

2022 Regular Session

SENATE BILL NO. 95

BY SENATOR ALLAIN

TAX/LOCAL. Creates the multi-parish audit program for local sales tax. (7/1/22)

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AN ACT

To amend and reenact R.S. 47:337.36, 337.102(H) and (I)(1) and to enact R.S. 47:337.26(D)(1)(f) and 337.102(C)(10), relative to the Uniform Local Sales Tax Board; to create a multi-parish audit program; to provide for confidentiality of taxpayer information; to provide for the operations of the program; to provide relative to the funding of the board; to provide for reporting on the program to legislative committees; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:337.36, 337.102(H) and (I)(1) are hereby amended and reenacted and R.S. 47:337.26(D)(1)(f) and 337.102(C)(10) are hereby enacted to read as follows:

§337.26. Contracts for purposes relating to collection of sales and use taxes

* * *

D.(1) Prior to initiating an examination or audit of a taxpayer, the local collector shall provide notice of the intent to audit which shall be sent by certified mail to the taxpayer at the taxpayer's last known address. Such notice shall:

* * *

1 subdivision of the state subject to the provisions of R.S. 47:1508 in the same
 2 manner as any other political subdivision enforcing tax laws related to sales and
 3 use taxes.

4 * * *

5 H. Multi-parish audits.

6 (1) The ~~Beginning July 1, 2022, the~~ board may develop a coordinated ~~shall~~
 7 implement and coordinate the multi-parish audit ~~process which~~ program.

8 (2) Multi-parish audit program.

9 (a) A multi-parish audit may be requested by a taxpayer having a location
 10 that:

11 (i) Has a location in the state and registered to file and remit local sales and
 12 use taxes pursuant to a local ordinance in at least three parishes.

13 (ii) Is not a recipient of a jeopardy assessment issued by any collector.

14 (iii) Is not engaged in a current audit by a collector for which a notice of
 15 intent to assess was issued prior to July 1, 2022.

16 (iv) Agrees to promptly sign all necessary agreements to suspend
 17 prescription.

18 (v) Is not involved in any litigation with any collector. ~~If a coordinated~~
 19 ~~multi-parish audit program is developed, the program shall be implemented through~~
 20 ~~a pilot program prior to statewide availability.~~

21 (b)(i) A taxpayer that qualifies may request a multi-parish audit from the
 22 board within thirty days from the issuance of a notice of examination from all
 23 of the parishes in which the taxpayer engaged in taxable transactions during the
 24 audit period.

25 (ii) The board shall assist the taxpayer to identify all parishes in which
 26 the taxpayer is registered to file and remit local sales and use taxes or obligated
 27 to pay sales and use taxes and shall send a notice of the multi-parish audit to all
 28 parishes identified. Parishes shall have thirty days from the date of the notice
 29 to opt in or out of the multi-parish audit. If the parish collector does not

1 respond to the notice within the thirty-day period, that parish shall be
2 considered to have opted out of the multi-parish audit.

3 (iii) Any parish identified by the taxpayer that opts out of a multi-parish
4 audit shall be prohibited from auditing the requesting taxpayer until after the
5 completion of the multi-parish audit. This prohibition shall not apply to
6 parishes that the taxpayer failed to disclose to the board.

7 (c) The board shall select and compensate the auditors who will conduct
8 the multi-parish audit. Nothing in this Subsection shall prevent a local collector
9 from furnishing auditors at its own expense to assist the board's auditors in
10 conducting the multi-parish audit. All auditors participating in the multi-parish
11 audit shall be bound by R.S. 47:337.26 and any audit protocols required by the
12 board.

13 (d) The board shall facilitate consistent treatment of taxability of
14 transactions between parishes involved in a multi-parish audit.

15 (e)(i) Each parish shall review the completed audit and shall make an
16 independent determination regarding the issuance of a notice of intent to assess
17 within forty-five days of receipt of the completed audit.

18 (ii) Notwithstanding any provision of law to the contrary, a notice of
19 intent to assess arising from a multi-parish audit shall interrupt prescription for
20 the parish issuing the notice of intent to assess.

21 (iii) The board shall notify any parish that opted out of the multi-parish
22 audit that the audit has been completed within thirty days of the completion of
23 the audit.

24 (f) After the issuance of the notices of intent to assess, the taxpayer may
25 request a joint administrative hearing in which all parishes that opted into the
26 multi-parish audit may participate. The board shall coordinate the hearing.

27 (g) The board shall develop audit procedures, hearing procedures, and
28 any other provision necessary for the implementation of the multi-parish audit
29 program.

1 (3) Beginning January 1, 2024, the board shall report annually to the
 2 Senate Committee on Revenue and Fiscal Affairs and the House Committee on
 3 Ways and Means on the multi-parish audit program. The report shall include
 4 the number of multi-parish audits that were requested by taxpayers and
 5 initiated in each fiscal year, the number of multi-parish audits that were
 6 completed in each fiscal year, and the number of multi-parish audits for which
 7 each parish had opted in and opted out. The report may include
 8 recommendations for legislation to streamline or improve the program and any
 9 other information the board determines to be relevant. The report prepared
 10 and provided pursuant to this Paragraph shall not violate any individual
 11 taxpayer's confidential information under R.S. 47:1508.

12 I. Funding. (1) The board shall be funded through a dedication of a
 13 percentage of the total statewide collections of local sales and use tax on motor
 14 vehicles, **as provided for in an agreement with local collectors and** in accordance
 15 with the limitations provided in this Paragraph and the budgetary policy as provided
 16 in Paragraph (2) of this Subsection. Monies shall be payable monthly from the
 17 current collections of the tax. The dedication shall be considered a cost of collection
 18 and shall be deducted by the state and disbursed to the board prior to distribution of
 19 tax collections to local taxing authorities. The dedication shall be in addition to any
 20 fee imposed by the office of motor vehicles for the collection of the local sales and
 21 use tax on motor vehicles. The amount to be disbursed to the board in any fiscal year
 22 **after Fiscal Year 2018-2019** shall not, under any circumstances and notwithstanding
 23 any budget adopted by the board, exceed the following:

24 ~~(a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.~~

25 ~~(b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.~~

26 ~~(c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of~~
 27 ~~one percent of the collections.~~

28 * * *

29 Section 2. This Act shall become effective on July 1, 2022; if vetoed by the governor

was issued prior to July 1, 2022.

- (4) Agrees to promptly sign all necessary agreements to suspend prescription.
- (5) Is not involved in any litigation with any collector.

Proposed law authorizes a taxpayer that qualifies to request a multi-parish audit from the board within 30 days from the issuance of a notice of examination from all of the parishes in which the taxpayer engaged in taxable transactions during the audit period.

Proposed law requires the board to assist the taxpayer to identify all parishes in which the taxpayer does business and the board will send the multi-parish audit notice to all identified parishes. Parishes will have 30 days to opt in or opt out of the multi-parish audit. Further provides that if the parish collector does not respond to the notice within the 30-day period, that parish shall be considered to have opted out of the multi-parish audit.

Proposed law provides that parishes that were identified by the taxpayer that opt out of a multi-parish audit will be prohibited from auditing the same taxpayer until after the completion of the multi-parish audit.

Proposed law requires that the board hire and compensate auditors who conduct multi-parish audits and requires these auditors to follow present law standards of conduct for contract auditors hired by local tax collectors and any additional audit protocols of the board. Further provides that a local collector may furnish auditors at its own expense to assist the board's auditors in conducting the multi-parish audit.

Proposed law requires that the board facilitate consistent treatment of taxability of transactions between parishes involved in a multi-parish audit.

Proposed law requires that each parish participating in a multi-parish audit will review the audit and make an independent determination regarding the issuance of a notice of intent to assess and further provides that if issued a notice of intent to assess will interrupt prescription for the parish issuing the notice.

Proposed law provides that if a notice of intent to assess is issued, the board will coordinate an administrative hearing at the request of the taxpayer in which all parishes involved in the audit may participate.

Proposed law requires the board to develop audit procedures, hearing procedures, and any other provisions necessary for the implementation of the program.

Proposed law requires the board to report annually to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means beginning Jan. 1, 2024, on the number of multi-parish audits initiated and completed, the percentage of local audits that are multi-parish audits, and the number of times each parish has opted in or out of the multi-parish audits. The board may also report any recommended legislative changes to the program as well as other information the board determines to be relevant. Prohibits the report from violating any individual taxpayer's confidential information.

Present law authorizes the board to enter into contracts with local tax collectors to fund the operations of the board.

Effective July 1, 2022.

(Amends R.S. 47:337.36, 337.102(H) and (I)(1); adds R.S. 47:337.26(D)(1)(f) and 337.102(C)(10))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Requires local collectors to provide notice to taxpayers that they may request a multi-parish audit beginning July 1, 2023.
2. Provides additional requirements for taxpayer qualifications to request a multi-parish audit.
3. Authorizes a taxpayer that qualifies to request a multi-parish audit within 30 days from the issuance of a notice of examination from all of the parishes in which the taxpayer engaged in taxable transactions during the audit period.
4. Extends the decision to opt in or opt out of the multi-parish audit from 15 to 30 days.
5. Authorizes a local collector to furnish auditors at its own expense to assist the board's auditors in conducting the multi-parish audit.
6. Requires the board to report annually to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means beginning Jan. 1, 2024.
7. Removes provisions relative to the collection of the local sales and use tax on motor vehicles subject to the Vehicle Registration License Tax Law.

Senate Floor Amendments to engrossed bill

1. Technical changes.
2. Provides that if a parish collector does not respond to a notice within the 30 day period, that parish shall be considered to have opted out of the multi-parish audit.