

### **Speaking of Medicare and Medicaid**

Prescription drugs purchased under the provisions of Medicare or under the pharmaceutical vendor program for Title XIX of the Social Security Act continue to stir controversy over taxable and non-taxable events. While the department observes the legitimacy of the regulations governing the exemptions applicable to Medicare and Medicaid purchases, we find dealers' interpretation of the exemptions to be over-reaching and beyond the intended scope of the exemptions.

Without issue, the department does interpret the exemptions as meaning all items of prescription drugs purchased under either of the provisions as being exempt. And, of course, the definition of "drugs" is also clear as defined in R.S. 47:301(20) of the regulations. However, what continues to fuel controversy is the interpretation of bills paid to hospitals, clinics and other healthcare providers. In trying to provide clarity, there is a difference in the sale of tangible personal property and the sale of a professional service. In most cases the sale of tangible personal property is a taxable sale at retail where tangible personal property is involved and title or possession is exchanged.

However, pursuant to the provisions of Medicare, a "sale at retail" under R.S. 47:301(10)(u) shall not include the sale of tangible personal property to Medicare Part B and D participants which is understood without reservation. Now, based on R.S. 47:305.5(a), the sale of prescription drugs under both Title XIX and XXI are not subject

to local sales tax. In each instance above, the key event is a sale of prescription drugs. Although there are exemptions for the administration of cancer drugs in a physician's office, there is no such provision under the Medicare/Medicaid exemption. As a matter of fact, R.S. 47:305(5)(b) goes to added lengths to clarify the local tax position on "professional service." When prescription drugs are used by patients in the treatment of various diseases or injuries and the drugs are administered exclusively to the patient in a physician's office by either a physician, nurse or healthcare professional and the patient is not a regularly kept bed patient for 24 hours or more, a "professional service" is being rendered. It is the department's opinion that doctors' offices, urgent care facilities and dialysis clinics are rendering professional services which establish them as consumers of the prescription drugs administered in the treatment of diseases or injuries exclusively in the office.

Hospitals and other institutions like chemical dependency facilities etc. are businesses that furnish non-taxable services which make them consumers of all tangible personal property purchased with exception to property purchased for resale in a gift shop, coffee shop, cafeteria or other retail outlet; in such cases retail sales will occur. Unless Medicare or Medicaid patients purchase prescription drugs through a facility pharmacy, the exemption under the provisions of both Medicare and Medicaid does not apply.



### **Direct Butane Purchases Taxable**

Louisiana statutes do include language that offers relief from state sales and use tax to residents who purchase butane, propane, or liquified petroleum gases for residential consumption. The State of Louisiana also offers an exemption to farmers who purchase the same products including diesel fuel when used for farm purposes. However, the local sales and use tax imposed pursuant to R.S. 47:301(A) does apply to direct purchases of butane, propane or other forms of liquified gases by consumers for residential or consumption in cooking and heating. Not listed among the products subject to local sales and use tax is diesel fuel.

Again, in the case of farmers purchasing diesel fuel, butane, propane or other liquified petroleum gases for farm use, the exemption is for state sales and use tax only and does not apply to local sales tax.

### **Excess Tax**

Few dealers understand line item 17 on the Calcasieu Parish Sales and Use Tax return entitled Excess Tax. In the instance where the total local sales or use tax collected during a reporting period exceeds the applicable percentage due on a certain type of merchandise or service, that extra is excess tax and must be remitted to the collector. Excess Tax is added to tax due at that point on the return before withholding any compensation for timely filing.



## Hunters Weekend Tax Exemption

Each year on the first consecutive Friday through Sunday in September, the Louisiana Second Amendment Weekend Holiday Act offers hunters an opportunity to buy hunting supplies. Hunters can purchase firearms, ammunition, ATV's and many other hunting-related merchandise tax exempt from both the State of Louisiana and local sales tax under the authority of Act 453 of our 2009 Session. The exemption applies to consumer purchases only and does not extend to purchases by businesses. For more details on the exemption including eligible items, refer to Title 61 (LAC 61:1.4425) of the Louisiana Administrative Code.

Rainchecks acquired during the holiday period will not be eligible if purchased after the holiday period ends. Hunters Weekend during September presents a golden opportunity for hunters who have the more expensive hunting equipment in sight to purchase.

## Louisiana Sales Tax Holiday

An exemption from the 4% state sales tax ONLY will be valid on August 2-3, 2013. This exemption applies to the first \$2,500 spent on individual purchases for non-business use. Purchases of motor vehicles and prepared meals are excluded from the sales tax holiday. More information may be found at [www.revenue.louisiana.gov/tax/holiday](http://www.revenue.louisiana.gov/tax/holiday).

## Sales Tax 101--Free Help to Dealers

Are you a new business owner and overwhelmed by the number of forms and information you need to produce? Maybe you've been in business a while but are unsure of exactly what forms you need to complete. Our office has the answer--Sales Tax 101 is a short session offered to dealers to help answer questions and make filing returns easier. Go to [www.calcasieusalestax.org](http://www.calcasieusalestax.org) to download the presentation. You may also call our office for more information or to schedule an appointment for individual assistance.



## Property Earmarked for Use Outside the Parish

The department is prohibited from levying or collecting a use tax on the storage of property that has been imported into the parish and is earmarked or documented for exclusive use outside the parish although the subject property may be stored within the parish if the owner of such property stored for exclusive use outside the parish has acquired a Tax Exemption Certificate from the department. When a dealer receives a copy of the Tax Exemption Certificate from the purchaser (vendee), the dealer is relieved from the liability of collecting and remitting the use tax on the property sold. However, if the property is removed from storage and is used within the parish, it becomes subject to taxation (R.S. 47:337.12C).



## How to Contact Us

Our main number is **(337) 217-4280** and fax number is **(337) 217-4281**. Extension for general customer assistance is 3413; for administration dial extension 3423; for delinquent returns dial 3406; and for audit information dial 3404.

## Local Office Holidays

Our offices will be closed on the following dates for the holidays mentioned:

- Independence Day...July 4, 2013
- Labor Day.....Sept. 2, 2013
- Veterans Day.....Nov. 11, 2013
- Thanksgiving....Nov. 25-29, 2013
- Christmas/New Year's.....

- Dec. 23, 2013 – Jan. 3, 2014
- MLK Day.....Jan. 20, 2014

In addition, our regular office hours through May are 8:00 am to 4:30 pm. Summer hours in June and July will be 8:00 am to 4:00 pm. Our office is open during the lunch hour throughout the year.



## Reminder

When our office is closed on weekends or holidays, dealers may use the green drop box located under the breezeway to drop off returns or other payments if needed. The box is strategically located for taxpayer convenience, so take full advantage of its availability.