

SENATE BILL NO. 164

BY SENATOR ALLAIN

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AN ACT

To amend and reenact R.S. 47:337.51(A)(2) and to enact R.S. 47:337.51(A)(4), 337.61(5), and 337.80(A)(4) and (D), relative to local sales and use tax administration; to provide relative to local sales and use tax disputes; to provide for guidelines for the use of summary proceedings; to provide relative to interest on refunds of local sales and use tax; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:337.51(A)(2) is hereby amended and reenacted and R.S. 47:337.51(A)(4), 337.61(5), and 337.80(A)(4) and (D) are hereby enacted to read as follows:

§337.51. Notice of assessment and right to appeal

A. * * *

(2) If no report has been timely filed, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. This notice shall inform the taxpayer of the assessment and that he has ~~thirty~~ sixty calendar days from the date of the notice to do ~~either~~ any of the following:

(a) Pay the amount of the assessment.

(b) Pay under protest in accordance with R.S. 47:337.63 and then either file suit or file a petition with the Board of Tax Appeals, all as provided for in that Section.

(c) If applicable, consider any rights pursuant to R.S. 47:337.51(A)(4)

1 and other applicable law.

2 * * *

3 (4) Notwithstanding any provision of law to the contrary, any person
 4 who receives an assessment pursuant to the provisions of Paragraph (2) of this
 5 Subsection may take any action authorized in Paragraph (1) of this Subsection
 6 within the applicable deadline for action stated in the notice of assessment if the
 7 assessment exceeds tax in the amount of one hundred thousand dollars or if the
 8 person has never filed a return with that local collector, has never been the
 9 subject of any action pursuant to the provisions of R.S. 47:337.45 by that local
 10 collector, and has no physical presence in the state.

11 * * *

12 §337.61. Collection by summary court proceeding authorized

13 In addition to any other procedure provided in this Chapter or elsewhere in
 14 the laws of this state, and for the purpose of facilitating and expediting the
 15 determination and trial of all claims for taxes, penalties, interest, attorney fees, or
 16 other costs and charges arising, there is hereby provided a summary proceeding for
 17 the hearing and determination of all claims by or on behalf of the taxing authority,
 18 or by or on behalf of the collector, for taxes and for the penalties, interest, attorney
 19 fees, costs or other charges due thereon, by preference in all courts, all as follows:

20 * * *

21 (5) The provisions of this Section shall apply only in the following
 22 instances:

23 (a) The proceeding is for collection of a tax assessment that has become
 24 final, or to which the provisions of R.S. 47:337.54 or 337.55 apply.

25 (b) A jeopardy assessment has been or could be issued against the
 26 defendant pursuant to R.S. 47:337.53 for the same tax.

27 (c) A rule to cease business has been or is concurrently brought against
 28 the defendant pursuant to R.S. 47:337.33 or 337.46.

29 (d) The matter involves the special authority to enforce collection of
 30 taxes collected from others pursuant to R.S. 47:337.46.

1 (e) A taxpayer or dealer that fails to make and file any required return
2 or report where the collector estimates the tax due to be less than one hundred
3 thousand dollars.

4 * * *

5 §337.80. Interest on refunds or credits

6 A. Each collector shall compute on all refunds or credits and allow interest
7 as part of the refund or credit as follows:

8 * * *

9 (4)(a) Beginning January 1, 2021, notwithstanding Paragraphs (1), (2),
10 and (3) of this Subsection or any other provision of law to the contrary, on all
11 refunds or credits the collector shall compute and allow as part of the refund or
12 credit, interest from ninety days after the later of the due date of the return, the
13 date that the taxpayer gave the political subdivision notice of the taxpayer's
14 intention to file suit for the recovery of any taxes paid, the filing date of the
15 return or claim for refund on which the overpayment is claimed, or the date the
16 tax was paid.

17 (b) Interest shall be at the average prime or reference rate as computed
18 by the commissioner of financial institutions pursuant to R.S. 13:4202(B), per
19 year, but without the addition of one percentage point to the average prime or
20 reference rate and without regard to the limitations contained in R.S.
21 13:4202(B).

22 (c) An overpayment shall bear no interest if it is credited to the
23 taxpayer's account.

24 (d) For purposes of this Section, a claim for refund shall be submitted in
25 the form and with the documentation provided for by rules promulgated by the
26 Louisiana Uniform Local Sales Tax Board, pursuant to R.S. 47:337.102(C)(2).

27 * * *

28 D. The accrual of interest shall be suspended during any period of time
29 that a delay in the issuance of a refund is attributable to the taxpayer's failure
30 to provide information or documentation required by statute or regulation.

1 Section 2. This Act shall become effective July 1, 2020, if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on
3 July 1, 2020, or the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____