

## RÉSUMÉ DIGEST

ACT 278 (HB 561)

2020 Regular Session

Dwight

Existing law requires a local collector to furnish or make available the necessary forms for filing returns and instructions to ensure full tax collection from dealers and an accounting for the taxes due. Failure of any dealer to secure these forms shall not relieve the dealer from the payment of the tax at the time in the manner provided in existing law.

New law provides that in the event of a presidential or gubernatorial declared disaster or emergency covering a local collector's jurisdiction, a local collector may elect to extend filing or payment deadlines until the extended date for the same period specified for state sales and use taxes for the same period. New law prohibits interest and penalties from accruing on the tax during the period of the extension provided the return and payment are received by the extended due date.

New law requires any decision to adopt an extension of the filing or payment deadline to be provided to the La. Uniform Local Sales Tax Board for publication on its website.

Existing law authorizes the collector to take a rule on a taxpayer to show cause in not less than two nor more than 10 days, exclusive of holidays, why the taxpayer should not be ordered to cease from further business pursuits for failure to pay to the taxing authority sales and use tax amounts collected from others along with any interest, penalty, and costs related to the tax. Existing law authorizes the Board of Tax Appeals (BTA) or a court to render a money judgment against the taxpayer in favor of the collector in the amount of any final and nonappealable assessment, together with all penalties, interest, attorney fees, and costs.

Existing law applies the rule to amounts due as a result of assessments or judgments which have become final and nonappealable.

New law extends authority for the rule to also apply to amounts shown to have been actually collected from others and not remitted to the collector.

New law provides that neither the collector's consent to a continuance request nor the collector's failure to object to the date that any court or the BTA sets for the hearing date of a rule brought pursuant to existing law shall be considered a waiver of the collector's right to proceed nor be deemed to convert a summary proceeding into an ordinary proceeding.

Existing law authorizes a collector to remit or waive payment of a specific penalty due if the taxpayer's failure to timely file a return or the filing of a return without remittance of the full amount of tax due is attributable to a cause, other than the negligence of the taxpayer, that is submitted in writing and considered reasonable by the collector.

New law extends eligibility for the waiver of penalties if the taxpayer establishes that the failure to file a return during a presidentially or gubernatorially declared disaster or emergency was due to the inaccessibility of funds to pay the tax, the unavailability of records or personnel necessary to prepare and file the return, or other related good cause stemming from the extension of related state sales and use tax filing deadlines.

New law authorizes the La. Sales and Use Tax Commission for Remote Sellers to enter into cooperative endeavor agreements for the purpose of facilitating the operation of an online filing system, including the deposit of advance costs from subscribers and related payment of amounts collected related to that service.

Existing law authorizes the establishment of the BTA as an independent agency in the Dept. of State Civil Service to hear and decide, at a minimum of expense to the taxpayer, questions of law and fact arising from disputes or controversies between a taxpayer and any state collector in the enforcement of any tax, excise, license, permit, or any other tax, fee, penalty, receipt, or other law administered by a collector and to exercise other jurisdiction as provided by law.

New law extends jurisdiction of the BTA to controversies between a taxpayer and political subdivisions of the state and removes references to the BTA being within the Dept. of State Civil Service.

Existing law extends the jurisdiction of the BTA to all matters relating to appeals for the redetermination of assessments, the determination of overpayments, and payment under protest petitions. Additionally extends jurisdiction of the BTA to all matters related to state or local taxes or fees, or other jurisdiction provided by existing law, including rules to seek uniformity of interpretation of common sales and use tax law or local sales and use tax law and petitions concerning the validity of a collector's rules, regulations, or private letter rulings.

New law specifically extends jurisdiction of the BTA to rules to cease business, ordinary collection suits, summary tax proceedings, and other matters in accordance with existing law.

New law provides the time line for appointments, selection of officers, and filling of vacancies for the Board of Tax Appeals.

Prior law required the governor to establish the compensation to be paid to members of the Board of Tax Appeals, including any additional compensation for its officers.

New law removes the requirement that the governor establish board compensation, continues the current compensation of the board, including any additional compensation for its officers, and prohibits reduction of a member's compensation during his term of office.

New law requires that beginning Jan. 1, 2024, the board's regular salary is subject to review and recommendation by the Judicial Compensation Commission and legislative approval. New law authorizes annual adjustments related to reimbursement of expenses or per diem to be approved by the supreme court.

Existing law establishes a procedure for a taxpayer to appeal to the BTA including the filing of a payment under protest petition. Existing law prohibits an aggrieved party from petitioning the BTA to declare a law unconstitutional on the basis of its failure to meet the constitutional requirements for the passage of laws by the legislature.

New law authorizes any collector, taxpayer, or other aggrieved party to file a petition or pleading with the BTA for any matter within the jurisdiction of the BTA. Further authorizes the La. Uniform Local Sales Tax Board to file an action for uniformity in the same manner as a local collector.

Existing law authorizes any party to file a motion for the review of a decision of the BTA by the appropriate appellate court within 30 days of the signing of a decision or judgment by the BTA.

New law specifies that the 30-day period for appealing a decision of the BTA begins from the mailing of the notice of the judgment. Further provides that the date of actual receipt of a hand-delivered notice shall be deemed the date of mailing in the event the notice of judgment is hand-delivered in lieu of mailing.

Existing law defines "dealer" to include every person who manufactures or produces tangible personal property for sale at retail; for use, or consumption, or distribution; or for storage to be used or consumed in a taxing jurisdiction.

New law further defines "dealer" to mean any person who operates, maintains, or facilitates a peer-to-peer vehicle sharing program and collects any amount required to be paid as part of a vehicle sharing program agreement whereby a shared vehicle owner leases or rents a shared vehicle to a shared vehicle driver in this state. For purposes of the peer-to-peer vehicle sharing program, new law provides for the following definitions:

- (1) "Vehicle sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer vehicle sharing program.
- (2) "Peer-to-peer vehicle sharing" means the authorized use of a vehicle by a person other than the vehicle's owner through a peer-to-peer car sharing program.

- (3) "Peer-to-peer vehicle sharing program" means a business platform that connects a shared vehicle owner with a shared vehicle driver to enable the sharing of vehicles for financial consideration.
- (4) "Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer vehicle sharing program.
- (5) "Shared vehicle driver" means a person authorized to drive the shared vehicle by the shared vehicle owner under a vehicle sharing program agreement.
- (6) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a shared vehicle made available for sharing to shared vehicle drivers through a peer-to-peer vehicle sharing program.

New law requires the state sales tax and automobile rental tax collected by dealers who operate, maintain, or facilitate a peer-to-peer vehicle sharing program to be filed and paid electronically to the secretary of the Dept. of Revenue (DOR).

Existing law requires the secretary of DOR to transfer \$219,000 from the state sales and use tax collections to the BTA each year for purposes of its Local Tax Division.

Prior law required the amounts transferred to be increased by \$5,000 on July 1st of each of the next *six* subsequent fiscal years following 2016.

New law removes the limitation of the additional \$5,000 transfer of sales tax collections to the Board of Tax Appeals for *six* subsequent fiscal years thereby requiring the transfer of sales tax collections into perpetuity.

Effective July 1, 2020, except that provisions relative to the peer-to-peer vehicle sharing program are effective Jan. 1, 2021.

(Amends R.S. 47:302(K)(7)(b), 337.33(A)(1) and (5), 337.71, 551(B), 1401, 1402(C), (D)(1), (E)(1), and (F), 1403(A)(3), 1407(1), (3), and (7), 1408(D)(1), and 1434(A); Adds R.S. 47:301(4)(n), 303(I), 337.22(E), 337.33(E), 340(E)(6), 1403(A)(5), and 1431(E))