ORDINANCE NO. 667

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CITY OF SLIDELL SALES AND USE

TAX LAW OF 1963.

An Ordinance levying a tax of one (1%) per cent upon the sale at retail, the use, the lease or rental, the consumption and the storage for use or consumption of tangible personal property and upon the sale of services as defined in Title 47, Section 301 et seq., inclusive, of the Revised Statutes of 1950 of the State of Louisiana, as amended, with the proceeds of such tax to be dedicated and used for the purposes of constructing, re-surfacing, lighting and improving public streets, sidewalks and bridges; constructing, purchasing, improving, maintaining and operating recreational facilities and equipment; and constructing, acquiring or improving lands, buildings and any work of permanent public improvement, including equipment and furnishings therefor; title to which shall be in the public; defining the terms "sale at retail", "use", "lease or rental", "storage", "tangible personal property", "sale of services", and other words and terms herein; levying and providing for the assessment, collection, payment, dedication and disposition of said tax; providing for an adequate remedy at law; defining violations of the provisions of this Ordinance and prescribing peanlties therefor; providing for rules and regulations for the enforcement of the provisions of this Ordinance, and the collection of the tax levied hereby; providing that any part of this Ordinance which may be held invalid or unconstitutional shall not affect or impair any other part thereof; and repealing all Ordinances or parts of Ordinances in conflict herewith.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF SLIDELL, LOUISIANA, IN LEGAL SESSION CONVENED:

Section 1. 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 indicates a different meaning.

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

(2) "Collector" means the Tax Collector for the City of Slidell, Louisiana and includes his duly authorized assistants.

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

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

"Dealer" is further defined to mean:

(a) every person who imports, or causes to be imported, tangible personal property from any state or foreign country or other political subdivision of this state, for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in this city;

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

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

(d) any person who leases or rents tangible personal property for a consideration, permitting the use or possesion 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 use ~~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 Ordinance, who purchases or receives any of the services subject to tax under this Ordinance;

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

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

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

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

(8) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, this city, any parish, city of 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 peson 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 sale; provided that sale for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations, shall himself be liable for and pay the tax.

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

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

(12) "Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, for a consideration, of

any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

(13) "Sales price" means the total amount for which tangible personal property is sold, including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed 6 percent of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.

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

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

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

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

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

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

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

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

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

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

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

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

<u>Section 2. Imposition of tax</u>

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 city, of each item or article of tangible personal property, as defined herein, the levy of said tax to be as follows:

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

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

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

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

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

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

The tax levied in this Section shall be collected from the dealer, as defined herein, shall be paid at the time and in the manner hereinafter provided, and shall be in addition to all other taxes, whether levied in the form of excise, license, privilege or property taxes.

D. Sales or use tax paid to this city on the purchase of new motor trucks and new motor tractors licensed and registered for 12,000 pounds or more under the provisions of R.S. 47:462, new trailers and new semi-trailers licensed and registered for 16,000 pounds or more under the provisions of R.S. 47:462 for rental may be deducted as a credit against the tax due on the rental of that item of property so that no tax is payable on rental income until the tax paid on the purchase price has been exceeded. Sales taxes paid to another state or another another political subdivision of this state on the purchase price of property is not deductible from the tax subsequently due on the rental of such property in this city. Property imported by the lessee for use in this city that has been previously used by him in another state or another political subdivision of this state is not subject to any tax on the value when imported, but is only subject to the tax that applies on rental payments.

Section 3.Collection

A. Collection from dealer. The tax imposed under Sec. 2 shall be collectible from all persons, as herein[redacted] defined, engaged as dealers, as herein[redacted] defined.

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

B. Collection of tax on vehicles. The tax imposed by Subsection A of Section 2 [redacted] of 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 of Louisiana shall be collected as provided in Louisiana Revised Statutes 47:303 (B), and the collector is authorized and empowered to enter into an agreement with the Collector of Revenue of the State of Louisiana by which the Collector of Revenue of the State of Louisiana may collect said tax on behalf of this city.

Section 4. Treatment of tax by dealer

The tax levied in this Ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 3.

Section 5. Exclusions and exemptions from the tax

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

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

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

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

(5) It is not the intention of this Ordinance to levy a tax upon articles of tangible personal property imported into this city, or produced or manufactured in this city, 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 city of tangible personal property after it has come to rest in this city and has become a part of the mass of property in this city.

(6) The provisions of this Ordinance shall not apply in respect to the use, or consumption, or distribution, or storage of tangible personal property for use or consumption in this city, upon which like taxes equal to, or greater than, the sum of the taxes imposed by this Ordinance and like taxes imposed by the State of Louisiana, have been paid to any other taxing jurisdictions, the proof of the payment of such tax to be according to rules and regulations made by the collector. If the amount of like taxes paid to other taxing jurisdictions is not equal to or greater than the sum of the taxes imposed by this ordinance and like taxes imposed by the State of Louisiana, then the dealer shall pay to this city the taxes imposed by this ordinance, in an amount, however, no greater than the difference between the amount of like taxes imposed by other taxing jurisdictions and the sum of the taxes imposed by this ordinance and like taxes imposed by the State of Louisiana.

Section 6. Exclusions and exemptions: ships and ships' supplies

A. The tax imposed by Sec. 2 (A) (1) shall not apply to sales of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty tons load displacement and over, built in Louisiana, nor to the gross proceeds from the sale of such ships, vessels, or barges when sold by the builder thereof.

B. The taxes imposed by Sec. 2 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 opeating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

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

Section 7. Exclusions and exemptions; seeds used in planting of crops

The tax imposed by Sec. 2 (A) (1) shall not apply to the sale at retail of seeds for use in the planting of any kind of crops.

Section 8. 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 9. Returns and payment of tax.

The taxes levied hereunder shall be due and shall be payable monthly. For the purpose of ascertaining the amount of tax payable all dealers shall, on or before the 20th day of the month following the month in which this tax becomes effective, transmit to the 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; and thereafter, like returns shall be prepared and transmitted to said collector by all dealers, on or before the 20th day of each month, for the preceding calendar month. These returns shall show any further information the 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.

Gross proceeds from rentals or leases of tangible personal property 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 five per centum (5%) 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 not to exceed thirty days, the time for making any returns required under the provisions of this Ordinance.

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

Section 10. 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 city, 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 be 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 accured, 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 retal 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. Such costs and penalties when collected shall be remitted to the city Treasurer in the same manner as the taxes are remitted to him by the collector.

<u>Section 11. Termination or transfer of business</u>

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 & 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 provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, orwners or assigns.

<u>Section 12. Dealers required to keep records</u>

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, for a period of three years, a complete record of tangible personal property received, used, sold at retail, distributed, or stored, leased or rented, within this city 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 or purchases or services taxable under this Ordinance. These records shall be open for inspection to the collector at all reasonable hours. The collector is authorized to require all dealers who take deductions on their sales tax returns for total sales under the minimum taxable bracket prescribed by him [redacted] to support their deductions by keeping written or printed detail records of said sales in addition to their usual books and accounts.

Any dealer subject to the provisions of this Ordinance who violates theprovisions of this Section shall be fined not more than one hundred dollars, or imprisoned for not more than thirty days, or both, for any such offense.

Section 13. Wholesalers and jobbers required to keep records

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

Whoever violates the provisions of this Section shall be fined not more than fifty dollars, or imprisoned for not more than ten days, or both, for the first offense. For the second or each subsequent offense, the penalty shall be doubled.

Section 14. Collector's authority to examine records of transportation companies

The collector is specifically authorized to examine at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in this city, whether they conduct their business by truck, rail, water, airplance, 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.

Section 15. 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 city for use, consumption, distribution or storage to be used in this city, or imported for the purpose of leasing or renting the same, shall make the tax, interest, penalties, or cost ipso facto delinquent. This failure shall moreover be a sufficient ground for the attachment of the personal property imported wherever it may be found, whether the delinquent taxpayer is a resident or nonresident, and whether the property is in the possession of the delinquent taxpayer or in the possession of other persons.

It is the intention of this Section to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this Ordinance, together with interest, penalties and costs, and authority to attach is hereby specifically granted to the collector.

Section 16. Failure to pay tax; rule to cease business.

Failure to pay any tax 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 to take a rule on the dealer, in any court of competent jurisdiction, to show cause why the dealer should not be ordered to cease from further pursuit of business as a dealer, all in accordance with the provisions of Louisiana Revised Statutes 47:314.

Section 17. Sales returned to dealer; credit or refund of tax

In the event tangible personal property sold is returned to the dealer by the purchaser or consumer or in the event the amount paid or charged for services is refunded or credited to the purchaser or consumer after the tax imposed by this Ordinance has been collected, or charged to the account of the purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the collector; and in case the tax has not been remitted by the dealer to the 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 then 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 17.1 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 peson 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 consignee, and such other information as the collector may deem proper or necessary. These permits shall be free of cost to the applicant.

B. The importation into this city 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 Louisiana Revised Statutes 47:313.

Section 18. 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 19. Cost of collection

The cost of preparing and distributing the report forms and paraphernalia for the collection of the tax, of the inspection and enforcement duties required herein, and of the employment of deputy collectors, auditors, attorneys and other persons in connection therewith, shall be borne by the revenue produced by this ordinance.

Section 20. Powers of authorized representatives of collector

Any duly authorized representative of the collector, when acting under his authority and direction, shall have the same power as is conferred upon the collector by this Ordinance.

Section 21. Collector's records

The collector shall keep a record of all his official acts and shall preserve copies of all rules, decisions and orders made by him. He shall also keep an accurate record showing the name of remitter, amount and type of taxes paid to him, reports filed with him, and such other records as are necessary to the proper administration and execution of this Ordinance.

Section 22. Confidential character of collector's records

The records and files of the collector respecting the administration of this Ordinance shall be considered confidential and privileged, and neither the collector nor any employee engaged in the administration thereof, or charged with the custody of any such records or files, shall divulge or disclose, except for the administration and enforcement of this Ordinance, any information obtained from such records or files or from any examination or inspection of the premises or property of any person.

Nothing herein contained shall be construed to prevent:

(1) The delivery to a taxpayer or his duly authorized representative of a copy of any return or report or any other paper filed by him pursuant to the provisions of this Ordinance;

(2) The publication of statistics so classified as to prevent the identification of any return or report and the items thereof;

(3) The use of reports filed by a taxpayer under this Ordinance against the same taxpayer for a tax due under another Ordinance of this city;

(4) The furnishing, in the discretion of the collector, of any information disclosed by the records or files to any official person of a department of the State of Louisiana, of any other political subdivision of this state, of any other state or of the United States who shall be concerned with the administration of a similar tax.

(5) The inspection by the city attorney or other legal representative of this city of the returns, reports or files relating to the claim of any taxpayer who shall have [redacted] brought an action to review or set aside any tax imposed under this Ordinance or against whom an action or proceeding has been instituted in accordance with the provisions thereof.

Section 23. Preservation of returns and reports

All returns and reports filed with the collector 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 records pertain became due, but not less than one year after the receipt of the last payment of tax to which such records pertain.

Section 24. Adoption of rules and regulations and power of collector to make additional rules and regulations

The "Rules and Regulations Promulgated in Connection with Louisiana General Sales Tax", issued by the Collector of Revenue of the State of Louisiana, are hereby adopted, insofar as they may be applicable, as the rules and regulations governing the administration and enforcement of this Ordinance. Where such adopted Rules and Regulations are silent, or clearly not applicable to this Ordinance, or inconsistent with the provisions hereof, the collector, in addition to specific authority granted him elsewhere in this Ordinance, is authorized to promulgate, make and publish reasonable rules and regulations for the purpose of the proper administration and enforcement of the provisions of this Ordinance; provided that such rules and regulations shall not be inconsistent with the provisions of this Ordinance or other Ordinances of this city, or the laws and constitution of the State of Louisiana; provided further that such rules and regulations shall have the full force and effect of law, upon publication one time in the official journal of this city.

Section 25. Power of collector to employ counsel

The collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest [redacted] due under this Ordinance, or to represent him in any proceeding under this Ordinance. If any taxes, penalties or interest due under this Ordinance 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 26. Power to extend time to file returns and pay 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, not to 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.

Section 27. 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 28. 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, 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 assistants, 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 29. 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 thirty calendar days from the date of the notice.

Section 30. Protest to collector's determination of tax due

The taxpayer, within thirty calendar days from the date of the notice provided in Section 29 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 31. Assessment of tax, interest and penalties

At the expiration of thirty calendar days from the date of the collector's notice provided in Section 29, 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 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 32. Notice of assessment

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 thirty calendar days from the date of the notice within which to pay the amount of the assessment. At the expiration of the delay of thirty calendar days, the assessment shall be final and collectible.

Section 33. 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 29 through 32. When such a waiver is executed, the assessment is final when made and is immediately collectible.

Section 34. Assessment and notice when tax is in jeopardy

If the collector finds that a taxpayer designs quickly to depart permanently from this city, 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 any tax due under the provisions of this Ordinance, 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, interest and costs such taxpayer is liable to pay under this Ordinance. Having made such determination, the collector shall immediately assess such amount, and by a writing to be retained as part of his official records, indicate such an assessment has been made, and without any notice, proceed to enforce collection of the tax. This type of assessment may be made wherever a tax becomes due under the provisions of this Ordinance, regardless of whether it is then payable or not.

Section 35. 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, the collector may immediately make a determination from any available information or by estimate or otherwise, of the amount of tax, penalty, interest and costs the taxpayer is liable to pay under the provisions of this Ordinance, and immediately assess said amount, and by writing to be retained as part of his official records indicate that such assessment has been made. Such assessment may be made whenever such tax becomes due, regardless of whether it is then payable or not.

Section 36. Assessment 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 [redacted] 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 the 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 to 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 collectible.

Section 37. Interest on unpaid taxes

When 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 six per centum (6%) per annum from the due date until paid, except that in the case of a waiver under Section 33, 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. If the term for which interest is to be charged exceeds four years, the rate of interest for the period beyond four years shall be reduced to three per centum (3%) per annum. 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 seprate action or in the same action for collection of the tax, and shall not be waived or remitted.

Section 38. Penalty for failure to make timely return

When any taxpayer fails to make 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. 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 39. Waiver of penalty when return is not timely filed

If the failure to make any return at the time such return becomes due is attributable, not to the negligence of the taxpayer, but to other cause set forth in affidavit 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 twenty-five dollars ($25.00), it can be waived by the collector only after approval by the Mayor and Board of Aldermen.

Section 40. Negligence penalty

If any taxpayer fails to make any return required by this Ordinance or makes an incorrect return, and the circumstances indicate wilful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition of any other penalties provided, a specific penalty of five per centum (5%) of the tax or deficiency found to be due, or ten dollars ($10.00), 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 41. 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 city 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 42. 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, 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. 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 43. Refunds of overpayments authorized

For the purpose of this Section, "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.

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 this Ordinance contrary to the collector's construction of the Ordinance at the time of payment.

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 this Ordinance 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 suit to recover.

Before refunding any overpayment, the collector may first determine whether the taxpayer who made the overpayment owes any other liability to this city. If such be the case, the collector may credit the overpayment against such liability and notify the taxpayer of the action taken.

After three years from the 31st day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever, is the later, no refund or credit for an overpayment shall be made unless a claim for credit or refund has been filed with the collector by the taxpayer before the expiration of said three-year or one-year period. The maximum amount which shall be refunded or credited shall be the amount paid within said three-year or one-year period. The collector shall prescribed the manner of filing claims for refund or credit.

Section 44. Criminal penalty for failing to account for tax money

Any person required under this Ordinance to collect, account for, or pay over any tax, penalty, or interest imposed by this Ordinance, who wilfully 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 one hundred dollars ($100.00) or imprisoned for not more than thirty days, or both.

Section 45. Criminal penalty for evasion of tax

Any person who wilfully fails to file any return or report required to be filed by the provisions of this Ordinance, or who wilfully files or causes to be filed, with the collector, any false or fraudulent return, report or statement, or who wilfully 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 city or evade the payment of any tax, fee, penalty or interest, or any part thereof, which shall be due pursuant to the provisions of this Ordinance, shall be fined not more than one hundred dollars ($100.00) or imprisoned for not more than thirty days, or both.

Section 46. Disposition of collections

All sums collected under the privisions of this Ordinance, less the commissions allowed to dealers and the costs of administration as herein provided, shall be deposited by the collector in the Treasury of the City of Slidell in a special fund to be designated as the Sales and Use Tax Fund, immediately following the collection of said taxes, and shall remain on deposit until such time as the disbursement of all or any part thereof is authorized by the Mayor and Board of Aldermen. In furtherance of the provisions hereof, no funds shall be used or disbursed from the Sales and Use Tax Fund, other than in the case of the exceptions hereinabove mentioned, for any purpose or purposes whatsoever other than: constructing, re-surfacing, lighting and improving public streets, sidewalks and bridges; constructing, purchasing, improving, maintaining and operating recreational facilities and equipment; and constructing, acquiring or improving lands, buildings and any work of permanent public improvement, including equipment and furnishings therefor, title to which shall be in the public.

Section 47. Invalidity of part not to affect remainder of Ordinance

If any section, subsection, sentence, clause or phrase of this Ordinance be hald invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Board of Aldermen of the City of Slidell, Louisiana, hereby declare that they would have adopted this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact thay any one or more sections, subsections, sentences, clauses or phrases may be so declared invalid or unconstitutional.

Section 48. Taxes to be in addition to all other taxes

The taxes levied herein are declared to be supplemental and inaddition to any and all other taxes, of any kind or nature, levied by and under the authority of the Mayor and Board of Aldermen of this city.

Section 49. Repealing clause

Any and all other Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 50. Citation of Ordinance

This Ordinance may be cited or otherwise referred to as the "City of Slidell Sales and Use Tax Law of 1963".

11-28-62

MAYOR

ATTEST:

CLERK