

Sales/Use/Indirect:

Louisiana Supreme Court Affirms that Law Changes Resulting in Taxation of Byproducts are Invalid

Case No. 2021-OC-00552, La. (12/10/21). The Louisiana Supreme Court (Court) affirmed the Louisiana Third Circuit Court of Appeal's declaration that certain 2016 legislative amendments (*i.e.*, 2016 Act No. 3), which effectively taxed Louisiana sales of byproducts of processed materials, are unconstitutional in violation of La. Const. Art. VII, § 2 (*i.e.*, the "Tax Limitation Clause") as a "new tax" that failed to garner a two-thirds (*i.e.*, supermajority) vote in each house of the Louisiana Legislature. In doing so, the Court essentially agreed that in narrowing Louisiana's "further process exclusion" to exclude purchases of materials (in this case, limestone) that are further processed into a byproduct, the 2016 legislative amendments constituted a new tax because they sought to tax that which was previously excluded from taxation under state law. A dissenting opinion follows. Please contact us with any questions.

URL: <https://www.lasc.org/opinions/2021/21-0552.OC.OPN.pdf>

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