

Vermilion Parish School Board
Sales and Use Tax Ordinance

Adopted on November 7, 1985

Chapter I - Sales and Use Tax

SECTION 1.301 DEFINITIONS

As used in this Ordinance, the following words, terms and phrases have the meaning ascribed to them in this Section, except when the context clearly indicated 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 as engaged in business.
- (2) *“Director” and/or “Collector”* shall mean and include the “Superintendent of Schools” in his capacity as ex-officio Treasurer, who will be in charge of the Sales Tax Department of the School Board which has been or will be established by this Parish School Board for the administration and collection for the tax herein levied, or the duly authorized assistants of said Director and/or Collector.
- (3) (a) *“Cost price”* shall not include the supplying and installation of board roads to oil field operators if the installation charges are separately billed to the customer at the time of installation.

(b) In the case of tangible personal property that has acquired a tax situs in this Parish and is thereafter transported outside the Parish for repairs performed outside the Parish and is thereafter returned to this Parish, the cost price shall be deemed to be the actual cost of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice. If the applicable labor charges are not separately stated on the invoice, it shall be presumed that the cost price is the total charge reflected on the invoice.

“Cost Price” shall not include the supplying and installation of board roads to oil field operators if the installation charges are separately billed to the customer at the time of installation.

- (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 any state or other parish of this state or foreign country 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 consume in this Parish, tangible personal property as defined herein;

- (c) any person who has sold at retail, or used, or consume, or distributed, or stored for use or consumption in this Parish, tangible personal property and who cannot prove that the tax levied by 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 Section, 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 operation 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 qualified to do business in this Parish;
 - (i) Any person who sells at retails any tangible personal property to a vending machine operator for resale through coin-operated vending machines.
- (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, cottages or cabins to transient guests, where such establishment consists of six or more sleeping rooms, cottages or cabins at a single business location.
- (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.

The term "lease or rental", however, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or

related equipment used in connection with the operating, drilling, completion or reworking of oil, gas, sulphur or other mineral wells.

- (8) *“Person”* includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any parish, city and 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 other 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 collector, 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.
- (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 as 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 6% 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 include the following:
 - (a) The furnishing of sleeping rooms, cottages or cabins by hotels;
 - (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; but the term "sales of services" shall not include membership fees or dues of nonprofit, civic organizations, including by way of illustration and not of limitation the Young Men's Christian Association, the Catholic Youth Organization and the Young Women's Christian Association;

- (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, Photostatting 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, furs 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;
 - (g) The furnishing of repairs to tangible personal property, including but not restricted to the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and 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) *"Off-road vehicle"* is any vehicle which is issued a manufacturer's statement of origin that cannot be issued a registration certificate and license to operator on the public roads of this Parish and State because the vehicle does not meet the safety requirements prescribed by R.S. 32:1301 through R.S. 32:1310. This includes vehicles that are issued a title only by the Vehicle Registration Bureau, Department of Public Safety, such as recreational and sport vehicles, but it does not include farm equipment or heavy construction equipment.
- (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.
- (20) *"Parish"* shall mean the Parish of Vermilion, State of Louisiana.

- (21) *“Agricultural Commodity”* shall mean horticultural, viticulture, poultry, farm and range products and livestock and livestock products.
- (22) *“Tax Authority”* shall mean the School Board of Vermilion Parish, State of Louisiana.
- (23) *“Distraint or Distrain”* shall mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, any property or rights to property of the delinquent dealer by the officer charged with the collection of the tax for the purpose of satisfying any tax, interest or penalties due under the provision of this Ordinance.
- (24) *“New Article”* shall mean the original stock in trade of the dealer and shall not be limited to newly manufactured articles. The original stock or article, whether it be a used article or not, shall be subject to the tax.
- (25) *“Governing Body”* shall mean and include the School Board of Vermilion Parish, State of Louisiana.

SECTION 2.302 IMPOSITION OF TAX

A. There is hereby levied a tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or 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 of the sales prices 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 of the cost price of each item or article of tangible personal property when the same is not sold but is 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 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 germae to the said business.
- (2) At the rate of one per centum of the monthly lease or rental price said 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 of the amounts paid or charged for such services.
- D. No exemption from the state sales and use tax granted after June 29, 1978 (Act 205 of 1978) and granted pursuant to the provisions of Chapter 2 or Chapter 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable to any sales and use tax levied by this Ordinance unless the state exemption specifically provides that it applies to such sales and use tax levies. In the absence of any such specific application of the state exemption to sales and use tax levies of any local governmental subdivision or school board, any state exemption granted pursuant to the provisions of Chapter 2 or Chapter 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable only to the levy and collection of the state sales and use taxes.

Section 2.302.1 Exemptions from lease or rental tax, helicopters

- A. Whenever a helicopter used in the exploration for the extraction or production of oil, gas, and other minerals or for providing services to those engaged in such extraction, production, or exploration is required or used through a transaction entitled lease, rental, lease-purchase, or any similar name which for purposes other than sales taxation might be considered a conditional sale contract or a transaction in lieu of sale, such acquisition or use shall be deemed to be a sale for purposes of this Ordinance.
- B. The tax due on such transactions shall be payable in equal monthly installments over the term of the lease, rental, or lease-purchase contract.

Section 3.303 Collection

A. Collection from dealer. The tax imposed under Section 2.302 shall be collectable from all persons, as hereinafter defined, and engaged as dealers, as hereinafter defined.

On all tangible personal property imported, or caused to be imported, from outside of the Parish and used by him, the dealer 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 storage to be used or consumed in this Parish of 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 that have paid a similar tax upon the sale or use of the same tangible personal property in another state or other parish of the State of Louisiana. The credit provided herein shall be granted only in the case where the state or another Parish of the State of Louisiana 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 the State of Louisiana

and whose orders of enlistment contracts stipulate a period of active duty of two years or more and who purchase automobiles outside of the 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 other Parish of the State of Louisiana 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 other Parish of the State of Louisiana shall be made to the satisfaction of the collector or pursuant to regulations promulgated by him. In no event shall the credit be greater than the tax imposed herein.

- B. Collection of tax vehicles. The tax imposed by this Ordinance 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 this Ordinance on any such vehicle shall be paid to the vehicle commissioner as the agent of the collector at the time of application for a certificate of title or vehicle registration license and such tax shall be administered and collected by the vehicle commissioner in compliance with rules and regulations adopted for such collections. No certificate of title or vehicle registration license shall be issued until this tax has been paid.
 - (a) The tax levied by this Ordinance on the sale of any such vehicle shall be due at the time of registration or any transfer of registration as required by the Vehicle Registration License Tax Law (RS 47:451 et seq.).
 - (b) The tax levied by this Ordinance on the use of any such vehicle in this Parish shall be due at the time first registration in this state is required by the Vehicle Registration License Tax Law (RS 47:451 et seq.) when the address given by the title owner is in this Parish.
 - (2) The provision contained in Section 1.301 (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.
- C. Auctioneers. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in this state. Such auctioneers or the company, which they represent, shall be responsible for the collection of taxes levied by this Ordinance on articles sold by them and shall report and remit to the collector as provided herein.
- D. Collection of tax on motorboats and vessels. The secretary of the Louisiana Department of Wildlife and Fisheries shall not register or issue a certificate of registration on any new boat or vessel purchased in this state until satisfactory proof has been presented to him that all sales taxes provided by this Ordinance have been paid; nor shall he register or issue a certificate of registration on any boat or vessel brought into this Parish until satisfactory

proof has been presented to him that all use taxes required by this Ordinance have been paid.

- E. Collection of tax on off-road vehicles. The vehicle commissioner shall not issue a title on any off-road vehicle purchased in this Parish or brought into this Parish from another state or Parish until satisfactory proof has been presented to him that all sales taxes required by this Ordinance have been paid. A notarial bill of sale or other comparable document by a seller showing the amount of sales taxes paid at the time of purchase shall be sufficient proof of the amount of taxes paid. The purchaser of an off-road vehicles from a seller who is not registered with the collector to collect and remit sales taxes shall pay the sales taxes at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of this Ordinance.

Section 4.304 Treatment of tax by dealer

- A. The dealer shall collect the tax levied in this Ordinance from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 3.303. The dealer shall collect the sales taxes on off-road vehicles and remit them directly to the Collector. The dealer shall furnish the purchaser with a notarized bill of sale or other comparable document showing the amount of sales taxes paid at the time the vehicle is purchased.
- B. Every dealer, located outside the Parish making sales of tangible personal property for distribution, storage, use, or other consumption, in this Parish, shall at the time of making sales collect the tax imposed by this Ordinance from the purchaser.
- C. Dealers shall, as far as practicable, add the amount of the tax imposed under this Ordinance in conformity with the schedule or schedules to be prescribed by the Secretary of the Louisiana Department of Revenue pursuant to authority conferred herein, 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.
- D. Where the tax collected for any period is in excess of one per centum, the total tax collected must be paid over to the Collector, 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 collector of the total tax collected if in excess of one per centum.
- E. 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.

- F. No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. Whoever violates this provision with respect to advertising shall be fined not less than **twenty-five** dollars or more than **two hundred fifty** dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.
- G. The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.
- H. The use of tokens is forbidden. The method and the schedule of the amounts to be collected from the purchasers, lessees or consumers in respect to any receipt upon which a tax is imposed by this ordinance shall be as prescribed by the Secretary of the Department of Revenue and Taxation of the State of Louisiana. The amount of tax to be collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided.

Section 5.305 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.

The gross proceeds derived from the sale in this Parish of livestock at public sales sponsored by breeders; or registry associations or livestock auction markets are exempted from the tax levied by this Ordinance. When any person other than through a public sale sponsored by breeders' makes public sales of livestock to consumers or registry association or a livestock auction market, they are not exempted from the tax imposed by this Ordinance. This section shall be construed as exempting race horses entered in races and claimed at any racing meet held in Louisiana, whether the horse claimed was owned by the original breeder or not.

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, viticulture, 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) (a) 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 traded in.
- (b) Where a part of the cost price of a motor vehicle is represented by a motor vehicle returned to the dealer’s inventory, the use tax is payable on the total cost price less the wholesale value of the article returned.
- (4) (a) 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:
- (i) Gasoline;
 - (ii) Steam;
 - (iii) Water, not including mineral water or carbonated water or any water put in bottles, jugs, or containers, all of which are not exempted;
 - (iv) Electric power of energy, an any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or cogeneration;
 - (v) Newspapers;
 - (vi) Fertilizer and containers used for farm products when sold directly to the farmer;
 - (vii) Natural gas and refinery gas; except that refinery gas shall be taxable to the extent specifically hereinafter provided;
 - (viii)** All energy sources when used for boiler fuel except refinery gas when used for boiler fuel; refinery gas used for any taxable purpose shall be subject to the tax imposed by this Ordinance; provided that its value shall be fifty-two cents per thousand cubic feet for the taxable period beginning July 1, 1985 and ending December 31, 1985. For each succeeding calendar year thereafter the value of refinery gas shall be the product of fifty-two cents multiplied by a fraction the numerator of which shall be the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year, and the denominator of which shall be twenty-nine dollars, and provided further that such values shall be the maximum place upon refinery gas;
- (ix) New trucks, new automobiles, and new aircraft withdrawn from stock by factory authorized new truck, new automobile, and new dealers, with the approval of the Secretary of the Revenue and Taxation titled in the dealer’s name for use as demonstrators.
- (b) Sales of meals furnished to the staff and students of educational institutions, including kindergartens; the staff and patients of hospitals; the staff, inmates, and patients of mental institutions; boarders of rooming houses, and occasional meals

furnished in connection with or by educational, religious, or medical organizations are exempt from the taxes imposed by this Ordinance, if the meals are consumed on the premises where purchased; however, sales by any of the above in facilities open to outsiders or to the general public are not exempt from the taxes imposed by this Ordinance.

(c) Blank

(d) Blank

(e) However, sales taxes authorized and imposed by any school board, municipality, or other local taxing authority shall not apply to the sale of prescription drugs under the pharmaceutical vendor program of Title XIX of the Social Security Act as administered by the Department of Health and Human Resources of the State of Louisiana.

(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.

(6) The sales, use and lease taxes imposed by this Ordinance shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means supplied by licensors thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensors or distributors thereof.

(7) Blank

(8) "Demonstrators" as used in Paragraph (4) of this Section shall mean new trucks, new automobiles and new aircraft titled in the dealer's name for use as demonstrators which are kept primarily on the dealer's premises during normal business hours and which are available for demonstration purposes; provided, however; that the occasional use of such demonstrator by authorized personnel of the dealer shall not disqualify such demonstrator from the exemption herein designated.

Section 5.305.1 Exclusions and exemptions; ships and ships supplies

- A. The tax imposed by this Ordinance 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, drilling ships, drilling 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 this Ordinance 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 exemption provided in this Section shall apply to component parts of drilling barges of fifty tons load displacement and over.

Section 5.305.2 Blank

Section 5.305.3 Exclusions and exemptions; seeds used in planting of crops

The tax imposed by this ordinance shall not apply to the sale at retail of seeds for use in the planting of any kind of crops.

Section 5.305.4 Exclusions and exemptions; casing, drill pipe and tubing used in offshore drilling

The sales tax shall apply to casing, drill pipe and tubing sold in this Parish, for use offshore beyond the territorial limits of the state, for the production of oil, gas, sulphur and other minerals.

Section 5.305.5 Blank

Section 5.305.6 Exclusions and exemptions; Little Theater tickets

The sales tax imposed by this Ordinance shall not apply to the sale of admission Tickets by Little Theater organizations.

Section 5.305.7 Exclusions and exemptions; tickets to musical performances of nonprofit musical organizations

The sales tax imposed by this Ordinance shall not apply to the sale of admission tickets by domestic nonprofit corporations or by any other domestic nonprofit 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 any performance intended to yield a profit to the promoters thereof.

Section 5.305.8 Exclusions and exemptions; pesticides used for agricultural purposes

The tax imposed by this Ordinance 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 5.305.9 Exclusions and exemptions; motion picture film rental

The sales and use taxes imposed by this Ordinance shall not apply to the amount paid by the Operator of a motion picture theatre to a distributing agency for use of films of photoplay.

Section 5.305.10 Exclusions and exemptions; property purchased for use outside the state

There shall be no sales tax due upon the sale at retail of tangible personal property purchased within the 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 the Parish for use herein the property shall be subject to the use tax of the Parish as of the time it is brought into the Parish for use herein, subject to the credit provided in Section 3.303A.

If the first use of tangible personal property purchased in the Parish for use beyond the territorial limits of the Parish occurs in a city or Parish of the State of Louisiana or in a city or county of a state other than Louisiana which imposes a sales or use tax, the exemption provided herein shall apply only if:

- A. The purchaser is properly registered for sales and use tax purposes in the city or Parish of Louisiana or city or county of a state other than Louisiana of use and regularly reports and pays sales and use tax in such other city or Parish of Louisiana or city or county of a state other than Louisiana; and
- B. The city or Parish of Louisiana or city or county of a state other than Louisiana in which the first use occurs grants on a reciprocal basis a similar exemption on purchases within that city or Parish of Louisiana or city or county of a state other than Louisiana for use in Louisiana; and
- C. The purchaser obtains from the collector a certificate or letter authorizing him to make the nontaxable purchases authorized under this Section.

Section 5.305.11 Exclusions and exemptions; contracts prior to and within ninety days of tax levy

The sales and use taxes imposed by this Ordinance shall not be applicable to sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of this Ordinance levying same or to sales or services involved in such contracts entered into and reduced to writing within ninety days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales taxes at the rates effective and existing prior to such effective date.

Section 5.305.12 Exclusions and exemptions; fire fighting equipment purchased by bona fide organized public volunteer fire departments

The sales and use taxes imposed by this Ordinance shall no apply to purchases of equipment used in fire fighting by bona fide organized public volunteer fire departments.

Section 5.305.13 Exclusions and exemptions; admissions to entertainments furnished by certain domestic nonprofit corporations

The sales tax imposed by this Ordinance shall not apply to the sale of admissions to entertainment events furnished by recognized domestic non profit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses connected with the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.

Section 5.305.14 Exclusions and exemptions; nonprofit organizations; nature or exemption; limitations; qualifications

(A) The sales and use taxes imposed by this Ordinance shall not apply to sales of tangible personal property at, or admission charges for, events sponsored by domestic, civic, educational, historical, charitable, fraternal or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expense connected therewith, are used for educational, charitable, religious or historical restoration purposes.

The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event.

This Section shall not be construed to exempt any organization or activity from the payment of sales or use taxes otherwise required by law to be made on purchases made by these organizations.

This Section shall not be construed to exempt regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets and similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants.

(B) This sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsorship will not be genuine in any case in which exemption from taxation is a major consideration leading to such sponsorship.

(C) An exemption certificate or letter must be obtained from the collector, under such method as he may prescribe, in order for nonprofit organizations to qualify for the exemption provided in this Section.

In the event the collector denies tax exempt status under this Section, the organization may appeal such ruling to the Board of Appeals for Local Sales and Use Taxes (RS 33:2890.1 et seq.), which may overrule the collector and grant tax exempt status if the Louisiana Board of Tax Appeals determines that the denial of tax exempt status by the collector was arbitrary, capricious or unreasonable.

Provided, however, that any organization which endorses any candidate for political office or otherwise is involved in political activities shall not be eligible for the exemption herein provided.

Section 5.305.15 Exclusions and exemptions; sales or purchases by blind persons

The sales and use taxes levied and the collection, reporting and remittance thereof required by this Ordinance shall not apply to sales or purchases made by blind persons in the conduct of a business which is exempt from license taxes by R.S. 46:371 through 46:373.

Section 5.305.16 Exclusions and exemptions; cable television installation and repair

The sales and use taxes imposed by this Ordinance shall not apply to necessary fees incurred in connection with the installation and services of cable television. Such exemption shall not apply to purchase made by any cable television system, but shall only apply to funds collected from the subscriber for regular service, installation and repairs.

Section 5.305.17 Exclusions and exemptions; income from coin-operated washing and drying machines in a commercial Laundromat

The taxes imposed by this Ordinance shall not apply to or be imposed upon the income on receipts from any coin-operated washing or drying machine in a commercial Laundromat. A commercial Laundromat, for purposes of this Section, is defined to be any establishment engaged solely in the business of furnishing washing or drying laundry services by means of coin-operated machines.

Section 5.305.18 Blank

Section 5.305.19 Exclusions and exemptions; leased vessels used in the production of minerals

The taxes imposed by this Ordinance shall not apply to those vessels, which are leased for use offshore beyond the territorial limits of this state for the production of oil, gas sulphur, and other minerals or for the providing of services to those engaged in such production.

Section 5.305.20 Blank

Section 5.305.21 Exclusions and exemptions; equipment, parts and airplanes purchased by commuter airlines

(A) The sales and use taxes imposed by this Ordinance hereof shall not apply to purchases of airplane equipment, airplane parts, and airplanes of any commuter airline domiciled in the State of Louisiana.

(B) A commuter airline for the purposes of this Section is defined as any airline transporting passengers and/or freight on a regularly scheduled basis, with a minimum of twenty flights per week, whose schedule is published in the Official Airline Guide but which has been exempted from the general rate and route regulations of the Civil Aeronautics Board under the provisions of Section 298:11 of Subpart B of Part 298 of Chapter II of Title 14 of the Code of Federal Regulations promulgated under the authority of Sections 1324 and 1386 of Title 49 of the United States Code. A commuter airline is further defined as any airline having ticket counters that are staffed at airports it serves, a reservations office operating at least twelve hours a day, seven days a week and interline ticket and baggage agreements through the Air Traffic Conference of America.

Section 5.305.22 Exclusions and exemptions; certain self-propelled vehicles removed from inventory

A Louisiana retail dealer who ordinarily purchases for resale equipment of a type not subject to titling under Louisiana Revised Statutes Title 32, such equipment having a dealer's cost of not less than three thousand dollars per unit, and such equipment being: (A) mobile, motorized self-propelled farm equipment and attachments thereto; (B) mobile, motorized self-propelled earth moving equipment and attachments thereto; and/or (C) mobile, motorized self-propelled construction equipment and attachments thereto; and who withdraws an item of such equipment from inventory, for rental, as a method for promoting sales, shall be exempt from the payment of sales or use tax on the purchase price of the property when withdrawn from inventory for such rental. Such retail dealer shall be liable for the tax levied on the rental income, and a sales tax upon any ultimate sale of said item.

Section 5.305.23-Blank

Section 5.305.24 Exclusions and exemptions; monetized bullion

The sales and use taxes imposed by this Ordinance shall not apply to sales of monetized bullion having a total value of one thousand dollars or more. For purposes of this Section "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals, and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation.

Section 5.305.27 Exclusions and exemptions; capital mass transit equipment

A. The sales and use taxes imposed by this Ordinance shall not apply to purchases of capital mass transit equipment by any political subdivision or by any agency as defined in RS 42:1111.

B. Capital mass transit equipment is defined for the purposes of this Section as buses, other vehicles, facilities, and other equipment useful and necessary for the provision of public transportation service.

Section 5.305.28 Exclusions and exemptions; gasohol

The sales or use taxes imposed by this Ordinance shall not apply to the sale at retail, the use, the consumption, the distribution and the storage to be used or consumed in this state of any motor fuel known as gasohol containing a blend of at least ten percent alcohol, if the alcohol therein has been distilled in Louisiana from agricultural commodities. Alcohol to be used in gasohol must have been rendered unsuitable for human consumption at the time of its manufacture or immediately thereafter. Gasohol, in order to qualify for this exemption must have been dyed a color, which shall be different and distinct from other gasolines. The Secretary of the Department of Revenue and Taxation shall designate the color used and supplied by the dealer in the manufacture of gasohol.

Section 5.305.29 Exclusions and exemptions; state; certain local political subdivisions

The sales and use taxes imposed by this Ordinance shall not apply to purchase by the state or any of its agencies, boards, or commissions.

Section 5.305.30 through 5.305.37 Blank

Section 5.305.38 Exclusions and exemptions; sheltered workshop for mentally retarded

The sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this Parish of each item or article of tangible personal property by a sheltered workshop for the mentally retarded licensed by the Department of Health and Human Resources as a day developmental training center for the mentally retarded shall not be subject to the sales and use taxes levied by this Ordinance.

Section 6.306 Returns and payment of tax; penalty for absorption of tax

General provisions. Except as hereinafter provided, 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 twentieth day of the month following the month in which this tax becomes effective, transmit to the collector, 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. Thereafter, like returns shall be prepared and transmitted to the collector by all dealers on or before the twentieth day of each month for the preceding calendar month. These returns shall show any further information the collector 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 collector the required tax due for the preceding calendar month, and failure to so remit such tax shall cause said tax to become delinquent. However, whenever the taxes due hereunder from a dealer average less than fifty dollars per month, the taxes hereunder shall be due and payable quarterly by the dealer, and the return required from the dealer for the quarter shall be filed on or before the twentieth day of the first month of the next succeeding quarter. The collector shall provide by regulation for the period and method of determining, under this proviso, the average taxes due from a dealer. Any dealer who is required to file his sales tax return on a quarterly basis, as provided above, may file his returns and pay the tax on a monthly basis after first having received written approval from the collector to do so. Application to file monthly must be furnished to the collector in writing and will set forth-complete jurisdiction for the shorter reporting period.

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 collector 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 per centum (2%) of the amount of tax due and accounted for and remitted to the collector 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 collector, for good cause, may extend, for a period 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 the tax imposed by this Ordinance, the dealer is hereby declared to be the agent of the Parish School Board.

Section 6.306.1 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, register as dealers and pay the taxes imposed by Section 2.302 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 2.302 at the time of purchase or importation. Thereafter, on or before the 20th day of the month following the purchase or importation, the dealer shall transmit to the

collector, on forms secured by him, returns showing gross purchases and importation's 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 importation's shall be multiplied by a fraction, the numerator of which is Vermilion 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 collector the tax due for the preceding calendar month as shown on the return.

Section 7.307 Collector'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 collector 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 collector 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 and 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 collector 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 collector, represent the true or actual consideration, then the collector 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 collector shall add to the assessment the cost of such examination, together with any penalties accruing thereon, which shall be collected in the same manner as the taxes imposed by this Ordinance.

Section 8.308 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 collector 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 provide, 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 the former owner, owners or assigns.

Section 9.309 Dealers required to keep records

A. (1) 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 collector; and each dealer shall secure, maintain and keep until the taxes to which they relate have prescribed, a complete record of tangible personal property received, used, sold at retail, distributed or stored, leased or rented, within the Parish by the said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the collector for the reasonable administration of this Ordinance, and a complete record of all sales of purchases of services taxable under this Ordinance until the taxes to which they relate have prescribed.

(2) These records shall be open for inspection to the collector at all reasonable hours.

(3) The collector is authorized to require all dealers who take deductions on their sales returns for total sales under the minimum taxable bracket prescribed by him pursuant to Section 4.304 to support their deductions by keeping written or printed detailed records of said sales in addition to their usual books and accounts.

B. 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 10.310 Wholesalers and jobbers required to keep records

A. 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 until the taxes to which they relate have prescribed and shall be open to the inspection of the collector at all reasonable hours.

- B. 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 double.

Section 11.311 Collector requested to examine records of transportation companies

The collector is specifically authorized to examine the books, at all reasonable hours, records and other documents of all transportation companies, agencies, or firms operating in the 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 collector may proceed by rule against it, in term time or in vacation, in any court of competent jurisdiction in this Parish where such refusals occurred, to show cause why the collector should not be permitted to examine its 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 in a judgment of the court, and every violation thereof shall be considered as a contempt of court and punished according to law.

Section 12.312 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 Parish 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 costs 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 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 collector. The procedure prescribed by law in attachment proceedings shall be followed except that no bond shall be required of the Parish.

Section 13.313 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 collector 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 proceeding 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 collector for a permit, stating the kind of vehicle to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the cosigner, and such other information as the collector may deem proper or necessary. These permits shall be free of cost to the applicant and may be obtained at the office of the Collector.

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 means of transportation other than a common carrier, as well as the taxable property may be seized by the collector 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 collector 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 that the residence of the owner of the automobile, truck or other means of transportation is out of the state, or is unknown to the collector, 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 collector or one of his assistants or by the attorney representing the collector may make the affidavit, if it is not convenient to obtain the affidavit of the collector 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 collector 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 after ten days' notice by advertisement in the official Parish paper where the seizure is made, by the sheriff of the Parish of Vermilion, or by the sheriff of the Parish in which the

seizure is made; this sale shall be made at public auction at the court house, to the highest bidder, for cash, and without appraisalment. 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 a 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 into the parish treasury 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 14.314 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 collector 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 collector, 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 collector.

Section 15.315 Sales returned to dealer; credit or refund of tax

Whenever 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; and in case the tax has not been remitted by the dealer to collector, 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 collector 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 collector 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 collector that the tax paid was not due.

Section 15.315.1 Sales tax refund

A. In the event tangible personal property, a part of and used in or about a person's home, apartment or homestead, in this Parish on which the sales tax imposed by this Ordinance has been paid by the owner of the property is destroyed by a natural disaster occurring in an area in Louisiana subsequently determined by the President of the United States to warrant assistance by the Federal Government, the owner thereof who was the purchaser who paid this sales tax shall be entitled to reimbursement of the amount of the tax paid on such tangible personal property destroyed for which no reimbursement was received by insurance or otherwise. Upon receipt of a sworn statement of the owner as to the amount of the taxes paid under the provisions of this Ordinance on tangible personal property destroyed as aforesaid, the collector shall make refund to said owner in the amount to which he is entitled.

B. No refund shall be made under the provisions of this Section unless a claim for refund covering the amount to which an owner is entitled is filed on or before the end of the third calendar year following the calendar year in which the property was destroyed.

C. The collector is authorized to prescribe the forms and regulations for use in carrying out the provisions of this Section.

Section 16.316 Collector to provide forms

The collector 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 17.317 Cost of collection

Out of the funds on deposit in said "Sales Tax Fund", the Treasurer shall first pay all reasonable and necessary costs and expenses of collecting the tax levied hereby and administering the provisions of this Ordinance as well as the various administrative procedures established herein. The Treasurer monthly shall report such costs and expenses to the School Board of this Parish.

Section 18.318 Disposition of collections

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

B. In compliance with the said special election of September 25, 1965, authorizing said tax, after all reasonable and necessary costs and expenses of collection and administration of the tax have been paid as provided for in Section 17.317, the remaining balance in the "Sales Tax Fund" shall be available for appropriation and expenditure by the School Board solely for the purposes designated in the proposition authorizing the levy of the tax (said proposition being hereinbefore set forth in the preamble to this Ordinance, and having been approved by a majority of the qualified electors of the Parish voting at a special election held on Saturday, September 25, 1965).

Chapter II – Administrative Provisions

Part I – GENERAL POWERS AND DUTIES OF COLLECTOR

Section 19.401 Power and Duties of Collector

The collector is authorized and requested, in the enforcement of the collection of the tax imposed by this ordinance, to employ all means prescribed by law for the collection and enforcement of the tax imposed by this Ordinance and by Chapter 2 of Sub-Title II of Title 47 of Louisiana Revised Statutes with or without, in the collector's discretion, combining and consolidating procedures for the enforcement and collection of the tax imposed by this Ordinance with the procedures for the enforcement and collections of the tax provided by said Chapter 2. These means include particularly the establishment of a system of permits, the seizure of trucks, automobiles, or other means of transportation than common carriers, and of the taxable property, the forfeiture and sale thereof, and the judicial proceedings prescribed by RS 47:313 and Section 13.313 of this Ordinance. Also, such means of collection and enforcement include all remedies and enforcement and collection procedures prescribed by Chapter 18 of Sub-Title II of Title 47 of the Louisiana Revised Statutes.

It shall not be necessary for the collector to give bond, before assuming the duties hereby provided, and any duly authorized representative of the collector, when acting under his authority and discretion, shall have the same power as is conferred upon the collector by this Ordinance. The collector shall keep accurate records showing the name of the remitter, amount and type all taxes paid to him under this Ordinance, reports filed with him and such other records as are necessary to the proper administration and execution of this Ordinance. Said records and files shall enjoy the

same confidential character as is provided by RS 47:1508 and RS 47:1509, and may be destroyed after five years from the last day of December of the year in which the tax to which the records pertain become due, but not less than one year after the receipt of the last payment of tax to which such records pertain.

The collector is authorized to promulgate, make and publish reasonable rules and regulations for the purpose of the proper administration and enforcement of this Ordinance and the collection of taxes under it, to the extent not inconsistent with law and this Ordinance. Such rules and regulations may, in the discretion of the collector, be consolidated with rules and regulations applicable to the collection of other taxes. In general the collector shall have the same right to employ counsel, administer oaths, and grant extensions of time as is provided by Part I of Chapter 18 of Sub-Title II of Title 47 of the Louisiana Revised Statutes. The powers and duties given to and imposed upon the collector by Part II of said Title 47 may be used and shall be observed with respect to the taxes hereby levied, including the duty to determine the correct tax, the power to examine records and premises, the power to examine records of taxpayers and other persons, the power to conduct hearings, administer oaths and examine witnesses, and to subpoena them and compel attendance and testimony.

In addition to other remedies, the collector may proceed to enforce the collections of taxes due under this Ordinance by means of any of the following alternate remedies or procedures:

1. Assessment and distraint as provided in RS 47:1562 through 47:1573.
2. Summary court proceedings provided in RS 47:1574.
3. Ordinary suit under the provisions of the general laws regulation actions for the enforcement of obligations.
4. If any tax imposed by this Ordinance is referred to an attorney-at-law for collection, there shall be added thereto an additional amount of ten per centum (10%) of the tax, interest and other penalties.

Section 19.402 Confidential character of tax records

A. (1) Except as otherwise provided by law, the records and files of the collector are confidential and privileged, and no person shall divulge or disclose any information obtained from such records and files except in the administration and enforcement of the tax laws of this Parish or of a political subdivision of this Parish.

(2) No person shall divulge or disclose any information obtained from any examination or inspection of the premises or property of any person in connection with the administration and enforcement of the tax laws of this parish or a political subdivision of this Parish except to the taxing jurisdiction of his employment or, in the

case of an already existing independent contractor arrangement, to the contracting taxing jurisdiction.

Section 19.403 Preservation of returns and reports

A. All returns and reports filed with the collector pursuant to the provisions of this Ordinance, except as otherwise provided for in this Section, may be destroyed by order of the collector after five years from the last day of December of the year in which the tax to which the records pertain became due, but not less than one year after the receipt of the last payment of tax to which such records pertain.

B. Subsection A of this Section shall not apply to internally generated reports used for the processing of tax information. The collector shall have the authority to establish procedures for the destruction of these reports.

Section 19.404 Power to employ counsel

The collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest due under this Ordinance, or to represent him in any proceeding under this Ordinance. If any taxes, penalties or interest due under this Section are referred to an attorney at law for collection, an additional charge for attorney fees, in the amount of ten per centum (10%) of the taxes, penalties and interest due, shall be paid by the tax debtor.

Section 19.405 Power to extend time to file returns and pays tax

Upon the written request of the taxpayer and for good cause shown, the collector may grant reasonable extensions of time for the filing of returns and payment of tax due under this Ordinance; provide that such extensions of time shall not exceed thirty calendar days. Whenever such an extension is granted, the return or tax for which the extension is granted shall not become delinquent until the expiration of the extension period; but interest will accrue on the tax during the period of the extension, such interest to be computed in all cases from the date the tax would have become delinquent in the absence of an extension.

Part II - Investigations and Hearings

Section 19.406 Collector's duty to determine correct tax

As soon as practicable after each return or report is filed under any of the provisions of this Ordinance the collector shall cause it to be examined and may make such further audit or investigation as he may deem necessary for the purpose of determining the correct amount of tax.

Section 19.407 Power to examine records and premises of taxpayer

For the purpose of administering the provisions of this Ordinance, the collector, whenever he deems it expedient, may make or cause to be made by any of his authorized assistants or representatives an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer. Every taxpayer and every director, officer, agent, or employee of every taxpayer, shall exhibit to the collector or to any of his authorized representative, the place of business, the tangible personal property and all of the books, records, papers, vouchers, accounts, and documents of the taxpayer and to facilitate any such examination or investigation so far as it may be in his or their power so to do.

Section 19.408 Retention of records by taxpayers

Notwithstanding any other provision of this Ordinance, any document or record which a taxpayer is required to maintain in regard to a tax levied pursuant to this Ordinance, shall be retained by the taxpayer until the tax to which they relate have prescribed.

Section 19.409 Power to examine the records of third parties

For the purpose of administering the provisions of this Ordinance, the collector whenever he deems it expedient may make or cause to be made by any of his authorized assistants or representatives an examination of the books, records, papers, vouchers, accounts and documents of any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, business trust, receiver, bank syndicate or other group or combination, in so far as said books, records, papers, vouchers, accounts and documents relate to, bear on, associate with, identify, clarify or disclose, the liability of any person or group made liable for any tax, excise, permit or license under this Ordinance of this Sub-title or assist in the enforcement or collection of any such liability. Every individual, director, officer, agent or employee of such individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, bank, syndicate or other group or combination, shall exhibit to the collector or to any of his authorized assistants or representatives the pertinent books, records, papers, vouchers, accounts and documents and to facilitate any such examination and investigation so far as it may be in his or their power so to do.

Section 19.410 Power to conduct hearings

The collector or any of his authorized assistants, may conduct hearings, administer oaths to, and examine under oath, any taxpayer, and the directors, officers, agents, and employees of any taxpayer, and any other witnesses, relative to the business of such taxpayer in respect to any matter incident to the administration of this Ordinance.

Section 19.411 Rule to show cause and examination of judgment debtor

Whenever the collector finds that any person has failed or refuses to file any return required by any provision of this Ordinance, the collector may institute against that person:

- (1) A rule to show cause why the return should not be filed, and
- (2) A rule to examine a judgement debtor, as provided for in Article 2452 through 2456, Louisiana Code of Civil Procedure where the tax due has been duly and finally assessed as otherwise provided.

The proceedings outlined herein shall be consistent with Article 2592 of Louisiana Code of Civil Procedure.

Part III – Assessment and Collection Procedure

Section 19.412 Alternative remedies for the collection of taxes

In addition to following any of the special remedies provided in the various sections of this Ordinance, the collector may, in his discretion, proceed to enforce the collection of any taxes due under this Section by means of any of the following alternative remedies or procedures:

- (1) Assessment and distraint, as provided in RS 47:1562 through 47:1573 and Sections 19.413 of this Ordinance.
- (2) Summary court proceeding, as provided in RS 47:1574 and Section 19.425 of this Ordinance.
- (3) Ordinary suit under the provisions of the general laws regulating actions for the enforcement of obligations.

The collector may choose which of these procedures he will pursue in each case, and the counter-remedies and delays to which the taxpayer will be entitled will be only those which are not inconsistent with the proceeding initiated by the collector, provided that in every case the taxpayer shall be entitled to proceed under RS 47:1576 and Section 19.427 of this Ordinance except (a) after he has filed a petition with the board of tax appeals for a redetermination of the assessment, or (b) when an assessment for the tax in question has become final or (c) when a suit involving the same tax obligation is pending against him; and provided further, that the fact that the collector has initiated proceedings under the assessment and distraint procedure will not preclude him from thereafter proceeding by summary or ordinary court proceedings for the enforcement of the same tax obligation.

Section 19.413 Determination and notice of tax due

If a taxpayer fails to make and file any return or report required by the provisions of this Ordinance, or if the return or report made and filed does not correctly compute the liability of said taxpayer, the collector shall cause an audit, investigation or examination to be made to determine the tax, penalty and interest due, or he shall determine the tax, penalty or interest due by estimate or otherwise. Having determined the amount of tax, penalty and interest due, the collector shall send by mail a notice to the taxpayer at the address given in the last report filed by him pursuant to the provisions of this Ordinance or if no report has been filed, to any address that may be obtainable, setting out his determination and informing the person of his purpose to assess the amount so determined against him after fifteen calendar days from the date of the notice.

Section 19.414 Protest to collector's determination of tax due

The taxpayer, within fifteen calendar days from the date of the notice provided in Section 1562, may protest thereto. This protest must be in writing and should fully disclose the reasons, together with facts and figures in substantiation thereof, for objecting to the collector's determination. The collector shall consider the protest, and in his discretion may grant a hearing thereon, before making a final determination of tax, penalty and interest due.

Section 19.415 Assessment of tax, interest and penalties

At the expiration of fifteen calendar days from the date of the collector's notice provided in Section 19.413, or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty and the interest that he determines to be due under the provisions of this Ordinance. The assessment shall be evidenced by a writing in any form suitable to the collector, which sets forth the name of the taxpayer, the amount determined to be due, the kind of tax, and the taxable period for which it is due. This writing shall be retained as a part of the collector's official records. The assessment may confirm or modify the collector's originally proposed assessment.

Section 19.416 Notice of assessment and right to appeal

Having assessed the amount determined to be due, the collector shall send, by registered mail, a notice to the taxpayer against whom the assessment lies, at the address given in the last report filed by said taxpayer, or if no report has been filed, to any such address as may be obtainable. This notice shall inform the taxpayer of the assessment made against him and notify him that he has *SIXTY* calendar days from the date of the notice within which to pay the amount of the assessment or that he may pay the tax under protest and file suit for recovery under RS 47:1576 or Section 19.427 of this Ordinance.

No assessment made by the collector shall be final if it is determined that the assessment was based on an error of fact or of law. An error of fact for this purpose means facts material to the assessment assumed by the collector at the time of the assessment to be true but which subsequently are determined by the collector to be false. Error of law for this purpose means that in making the assessment the collector applied the law contrary to the construction followed by the collector in making other assessments. The determination of an error of fact or of law under this Section shall be solely that of the collector, and no action against the collector with respect to the determination shall be brought in any court, and no court shall have jurisdiction of any such action, it being the intent of this subsection only to permit the collector to correct manifest errors of fact or in the application of the law made by the collector in making the assessment; provided however, that all reductions of assessment based on such errors must be approved and signed by the collector and shall then be approved in the manner provided by law for the collection of the tax imposed by this Ordinance. The remedies of a taxpayer aggrieved by any action of the collector are by payment of the disputed tax under protest and suit to recover as provided by RS 47.1576 and Section 19.427 of this Ordinance.

Section 19.416.1 Request for Review by Board of Appeals for Local Sales and Use Taxes

A. Effective January 1, 1986, whenever a taxpayer is aggrieved by an assessment made by the tax collector or by the tax collector's action or failure to act on a claim for refund or credit of an overpayment, such taxpayer may request a review by the board for a redetermination of the assessment or a determination of the alleged overpayment, by filing a petition with the board.

B. When the tax collector notifies the taxpayer of an assessment, he shall also notify the taxpayer of the taxpayers' right to request a review by the board and shall notify the taxpayer of the time period within which such requests must be filed with the board.

C. In order for the board to hear disputes which fall within within the jurisdiction of the board as delineated in Subsection A herein, a request must be filed with the board within thirty days of the date of the assessment. The filing of a request for review shall suspend the time within which suit must be instituted until ninety days after the filing.

D. Any taxpayer protesting the payment of any amount found due by the local sales tax collector shall remit to the local sales tax jurisdiction the amount due and at that time shall give notice of intention to file a request for review with the board. Upon receipt of this notice, the amount remitted shall be placed in an escrow account and held by the collector for a period of thirty days. If the request for review is filed within the thirty-day period, the funds shall be held pending outcome of the review. If the taxpayer prevails, the collector shall refund the amount to the claimant, with interest at the legal rate from the date the funds were received by the local taxing jurisdiction to the date of the refund.

E. Rulings of the board shall be appealable. The appeal shall lie with the district court of competent jurisdiction.

Section 19.416.2 Waiver of restrictions and delays

The taxpayer shall at any time have the right, by a signed notice in writing filed with the collector, to waive the restrictions and delays prescribed in Sections 19.413 through 19.416 which must ordinarily be observed before an assessment may become final. When such a waiver is executed, the assessment is final when made and is immediately collectible by distraint and sale.

Section 19.417 Assessment and notice when tax is in jeopardy

If the collector finds that a taxpayer designs quickly to depart from the Parish or state to remove therefrom any property subject to any tax or to any lien for a tax, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, he may immediately make a determination, from any available information or by estimate or otherwise, of the amount of tax, penalty, and interest such taxpayer is liable to pay under this Ordinance. Having made such determination, the collector shall immediately assess said amount, and by a writing to be retained as part of his official records, indicate such assessment has been made, and without any notice, proceed to distraint any property belonging to the taxpayer. This type of assessment may be made whenever a tax becomes due under the provisions of this Ordinance, regardless of whether it is then payable or not.

As soon as is feasible after such assessment, and not later than two calendar days thereafter, the collector shall send by registered mail a notice to the taxpayer against whom the assessment lies, at the address given in the last report filed by said taxpayer, or if no such report has been filed, to any such address as may be obtainable. Such notice shall inform the taxpayer of the assessment, its basis, and jeopardous nature; make demand for immediate payment thereof; and give notice that any property distrained or to be distrained will be subject to sale as provided in this Ordinance, to satisfy the assessment.

The taxpayer against whom the assessment lies can stay distraint of his property or sale of his property already distrained, as the case may be, only by the immediate payment of the assessment. Such payment may be made under protest with effect provided in RS 47:1576 and Section 19.427 of this Ordinance.

Section 19.418 Assessment and claims in bankruptcy and receivership

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding, or the appointment of a receiver for any taxpayer in a receivership proceeding, before any court of this state or of the United States, the collector may

immediately make a determination from any available information or by estimate or otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay under this Ordinance, and immediately assess said amount, and by a writing to be retained as a part of his official records indicate that such assessment has been made. Such assessment may be made whenever a tax becomes due under the provisions of this Ordinance, regardless of whether it is then payable or not. Claims for such assessments, and additional interest and attorney's fees thereon, shall be presented for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending despite the tendency of delays before assessment provided in Sections 19.413 through 19.416.

Section 19.419 Assessments of tax shown on face of taxpayer's returns

Whenever a taxpayer files returns and computes the amount of any tax due, such tax together with any penalty and interest due or accruing thereon, whether computed or not, shall be considered assessed and shall be entered by the collector as an assessment in his official records without the necessity of observing the delays or giving the notice ordinarily required prior to assessment.

If the taxpayer fails to accompany his return filed with a proper payment, as required by this Ordinance, the collector shall immediately send a notice by mail to such person, addressed to the address appearing on the return or any available address if no address appears, informing him of the amount due, or the balance of the amount due if a partial payment has been made, and demanding payment of such amount within ten calendar days from the date of the notice. If payment has not been received at the expiration of such time, the assessment shall be collectable by distraint and sale as is herein provided.

Nothing in this Section shall be construed as denying the right of the taxpayer to pay the assessment under protest or to claim a refund of the assessment after payment; all in manner as is hereinafter set out in this Ordinance.

Section 19.420 Collection by distraint and sale authorized

When any taxpayer fails to pay any tax, penalty and interest assessed, as provided in this Ordinance, the collector may proceed to enforce the collection thereof by distraint and sale.

Section 19.421 Distraint defined

The words "distraint" or "distrain" as used in this Ordinance, shall be construed to mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, of any property or rights to property of the taxpayer including goods, chattels, effects, stocks, securities, bank accounts, evidences of debt, wages, real estate and

other forms of property, by the collector or his authorized assistants, for the purpose of satisfying any assessment of tax, penalty or interest due under the provisions of this Ordinance.

Property exempt from seizure by Articles 644 and 645 of the Louisiana Code of Practice is exempt from distraint and sale herein.

Section 19.422 Distraint Procedure

Whenever the collector or his authorized assistants shall distraint any property of a taxpayer, he shall cause to be made a list of the property or effects distrained, a copy of which, signed by the collector or his authorized assistants shall be sent by registered mail to the taxpayer at his last known residence or business address, or served on the taxpayer in person. This list shall be accompanied with a note of the sum demanded and a notice of the time and place where the property will be sold. Thereafter, the collector shall cause a notice to be published in the official journal of the parish wherein the distraint is made, specifying the property distrained, and the time and place of sale. The sale shall be held not less than fifteen calendar days from the date of publication in the official journal, whichever is later. The collector may postpone such sale from time to time, if he deems it advisable, but not for a time to exceed thirty calendar days in all. If the sale is continued to a new date it shall be readvertised.

Section 19.423 Surrender of property subject to distraint

Any person subject to distraint, or whom a levy has been served, shall, upon demand by the collector or his authorized assistants, making such levy, surrender such property, or rights to property which he is in possession, or which he subsequently comes into possession, until such time as the levy is recalled, subject to distraint, to the collector or his authorized assistant, unless such property or right is, at the time of demand, subject to an attachment or execution under any judicial process. Any such person failing or refusing to surrender any such property or rights shall be liable to the Parish in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalties, and interest and other cost and charges which are due.

Section 19.424 Sale of distrained property

The collector, or his authorized assistants, shall sell at public auction for cash to the highest bidder so much of the property so much of the property distrained by him as may be sufficient to satisfy the tax, penalties, interest, and costs due. He shall give to the purchaser a certificate of sale which will be prima facie evidence of the right of the collector to make the sale, and conclusive evidence of the regularity of his proceedings in making the sale, and which will transfer to the purchaser all right, title and interest of the taxpayer in and to the property sold.

Out of the proceeds of the sale, the collector shall first pay all costs of the sale and then apply so much of the balance of the proceeds as may be necessary to pay the assessment. Any balance beyond this shall be paid to the taxpayer.

Section 19.425 Collection by summary court proceeding authorized

In addition to any other procedure provided in this Ordinance or elsewhere in the laws of this Parish or state and for the purpose of facilitating and expedition the determination and trial of all claims for taxes, penalties, interest, attorney fees, or other costs and charges arising under this Ordinance, there is hereby provided a summary proceeding for the hearing and determination of all claims by or on behalf of the Parish, or by or on behalf of the collector, for taxes, excises, and licenses for the penalties, interest, attorney fees, costs or other charges due thereon, by preference in all courts, all as follows:

(1) All such proceedings, whether original or by intervention or third opposition, or otherwise, brought by or on behalf of the Parish, or by or on behalf of the collector, for the determination or collection of any tax, excise, license, interest, penalty, attorney fees, costs or other charge, claimed to be due under any provision of this Ordinance, shall be summary and shall always be tried or heard by preference, in all courts, original and appellate, whether in or out of term time, and either in open court or chambers, at such time as may be fixed by the court, which shall be not less than two nor more than ten days after notice to the defendant or opposing party.

(2) All defenses, whether by exception or to the merits, made or intended to be made to any such claim, must be presented at one time and filed in the court of original jurisdiction prior to the time fixed for the hearing, and no court shall consider any defense unless so presented and filed. This provision shall be construed to deny to any court the right to extend the time for pleading defenses; and any court shall grant no continuance to any defendant except for legal grounds set forth in the Louisiana Code of Practice.

(3) That all matters involving any such claim shall be decided within forty-eight hours after submission, whether in term time or in vacation, and whether in the court of first instance or in an appellate court; and all judgments sustaining any such claim shall be rendered and signed the same day, and shall become final and executory on the fifth calendar day after rendition. No new trial, rehearing or devolutive appeal shall be allowed. Suspensive appeals may be granted, but must be perfected within five calendar days from the rendition of the judgment by giving of bond, with good and solvent security, in a sum double that of the total amount of the judgment, including costs. Such appeals, whether to a court of appeals or to the Supreme Court, shall be made returnable in not more than fifteen calendar days from the rendition of the judgment.

(4) Whenever the pleadings filed on behalf of the Parish, or on behalf of the collector, shall be accompanied by an affidavit of the collector or of one of his assistants or representatives or of the counsel or attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in said pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the defendant or opposing party.

Section 19.426 Injunctions prohibited

No court of this state shall issue any process whatsoever to restrain the collection of any tax, penalty, interest, or other charge imposed in this Ordinance.

Section 19.427 Remittance of tax under protest; suits to recover

A. Any taxpayer protesting the payment of any amount found due by the collector, or the enforcement of any provision of the tax laws in relation thereto, shall remit to the collector the amount due and at the time shall give notice of intention to file suit for the recovery of such tax. Upon receipt of this notice, the amount remitted shall be placed in an escrow account and held by the collector or his duly authorized representative for a period of thirty days. If suit is filed for recovery of the tax within the thirty-day period, the funds in the escrow account shall be further held pending the outcome of the suit. If the taxpayer prevails, the collector shall refund the amount to the claimant.

B. This Section shall afford a legal remedy and right of action in any Parish court having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of this Ordinance as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such action, service of process upon the collector shall be sufficient service, and he shall be the sole necessary and proper party defendant in any such suit.

C. This Section shall be construed to provide a legal remedy in the Parish courts in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or the Constitution of Louisiana.

D. Upon request of a taxpayer and upon proper showing by such taxpayer that the principle of law involved in a additional assessment is already pending before the courts for judicial determination, the taxpayer, upon agreement to abide by the decision of the courts, may remit the additional assessment under protest, but need not file an additional suit. In such cases, the tax so paid under protest shall be placed in an escrow account and held by the collector until the question of law involved has been determined by the courts and shall then be disposed of as therein provided.

Section 19.428 Tax obligation to constitute a lien, privilege and mortgage

Except as is specifically provided in the laws regulating building and loan associations, any tax, penalty, interest or attorney fee due under the provisions of this Ordinance shall operate as a lien, privilege and mortgage on all of the property of the tax debtor, both movable and immovable; which said lien, privilege and mortgage shall be enforceable in any court of competent jurisdiction in an action, at law, or may be enforced as otherwise provided by this Ordinance. The collector may cause notice of such lien, privilege and mortgage to be recorded at any time after the tax becomes due, whether assessed or not, and regardless of whether or not then payable, in the mortgage records of any Parish wherein the collector has reason to believe the tax debtor owns property. The lien, privilege and mortgage created by this Section shall affect third parties only from the date of recordation and shall take their respective ranks by virtue of recordation.

Section 19.429 Cancellation of lien, privilege and mortgage

In any case where the tax, penalty or interest secured by a recorded lien, privilege and mortgage have been paid the collector or his authorized assistants or attorneys may authorize the cancellation thereof.

In other cases, the collector may authorize the cancellation or release of a lien, privilege or mortgage subject to the following terms and conditions:

(1) The collector, upon application of a taxpayer, may authorize the cancellation of any lien, privilege or mortgage or other encumbrance recorded by virtue of this Ordinance, provided the taxpayer furnishes a surety bond in favor of the collector executed by a surety company duly qualified to do business in this state in an amount of not less than one and one-half (1 ½) times the amount of the obligation due, including penalties, interest, and other costs incurred.

(2) The collector may authorize the release of any real property from the effect and operation of any lien, privilege, mortgage or other encumbrance, recorded by virtue of this Ordinance, provided, that the collector is satisfied that the remaining real property belonging to the tax debtor and upon which said lien, privilege and mortgage bears is valued at not less than the amount of the remaining tax obligation, including all penalties, interest and other costs incurred, and the amount of all prior liens upon such property. In determining the value of the remaining property due consideration shall be given to prior ranking encumbrances, if any exist on said property.

(3) The collector may issue a certificate of release of any part of the property subject to any lien, privilege, mortgage, or other encumbrance recorded by virtue of this Ordinance, if there is paid over to the collector in part satisfaction of liability an amount determined by the collector.

Section 19.430 Prescriptive period for taxes, interest, and penalties; interruption and suspension of prescription period

A. Sales and use taxes levied by this tax authority shall prescribe as of three years from the thirty-first day of December in the year in which such taxes became due.

B. The prescriptive period running against any such sales and use tax shall be interrupted by:

(1) the action of the collector in assessing the amounts of such taxes in the manner prescribed by law;

(2) filing of a summary proceeding in court.

(3) filing of any pleadings by the collector or by the taxpayer with any state or federal court.

(4) filing of a false or fraudulent tax return.

(5) failure of files a tax return, with intent to defraud.

C. The running of such prescriptive period may also be suspended by means of a written agreement between any taxpayer and the collector made prior to the lapse of such period.

Part IV – Interest and Penalties

Section 19.435 Failure to pay tax, interest on unpaid taxes

Failure to pay any tax an any interest, penalties or costs 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 in the manner and with the effect provided herein.

Whenever any taxpayer fails to pay any tax, or any portion thereof, due under the provisions of this Ordinance on or before the day when it shall be required by law to be paid, there shall be added to the amount of tax due interest at the rate of one and one-quarter per centum (1- 1/4%) per month from the due date until paid, except in the case of a waiver under Section 1565.1, if the tax is paid within ten days after notice of the assessment is mailed to the taxpayer, the interest shall be computed to the thirtieth day after the filing of such waiver or to the date the deficiency is paid, whichever is earlier. Such interest shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due and can be enforced in a separate action or in the same action for the collection of the tax, and shall not be waived or remitted.

Section 19.436 Penalty for failure to make timely return

When any taxpayer fails to make and file any return required to be made under the provisions of this Ordinance at the time such return becomes due, there shall be imposed, in addition to any other penalties provided, a specific penalty to be added to the tax in the amount of five per centum (5%) of the tax if the failure is for not more than thirty days, with an additional five per centum (5%) for each additional thirty days or fraction thereof during which the failure continues, not to exceed twenty-five per centum (25%) of the tax in the aggregate. The specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

Section 19.437 Waiver of penalty when return is not timely

If the failure to make any return at the time such return becomes due is attributable, not to the negligence of the tax of the taxpayer, but to other causes set forth in written form and considered reasonable by the collector, the collector may remit or waive payment of the whole or any part of the specific penalty provided for such failure; but in any case where the penalty exceeds one thousand dollars, it can be waived by the collector only after approval by the taxing authority.

Section 19.438 Penalty for false or fraudulent return

When the taxpayer files a return that is false or fraudulent or grossly incorrect and the circumstances indicate that the taxpayer had intent to defraud the tax authority of any tax due under this Ordinance, there shall be imposed, in addition to any other penalties provided, a specific penalty of fifty per centum (50%) of the tax found to be due. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

Section 19.439 Negligence penalty

If any taxpayer fails to make any return required by this Ordinance or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided, a specific penalty of 5% of the tax or deficiency found to be due, or ten dollars whichever is the greater. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

Section 19.440 Insufficient funds check in payment of taxes; penalty

In the event a check used to make payment of a tax, interest or penalty due under this Ordinance is returned unpaid by the bank on which it is drawn because of insufficient funds in the account on which it is drawn, such shall constitute a failure to pay the tax, interest or penalty due and a specific penalty shall be imposed on the taxpayer in addition to all other penalties provided by law. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax, interest or penalty, in payment of which the check was given and may be enforced in a separate action or in any action instituted for the collection of the tax, interest or penalty. The specific penalty imposed under this Section shall be an amount equal to the greater of one percent of the check or five dollars. After receipt of three insufficient fund checks during any two-year period, the collector may require payment of the taxes, interest or penalties due by the taxpayer to be paid by certified check, money order or cash.

Section 19.441 Examination and hearing costs

If any taxpayer fails to make any return required by this Ordinance, or makes a grossly incorrect report, or a false or fraudulent report, and the collector, in performance of his duty to ascertain the amount of tax due, makes an examination of books, records, or documents, or an audit thereof, or conducts a hearing, or subpoenas witnesses, then there may be added to the amount of tax found to be due, a specific penalty, in addition to any other penalty provided, in an amount as itemized by the collector to compensate for all costs incurred in making such examination or audit, or in holding such hearing, or in subpoenaing and compensating witnesses. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

Section 19.442 Distraint cost penalty

Whenever the collector uses the distraint procedure to enforce the collection of any tax, there shall be imposed with respect to the tax for the collection of which the distraint procedure is used, a specific penalty to ten dollars to compensate for the costs of the distraint procedure. This specific penalty shall be in addition to any penalty assessed as provided by law and shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and may be enforced either in a separate action or in the same action for the collection of the tax.

Section 19.443 Penalty for nonpayment of tax

Upon taxes not paid and delinquent thirty days after the date upon which the tax is due, there shall be an interest penalty of one and one-quarter percent per month on the amount of the tax due, which shall be collected by the collector, together with and in the same manner as the tax.

Part V – REFUNDS FOR OVERPAYMENTS

Section 19.450 Refunds of overpayments authorized

A. For the purpose of this Ordinance, the “overpayment” means a payment of tax, penalty or interest when none was due, or the excess of the amount of tax, penalty or interest paid over the amount due; provided that the power of the collector to refund overpayments shall be as prescribed and limited in this Section.

B. The collector shall make a refund of each overpayment where it is determined that:

- (1) The tax was overpaid because of an error in mathematical computation; or
- (2) The tax was overpaid because of a construction of the law contrary to the collector’s construction of the law at the time of payment; or
- (3) The overpayment resulted from a change made by the collector in an assessment under the provisions of Section 19.416.

Such refunds shall be made out of current collections; except where judgment has been obtained by a taxpayer against this taxing authority, no public property or public funds shall be subject to seizure and no judgment shall be eligible, payable, or paid, except from funds appropriated by the Legislature or by this tax authority against which judgment has been rendered (Article 12, Section 10 of the 1974 Louisiana Constitution).

This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of the rules and regulations promulgated thereunder. In the event a taxpayer believes that the collector has misinterpreted the law or promulgated rules and regulations contrary therewith, his remedy is by payment under protest and suits to recover as provided in Section 19.427.

Section 19.451 Interests on refunds or credits

A. The collector shall compute on all refunds or credits and allow interest as part of the refund or credit as follows:

- (1) From date of payment of the taxes, but prior to submission by the taxpayer of a claim for refund, interest shall be computed at a rate of two per cent per annum.

(2) From date of submission by the taxpayer of a claim for refund, or from payment under protest, or from the date that the taxpayer gave the collector notice of the taxpayer's intention to file suit for the recovery of any taxes paid, interest shall be at the same rate as that imposed herein upon taxes not paid and delinquent.

(3) The interest rate provided for in Paragraph (2) of this Section shall not be applicable for a sixty day period from the date the taxpayer makes a claim for refund, if a refund is the result of the taxpayer's administrative error; however, the interest for this sixty day period shall be computed under the provisions of paragraph (1) of this Section.

B. No interest on refunds or credits shall be allowed if it is determined that a person has deliberately overpaid a tax in order to derive the benefit of the interest allowed by this Section. Payments of interest authorized by this Section shall be made from funds derived from current collections of the tax to be refunded or credited.

Section 19.452 Prescription of refunds and credits

A, (1) After three (3) years from December 31 of the year in which the local sales and use tax becomes due or after one year from the date the sales and use tax is paid, whichever is later, no refund or credit for overpayment shall be made unless a claim for credit or refund has been filed by the taxpayer with the collector before the expiration of such period.

(2) The maximum amount that shall be refunded or credited shall be the amount paid within said three-year or one-year period.

(3) The collector shall prescribe the manner of filing claims for refund or credit.

(4) In any case where a taxpayer and the collector consent in writing to an extension of the period during which an assessment of tax may be made, the period for refunding or crediting overpayments as provided in this Section shall be extended in accordance with the terms of the agreement between the taxpayer and the collector.

Part VI- Criminal Penalties

Section 19.455 Criminal penalty for failing to account for Parish tax monies

Any person required under this Ordinance to collect, account for, or pay over any tax, penalty, or interest imposed by this Ordinance, who willfully fails to collect or truthfully account for or pay over such tax, penalty, or interest, shall in addition to other penalties provided by law, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

Section 19.456 Criminal penalty for evasion of tax

Any person who willfully fails to file any return or report required to be filed by the provisions of this Ordinance, or who willfully files or causes to be filed, with the collector, any false or fraudulent return, report or statement, or who willfully aids or abets another in the filing with the collector of any false or fraudulent return, report or statement, with the intent to defraud the Parish or evade the payment of any tax, fee, penalty or interest, or any part thereof, which shall be due pursuant to be provisions of this Ordinance, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both.

Part VII – Miscellaneous Provisions

Section 19.460 Severability

If any one or more provisions, clauses, paragraphs or sections of this Ordinance or the application thereof to any set of circumstances shall be held to be invalid or unenforceable for any reason, such holding shall not affect the validity or enforceability of the remaining provisions, clauses, paragraphs and sections hereof nor the application of this entire Ordinance to other sets of circumstances.

Section 19.461 Citation

This Ordinance may be cited or otherwise referred to as the “Vermilion Parish School Board Sales and Use Tax Ordinance”.

Section 19.462 Venue

An action to enforce the collection of taxes, including any applicable interest, penalties, or other charges, levied by this Ordinance shall be brought in the court of competent jurisdiction of this Parish.

Section 19.463 Publication

This Ordinance shall be published in one (1) issue of the official journal of the School Board as soon as possible and shall be in full force and effect immediately upon its adoption

Section 19.464 Recordation

A certified copy of this Ordinance shall be recorded as soon as possible in the mortgage records of the Parish.

Article 2 Be it further ordained that all Ordinances or part of Ordinances in conflict with this Ordinance is and the same are hereby repealed.

End of document

Uniform Tax Code -