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Revenue and Taxation Legislation

Melvin G. Dakin*

No major changes in the tax structure were made at the 1954 legislative session. However, important definitional and other modifications were made in a number of areas. Substantial recognition has also been given to the increased cost of collections and general administration in respect to several of the tax levies.

Income Tax

An amendment to the income tax law was deemed necessary in order to conform the state practice with respect to certain oil and gas drilling and development expenses to federal practice. Louisiana enacted as a state statute a federal regulation in existence up to December 31, 1942, which had been interpreted to exclude optional expensing of drilling and development costs when such costs were incurred in the form of a "turnkey" contract. Subsequently the Treasury added a regulation permitting optional expensing of drilling and development costs so incurred for taxable years beginning after December 31, 1942.¹ Since the regulation as judicially interpreted was adopted as a statute in Louisiana it was probably felt to be beyond the competency of the Department of Revenue to conform to federal practice by interpretive regulation although the language is probably broad enough to do so.²

Formulas, pursuant to which foreign corporation income subject to tax in Louisiana is determined, were adjusted in two respects by the legislature: (1) In the case of apportionable income from transportation, except pipeline transportation, the Louisiana portion was determined under prior law by applying a percentage arrived at by arithmetically averaging a property ratio and a gross sales ratio. Determination of the property ratio is now altered so as to consist of the ratio of the value of movable and immovable property *owned* and located in Louisiana to the total value of such property owned and used in the production of apportionable income instead of the ratio of the value of all such property *used* and located in Louisiana to all such prop-

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1. U.S. Treas. Reg. 111, § 29.23(m)-16 (1943).

2. La. Acts 1954, No. 162, amending LA. R.S. 47:67, 47:77 (1950).

erty used in the production of apportionable income. In the case of air transportation, aircraft is excluded from the computation. Presumably, this alteration will result in a ratio more nearly representing the capital investment in Louisiana and a ratio more pertinent consequently in allocating taxable income to Louisiana.

(2) In the case of apportionable income from pipelines, manufacturing, merchandising and other business the noted change is made in the property ratio. In addition the sales ratio is altered from a ratio of *gross* sales and gross other apportionable income attributable to Louisiana over total gross sales and gross other apportionable income to a ratio of *net* sales and gross other apportionable income over total net sales and gross other apportionable income. A simpler method of attributing net sales to Louisiana is also substituted for the prior rather complex formula. The method consists, in essence, of counting as Louisiana sales all sales where the goods are received in Louisiana by the purchaser. The change should result in a larger and presumably more equitable share of the sales being attributed to Louisiana, the source of the purchase price.³

Corporation Franchise Tax

The simpler method of attributing sales to Louisiana adopted for income tax purposes is also substituted for the existing formula governing allocation of taxable capital for the purpose of assessing the corporate franchise tax. In the case of air transportation revenues attributable to Louisiana include those for travel and shipments originating in the state. The allocation for pipelines employs a ratio of transportation units within the state over the total such transportation units. Transportation revenues other than from aircraft and pipeline will be allocated in part by attributing to the state all revenues from sources within the state and in part by allocating combination intra- and interstate revenues upon the basis of collector's regulations.⁴

Sales Tax

The sales tax statute is amended in a number of minor respects. The installment buyer will be benefited by the exclusion, at least in part, of financing charges from "sales price" and by the exclusion of "any amount for which credit is given to the purchaser by the seller." Presumably, the latter will exclude

3. La. Acts 1954, No. 494, repealing LA. R.S. 47:245-246 (1950).

4. La. Acts 1954, No. 294, amending LA. R.S. 47:606(A)(1) (1950).

credit given for "trade-ins."⁵ Sports fans will be benefited by the exclusion of the sale of admissions to athletic entertainment by schools, colleges, and universities from the definition of taxable "sales of services."⁶ The compensation of dealers for accounting and remitting the sales tax is increased from one percent to two percent and the authority to withhold for cost of administration by the collector is also increased from \$350,000 to \$500,000.⁷

Occupational License Tax

The occupational license tax was untouched at this legislative session except for a modest concession with respect to small capacity mechanical hobby horses and similar contrivances.⁸

Vehicle Registration License Tax

The vehicle registration license tax is modified in minor respects. Transport vehicles for exclusive use within New Orleans may now operate as far as ten miles from the corporate limits and retain a preferred classification.⁹ The exemption from license requirements of World War II amputees is extended to Korean veterans and expanded to include the blind veterans as well. The exemption now applies to all automobiles purchased.¹⁰ The special flat permit fee of \$10 for trucks in excess of specifications is replaced by a system of graduated permit fees and regulations.¹¹ License requirements for animal-drawn vehicles are repealed.¹² The same act includes amendments for vesting greater discretion in motor vehicle description as to listing serial and engine numbers.¹³ There was recognition of increased costs of administration in this area also.¹⁴

Taxes on Natural Resources

The legislature took cognizance of a recent United States Supreme Court decision holding that a "gas gathering" tax imposed on gas as taken from a gasoline-stripping plant for transmission in interstate commerce is a tax on an essential part of

5. La. Acts 1954, No. 143, amending LA. R.S. 47:301(13) (1950).

6. La. Acts 1954, No. 290, amending LA. R.S. 47:301(14)(b) (1950).

7. La. Acts 1954, No. 314, amending LA. R.S. 47:317 (1950); La. Acts 1954, No. 491, amending LA. R.S. 47:306 (1950).

8. La. Acts 1954, No. 323, amending LA. R.S. 47:375(B) (1950).

9. La. Acts 1954, No. 168, amending LA. R.S. 47:462(5) (1950).

10. La. Acts 1954, No. 263, amending LA. R.S. 47:463(B) (1950).

11. La. Acts 1954, No. 538, repealing LA. R.S. 47:474 (1950); La. Acts 1954, No. 414, amending LA. R.S. 32:281-282 (1950).

12. La. Acts 1954, No. 27, repealing LA. R.S. 47:470-471 (1950).

13. La. Acts 1954, No. 27, amending LA. R.S. 47:503, 47:504(3) (1950).

14. La. Acts 1954, No. 425, amending LA. R.S. 47:480 (1950).

that commerce and hence an infringement.¹⁵ "Gas gathering" is redefined by the legislature to include simply "transporting gas, after its severance, from the well to the first meter at or near the well."¹⁶

Taxes on Petroleum Products

The search for a satisfactory scheme of imposing and administering a use fuel tax continues. A newly adopted statute lodges responsibility for the collection of the tax with the supplier instead of with the fuel dealer and user but with liability in the event of nonpayment with the user-seller. The system of licensing is continued. Violations of the act are expanded to include all uses of fuel in the state on which tax has not been paid and to include the issuance of false invoices, bills of sale or receipts.¹⁷ Taxes on petroleum products are otherwise modified only to expand the definition of "lubricating oil" to include renovated or "laundered" oil and to make certain changes in reporting and refund administration.¹⁸

Tobacco Tax

Inequities in the distribution of the tobacco tax to municipalities were dealt with by making allocations to parishes containing no incorporated municipalities and extending its benefits to newly incorporated municipalities. The participation of Louisiana State University in this tax continues at \$1,000,000 per annum.¹⁹

Gift Tax

An additional incentive to transfer property during the lifetime of a donor is now available by virtue of an amendment to the gift tax statute adding an annual exclusion provision and expanding the present specific exemption provision. The present amendment brings the state act into conformity with the federal act on this score.²⁰ The previous specific exemptions, ranging from \$5,000 to \$500 depending on the relationship between donor and donee, are preserved as annual exclusions and a new lifetime specific exemption of \$30,000 is added, which may be

15. Michigan-Wisconsin Pipe Line Co. v. Calvert, 74 Sup. Ct. 396 (1954).

16. La. Acts 1954, No. 45, amending LA. R.S. 47:673(2) (1950).

17. La. Acts 1954, No. 166, amending LA. R.S. 47:801-814 (1950).

18. La. Acts 1954, No. 644, amending LA. R.S. 47:712, 47:722, 47:727 (1950); La. Acts 1954, No. 293, amending LA. R.S. 47:732 (1950); La. Acts 1954, No. 500, amending LA. R.S. 47:1682 (1950).

19. La. Acts 1954, Nos. 271, 310, amending LA. R.S. 47:869 (1950).

20. 47 STAT. 247 (1935), 26 U.S.C. 1004(a)(1) (1952).

apportioned in accordance with taxpayer's desires at any time during his life. The cumulative mode of calculating the tax is continued, modified to integrate into the computation any utilized portion of the new lifetime specific exemption.²¹

Ad Valorem Taxes

The increased cost of administration was recognized in the field of ad valorem taxation as elsewhere. A number of changes increasing salaries and expense funds and modifying administration thereof is the result.²²

Attempts to improve, or in any event to modify, the regulation of tax sales and redemptions were present as always. The responsibility is now formally imposed upon the tax collector to record notice of redemption upon the records of his office.²³

Two amendments, apparently quite unrelated to each other, would seem to indicate derogation from the competitive tax sale as a means of realizing the maximum in delinquent taxes. One amendment proposes to burden property sold at tax sales with an obligation to pay deficiencies in taxes remaining after application of the proceeds of the sale, a provision which will probably make tax sales less productive of revenue. Another amendment permits parties with a demonstrable interest in land adjudicated to the state for taxes to redeem by payment, with the approval of the police jury and Tax Commission, of the assessed value of the land. The effect of the provision is to substitute, as to such property, assessed value as the limit of the taxing unit's recovery for delinquent taxes instead of the proceeds of the competitive sale.²⁴

Constitutional Amendments

Proposed modifications in tax and debt limitations and proposed new bond issues which necessitate amendments to the Constitution are discussed at page 93 of this symposium.

21. La. Acts 1954, No. 717, amending LA. R.S. 47:1205-1207 (1950).

22. La. Acts 1954, No. 595, amending LA. R.S. 47:1801 (1950); La. Acts 1954, No. 478, amending LA. R.S. 47:1906 (1950); La. Acts 1954, No. 575, amending LA. R.S. 47:1907 (1950); La. Acts 1954, No. 89, amending LA. R.S. 47:1908 (1950); La. Acts 1954, No. 73, amending LA. R.S. 47:1910-1911 (1950); La. Acts 1954, No. 72, repealing LA. R.S. 47:1912 (1950); La. Acts 1954, No. 420, amending LA. R.S. 47:2057 (1950).

23. La. Acts 1954, No. 598, amending LA. R.S. 47:2222 (1950).

24. La. Acts 1954, No. 536, amending LA. R.S. 47:2190 (1950); La. Acts 1954, Nos. 55, 546, amending LA. R.S. 47:2224 (1950).