
DIGEST

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HB 547 Engrossed

2019 Regular Session

Abramson

Abstract: Provides for the administration of tax collection related to remote seller transactions.

Present law establishes the La. Sales and Use Tax Commission for Remote Sellers hereinafter "commission" as an independent agency within the Dept. of Revenue for the administration and collection of sales and use taxes related to remote sales.

Present law provides that the commission serves as the single entity in La. required under any potential federal law that may require remote sellers to collect and remit sales and use tax on remote sales. Proposed law expands the definition of federal law for the purposes of present law and proposed law.

Present law provides for a refund procedure for taxpayers to voluntarily pay use tax. Further provides that a refund request is filed in a manner determined by the secretary of the Dept. of Revenue (DOR) and accompanied by documentation along with an affidavit confirming delivery and use of the taxable property in a parish where no local use tax is levied.

Proposed law retains present law but provides that when delivery and use of taxable property occurs in a parish where there is no local use tax, an affidavit confirming no local use tax will be accepted in lieu of local paid use tax returns.

Present law provides that until the establishment of the commission, dealers are required to collect tax and to file all returns.

Proposed law changes present law by requiring dealers to collect tax and file returns until the commission enforces the collection and remittance of state and local sales tax and that notice by the commission to commence enforcement shall be published no later than 30 days prior to the date of enforcement.

Present law defines "non-remote sales", "non-remote sellers", "person", "sales and use taxes" and "taxes". Proposed law retains present law but also changes the definitions of "remote sale", "remote seller" and "person."

Present law establishes a method of funding the commission's operations, however the commission shall not be authorized to use these funds unless and until a federal law authorizes states to require remote sellers to collect state and local sales and use taxes becomes effective.

Proposed law retains present law but expands the definition of federal law for the purposes of this Section. Proposed law also provides that local collectors may be allowed to retain the usual and customary percentage of the taxes they collect.

Present law provides that the commission shall develop rules and procedures to carry out its purpose. Proposed law retains present law and expands the actions in which the commission is allow to take.

Present law provides for the powers and duties of the commission including requiring remote sellers to register with the commission. Proposed law retains present law but provides that administrative laws will specify the time period in which remote sellers must register, which shall in no event be later than July 1, 2020.

Present law provides that the commission remit all money collected to the appropriate taxing jurisdiction on or before the 10th business day of the month following the month of collection. Proposed law retains present law but replaces the phrase "appropriate taxing jurisdiction" with "appropriate state or local collector".

Proposed law requires a rule that upon the request of a state or local collector, the commission shall provide taxpayer information and taxpayer history to the state and local collector.

Proposed law states that money collected on behalf of a remote seller for sales and use taxes shall remain the property of the respective taxing authority and is deemed to be held in trust, including while the money is in the possession of the commission.

Present law provides for the jurisdiction of the Board of Tax Appeals. Proposed law expands the Board of Tax Appeal's jurisdiction to all matters related to the commission.

Present law, regarding the applicability of the provisions of present law relative to the commission and collection of state and local sales and use taxes on remote sales provides that the provisions of present law apply to all taxable periods beginning on or after the date of the final ruling by the U.S. Supreme Court in *South Dakota v. Wayfair Inc, Overstock.com, Inc., and Newegg Inc.*, finding South Dakota 2016 Senate Bill No. 106 constitutional.

Proposed law repeals the contingent applicability provisions thereby giving the provisions of present law immediate applicability.

(Amends R.S. 47:302(W)(3) and (6), 339(A)(2), (B)(3), (5)-(8), 340(E)(2) and (3), (F), (G)(1), and (H)(1) and §2 of Act No. 5 of the 2018 2nd E.S.; Adds R.S. 47:340(E)(4), (G)(6)(a) and (b), (11), (H)(15), and 1407(6))

Summary of Amendments Adopted by House

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

1. Change the bill from one that enacts provisions related to marketplace facilitator collection of state and local sales tax to one that clarifies refund request processes and administrative provisions related to the collection of taxes from remote sellers.
2. Remove definitions of marketplace, marketplace facilitator, and marketplace seller.
3. Change the entity in which the La. Sales and Use Tax Commission for Remote Sellers remits local taxes to from "appropriate taxing jurisdiction" to "appropriate state or local collector".
4. Impose a requirement that upon the request of a state or local collector the La. Sales and Use Tax Commission for Remote Seller Commission shall provide taxpayer information to the state and local collector.
5. Require the La. Sales and Use Tax Commission for Remote Sellers to publish a date in which remote sellers are required to register as authorized by administrative rules, no later than 30 days prior to the effective date of enforcement and in no event later than July 1, 2020.
6. Establish that money collected by the remote sellers for payment of sales and use tax shall be and remain the property of the respective taxing authorities and deemed held in trust for the taxing authorities.
7. Make technical changes.