

2022 Regular Session

SENATE BILL NO. 235

BY SENATOR ALLAIN

TAX/LOCAL. Authorizes parishes to contract with the Louisiana Sales and Use Tax Commission for Remote Sellers for the collection of local sales and use tax. (1/1/23)

1 AN ACT

2 To amend and reenact R.S. 47:340(E)(3), (G)(1) through (5), the introductory paragraph of
3 (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I) and to enact R.S. 47:339.1,
4 relative to the administration of local sales and use taxes; to provide for the powers
5 and duties of the Louisiana Sales and Use Tax Commission for Remote Sellers; to
6 authorize the commission to collect local sales and use taxes for collectors that enter
7 into contracts with the commission; to provide for an effective date; and to provide
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:340(E)(3), (G)(1) through (5), the introductory paragraph of
11 (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I) are hereby amended and reenacted
12 and R.S. 47:339.1 is hereby enacted to read as follows:

13 **§339.1. Louisiana Sales and Use Tax Commission for Remote Sellers;**
14 **nonremote sales**
15 **A. In addition to the duties of the commission pursuant to R.S. 47:339,**
16 **the commission shall:**
17 **(1) Develop a single electronic return for all local taxing authorities.**

1 (2) Enter into contracts with collectors of local sales and use tax for the
2 collection of tax from qualifying nonremote sellers. The tax monies received
3 pursuant to these contracts shall, at all times, be and remain the property of the
4 respective local taxing authorities.

5 (3) Provide the minimum tax administration, collection, and payment
6 requirements required by federal law with respect to the collection and
7 remittance of local sales and use tax imposed on nonremote sales that the
8 commission is authorized by contract to collect.

9 (4) Establish a fiscal agent for the purpose of nonremote sales and use tax
10 remittances.

11 **B. Definitions.**

12 (1) "Local taxing authority" and "local" means those parishes,
13 municipalities, special tax districts, political subdivisions, parish governing
14 bodies, and school boards who are authorized under the provisions of the
15 Constitution of Louisiana, the Louisiana Revised Statutes of 1950 and
16 jurisprudence to levy and collect local sales and use taxes.

17 (2) The term "nonremote sale" means a sale that is made by a nonremote
18 seller that is not a remote sale.

19 (3) The term "nonremote seller" means a seller that is not a remote
20 seller.

21 (4) The term "remote sale" means a sale that is made by a remote seller
22 for delivery into Louisiana.

23 (5) The term "remote seller" means a seller who sells for sale at retail,
24 use, consumption, distribution, or for storage to be used for consumption or
25 distribution any taxable tangible personal property, products transferred
26 electronically, or services for delivery within Louisiana, but does not have a
27 physical presence in Louisiana. The term "remote seller" includes
28 "marketplace facilitators" as defined in R.S. 47:340.1.

29 (6) The term "qualifying nonremote sale" means a sale by a qualifying

1 nonremote seller in a parish that has entered into a contract for collection by
2 the commission pursuant to Paragraph (A)(2) of this Section.

3 (7) The term "qualifying nonremote seller" means a nonremote seller
4 that has a physical location in this state and is registered to file and remit local
5 sales and use taxes pursuant to a local ordinance in two or more parishes.

6 (8) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
7 levied by the state of Louisiana under the provisions of Title 47 of the Louisiana
8 Revised Statutes of 1950, and the sales and use taxes levied by local taxing
9 authorities in Louisiana under the provisions of the Constitution of Louisiana,
10 statutory laws authorizing the imposition of such taxes, and local sales and use
11 tax ordinances.

12 C. Notwithstanding the provisions of R.S. 47:339 and 340 or any other
13 law to the contrary, the sales and use tax imposed by the local taxing authorities
14 on remote sales shall not be collected by the commission for any local taxing
15 authority if the collector for that local taxing authority does not enter into an
16 agreement with the commission for collection of tax on nonremote sales.
17 Beginning January 1, 2023, agreements entered into pursuant to R.S. 47:339
18 and 340 shall be suspended for all such taxing authorities until their collector
19 has entered into an agreement for the collection of tax on nonremote sales.

20 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
21 powers

22 * * *
23 E. * * *

24 (3) The commission and its operations shall be funded by an amount equal
25 to actual expenses incurred which amount shall not exceed one percent of the total
26 amount of state and local sales and use tax collected on ~~remote~~ sales by the
27 commission. Subject to the limitations provided in this Paragraph, this amount shall
28 be retained by the commission on a monthly basis from current collections of state
29 and local sales tax on ~~remote~~ sales as collected by the commission prior to monthly

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

11 * * *

12 G. The commission shall have the power, duty, and authority:

13 (1) To serve as the single entity within the state of Louisiana responsible for
14 all state and local sales and use tax administration, return processing, and audits for
15 remote sales delivered into Louisiana **and for nonremote sales that the**
16 **commission is authorized by contract to collect.**

17 (2) To serve as the central, single agency to which remote sellers shall make
18 state and local sales and use tax remittances **and as the central, single agency to**
19 **which qualifying nonremote sellers shall make local sales and use tax**
20 **remittances on nonremote sales that the commission is authorized by contract**
21 **to collect.**

22 (3) To assign and direct a single audit of remote sellers for the state and all
23 local taxing authorities **and assign and direct a single audit of qualifying**
24 **nonremote sellers for all local taxing authorities that have entered into a**
25 **contract with the commission pursuant to R.S. 47:339.1.**

26 (4) To serve as the single state of Louisiana agency to represent both state
27 and local taxing authorities in taking appropriate action to enable Louisiana to
28 participate in programs designed to allow Louisiana to more efficiently enforce and
29 collect state and local sales and use taxes on sales made by remote sellers **and**

1 **qualifying nonremote sellers.**

2 (5) To conduct administrative hearings as requested by aggrieved remote
3 sellers **and qualifying nonremote sellers**, administer oaths, and make adjustments
4 to assessments when justified by the facts and the law, and render decisions
5 following such hearings.

6 (6) To require remote sellers **and qualifying nonremote sellers** to register
7 with the commission.

8 * * *

9 (8) To enter into agreements to waive or suspend prescription with remote
10 sellers as to state and local taxes **and with qualifying nonremote sellers as to local**
11 **taxes.**

12 * * *

13 (11) To enter into voluntary disclosure agreements with remote sellers as to
14 state and local sales and use taxes **and with qualifying nonremote sellers as to**
15 **local taxes.**

16 H. Nothing in this Chapter shall be construed to:

17 * * *

18 (3) Authorize the commission to exercise any right or perform any function
19 presently exercised by local sales and use tax authorities under present law **except**
20 **as provided in contracts entered into pursuant to R.S. 47:339.1.**

21 * * *

22 (12) Authorize the commission to serve as a central state collection agency
23 for local sales and use taxes **except as provided in contracts entered into pursuant**
24 **to R.S. 47:339.1.**

25 (13) Limit any statutory and ordinal provisions in place as of June 16, 2017,
26 that require dealers and taxpayers, with respect to non-remote sales, to pay and remit
27 directly to the single sales and use tax collector in each parish the sales and use taxes
28 due to each local taxing authority within each parish **except as provided in**
29 **contracts entered into pursuant to R.S. 47:339.1.**

Present law provides for the powers and duties of the commission with respect to remote sales and remote sellers.

Proposed law retains the commission's present law powers and duties and extends them to nonremote sales that the commission is authorized under proposed law by contract to collect.

Present law provides for limitations on the authority of the commission with respect to sales other than remote sales.

Proposed law retains the present law limitations on nonremote sales except for those nonremote sales that the commission is authorized under proposed law by contract to collect.

Present law provides that taxes on remote sales collected by the commission shall, at all times, be and remain the property of the respective taxing authorities and deemed held in trust for taxing authorities by the commission.

Proposed law retains present law and extends the provisions to taxes collected on nonremote sales that the commission is authorized under proposed law by contract to collect.

Proposed law deletes obsolete language in present law that authorized the Law Institute to change references.

Effective January 1, 2023.

(Amends R.S. 47:340(E)(3), (G)(1) - (5), (6) (intro para), (8), and (11), (H)(3), (12), and (13), and (I); adds R.S. 47:339.1)