

SENATE COMMITTEE AMENDMENTS

2018 Regular Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Original Senate Bill No. 420 by Senator Johns

1 AMENDMENT NO. 1

2 On page 1, line 2 after "reenact" delete the remainder of the line, delete lines 3 and 4, and
3 insert:

4 "R.S. 47:337.64(C)(1), (2), (3), and (4), 1401, 1402(A)(1), 1403(C), 1434(A), the
5 introductory paragraph of R.S. 47:1436(A), R.S. 47:1436(A)(3), the introductory
6 paragraph of R.S. 47:1436(B) and to enact R.S. 47:337.29(C), 337.46(C), 337.51(D),
7 337.64(C)(6) and (7), 337.77(H), 1565(D), and 1621(J), and to repeal R.S.
8 47:337.51(B)(4) and 337.64(B)(2), relative to state and local taxes, fees, and"

9 AMENDMENT NO. 2

10 On page 1, lines 7 and 8, delete "taxes, unclaimed property," and insert "taxes"

11 AMENDMENT NO. 3

12 On page 1, delete lines 12 through 17 and on page 2, delete lines 1 through 9

13 AMENDMENT NO. 4

14 On page 2, delete lines 10 through 12, and insert:

15 "Section 1. R.S. 47:337.64(C)(1), (2), (3), and (4), 1401, 1402(A)(1), 1403(C),
16 1434(A), the introductory paragraph of R.S. 47:1436(A), R.S. 47:1436(A)(3), the
17 introductory paragraph of R.S. 47:1436(B) are hereby amended and reenacted and
18 R.S. 47:337.29(C), 337.46(C), 337.51(D), 337.64(C)(6) and (7), 337.77(H), 1565(D),
19 and 1621(J), are hereby enacted to read as follows:

20 §337.29. Dealers required to keep records

21 * * *

22 **C. Any dealer shall have an obligation to use reasonable means to notify**
23 **and provide a collector with accurate and updated information pertaining to its**
24 **proper address and the names and contact information for those officers or**
25 **directors, or members or managers having direct control or supervision over**
26 **its local sales and use taxes and those charged with the responsibility of filing**
27 **a dealer's sales and use tax return with the collector. This obligation shall be**
28 **continuing and a dealer shall notify the collector of any changes, additions, or**
29 **deletions within thirty calendar days of any change.**

30 * * *

31 AMENDMENT NO. 5

32 On page 2, delete lines 22 through 29 and on page 3, delete lines 1 through 16, and insert:

33 "** * *

34 **D. (1) A collector may elect to send to a taxpayer or dealer by regular**
35 **mail a copy of the notice of assessment containing the same information and**
36 **addressed in the same manner as provided for in Subsection A of this Section.**
37 **If the collector mails this regular mail notice on the same date and to the same**
38 **address as the collector mails a notice of assessment by certified mail, then the**
39 **notice transmitted by regular mail shall be deemed to have been received by the**
40 **taxpayer or dealer on the earlier of the date that the United States Postal**
41 **Service record indicates that it first attempted to deliver the notice of**

1 assessment to the taxpayer or dealer, or on the seventh business day from the
2 date of mailing. A certificate of mailing or other proof of mailing from the
3 United States Postal Service shall establish that this copy of the notice of
4 assessment was transmitted by regular mail. Other evidence may be used to
5 alternatively establish the presumption of delivery provided for in this
6 Subsection, including an affidavit of the person who transmitted the notice
7 attesting to the fact that it was transmitted in accordance with the provisions of
8 this Subsection.

9 (2) Notwithstanding any provision of law to the contrary, if a collector,
10 in his sole discretion, chooses not to send the letter provided for in Paragraph
11 (1) of this Subsection, the absence of transmitting the notice by regular mail
12 shall not be used to establish that a notice of assessment was either not mailed
13 or not received.

14 (3) If a collector, in his sole discretion, sends the letter provided for in
15 Paragraph (1) of this Subsection, the transmittal of the notice shall have no
16 impact on the time within which the amount of the assessment is required to be
17 paid or paid under protest, the time within which any appeal to the Board of
18 Tax Appeals is required to be made as provided for in Subsection A of this
19 Section, or the time within which the assessment becomes final as provided for
20 in Subsection B of this Section."

21 AMENDMENT NO. 6

22 On page 3, line 20, after "court" insert "or the Board of Tax Appeals"

23 AMENDMENT NO. 7

24 On page 3, line 28, delete "not to be less than" and insert "to be reasonable security for"

25 AMENDMENT NO. 8

26 On page 4, line 2, after "in" and before "the" insert "an amount determined by the court
27 to be reasonable security considering"

28 AMENDMENT NO. 9

29 On page 4, between lines 18 and 19 insert:

30 "(4) If the taxpayer timely files the suit or any petition or rule referred to
31 herein, no collection action shall be taken in connection with the assessment of taxes,
32 interest, and penalties, which are the subject of the taxpayer's suit cause of action,
33 unless the taxpayer fails to post bond or other security or make the payment under
34 protest required by the Board of Tax Appeals or court; however, the collector shall
35 be permitted to file a reconventional demand against the taxpayer in ~~such suit.~~ the
36 cause of action. A collector may procure an appraisal or conduct discovery
37 concerning the value and validity of security offered prior to the date for filing
38 the collector's response or opposition to a rule set for hearing under Subsection
39 C of this Section."

40 AMENDMENT NO. 10

41 On page 4, line 26, after "authorized under the" delete "then"

42 AMENDMENT NO. 11

43 On page 5, line 10, delete "a payment under"

44 AMENDMENT NO. 12

45 On page 5, delete line 11, and insert "an action brought pursuant to R.S. 47:337.63 or
46 337.64."

1 AMENDMENT NO. 13

2 On page 5, delete lines 12 through 18, and insert:

3 "(3) The provisions of this Subsection shall apply only if the taxpayer or
4 dealer establishes that it did not receive the assessment prior to the deadline for
5 appealing that assessment, and the collector did not comply with the provisions
6 of R.S. 47:337.51(D)."

7 AMENDMENT NO. 14

8 On page 5, line 26, delete "jurisdictions," and insert "jurisdiction as provided by law,"

9 AMENDMENT NO. 15

10 On page 6, line 7, delete "one" and insert "two"

11 AMENDMENT NO. 16

12 On page 6, line 8, after "Specialization" insert "or possess a Masters of Law in Taxation
13 or Tax Law"

14 AMENDMENT NO. 17

15 On page 7, between lines 11 and 12 insert:

16 "§1565. Notice of assessment and right to appeal

17 * * *

18 D. (1) The secretary may elect to send to a taxpayer or dealer by regular
19 mail a copy of the notice of assessment containing the same information and
20 addressed in the same manner as provided in Subsection A of this Section. If the
21 secretary mails this regular mail notice within five business days of mailing the
22 notice of assessment to the same address as the secretary mails the notice of
23 assessment by certified mail, then the notice transmitted by regular mail shall
24 be deemed to have been received by the taxpayer or dealer for the purposes of
25 this Subsection on the earlier of the date that the United States Postal Service
26 record indicates that it first attempted to deliver the notice of assessment to the
27 taxpayer or dealer, or on the seventh business day from mailing. A certificate
28 of mailing or other proof of mailing from the United States Postal Service shall
29 establish that this copy of the notice of assessment was transmitted by regular
30 mail. Other evidence may be used to alternatively establish the presumption of
31 delivery provided for in this Subsection, including an affidavit of the person
32 who transmitted the notice attesting to the fact that it was transmitted in
33 accordance with the provisions of this Subsection.

34 (2) Notwithstanding any provision of law to the contrary, if the secretary
35 in his sole discretion chooses not to send the letter provided for in Paragraph (1)
36 of this Subsection, the absence of transmitting the notice by regular mail shall
37 not be used to establish that a notice of assessment was either not mailed or not
38 received.

39 (3) If the secretary in his sole discretion sends the letter provided for in
40 Paragraph (1) of this Subsection, the transmittal of the notice shall have no
41 impact on: the time within which the amount of the assessment is required to
42 be paid or paid under protest, the time within which any appeal to the Board
43 of Tax Appeals is required to be made as provided for in Subsection A of this
44 Section, or the time within which the assessment becomes final as provided for
45 in Subsection B of this Section.

46 * * *"

47 AMENDMENT NO. 18

48 On page 7, line 19, delete "a payment under"

1 AMENDMENT NO. 19

2 On page 7, delete line 20, and insert "**an action brought pursuant to R.S. 47:1576.**"

3 AMENDMENT NO. 20

4 On page 7, delete lines 21 through 29, and on page 8, delete lines 1 through 11, and insert:

5 **"(3) The provisions of this Subsection shall apply only if the taxpayer or**
6 **dealer establishes that it did not receive the assessment prior to the deadline for**
7 **appealing that assessment, and the secretary did not comply with the provisions**
8 **of R.S. 47:1565(D).**

9 Section 2. R.S. 47:337.51(B)(4) and 337.64(B)(2) are hereby repealed in their
10 entirety."

11 AMENDMENT NO. 21

12 On page 8, delete lines 12 through 18, and insert:

13 "Section 3. The Local Tax Division of the Board of Tax Appeals may coordinate
14 with the Uniform Local Sales Tax Board created pursuant to R.S. 47:337.102 concerning the
15 creation of an electronic filing platform, and the Local Tax Division and the use of local
16 funds dedicated to the operations of the Local Tax Division pursuant to R.S. 47:302(K) shall
17 not be subject to the provisions of Subpart C of Part I or of Part V-A of Chapter 1 of Subtitle
18 I of Title 39 of the Louisiana Revised Statutes of 1950, as amended.

19 Section 4. The provisions of this Act enacting R.S. 47:337.51(D), R.S. 47:337.77(H),
20 R.S. 47:1565(D) and R.S. 47:1621(J) shall not be applicable to any existing assessment
21 issued by any collector or the secretary prior to July 1, 2018, nor shall these provisions be
22 applicable to any pending litigation in the courts or the Louisiana Board of Tax Appeals
23 existing prior to the effective date of this Act. The remaining provisions of this Act are
24 procedural and interpretive."

25 AMENDMENT NO. 22

26 On page 8, line 19, delete "Section 4." and insert "Section 5."