
The original instrument was prepared by Xavier I. Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

SB 420 Engrossed

DIGEST
2018 Regular Session

Johns

Present law provides for the Board of Tax Appeals, notice requirements for assessments, and administration of local sales taxes.

Proposed law requires that a dealer has an obligation to use reasonable means to notify and provide a collector with accurate and updated information pertaining to its proper address and the names and contact information for those officers or directors, or members or managers having direct control or supervision over its local sales and use taxes and those charged with the responsibility of filing a dealer's sales and use tax return with the collector. Provides that this is a continuing obligation and requires the dealer to notify the collector of any changes, additions, or deletions within thirty calendar days of any change.

Proposed law provides that an action to enforce collection may be brought before the Board of Tax Appeals or any court of competent jurisdiction.

Proposed law authorizes the collector to elect to send a notice of assessment to a taxpayer or dealer by regular mail containing the same information as sent by certified mail. Provides that if the regular mailing is on the same day as the mailing by certified mail, then the notice transmitted by regular mail is deemed to be received by the taxpayer or dealer on the earlier date indicated by the U.S. Postal Service of the first attempted delivery or on the seventh business day from the date of mailing. Provides that if the collector, in his sole discretion, does not send the letter by regular mail, the absence of transmitting the notice by regular mail shall not be used to establish that a notice of assessment was either not mailed or not received. Further provides that if the collector, in his sole discretion, sends the letter, then the transmittal of the notice shall have no impact on the time within which the amount of the assessment is required to be paid or paid under protest, the time within which any appeal to the Board of Tax Appeals is required to be made as provided in present law, or the time within which the assessment becomes final as provided in present law.

Present law authorizes a taxpayer to file with the court a rule to set bond or other security which shall set a hearing within thirty days of the filing to set bond or other security. Proposed law allows the taxpayer to file this rule with the Board of Tax Appeals.

Present law authorizes the court to either order posting a commercial bond or other security in an amount determined not to be less than the amount of unpaid taxes, interest, and penalties demanded in the assessment or order the taxpayer to make payment under protest. Proposed law provides that the amount determined by the court be a reasonable security for the amount of unpaid taxes, interest, and penalties.

Proposed law authorizes the Board of Tax Appeals to order the posting of commercial bond or other security in an amount to be determined by the board to be reasonable security for the amount of unpaid taxes, interest, and penalties demanded in the assessment, or may order the taxpayer to make a payment under protest of a reasonable security considering the amount of unpaid taxes, interest, and penalties.

Present law provides if the taxpayer timely files suit, then that no action be taken in connection with assessment of taxes, interest, and penalties unless the taxpayer fails to post bond or other security or make payment under protest. Proposed law authorizes the collector to procure an appraisal or conduct discovery concerning the value and validity of the security offered prior to the date for filing his response or opposition to the rule set for hearing.

Proposed law provides that in lieu of dismissal of the taxpayer's appeal instances where a taxpayer has filed a timely appeal to the Board of Tax Appeals for redetermination of the assessment in the manner authorized by law following a contradictory hearing on a rule requested by any party, the Board of Tax Appeals may order the payment of bond, other security, or full or partial payment under protest, as provided in proposed law.

Proposed law authorizes a refund on an amount paid on an otherwise final assessment. Proposed law does not apply if the assessment becomes final following an appeal to the Board of Tax Appeals or if the assessment becomes final after judgment. Applies only if the taxpayer or dealer establishes that it did not receive the assessment prior to the deadline for appealing the assessment and the collector did not comply with provisions in proposed law.

Present law provides that the Board of Tax Appeals be composed of three members who are attorneys and are qualified electors, at least two members shall be attorneys with tax law experience and one of the two attorneys be certified as a Tax Law Specialist by the Louisiana Board of Legal Specialization.

Proposed law keeps the membership at three attorney members with tax law experience but requires that two members be certified as a Tax Law Specialist by the Louisiana Board of Legal Specialization or possess a Masters of Laws in Taxation or Tax Law.

Proposed law authorizes the Local Tax Division of the Board of Tax Appeals to coordinate with the Uniform Local Sales Tax Board concerning the creation of an electronic filing platform, and the Local Tax Division and the use of local funds dedicated to the operations of the Local Tax Division shall not be subject to the provisions concerning the office of technological services or information technology procurement services.

Proposed law provisions contained in R.S. 47:337.51(D), R.S. 47:337.77(H), R.S. 47:1565(D) and R.S. 47:1621(J) are not be applicable to any existing assessment issued by any collector or the secretary prior to July 1, 2018, nor shall these provisions be applicable to any pending litigation in the courts or the Louisiana Board of Tax Appeals existing prior to the effective date of proposed law.

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

(Amends R.S. 47:337.64(C)(1), (2), (3), and (4), 1401, 1402(A)(1), 1403(C), 1434(A), 1436(A)(intro para), 1436(A)(3), 1436(B)(intro para); adds R.S. 47:337.29(C), 337.46(C), 337.51(D), 337.64(C)(6) and (7), 337.77(H), 1565(D), and 1621(J); repeals R.S. 47:337.51(B)(4) and 337.64(B)(2))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill.

1. Adds provisions concerning a dealer's obligation to use reasonable means to notify and provide a collector with accurate and updated information.
2. Adds provisions for the collector to send a notice of assessment by regular mail.
3. Adds provisions for timely filing a suit or any petition or rule in connection with assessment of taxes, interest, and penalties.
4. Adds provisions authorizing coordination between the Local Tax Division of the Board of Tax Appeals and the Uniform Local Sales Tax Board Division.
5. Adds provisions for prospective application of additions in proposed law.