
DIGEST

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Pugh

HB No. 847

Abstract: Requires the annual payment of consumer use tax which is due on property and services bought from a remote seller who did not collect the tax due at the time of sale; further, provides a use tax table of safe harbor amounts which a taxpayer may pay instead of estimating actual use taxes due.

Present law imposes a total of 4% in state use tax on the use of certain tangible personal property and services.

Proposed law requires the annual reporting and payment of consumer use tax using a tax return (return) to be prescribed by the secretary of the Dept. of Revenue (secretary) beginning Jan. 1, 2015. The taxes and return are due on or before the 15th day of May following the close of the year in which the purchases were made.

Proposed law defines "taxpayer" for purposes of proposed law as a married couple filing a joint income tax return, or an individual filing an income tax return as either single, head of household, qualifying widow(er), or married filing separately. The definition of "taxpayer" does include a person who would otherwise not be required to file an income tax return under present law.

Proposed law excludes purchases by a business from the provisions of proposed law.

Present law requires dealers to collect sales and use tax on transactions involving taxable tangible personal property and services in La.

Proposed law excludes from proposed law any sales and use taxes due on sales by La. dealers who are required to collect sales and use tax at the time of sale pursuant to present law.

Proposed law provides for the content of and instructions for the return.

Proposed law requires the instructions for the return to include a use tax table which provides estimated use tax liabilities as "safe harbor" amounts which are based on a taxpayer's federal adjusted gross income for the previous year.

Proposed law requires that in reporting estimated use tax liabilities on the return, the taxpayer must elect to either calculate, report, and pay actual use tax liabilities, or to estimate use tax liabilities by paying the safe harbor amounts provided for such purpose in the use tax table. If a

taxpayer utilizes the use tax table and pays the appropriate safe harbor amount for their income level, the secretary shall not assess the difference, if any, between the estimated use tax liabilities reported and paid and the taxpayer's actual use tax liabilities.

Proposed law prohibits the utilization of the use tax table and payment of a safe harbor amount for estimating use tax due on any item of tangible personal property which is required to be licensed or registered by any state or federal law.

Proposed law provides for the following safe harbor amounts:

<u>Consumer's federal adjusted gross income</u>	<u>Safe Harbor Amount</u>
Less than or equal to 10,000	\$4
\$10,000 to 20,000	\$12
\$20,000 to 30,000	\$20
\$30,000 to 40,000	\$28
\$40,000 to 50,000	\$36
\$50,000 to 70,000	\$48
\$70,000 to 80,000	\$60
\$80,000 to 100,000	\$72

If the taxpayer's adjusted gross income is greater than \$100,000 the safe harbor amount shall be determined by calculating the federal adjusted gross income by 0.0008.

Proposed law requires the department to annually determine the new use tax table for safe harbor amounts and to publish the schedule no later than the March issue of the La. Register as a potpourri notice. The safe harbor use tax table shall be recalculated based on consumer spending data published by the United States Bureau of Labor Statistics and the United States Census Bureau.

Proposed law provides that if a taxpayer fails to make a return, the secretary shall make an estimate, based upon the information available, of the amount of taxes due for the period for which the taxpayer is delinquent, and shall add a penalty equal to 10% of the amount of taxes due, plus interest on the delinquent taxes as provided by present law. Thereafter, the department shall provide to the delinquent taxpayer, written notice of the estimated taxes, penalty, and interest, which notice shall be mailed to the last address the taxpayer provided to the department.

Proposed law terminates and ceases to be effective upon the effective date of a federal law which requires remote sellers to collect and remit La. sales and use taxes on Internet, mail order, and other remote sales into the state.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:306(F))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Ways and Means to the original bill.

1. Specified that the secretary of the Dept. of Revenue shall prescribe the tax return to be utilized for the annual payment of consumer use tax.

2. Excluded from the provisions of proposed law any purchases for which a La. dealer has a duty to collect sales and use tax pursuant to present law.
3. Defined "taxpayer" for purposes of proposed law.
4. Terminated proposed law on the effective date of a federal law which requires remote sellers to collect and remit La. sales and use taxes on their sales inside La.
5. Added effectiveness.