

RÉSUMÉ DIGEST

ACT 309 (SB 164)

2020 Regular Session

Allain

Prior law required local sales and use tax collectors to determine the tax, penalty, and interest due when a taxpayer fails to file a sales and use tax return and prohibits the taxpayer from appealing this estimated assessment to the Board of Tax Appeals.

New law provides that when an estimated tax amount exceeds \$100,000, a taxpayer who has never filed a return or has never been the subject of any collection action by that local collector, and has no physical presence in the state may take any action authorized by new law within the applicable deadline for action including appealing to the Board of Tax Appeals without submitting a payment under protest.

Prior law required that if no report has been timely filed, then the notice is to be sent by certified mail to the taxpayer. Requires that this notice shall inform the taxpayer of the assessment and that he has 30 calendar days from the date of the notice to do either of the following:

- (1) Pay the amount of the assessment.
- (2) Pay under protest in accordance with R.S. 47:337.63 and then either file suit or file a petition with the Board of Tax Appeals, all as provided for in that Section.

New law retains these provisions but increases from 30 to 60 calendar days the time that the taxpayer has to do any of the items listed and adds provisions to the notice informing the taxpayer that they should consider any other right pursuant to new law or other applicable law including the right of a prepayment appeal to the Board of Tax Appeals pursuant to new law.

Prior law authorized local tax collectors to collect local sales and use tax by summary court proceeding.

New law retains the ability of local collectors to use summary proceedings to collect local sales and use taxes, but limits the use of summary proceedings to the following circumstances:

- (1) The collection of a tax assessment that has become final, a bankruptcy receiver has been appointed for the taxpayer, or the taxpayer self-assessed the amount shown due on the return.
- (2) A jeopardy assessment has been or could be issued against the taxpayer.
- (3) A rule to cease business has been or is concurrently brought against the taxpayer.
- (4) The matter involves the collector's authority to enforce collection of taxes collected from others.
- (5) A taxpayer or dealer has failed to make and file any required return or report where the collector estimates the tax due to be less than \$100,000.

New law provides specific instructions on how collectors shall compute all refunds or credits and allow interest as part of the refund or credit.

Effective July 1, 2020.

(Amends R.S. 47:337.51(A)(2); adds R.S. 47:337.51(A)(4), 337.61(5) and 337.80(A)(4) and (D))