the producers. When sales of livestock, poultry and other farm products are made to consumers by any person other than producer, they are not exempted from the tax imposed by this ordinance; but every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of this ordinance, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted. For the purposes of this Section “agricultural commodity,” means horticultural, viticultural, poultry, farm and range products, and livestock and livestock products.

(2) The “use tax,” as defined herein, shall not apply to livestock and livestock products, to poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

(3) Where a part of the purchase price is represented by an article traded in, the sales tax is payable on the total purchase price less the market value of the article traded in.

(4) The sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this parish of the following tangible personal property is hereby specifically exempted from the tax imposed by this ordinance: Gasoline; steam; water (not including mineral water or carbonated water or any water put up in bottles, jugs, or containers, all of which are not exempted); electric power or energy; newspapers; fertilizer and containers used for farm products when sold directly to the farmer; and natural gas; new automobiles withdrawn from stock by factory authorized new automobile dealers, with the approval of the Collector of Revenue and titled in the dealer’s name for use as demonstrators.

(5) It is not the intention of this ordinance to levy a tax upon articles of tangible personal property imported into this parish, or produced or manufactured in this parish, for export; nor is it the intention of this ordinance to levy a tax on bona fide interstate commerce. It is, however, the intention of this ordinance to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this parish, of tangible personal property after it has come to rest in this parish and has become a part of the mass of property in this parish.

SECTION V-1 “Exclusions and exemptions; ships and ships’ supplies”

A. The tax imposed by Section II (A) (1) shall not apply to sales of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty tons load displacement and over, built in Louisiana nor to the gross proceeds from the sale of such ships, vessels, or barges when sold by the builder thereof.

B. The taxes imposed by Section II shall not apply to materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

C. The provisions of this Section do not apply to drilling equipment used for oil exploitation or production unless such equipment is built for exclusive use outside the boundaries of the state and is removed forthwith from the state upon completion.

D. Any transaction not strictly in compliance with rules and regulations established by the Collector of Revenue shall lose the exemption herein provided.

SECTION V-2 “Exclusions and exemptions; seeds used in planting of crops”

The tax imposed by Section II(A) (1) shall not apply to the sale at retail of seeds for use in the planting of any kind of crops. Any transaction not strictly in compliance with such rules and regulations promulgated by the Collector of Revenue to carry out the provisions of this section shall lose the exemption herein provided.

SECTION V-3 “Exclusions and exemptions; casing, drill pipe and tubing used in offshore drilling”

The sales tax does not apply to casing, drill pipe and tubing sold in Louisiana, for use offshore beyond the territorial limits of the state, for the production of oil, gas, sulphur and other minerals.

SECTION V-4 “Exclusions and exemptions; Little Theater tickets”

The sales tax imposed by Section II shall not apply to the sale of admission tickets by Little Theater organizations.
SECTION V.5 “Exclusions and exemptions; tickets to musical performances of nonprofit musical organizations”

The sales tax imposed by Section II shall not apply to the sale of admission tickets by domestic non-profit corporations or by any other domestic non-profit organization known as a symphony organization or as a society or organization engaged in the presentation of musical performances; provided that this Section shall not apply to performances given by out-of-state or non-resident symphony companies, nor shall this Section apply to any performance intended to yield a profit to the promoters thereof.

SECTION V.6 “Exclusions and exemptions; pesticides used for agricultural purposes”

The tax imposed by Section II(A) shall not apply to sale at retail of pesticides used for agricultural purposes, including particularly but not by way of limitation, insecticides, herbicides and fungicides.

SECTION V.7 “Exclusions and exemptions; motion picture film rental”

The sales and use tax imposed by this parish shall not apply to the amount paid by the operator of a motion picture theater to a distributing agency for use of films of photoplay.

SECTION V.8 “Exclusions and exemptions; property purchased for use outside the parish”

There shall be no sales tax due upon the sale at retail of tangible property purchased within this parish for use exclusively beyond the territorial limits of the parish. If tangible personal property purchased tax free under the provisions of this Section is later brought into this parish for use herein the property shall be subject to the parish use tax as of the time it is brought into the parish for use herein, subject to the credit provided in Section III(A).

If the first use of tangible personal property purchased in this parish for use beyond the territorial limits of the state occurs in a City or Parish (County) which imposes a sales or use tax, the exemption provided herein shall apply only if:

1. The purchaser is properly registered for sales and use tax purposes in the City or Parish (County) of use and regularly reports and pays sales and use tax in such other state; and

2. The City or Parish (County) in which the first use occurs grants on a reciprocal basis a similar exemption on purchases within the City or Parish (County) for use in this parish; and

3. The purchaser obtains from the Director a certificate authorizing him to make the nontaxable purchases authorized under this Section.

The regulations promulgated by the Collector of Revenue for the implementation of R. S. 47:305 (10) are herewith adopted.

SECTION VI. “Returns and payment of tax; penalty for absorption of tax”

The taxes levied hereunder shall be due and shall be payable monthly. For the purpose of ascertaining the amount of tax payable all dealers shall, on or before the 20th day of the month following the month in which this tax becomes effective, transmit to the director, upon forms prescribed, prepared and furnished by him returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payments for services, as the case may be, arising from all taxable transactions during the preceding calendar month; and thereafter, like returns shall be prepared and transmitted to said director by all dealers, on or before the 20th day of each month for the preceding calendar month. These returns shall show any further information the director may require to enable him to correctly compute and collect the tax levied. Every dealer at the time of making the return required hereunder, shall compute and remit to the director the required tax due for the preceding calendar month; and failure to so remit such tax shall cause said tax to become delinquent.

Gross proceeds from rentals or leases shall be reported and the tax shall be paid with respect thereto, in accordance with the rules and regulations the director may prescribe.

For the purpose of compensating the dealer in accounting for and remitting the tax levied by this ordinance, each dealer shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the director in the form of a deduction in submitting his report and paying the amount due by him; provided the amount due was not delinquent at the time of payment.

The director, for good cause, may extend, for not to exceed thirty days, the time for making any returns required under the provisions of this ordinance.

For the purpose of collecting and remitting to the parish the tax imposed by this ordinance, the dealer is hereby declared to be the agent of the parish.

SECTION VI-1 “Collection from interstate and foreign transportation dealers”

Persons, as defined in this ordinance, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft or other means, may, at their option under rules and regulations prescribed by the collector of revenue, register as dealers and pay the taxes imposed by Section II-A on the basis of the formula hereinafter provided.
Such persons, when properly registered as dealers, may make purchases in this parish or import property into this parish without payment of the sales or use taxes imposed by Section II-A at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the collector of revenue. Thereafter, on or before the 20th day of the month following the purchase or importation, the dealer shall transmit to the director, on forms secured by him, returns showing gross purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the parish. The amount of such purchases and importations shall be multiplied by a fraction, the numerator of which is parish mileage operated by the taxpayer and the denominator of which is the total mileage, to obtain the taxable amount of tax basis. This amount shall be multiplied by the tax rate to disclose the tax due.

Each such dealer, at the time of making the return required hereunder, shall remit to the director the tax due for the preceding calendar month as shown on the return.

SECTION VII. “Director's authority to determine the tax in certain cases”

A. In the event any dealer fails to make a report and pay the tax as provided in this ordinance or in case the dealer makes a grossly incorrect report or a report that is false or fraudulent, the director shall make an estimate of the retail sales of such dealer for the taxable period, of the gross proceeds from rentals or leases of tangible personal property by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this parish and of the gross amounts paid or charged for services taxable; and it shall be the duty of the director to assess and collect the tax together with any interest and penalty that may have accrued thereon, which assessment shall be considered prima facie correct and the burden to show the contrary shall rest upon the dealer.

B. In the event the dealer has imported tangible personal property he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost, then the director shall ascertain in any manner feasible the true cost price and shall assess and collect the tax, together with any interest and penalties that may have accrued, on the basis of the true cost as assessed by him. The assessment so made shall be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

C. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not in the judgment of the director, represent the true or actual consideration, then the director is authorized to ascertain in any manner feasible the true or actual consideration and assess and collect the tax thereon together with any interest and penalties that may have accrued. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

D. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the director shall add to the assessment the cost of such examination, together with any penalties accruing thereon. Such costs and penalties when collected shall be remitted to the director.

SECTION VIII. “Termination or transfer of business”

If any dealer liable for any tax, interest or penalty levied hereunder sells his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successor, successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the director showing that they have been paid, or a certificate stating that no taxes, interest or penalties are due. If the purchaser of a business or stock of goods fails to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners or assigns.

SECTION IX. “Dealers required to keep records”

Every dealer required to make a report and pay any tax under this ordinance shall keep and preserve suitable records of the sales, purchases, or leases taxable under this ordinance, and such other books of accounts as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the director; and each dealer shall secure, maintain and keep, for a period of three years, a complete record of tangible personal property received, used, sold at retail, distributed, or stored, leased or rented, within this parish by the said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the director for the reasonable administration of this ordinance and a complete record of all sales or purchases or services taxable under this ordinance. These records shall be open for inspection to the director at all reasonable hours. The director is authorized to require all dealers who take deductions on their sales tax returns for total sales under the minimum taxable bracket prescribed by him pursuant to Section IV to support their deductions by keeping written or printed detail records of said sales in addition to their usual books and accounts.

Any dealer subject to the provisions of this ordinance who violates the provisions of this Section shall be fined not more than two hundred dollars, or imprisoned for not more than sixty days, or both, for any such offense.
SECTION X. "Wholesalers and jobbers required to keep records"

All wholesale dealers and jobbers in this parish shall keep a record of all sales of tangible personal property made in this parish whether such sales be for cash or on terms of credit. These records shall contain and include the name and address of the purchaser, the date of the purchase, the article purchased and the price at which the article is sold to the purchaser. These records shall be kept for a period of three years and shall be open to the inspection of the director at all reasonable hours.

Whoever violates the provisions of this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both, for the first offense. For the second or each subsequent offense, the penalty shall be doubled.

SECTION XI. "Director's authority to examine records of transportation companies"

The director is specifically authorized to examine at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in this parish, whether they conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to the tax levied by this ordinance. When any such transportation company refuses to permit the examination of its books, as provided in this Section, the director may proceed by rule against it, in term time or in vacation, in any court of competent jurisdiction in the parish where such refusals occurred, to show cause why the director should not be permitted to examine books, records or other documents. This rule may be tried in open court or in chambers, and in case the rule is made absolute, the same shall be considered a judgment of the court, and every violation thereof shall be considered as a contempt of court and punished according to law.

SECTION XII. "Failure to pay tax on imported tangible personal property; grounds for attachment"

The failure of any dealer to pay the tax and any interest, penalties, or costs due under the provisions of this ordinance on any tangible personal property imported from outside the state for use, consumption, distribution or storage to be used in this parish, or imported for the purpose of leasing or renting the same, shall make the tax, interest, penalties, or cost ipso facto delinquent. This failure shall moreover be a sufficient ground for the attachment of the personal property imported wherever it may be found, whether the delinquent taxpayer is a resident or nonresident, and whether the property is in the possession of the delinquent taxpayer or in the possession of other persons.

It is the intention of this law to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this ordinance, together with interest, penalties and costs, and authority to attach is hereby specifically granted to the director. The procedure prescribed by law in attachment proceedings shall be followed except that no bond shall be required of the parish.

SECTION XIII. "System of import permits; seizure and forfeiture of vehicles used in importing without permit"

A. In order to prevent the illegal importation of tangible personal property which is subject to tax, and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this ordinance, the director is hereby authorized to put into operation a system of permits whereby any person or dealer may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having the truck, automobile or other means of transportation seized and subjected to legal proceedings for its forfeiture. Such system of permits shall require the person or dealer who desires to import tangible personal property subject to tax imposed by this ordinance, to apply to the director for a permit, stating the kind of vehicle to be used, the kind of character or tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the director may deem proper or necessary. These permits shall be free of cost to the applicant and may be obtained at the office of the director.

B. The importation into this parish of tangible personal property which is subject to tax, by truck, automobile, or other means of transportation other than a common carrier, without having first obtained a permit described above, (if the tax imposed by this ordinance has not been paid), is prohibited and shall be construed as an attempt to evade payment of the tax; and the truck, automobile, or other means of transportation other than a common carrier, as well as the taxable property may be seized by the director in order to secure the same as evidence in a trial, and it shall be subject to forfeiture and sale in the manner provided for in this ordinance.

C. The director is authorized in a summary proceeding, or by an action against the owner or operator of any truck, automobile, or means of transportation other than a common carrier, used in the illegal importation and transportation of any article or articles of tangible personal property on which a tax is levied by this ordinance, and on which the tax has not been paid to demand the forfeiture and sale of the truck, automobile or other means of transportation, together with the said taxable property, used in the illegal importation and in violation of this ordinance.

D. In all cases where it is made to appear by affidavit or the residence of the owner of the automobile, truck or other means of transportation is out of the state, or is unknown to the director, the court having jurisdiction of the proceeding shall appoint an attorney at law to represent the absent owner against whom the proceeding shall
be tried contradictorily within ten days after the filing of the same. The affidavit may be made by the director or one of his assistants, or by the attorney representing the director, if it is not convenient to obtain the affidavit of the director or one of his assistants. The attorney appointed to represent the absent owner may waive service and citation of the petition or rule, but he shall not waive any legal defense. If, upon the trial of the proceeding, it is established that the automobile, truck, or other means of transportation, has been used to transport any article of tangible personal property upon which a tax is levied by this ordinance, and upon which the tax has not been paid, without first having obtained a permit from the director as provided herein, then the court shall render judgment accordingly, declaring the forfeiture of the taxable property and of the automobile, truck, or other means of transportation and ordering the sale thereof within ten days' notice by advertisement in the official parish paper where the seizure is made, by the civil sheriff of the parish of Orleans, or by the sheriff of the parish in which the seizure is made; this sale shall be held at public auction at the courthouse, to the highest bidder, for cash, and without appraisement. It is the intent and purpose of these proceedings to afford the owner of the automobile, truck or other means of transportation a fair opportunity for hearing in a court of competent jurisdiction. It is further the intent and purpose of these proceedings that the forfeiture and sale of the automobile, truck or other means of transportation, and of the taxable property being transported therein, shall be and operate as a penalty for the violation of this ordinance by the illegal transportation and importation of tangible personal property subject to the tax; and the payment of the tax due on the article upon which tax is levied by this ordinance, at the moment of seizure or thereafter, shall not operate to prevent, abate, discontinue or defeat the forfeiture and sale of the property. All funds collected from the seized and forfeited property shall be paid to the director and credited in the same manner as provided for the tax herein levied. The court shall fix the fee of the attorney representing the owner when appointed by the court, at a nominal sum not to exceed ten per centum (10%) to be taxed as costs and to be paid out of the proceeds of the sale of the property.

SECTION XIV. "Failure to pay tax; rule to cease business"

Failure to pay any tax due as provided in this ordinance shall ipso facto, without demand or putting in default, cause the tax, interest, penalties and costs, to become immediately delinquent, and the director has the authority, on motion in a court of competent jurisdiction to take a rule on the dealer, to show cause in not less than two or more than ten days, exclusive of holidays, why the dealer should not be ordered to cease from further pursuit of business as a dealer. This rule may be tried out of term and in chambers, and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the parish prohibiting the dealer from the further pursuit of said business until such time as he has paid the delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law. For the purpose of the enforcement of this ordinance and the collection of the tax levied hereunder, it is presumed that all tangible personal property imported or held in this parish by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in this parish, or leased or rented within this parish, and is subject to the tax herein levied; this presumption shall be prima facie only, and subject to proof furnished to the director.

SECTION XV. "Sales returned to dealer; credit or refund of tax"

In the event tangible personal property sold is returned to the dealer by the purchaser or consumer or in the event the amount paid or charged for services is refunded or credited to the purchaser or consumer after the tax imposed by this ordinance has been collected, or charged to the account of the purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the director; and in case the tax has not been remitted by the dealer to the director, the dealer may deduct the same in submitting his return. Upon receipt of a sworn statement of the dealer as to the gross amount of such refunds during the period covered by the sworn statement, which period shall not be longer than ninety (90) days, the director shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for the tax collected. This memorandum shall be accepted by the director at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this ordinance.

In cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the director that the tax paid was not due.

SECTION XVI. "Director to provide forms"

The director shall design, prepare, print and furnish to all dealers, or make available to them, all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the taxes due; but failure of any dealer to secure these forms shall not relieve the dealer from the payment of the tax at the time in the manner herein provided.

SECTION XVII. "Disposition of tax Proceeds and Revenues"

1. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the director, as an agent of the parish, under any provision or provisions of this resolution shall be deposited daily by the director for the account of the parish in a special fund designated "Parish Sales Tax Fund", which fund shall be a separate bank account established and maintained with the regularly designated fiscal agent or agents of
the parish, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to separate account established by the director with said fiscal agent pending the final determination of the protest or litigation.

2. Out of the funds on deposit in said “Parish Sales Tax Fund”, the director shall first pay all reasonable and necessary costs and expenses of administering and collecting the tax herein levied and administering the provisions of this resolution as well as the various administrative and enforcement procedures established herein. Such costs and expenses shall include, by way of illustration but not of limitation, all necessary costs and expenses incurred for office equipment, furniture and supplies, vehicles and the maintenance and operation thereof, printing, postage, rent, salaries, and other related items. Such costs and expenses shall be reported by the Director monthly to the Police Jury, the St. Mary Parish School Board and the Mayor and Councilmen of the Town of Baldwin, Franklin, Patterson, Berwick and the City of Morgan City.

3. After all reasonable and necessary costs and expenses of collection and administration of the tax have been paid as provided in Section XVII (2), the remaining avail or proceeds of the tax shall be allocated and distributed monthly by the Director as follows:

Of the first One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars of net taxes collected each calendar year, 22.1502% shall be payable to the City of Morgan City, 14.1883% shall be payable to the Town of Franklin, 6.3473% shall be payable to the Town of Berwick, 4.7818% shall be payable to the Town of Patterson and 2.5324% shall be payable to the Town of Baldwin. 50% of net taxes collected each calendar year, in excess of said sum of One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars, shall be distributed among the City of Morgan City and the Town of Berwick, Patterson, Franklin and Baldwin, proportionately, according to their respective populations as reflected by the most recent Federal Census as of the time of collection of said sums in excess of One Million Five Hundred Thousand and 00/100 ($1,500,000.00) Dollars, 30% of net taxes collected shall be payable to the School Board of the Parish of St. Mary and 20% of net taxes collected shall be payable to the Police Jury of the Parish of St. Mary.

Until the State of Louisiana provides funds sufficient to implement the salary schedule set forth in Act No. 28 of the Extra Session of the Legislature of Louisiana for the year 1964 and in the event the sum received by the School Board of the Parish of St. Mary should not be sufficient to provide implementation of salaries provided for in said act, a sum sufficient to provide said implementation shall be de-

ducted each month from the fifty (50%) per cent share of the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin and shall be withheld, placed in a special fund and shall, at the end of every twelve month period, be paid to the School Board of the Parish of St. Mary to be used for the purpose of implementing salaries as set forth in said Act No. 28 of the Extra Session of the Legislature of Louisiana for the year of 1964, provided that any such deductions from the share of the City of Morgan City and the Towns of Berwick, Patterson, Franklin and Baldwin shall not exceed a sum sufficient to bring the total sales tax receipts of the School Board of the Parish of St. Mary hereunder, during any twelve (12) month period, to the sum and amount of Three Hundred Sixty-Six Thousand and 00/100 ($366,000.00) Dollars, and any excess thereafter remaining in said special fund shall be returned to the City of Morgan City, the Towns of Berwick, Patterson, Franklin and Baldwin in the proportions set forth above.

SECTION XVIII. “Publication and effective date”

This resolution shall be published in one issue of each the Daily Review, a newspaper published in the City of Morgan City, Louisiana, and the St. Mary and Franklin Banner-Tribune, a newspaper published in the Town of Franklin, Louisiana and shall be in full force and effect on and after February 1st, 1966.

SECTION XIX. “Recordation”

A certified copy of this resolution shall be recorded in the Mortgage Records of the Parish.

This resolution having been submitted to a vote, the vote thereon was as follows:


ABSENT: NONE

And the resolution was declared adopted on this, the 12th day of January, 1966.

/s/ May Belle B. Hiemstra
SECRETARY

/s/ Nathan A. Levy, Sr.
PRESIDENT
STATE OF LOUISIANA  
PARISH OF ST. MARY  

I, the undersigned Secretary of the Police Jury of the Parish of St. Mary, State of Louisiana, do hereby certify that the foregoing twenty-six (26) pages constitute a true and correct copy of a resolution adopted by said Police Jury on January 12th, 1966, enacting an ordinance for the levy and collection of a one per centum (1%) sales and use tax therein.  

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said Parish at Franklin, Louisiana, on this the 12th day of January, 1966.

/s/ May Belle B. Kiemstra  
SECRETARY  

INDEX

Admissions to amusement places, exemptions I
Advertising absorption of tax IV
Agency of parish, dealers VI
Agricultural products and pesticides V
Amusement places, sales of admission to I
Application V
Armed forces, credit to members III
Collection by director in certain instances VII
Athletic contests I
Attachment, failure to pay tax on imported property XII
Authority of director to determine taxes in certain cases VII
Automobiles, III
Collection
Demonstrators, exemptions V
Bills of lading, retention by dealers IX
Books of account, dealers required to keep IX
Business defined I
Carriers, collection III
Casing, drill pipe and tubing, offshore mineral, oil and gas production V
Certificates, collector of revenue, exclusions and exemptions V
Cleaning and pressing services I
Cold storage space, furnishing of I
Collection, IV
By dealer III
Collector of Revenue, III
From dealer, II - IV
Interstate and Foreign transportation dealers, VI
Collector of Revenue, IV
Integrated tax bracket schedule
Regulations, property purchased for use outside the state, seeds used in planting and ships and ship supplies V
Vehicles III
Colleges, exemption from tax of sale of admission to amusement places I
Compensation of dealer VI
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computation and remission</td>
<td>VI</td>
</tr>
<tr>
<td>Consumption</td>
<td>III</td>
</tr>
<tr>
<td>Equivalent to sale at retail</td>
<td>II</td>
</tr>
<tr>
<td>Levy of tax on</td>
<td>II</td>
</tr>
<tr>
<td>Items sold or stored for</td>
<td>II</td>
</tr>
<tr>
<td>Contempt of Court</td>
<td>XI</td>
</tr>
<tr>
<td>Refusal to permit examination of records in accordance with court order</td>
<td></td>
</tr>
<tr>
<td>Violation of injunction restraining further pursuit of business</td>
<td>XIV</td>
</tr>
<tr>
<td>Cost price, defined</td>
<td>I</td>
</tr>
<tr>
<td>Credits, sales returned to dealer</td>
<td>XV</td>
</tr>
<tr>
<td>Dealers</td>
<td></td>
</tr>
<tr>
<td>Agency for parish</td>
<td>VI</td>
</tr>
<tr>
<td>Collection from</td>
<td>II-IV</td>
</tr>
<tr>
<td>Compensation</td>
<td>VI</td>
</tr>
<tr>
<td>Defined</td>
<td>I</td>
</tr>
<tr>
<td>Failure to make reports</td>
<td>VII</td>
</tr>
<tr>
<td>Forms provided to</td>
<td>XVI</td>
</tr>
<tr>
<td>Incorrect or false report</td>
<td>VII</td>
</tr>
<tr>
<td>Records</td>
<td>IX</td>
</tr>
<tr>
<td>Reports by automobile dealers</td>
<td>V</td>
</tr>
<tr>
<td>Returns</td>
<td>VI</td>
</tr>
<tr>
<td>Default, failure to pay</td>
<td>XIV</td>
</tr>
<tr>
<td>Definitions</td>
<td>I</td>
</tr>
<tr>
<td>Delinquency</td>
<td>XIV</td>
</tr>
<tr>
<td>Delinquent tax</td>
<td>VI</td>
</tr>
<tr>
<td>Demonstrator automobile, exemption</td>
<td>V</td>
</tr>
<tr>
<td>Determination by director in certain cases</td>
<td>VII</td>
</tr>
<tr>
<td>Director</td>
<td></td>
</tr>
<tr>
<td>Authority to determine tax in certain cases</td>
<td>VII</td>
</tr>
<tr>
<td>Examination of records of transportation companies</td>
<td>XI</td>
</tr>
<tr>
<td>Forms provided by</td>
<td>XVI</td>
</tr>
<tr>
<td>Import permits, authority to put system into operation</td>
<td>XIII</td>
</tr>
<tr>
<td>Inspection of records</td>
<td>IX-X</td>
</tr>
<tr>
<td>Payment over to</td>
<td>IV</td>
</tr>
<tr>
<td>Returns to</td>
<td>VI</td>
</tr>
<tr>
<td>Rule on dealer to show cause on failure to pay tax</td>
<td>XIV</td>
</tr>
<tr>
<td>Disposition of collections</td>
<td>XVII</td>
</tr>
<tr>
<td>Distribution</td>
<td></td>
</tr>
<tr>
<td>Equivalent to sale at retail</td>
<td>III</td>
</tr>
<tr>
<td>Levy of tax on</td>
<td>II</td>
</tr>
<tr>
<td>Of proceeds</td>
<td>XVII</td>
</tr>
<tr>
<td>Domestic, non-profit organization, symphony or musical performances,</td>
<td>V</td>
</tr>
<tr>
<td>Exemption</td>
<td>V</td>
</tr>
<tr>
<td>Drill pipe, offshore mineral, oil and gas production</td>
<td>V</td>
</tr>
<tr>
<td>Drilling equipment used for oil exploration</td>
<td>V</td>
</tr>
<tr>
<td>Duplication</td>
<td>III</td>
</tr>
<tr>
<td>Electric power or energy, exemption</td>
<td>V</td>
</tr>
<tr>
<td>Estimates, failure of dealer to make report or making false report VII</td>
<td></td>
</tr>
<tr>
<td>Examination of records of transportation companies</td>
<td>XI</td>
</tr>
<tr>
<td>Exclusions and exemptions</td>
<td>I-V</td>
</tr>
<tr>
<td>Export exemption of articles produced or manufactured for</td>
<td>V</td>
</tr>
<tr>
<td>Extension of time, returns</td>
<td>VI</td>
</tr>
<tr>
<td>False or fraudulent report</td>
<td>VII</td>
</tr>
<tr>
<td>Farm products, exemption</td>
<td>V</td>
</tr>
<tr>
<td>Fertilizer, exemption</td>
<td>V</td>
</tr>
<tr>
<td>Foreign dealers, collection by</td>
<td>IV</td>
</tr>
<tr>
<td>Foreign states, rentals</td>
<td>II</td>
</tr>
<tr>
<td>Foreign, transportation dealers, collection from</td>
<td>VI</td>
</tr>
<tr>
<td>Forfeiture of vehicles used in importing property without permits, XIII</td>
<td></td>
</tr>
<tr>
<td>Forms, preparation and furnishing to dealers</td>
<td>XVI</td>
</tr>
<tr>
<td>Gasoline, exemption</td>
<td>V</td>
</tr>
<tr>
<td>Gross sales, etc.</td>
<td></td>
</tr>
<tr>
<td>Computation of tax on</td>
<td></td>
</tr>
<tr>
<td>Returns showing</td>
<td>VI</td>
</tr>
<tr>
<td>Hotel</td>
<td></td>
</tr>
<tr>
<td>Defined</td>
<td>I</td>
</tr>
<tr>
<td>Levy of tax for sales of services</td>
<td>II</td>
</tr>
<tr>
<td>House trailers, collection</td>
<td>III</td>
</tr>
<tr>
<td>Imports</td>
<td></td>
</tr>
<tr>
<td>Assessment on failure of dealer to produce invoice</td>
<td>VII</td>
</tr>
<tr>
<td>Attachment for failure to pay tax on</td>
<td>XII</td>
</tr>
<tr>
<td>Exemption</td>
<td>V</td>
</tr>
<tr>
<td>Invoice</td>
<td>VII</td>
</tr>
<tr>
<td>Permits</td>
<td>XIII</td>
</tr>
<tr>
<td>Rentals</td>
<td>II</td>
</tr>
<tr>
<td>Imposition of Tax</td>
<td>II</td>
</tr>
</tbody>
</table>
Incorrect reports, determination of tax by collector, 
Inspection of records, 
Integrated tax schedule of collector of revenue adopted 
Interstate commerce, exemption, 
Interstate transportation dealers, collection from,
Invoices, 
Imports, 
Retention by dealers, 
Isolated or occasional sales, 
Sales of motor vehicles excepted from definition of, 
Jobbers, records, 
Leases, 
Assessment of tax by director, 
Defined, 
Levy on tax on, 
Returns showing gross proceeds, 
Levy of tax, 
Little theater organizations, exemptions, 
Livestock, application to sales of, 
Motion picture films, exemptions, 
Motor vehicles, 
Certificate or affidavit, 
Isolated or occasional sale, not exempt, 
Repair and servicing, 
Reports by automobile dealers, 
Transfer of collection to collector of revenue, 
Musical societies or organizations, exemption, 
Natural gas exemption, 
Neglect or refusal to collect tax, liability in case of, 
New Article, defined, 
Newspapers, exemption, 
Payment, 
Dealers, 
Failure to pay, 
Imported property, attachment, 
Rule to cease business, 
Over to director, 
Penalties, 
Advertising absorption of tax, 
Dealer failing to make or making false report, 
Importation of property without permit, 
Neglect or failure of dealer to collect, 
Violation of ordinance in respect of records, 
Withholding purchase money to cover on transfer of business, 
Percentage, 
Permits, imports, 
Person, defined, 
Poultry, application to sales of, 
Presumptions, liability for tax, 
Purchases, defined, 
Rate of tax, 
Reciprocity, 
Credit, 
Exclusions and exemptions, 
Records, 
Dealers, 
Transportation companies, authority to examine, 
Recreational events, sale of admission to, 
Refunds, 
Rentals, 
Sales returned to dealer, 
Refusal of dealer to collect, 
Registration, purchases, exemptions, 
Remission of tax to director, 
Rentals, 
Assessment of tax by director, 
Defined, 
Levy of tax on, 
Motion picture films, exemptions, 
Motor cameras, 
Returns showing gross proceeds, 
Reports, 
Dealers, 
Automobile dealers, 
Failure to make reports or incorrect or false reports, 
Gross proceeds, 
Purchases, exemptions or exclusions,
Retail sales,
   Defined,                            I
   Levy of tax on,                      II
Retailer, defined,                        I
Retirement from business, refund of taxes, XV
Returns,
   Forms for filing,                   VI
   Termination or transfer of business, XVI
   VIII
Rule to cease business, failure to pay tax, XIV
Sale at retail, defined,                   I
Sale, defined,                            I
Sales of services,
   Defined,                            I
   Levy of tax on,                      II
Sales price,
   Adding amount of tax to,            IV
   Defined,                            I
Sales returned to dealer, credit or refund of tax, XV
Schedule,                                 IV
Seeds, exemption,                         V
Seizure of vehicles used in importing property without permit, XIII
Separation of tax from price paid,        IV
Ships and ships' supplies exclusions and exemptions V
Show cause rule, failure to pay,           XIV
Steam, exemption,                         V
Storage,
   Defined,                            I
   Equivalent to sale at retail,        III
   Levy of tax on,                      I - II
Symphony organizations, exemptions,       V
Tangible personal property, defined,       I
Tax paid in another state, effect of,      V
Termination or transfer of business,        VIII
Theatre films, exemptions,                 V
Theatre tickets, little Theatre organizations, exemptions, V
Time, return,                             VI

Tokens, use forbidden,                     IV
Tourist camps,
   Defined,                            I
   Levy of tax for sales of services,   II
Traded in articles,                        V
Trailers, collection,                      III
Transportation,
   Companies, authority to examine records, XI
   Dealers, collection from,            VI
   Tubing, offshore mineral, oil and gas production, V
University, exemption from tax of sale of admission to places of amusement,  I
Use,
   Defined,                            I
   Equivalent to sale at retail,        III
   Levy of tax on,                      II
Use tax, defined,                          I
Water, exemption,                          V
Wholesalers, records,                      X
Withholding purchase money on sale of business, VIII