

1 K. An additional tax shall be levied as follows:

2 * * *

3 (7) * * *

4 (b) The amount specified in Item (a)(i) of this Paragraph as transferred to the
5 Department of State Civil Service, Board of Tax Appeals, shall be increased by fifty-
6 five thousand dollars on July 1, 2015, by thirty-two thousand dollars on July 1, 2016,
7 and by five thousand dollars on the first day of each of the ~~two~~ **six** subsequent fiscal
8 years. The amounts specified in Subparagraphs (a) and (b) of this Paragraph shall be
9 transferred by the secretary within the first thirty days of each fiscal year and the
10 Department of State Civil Service, Board of Tax Appeals, may retain all funds which
11 are transferred as directed in Subparagraphs (a) and (b) of this Paragraph.

12 * * *

13 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
14 powers

15 * * *

16 E. * * *

17 **(4) If use tax collections pursuant to R.S. 47:302(K) yield insufficient**
18 **revenue to fulfill the dedication for the adjudication of local sales and use tax**
19 **matters that is made pursuant to R.S. 47:302(K)(7) for interagency transfers to**
20 **the Department of State Civil Service, Board of Tax Appeals, Local Tax**
21 **Division, and there is no means of financing available to satisfy the dedication**
22 **pursuant to R.S. 47:337.102(I)(3), the remaining amount necessary to satisfy the**
23 **dedication shall be considered an actual expense of this commission pursuant**
24 **to Paragraph (3) of this Subsection, and payment of the interagency transfer**
25 **due shall be made from local sales and use tax collections of the commission. A**
26 **part of the interagency transfer due pursuant to Section 2 of Act 198 of the 2014**
27 **Regular Session of the Legislature may be designated as an actual expense of the**
28 **commission pursuant to Paragraph (3) of this Subsection, and payment of that**
29 **designated part may be made from state sales and use tax collections of the**

1 commission.

2 * * *

3 §1403. Designation of officers; domicile; quorum; seal

4 * * *

5 B. * * *

6 (6)(a)(i) Upon the joint motion of all parties in any matter, or for any case
7 filed by or against a local collector pursuant to an election made by the local
8 collector in accordance with the provisions of Subparagraph (b) of this Paragraph,
9 a case filed with the board shall be heard in the board's Local Tax Division.

10 * * *

11 §1408. Power to administer oaths and issue rules, orders, or subpoenas

12 * * *

13 D.(1) The An action may be brought in the Board of Tax Appeals
14 pursuant to the provisions of R.S. 47:314, 337.33(A), 337.43, and 1547, 1574.1, or
15 1582 shall apply to the Board of Tax Appeals and its Local Tax Division in the same
16 manner as for a district court. In addition to the remedies otherwise provided for in
17 this Section, any interested party may file a motion or rule in any court of competent
18 jurisdiction alleging a violation of any order issued by the board or its local tax judge
19 pursuant to R.S. ~~47:337.33, 337.43, and 1547~~ applicable law, and the district court
20 shall consider any violation shown to be a contempt of the court and shall
21 immediately punish the violator in accordance with R.S. 13:4611(1) and all other
22 applicable laws for contempt of court.

23 * * *

24 E.(1) The provisions of this Section may be enforced by any duly
25 commissioned person, shall be enforced by the sheriff wherever such person may be
26 found, and shall be enforced by the Department of Public Safety and Corrections,
27 office of state police, when a direct contempt occurs in a state building.

28 (2) The service of papers filed with the board, or of the orders or
29 judgments of the board, may be made in accordance with any of the provisions

1 of the Louisiana Code of Civil Procedure or in accordance with the provisions
2 of R.S. 47:1411.

3 (3) Upon request of either the chairman or the local tax judge, any
4 officer or employee of the board may be issued a commission pursuant to the
5 provisions of R.S. 40:1379.1 in order to further any of the provisions of this
6 Section.

7 * * *

8 §1436. Determination of which appellate court has jurisdiction

9 * * *

10 B. A judgment of the board in a case by or against a local collector may be
11 reviewed as follows:

12 * * *

13 (3) In the respective court of appeal for the parish of the appellee for any
14 case appealed by a local collector appealing a ruling issued against another local
15 collector pursuant to R.S. 47:337.101, and if there are appellees from different
16 circuits then in the court of appeal designated by the board as having the most
17 connection to the matter at issue.

18 * * *

19 §1439. Escrow Account

20 * * *

21 C. The account, and any related funds included therein, shall be subject to
22 audit by the legislative auditor. An annual report of account transactions concerning
23 state cases shall also be submitted to the Cash Management Review Board. An
24 annual report of the account's transactions concerning local cases shall be submitted
25 to the ~~local sales and use tax commission created pursuant to R.S. 47:302(K)(6)~~

26 Louisiana Uniform Local Sales Tax Board.

27 * * *

28 F.(1) The board may deposit into the account any funds received from a party
29 for payment of the costs of service of process or for appeal costs, and it may pay the

1 amounts received to the appropriate sheriff for service of process or the appropriate
2 clerk of a court of appeals in the event of an appeal against a decision of the board
3 pursuant to R.S. 47:1434.

4 **(2) The board's Local Tax Division may deposit into the account any**
5 **advance deposits for court costs and filing fees associated with its local cases,**
6 **and upon issuance of an order taxing costs against those deposits it may transfer**
7 **the relevant amounts to the Local Tax Division Expense Fund. The unused**
8 **balance of these deposits shall be refunded to the depositor in the event that**
9 **costs taxed against it are less than the amount of its advance deposit. The Local**
10 **Tax Division Expense Fund shall be utilized, as directed by the local tax judge,**
11 **exclusively for the Local Tax Division and its expenditures, including as**
12 **provided for in Subsection G of this Section or pursuant to R.S. 47:1406.**

13 * * *

14 §1561.1. Special authority to enforce collection of taxes collected or withheld;
15 personal liability conform

16 * * *

17 **C. An action may be brought before the Board of Tax Appeals or any**
18 **court of competent jurisdiction in accordance with any of the provisions of R.S.**
19 **47:1574, 1574.1, or 1582 to enforce the obligation of a taxpayer, dealer, or of any**
20 **party subject to this Section.**

21 * * *

22 §1574.1. Failure to pay tax collected from others; rule to cease business

23 * * *

24 E. The collection procedure provided for in this Section shall be in addition
25 to any other collection procedure provided by law. **When issuing an order**
26 **pursuant to this Subsection, the Board of Tax Appeals or any other court of**
27 **competent jurisdiction, upon proper showing, may render a money judgment**
28 **against the taxpayer and in favor of the collector in the amount of any final and**
29 **nonappealable assessment, together with all penalties, interest, attorney fees,**

1 **and costs due.**

2 * * *

3 §1580. Suspension and interruption of prescription

4 * * *

5 B. The running of such prescription shall also be suspended prior to the lapse
6 of the prescriptive period set out in the Constitution of Louisiana as hereinafter
7 provided:

8 * * *

9 (3) With respect to income tax, for any period from the time of the
10 commencement of an audit **or examination** of a taxpayer by the United States
11 Internal Revenue Service, **or during the period that assessment of tax remains**
12 **open pursuant to the provisions of 26 U.S.C. 6501 resulting in an adjustment to**
13 **the taxpayer's United States income tax,** until one year from the time the secretary
14 of the Department of Revenue is notified by said taxpayer or the federal government
15 of an agreed change to the taxpayer's United States income tax return.

16 * * *

17 §1623. Prescription of refunds or credits

18 * * *

19 **G. Notwithstanding any provision of law to the contrary, prescription**
20 **shall not be considered to have accrued until two years from the date of receipt**
21 **of the Department of Defense notice issued to the taxpayer pursuant to the**
22 **provisions of the federal law for any period in which the taxpayer received a**
23 **refund from the Internal Revenue Service concerning an adjustment to income**
24 **pursuant to the provisions of the Combat-Injured Veterans Tax Fairness Act**
25 **of 2016. This prescriptive period is limited to the corresponding Louisiana**
26 **income tax refund. A taxpayer may claim this Louisiana refund by amending**
27 **the Louisiana individual income tax return for the same period in which a**
28 **federal income tax refund was granted pursuant to the Combat-Injured**
29 **Veterans Tax Fairness Act of 2016. Alternatively, a taxpayer may claim a**

1 **Louisiana standard refund amount proportional to that of the federal standard**
 2 **refund amount in accordance with rules promulgated by the secretary in**
 3 **accordance with the Administrative Procedure Act.**

4 Section 2. R.S. 47:1403(B)(6)(b) is hereby repealed.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 198 Engrossed

2019 Regular Session

Peacock

Present law provides that the transfer of funds from the local share of the catalog tax to the Department of State Civil Service, Board of Tax Appeals will be increased by \$5,000 a year on the first day of the fiscal year for each of the two fiscal years after 2016-17.

Proposed law changes the number of fiscal years the transfer of local funds will be increased after 2016-17 from two to six fiscal years.

Proposed law provides that if the proceeds from the local portion of the catalog tax are insufficient to cover the funds transfer that the remaining amount necessary to satisfy the funds dedication, it shall be considered an expense of the Louisiana Sales and Use Tax Commission for Remote Sellers and that payment shall be made via interagency transfer from the fee it charges for collection of local taxes.

Proposed law authorizes the Dept. of Revenue to use state catalog tax collections for the interagency transfer to the Board of Tax Appeals.

Present law authorizes the Board of Tax Appeals to administer oaths and issue orders and subpoenas and further provides for the enforcement of orders and subpoenas by duly commissioned persons, including the local sheriff or state police in certain circumstances.

Proposed law provides that service of papers filed with the board or orders of the board may also be made as provided by the Code of Civil Procedure or by registered mail.

Present law provides for the review of judgments of the Board of Tax Appeals.

Proposed law provides that in matters in which a local collector is appealing a ruling against another local collector that review is proper in the court of appeal for either the parish of the appellee or the parish that has the most connection to the matter.

Present law requires taxes paid under protest to be placed in escrow and be distributed by the fiscal agent only upon notice of a final, nonappealable judgment. The fiscal agent is selected by the Board of Tax Appeals with the approval of the Cash Management Review Board. The escrow account is subject to audit by the legislative auditor and an annual report

is required.

Proposed law retains present law escrow provisions, but corrects the reference to the recipient of the annual report related local sales tax related transactions to the Uniform Local Sales Tax Board.

Proposed law authorizes advance deposits of local filing fees to be held in the escrow account pending an order taxing costs in a case.

Present law provides for personal liability for officers, directors, managers, and members of corporations, limited liability companies, and limited partnerships who withhold wages from employees or collect sales and use tax and who willfully fail to remit these taxes to the collector.

Proposed law retains present law and authorizes the collector to bring an action before the Board of Tax Appeals or other court of competent jurisdiction to enforce the obligation of taxpayers to remit taxes to the state they have actually collected from others, and authorizes a money judgment for any amounts that were actually collected from others and not remitted to the state.

Proposed law authorizes the Board of Tax Appeals or court to render a judgment for the payment of tax, interest, penalties, attorney's fees, and costs when the collector prevails in an action against a taxpayer that collects, but fails to remit withholding and sales and use taxes.

Present law provides for the suspension of prescription for the assessment of taxes.

Proposed law provides that solely for final adjustments actually made to federal income tax, the period during which prescription is suspended for state income taxes shall run concurrent to the period for which the tax period remains open under federal income tax law.

Present law provides for the prescription of refund claims.

Proposed law provides a specific prescriptive period for income tax refunds to veterans who received a federal refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016. It allows this refund to be claimed on an amended return or by claiming a standard amount that will be proportionate to the federal standard amounts provided. The refund may be claimed until two years from the date the taxpayer received notice from Department of Defense that he is eligible for such at the federal level.

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

(Amends R.S. 47:302(K)(7)(b), 1403(B)(6)(a)(i), 1408(D)(1) and (E), 1439(C) and (F), 1574.1(E), and 1580(B)(3); adds R.S. 47:340(E)(4), 1436(B)(3), 1561.1(C), and 1623(G); repeals R.S. 47:1403(B)(6)(b))

Summary of Amendments Adopted by Senate

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

1. Makes technical changes.
2. Provides for source of funds for interagency transfer from the Dept. of Revenue to the Board of Tax Appeals.