SLS 22RS-294 ENGROSSED

2022 Regular Session

SENATE BILL NO. 95

BY SENATOR ALLAIN

17

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

1	AN ACT
2	To amend and reenact R.S. 47:337.36, 337.102(H) and (I)(1) and to enact R.S.
3	47:337.26(D)(1)(f) and 337.102(C)(10), relative to the Uniform Local Sales Tax
4	Board; to create a multi-parish audit program; to provide for confidentiality of
5	taxpayer information; to provide for the operations of the program; to provide
6	relative to the funding of the board; to provide for reporting on the program to
7	legislative committees; to provide for an effective date; and to provide for related
8	matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 47:337.36, 337.102(H) and (I)(1) are hereby amended and reenacted
11	and R.S. $47:337.26(D)(1)(f)$ and $337.102(C)(10)$ are hereby enacted to read as follows:
12	§337.26. Contracts for purposes relating to collection of sales and use taxes
13	* * *
14	D.(1) Prior to initiating an examination or audit of a taxpayer, the local
15	collector shall provide notice of the intent to audit which shall be sent by certified
16	mail to the taxpayer at the taxpayer's last known address. Such notice shall:

29

1	(f) Beginning July 1, 2023, the notice shall advise the taxpayer that the
2	taxpayer may request a multi-parish audit pursuant to R.S. 47:337.102.
3	* * *
4	§337.36. Power to examine records and premises of taxpayer
5	For the purpose of administering the provisions of the local ordinance and
6	this Chapter, the collector, whenever he deems it expedient, may make or cause to
7	be made by any of his authorized assistants, an examination or investigation of the
8	place of business, if any, the tangible personal property, and the books, records,
9	papers, vouchers, accounts, and documents of any taxpayer. The collector shall
10	notify the taxpayer of the availability of the multi-parish audit program when
11	the taxpayer is initially notified of the collector's intent to conduct an
12	examination or investigation pursuant to this Section. Every taxpayer and every
13	director, officer, agent, or employee of every taxpayer, shall exhibit to the collector
14	or to any of his authorized assistants, the place of business, the tangible personal
15	property and all of the books, records, papers, vouchers, accounts, and documents
16	of the taxpayer and to facilitate any such examination or investigation so far as it
17	may be in his or their power so to do.
18	* * *
19	§337.102. Louisiana Uniform Local Sales Tax Board; creation; membership; powers
20	and duties
21	* * *
22	C. Powers and duties of the board. The board may:
23	* * *
24	(10) Hold an executive session pursuant to R.S. 42:16 for any of the
25	reasons contained in R.S. 42:17 and for the discussion of matters involving
26	confidential taxpayer information including policy advice, private letter rulings,
27	multi-parish audits, or other matters. The records and files of the board held
28	for the purpose of enforcement of the tax laws of this state and its political

subdivisions shall be deemed to be the files and records of a political subdivision

1	of the state subject to the provisions of R.S. 47:1508 in the same manner as any
2	other political subdivision enforcing tax laws related to sales and use taxes.
3	* * *
4	H. Multi-parish audits.
5	(1) The Beginning July 1, 2022, the board may develop a coordinated shall
6	implement and coordinate the multi-parish audit process which program.
7	(2) Multi-parish audit program.
8	(a) A multi-parish audit may be requested by a taxpayer having a location
9	that:
10	(i) Has a location in the state and registered to file and remit local sales and
11	use taxes pursuant to a local ordinance in at least three parishes.
12	(ii) Is not a recipient of a jeopardy assessment issued by any collector.
13	(iii) Is not engaged in a current audit by a collector for which a notice of
14	intent to assess was issued prior to July 1, 2022.
15	(iv) Agrees to promptly sign all necessary agreements to suspend
16	prescription.
17	(v) Is not involved in any litigation with any collector. If a coordinated
18	multi-parish audit program is developed, the program shall be implemented through
19	a pilot program prior to statewide availability.
20	(b)(i)A taxpayer that qualifies may request a multi-parish audit from the
21	board within thirty days from the issuance of a notice of examination from all
22	of the parishes in which the taxpayer engaged in taxable transactions during the
23	audit period.
24	(ii) The board shall assist the taxpayer to identify all parishes in which
25	the taxpayer is registered to file and remit local sales and use taxes or obligated
26	to pay sales and use taxes and shall send a notice of the multi-parish audit to all
27	parishes identified. Parishes shall have thirty days from the date of the notice
28	to opt in or out of the multi-parish audit.
29	(iii) Any parish identified by the taxpayer that opts out of a multi-parish

1	audit shan be prombited from auditing the requesting taxpayer until after the
2	completion of the multi-parish audit. This prohibition shall not apply to
3	parishes that the taxpayer failed to disclose to the board.
4	(c) The board shall select and compensate the auditors who will conduct
5	the multi-parish audit. Nothing in this Subsection shall prevent a local collector
6	from furnishing auditors at its own expense to assist the board's auditors in
7	conducting the multi-parish audit. All auditors participating in the multi-parish
8	audit shall be bound by R.S. 47:337.26 and any audit protocols required by the
9	board.
10	(d) The board shall facilitate consistent treatment of taxability of
11	transactions between parishes involved in a multi-parish audit.
12	(e)(i) Each parish shall review the completed audit and shall make an
13	independent determination regarding the issuance of a notice of intent to assess
14	within forty-five days of receipt of the completed audit.
15	(ii) Notwithstanding any provision of law to the contrary, a notice of
16	intent to assess arising from a multi-parish audit shall interrupt prescription for
17	the parish issuing the notice of intent to assess.
18	(iii) The board shall notify any parish that opted out of the multi-parish
19	audit that the audit has been completed within thirty days of the completion of
20	the audit.
21	(f) After the issuance of the notices of intent to assess, the taxpayer may
22	request a joint administrative hearing in which all parishes that opted into the
23	multi-parish audit may participate. The board shall coordinate the hearing.
24	(g) The board shall develop audit procedures, hearing procedures, and
25	any other provision necessary for the implementation of the multi-parish audit
26	program.
27	(3) Beginning January 1, 2024, the board shall report annually to the
28	Senate Committee on Revenue and Fiscal Affairs and the House Committee on
29	Ways and Means on the multi-parish audit program. The report shall include

1	the number of multi-parish audits that were requested by taxpayers and
2	initiated in each fiscal year, the number of multi-parish audits that were
3	completed in each fiscal year, and the number of multi-parish audits for which
4	each parish had opted in and opted out. The report may include
5	recommendations for legislation to streamline or improve the program and any
6	other information the board determines to be relevant. The report prepared
7	and provided pursuant to this Paragraph shall not violate any individual
8	taxpayer's confidential information under R.S. 47:1508.
9	I. Funding. (1) The board shall be funded through a dedication of a
10	percentage of the total statewide collections of local sales and use tax on motor
11	vehicles, as provided for in an agreement with local collectors and in accordance
12	with the limitations provided in this Paragraph and the budgetary policy as provided
13	in Paragraph (2) of this Subsection. Monies shall be payable monthly from the
14	current collections of the tax. The dedication shall be considered a cost of collection
15	and shall be deducted by the state and disbursed to the board prior to distribution of
16	tax collections to local taxing authorities. The dedication shall be in addition to any
17	fee imposed by the office of motor vehicles for the collection of the local sales and
18	use tax on motor vehicles. The amount to be disbursed to the board in any fiscal year
19	after Fiscal Year 2018-2019 shall not, under any circumstances and notwithstanding
20	any budget adopted by the board, exceed the following:
21	(a) In Fiscal Year 2017-2018, one-fifth of one percent of the collections.
22	(b) In Fiscal Year 2018-2019, one-quarter of one percent of the collections.
23	(c) In Fiscal Year 2019-2020 and each fiscal year thereafter, three-tenths of
24	one percent of the collections.
25	* * *
26	Section 2. This Act shall become effective on July 1, 2022; if vetoed by the governor
27	and subsequently approved by the legislature, this Act shall become effective on the day

following such approval by the legislature or July 1, 2022, whichever is later.

28

The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Curry J. Lann.

DIGEST 2022 Regular Session

Allain

SB 95 Engrossed

<u>Present law</u> authorizes local tax collectors to enter into contracts for auditing purposes, requires the local collector to provide notice of the intent to audit to the taxpayer, and provides for notice requirements.

<u>Proposed law</u> retains <u>present law</u> and further requires the notice to advise the taxpayer that the taxpayer may request a multi-parish audit beginning July 1, 2023.

<u>Present law</u> authorizes local tax collectors to examine or investigate the place of business, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer for purposes of enforcing the local sales and use tax laws.

<u>Proposed law retains present law and requires collectors to notify taxpayers of the proposed law multi-parish audit program when notifying taxpayers of their intent to conduct an examination or investigation.</u>

<u>Present law</u> authorizes the Uniform Local Sales Tax Board to advise local sales and use tax collectors concerning the imposition, collection, and administration of local sales and use taxes and issue private letter rulings to taxpayers.

Present law provides that all meetings of the board are subject to the open meetings law.

<u>Proposed law</u> authorizes the board to hold executive sessions for the discussion of matters involving confidential taxpayer information including policy advice, private letter rulings, and multi-parish audits.

<u>Proposed law</u> requires that the records and files of the board held for the purpose of enforcement of the tax laws of this state be treated as confidential and subject to penalty for unauthorized disclosure.

<u>Present law</u> authorizes the Uniform Local Sales Tax Board to develop and coordinate a multi-parish audit process for taxpayers located in the state that are registered to file and remit local sales tax in three or more parishes.

<u>Proposed law</u> requires the board to implement and coordinate the multi-parish audit program created by proposed law.

<u>Proposed law</u> creates the multi-parish audit program.

<u>Proposed law</u> authorizes taxpayers to request a multi-parish audit whenever the taxpayer:

- (1) Has a physical location in the state and registered to file and remit local sales and use taxes in three or more parishes.
- (2) Is not a recipient of a jeopardy assessment issued by any collector.
- (3) Is not engaged in a current audit by a collector for which a notice of intent to assess 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> 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.

<u>Proposed law</u> requires that the board hire and compensate auditors who conduct multi-parish audits and requires these auditors to follow <u>present law</u> 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.

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

<u>Proposed law</u> 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.

<u>Proposed law</u> 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.

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

<u>Proposed law</u> 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 of 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.

<u>Present law</u> 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 Senate

<u>Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill</u>

1. Requires local collectors to provide notice to taxpayers that they may request a multi-parish audit beginning July 1, 2023.

Page 7 of 8

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 <u>from</u> 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.