

**ACT No. 360**

2019 Regular Session

HOUSE BILL NO. 547

BY REPRESENTATIVE ABRAMSON

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AN ACT

To amend and reenact R.S. 47:302(W)(3) and (6), 339(A)(2), (B)(3), (5) through (8), 340(E)(2) and (3), (F), (G)(1), and (H)(1) and Section 2 of Act No. 5 of the 2018 Second Extraordinary Session of the Legislature and to enact R.S. 47:340(E)(4), (G)(6)(a) and (b), (11), (H)(15), and 1407(6), relative to the collection of certain sales and use tax; to provide for definitions; to provide for certain requirements; to provide for certain limitations; to provide for certain conditions; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:302(W)(3) and (6), 339(A)(2), (B)(3), (5) through (8), 340(E)(2) and (3), (F), (G)(1), and (H)(1) are hereby amended and reenacted and R.S. 47:340(E)(4), (G)(6)(a) and (b), (11), (H)(15) and 1407(6) are hereby enacted to read as follows:

§302. Imposition of tax

\* \* \*

W.

\* \* \*

(3) A refund request shall be filed in a manner to be determined by the secretary, which may include electronic filing. The refund request may be made once per calendar year, and shall be accompanied by ~~a copy of both of the following:~~

~~(a) All~~ all relevant paid local use tax returns.

~~(b) An affidavit affirming that~~ If the delivery and use of the taxable property will occur in a parish in which there is no sales and use tax imposed by any local taxing authority, ~~which affidavit has been filed with the local sales and use tax~~

1           ~~commission established under Paragraph (K)(6) of this Section.~~ an affidavit  
2           confirming such will be accepted in lieu of paid local use tax returns.

3                                 \*           \*           \*

4                         (6) ~~Until the establishment of the Louisiana Sales and Use Tax Commission~~  
5           ~~for Remote Sellers pursuant to R.S. 47:339(A)(2) and (B)(3);~~ Until the Louisiana  
6           Sales and Use Tax Commission for Remote Sellers enforces collection and  
7           remittance of state and local sales and use tax based on the applicable state and local  
8           rates and bases, dealers as defined in R.S. 47:301(4)(m); shall specifically collect the  
9           additional tax authorized by Subsection K of this Section and shall file all applicable  
10          sales and use tax returns. ~~In consultation with the commission, the secretary of the~~  
11          ~~Department of Revenue shall publish notification of the establishment date of the~~  
12          ~~Louisiana Sales and Use Tax Commission for Remote Sellers in a policy statement~~  
13          ~~as authorized by LAC 61:III.101.~~ Notice of enforcement by the Louisiana Sales and  
14          Use Tax Commission for Remote Sellers shall be published in a policy statement as  
15          authorized by LAC 61:III.101 no later than thirty days prior to the effective date of  
16          the enforcement.

17                                 \*           \*           \*

18          §339. Louisiana Sales and Use Tax Commission for Remote Sellers

19                 A. The Louisiana Sales and Use Tax Commission for Remote Sellers,  
20                 hereinafter referred to as "commission", is created and established within the  
21                 Department of Revenue for the administration and collection of the sales and use tax  
22                 imposed by the state and political subdivisions with respect to remote sales. The  
23                 commission shall:

24                                 \*           \*           \*

25                         (2) Serve as the single entity in Louisiana to require remote sellers and their  
26                 designated agents to collect from customers and remit to the commission, sales and  
27                 use taxes on remote sales sourced to Louisiana on the uniform Louisiana state and  
28                 local sales and use tax base established by Louisiana law with respect to any federal  
29                 law as may be enacted by the United States Congress authorizing states to require  
30                 remote sellers to collect and remit state and local sales and use taxes on their sales

1 in each state or ~~final ruling a decision~~ by the United States Supreme Court  
 2 ~~authorizing states to require remote sellers to collect and remit state and local sales~~  
 3 ~~and use taxes on their sales in each state, overrules the physical presence requirement~~  
 4 ~~for a remote seller to collect and remit state and local sales and use tax on remote~~  
 5 ~~sales for delivery into the state, except those remote sellers who qualify for~~  
 6 exceptions as may be provided by federal law.

7 \* \* \*

8 B. As used in this Chapter, unless the context clearly indicates otherwise, the  
 9 following terms shall be defined as follows:

10 \* \* \*

11 (3) "Federal law" shall mean any federal law as may be enacted by the  
 12 United States Congress authorizing states to require remote sellers, except those  
 13 remote sellers who meet exceptions provided by federal law, to collect and remit  
 14 sales and use taxes on remote sales for delivery into Louisiana or ~~final ruling a~~  
 15 ~~decision~~ by the United States Supreme Court ~~authorizing states to require remote~~  
 16 ~~sellers, except those remote sellers who meet exceptions provided by federal law, to~~  
 17 ~~collect and remit sales and use taxes on remote sales sourced to Louisiana. overrules~~  
 18 the physical presence requirement for a remote seller to collect and remit state and  
 19 local sales and use tax on remote sales for delivery into the state.

20 \* \* \*

21 (5) ~~The term "non-remote sale" means a sale that is not a remote sale. The~~  
 22 term "remote sale" means a sale that is made by a remote seller for delivery into  
 23 Louisiana. The term "non-remote sale" means a sale that is not a remote sale.

24 (6) ~~The term "non-remote seller" means a seller that is not a remote seller.~~  
 25 The term "remote seller" means a seller who sells for sale at retail, use, consumption,  
 26 distribution, or for storage to be used for consumption or distribution any taxable  
 27 tangible personal property, products transferred electronically, or services for  
 28 delivery within Louisiana, but does not have physical presence in Louisiana, and is  
 29 not considered a dealer as defined by R.S. 47:301(4)(a) through (l). The term "non-  
 30 remote seller" means a seller that is not a remote seller.



1 amount of state and local sales and use tax collected on remote sales by the  
2 commission. Subject to the limitations provided in this Paragraph, this amount shall  
3 be retained by the commission on a monthly basis from current collections of state  
4 and local sales tax on remote sales as collected by the commission prior to monthly  
5 distribution to the state and local collectors. The commission shall have no authority  
6 to retain these monies unless and until a federal law authorizing states to require  
7 remote sellers and their agents to collect state and local sales and use taxes on their  
8 sales in each state has been enacted and becomes effective: or a decision by the  
9 United States Supreme Court overrules the physical presence requirement for a  
10 remote seller to collect and remit state and local sales and use tax on remote sales for  
11 delivery into the state. Upon distribution of the local sales and use tax collected  
12 from remote sellers by the commission, the local collectors may retain the usual and  
13 customary percentage of collections in accordance with local ordinances or  
14 agreements.

15 (4) Upon the request of a state or local collector, the commission shall  
16 provide taxpayer information and associated taxpayer history maintained by the  
17 commission to the state or local collector in accordance with R.S. 47:1508.

18 F.(1) The commission shall develop rules and procedures in accordance with  
19 the Administrative Procedure Act with respect to implementation of the provisions  
20 of this Chapter. Unless contrary to a rule adopted in accordance with this Subsection,  
21 the provisions of Chapter 18 of this Subtitle may be utilized by the commission, or  
22 its duly authorized agents and employees, in the exercise of any power authorized  
23 by this Section in the same manner that the provisions of Chapter 18 of this Subtitle  
24 may be utilized by the secretary.

25 (2) The commission, or its duly authorized agents and employees, may take  
26 any action related to the collection of tax within its jurisdiction that the secretary in  
27 Chapter 18 of this Subtitle is authorized to take and any person aggrieved by any  
28 such action shall have the same rights, including appeal or review as provided for in  
29 Chapter 18 of this Subtitle.



1           effective: or a decision by the United States Supreme Court overrules the physical  
2           presence requirement for a remote seller to collect and remit state and local sales and  
3           use tax on remote sales for delivery into the state.

4   \*           \*           \*

5                       (15) The sums of money collected by the remote seller for payment of sales  
6           and use taxes imposed by the state and local taxing authorities shall, at all times, be  
7           and remain the property of the respective taxing authorities and deemed held in trust  
8           for taxing authorities, including while in the possession of the commission.

9   \*           \*           \*

10           §1407. Jurisdiction of the board

11                       The jurisdiction of the board shall extend to the following:

12   \*           \*           \*

13                       (6) All matters relating to appeals of administrative hearings, assessments,  
14           and refund denials by the Louisiana Sales and Use Tax Commission for Remote  
15           Sellers.

16           Section 2. Section 2 of Act No. 5 of the 2018 Second Extraordinary Session of the  
17           Legislature is hereby amended and reenacted to read as follows:

18   \*           \*           \*

19                       Section 2. The provisions of this Act shall apply to all taxable periods  
20           beginning on or after ~~the date of the final ruling by the United States Supreme Court~~  
21           ~~in *South Dakota v. Wayfair Inc, Overstock.Com, Inc., and Newegg Inc.*, No. 17-494~~  
22           ~~(U.S. filed October 2, 2017) finding South Dakota 2016 Senate Bill No. 106~~  
23           ~~constitutional.~~ July 1, 2019.

24   \*           \*           \*

1           Section 3. The provisions of this Act shall be applicable to all taxable periods  
2 beginning on or after July 1, 2019.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_