

2023 Regular Session

HOUSE BILL NO. 171

BY REPRESENTATIVE BEAULLIEU

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/SALES & USE: Provides relative to the requirement for marketplace facilitators to collect and remit sales and use taxes

1 AN ACT

2 To amend and reenact R.S. 47:340.1(C)(2) and (3) and (D), relative to administration and

3 collection of state and local sales and use taxes with respect to remote sales; to

4 provide relative to duties of entities defined as marketplace facilitators; to provide

5 relative to the requirement for a marketplace facilitator to collect and remit sales and

6 use taxes; to provide for conditions pursuant to which the requirement applies; to

7 provide for certain duties of the Louisiana Sales and Use Tax Commission for

8 Remote Sellers with respect to marketplace facilitators; and to provide for related

9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:340.1(C)(2) and (3) and (D) are hereby amended and reenacted
12 to read as follows:

13 §340.1. Marketplace facilitators; collection and remittance of state and local sales
14 and use tax

15 * * *

16 C. Calculation of remote sales and criteria.

17 * * *

18 (2) The requirement of Paragraph (1) of this Subsection shall apply only to
19 a marketplace facilitator that makes or facilitates a remote sale for delivery in
20 Louisiana of tangible personal property, products transferred electronically, or

1 services; if, during the previous or current calendar year, ~~either of the following are~~
2 ~~met:~~

3 (a) ~~The~~ the marketplace facilitator's gross revenue for retail sales delivered
4 into Louisiana exceeded one hundred thousand dollars from sales of tangible
5 personal property, products transferred electronically, or services.

6 (b) ~~The marketplace facilitator sold for delivery into Louisiana tangible~~
7 ~~personal property, products transferred electronically, or services in two hundred or~~
8 ~~more separate transactions.~~

9 (3) In determining whether the ~~criteria of~~ condition established in Paragraph
10 (2) of this Subsection ~~have~~ has been met, ~~all~~ only remote sales that are retail sales,
11 as defined in R.S. 47:301, shall be considered. However, a marketplace facilitator
12 may voluntarily register for and collect state and local sales and use tax as a dealer
13 regardless of whether the marketplace facilitator meets the ~~criteria~~ condition
14 established in Paragraph (2) of this Subsection.

15 D. Timing of application and collection.

16 No later than thirty calendar days after meeting ~~either of the criteria of the~~
17 condition established in Paragraph (C)(2) of this Section, a marketplace facilitator
18 shall submit an application for approval to collect state and local sales and use tax
19 on remote sales for delivery into Louisiana to the commission on a form prescribed
20 by the commission. The commission shall approve or deny the application and shall
21 notify the marketplace facilitator of the approval or denial no later than twenty
22 calendar days after receiving the application. A marketplace facilitator shall
23 commence collection of state and local sales and use tax, once notified of the
24 ~~commission has approved~~ commission's approval of the application, no later than
25 sixty days after meeting ~~either of the criteria of~~ the condition established in
26 Paragraph (C)(2) of this Section.

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 171 Engrossed

2023 Regular Session

Beaulieu

Abstract: Revises certain conditions under which marketplace facilitators are required to collect and remit state and local sales and use tax on remote sales.

Present law provides relative to administration and collection of state and local sales and use tax on remote sales. Defines "remote sale", "marketplace", "marketplace seller", "marketplace facilitator", and other key terms for purposes of present law. Provides that "marketplace facilitator", with limited exceptions, means any person that facilitates a sale for a marketplace seller through a marketplace, owned, operated, or otherwise controlled by the person, by any of the following:

- (1) Offering for sale through any means, by a marketplace seller, tangible personal property or sales of services for delivery into La.
- (2) Collecting payment from the purchaser and transmitting all or part of the payment to the marketplace seller.

Proposed law retains present law.

Present law requires marketplace facilitators to collect and remit state and local sales and use tax on all taxable remote sales for delivery into La. that the marketplace facilitator transacts on its own behalf or facilitates on behalf of a marketplace seller. Provides, however, that this requirement shall apply only to a marketplace facilitator if, during the previous or current calendar year, either of the following conditions are met:

- (1) The marketplace facilitator's gross revenue for sales delivered into La. exceeded \$100,000 from sales of tangible personal property, products transferred electronically, or services.
- (2) The marketplace facilitator sold for delivery into La. tangible personal property, products transferred electronically, or services in 200 or more separate transactions.

Proposed law revises present law relative to conditions under which marketplace facilitators are required to collect and remit state and local sales and use tax on remote sales. Proposed law stipulates that the gross revenue condition for sales delivered into La. (no. (1) above) applies exclusively to retail sales and repeals the 200-transaction condition (no. (2) above).

Present law provides the following procedure for marketplace facilitators initiating their collection of sales and use taxes on remote sales:

- (1) No later than 30 calendar days after a marketplace facilitator meets the conditions requiring it to collect and remit sales and use taxes, it shall submit an application for approval to collect such taxes to the La. Sales and Use Tax Commission for Remote Sellers (hereafter, the "commission").
- (2) A marketplace facilitator shall commence collection of sales and use taxes, once notified the commission has approved the application, no later than 60 days after meeting the conditions requiring it to collect and remit such taxes.

Proposed law adds an interim step to this procedure requiring the commission to approve or deny the marketplace facilitator's application and notify the marketplace facilitator of the approval or denial no later than 20 calendar days after receiving the application.

(Amends R.S. 47:340.1(C)(2) and (3) and (D))