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## DIGEST

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HB 171 Reengrossed

2023 Regular Session

Beaulieu

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

Present law defines the term "dealer" for purposes of imposition, administration, and collection of state and local sales and use tax. Provides that the sales and use taxes imposed by present law shall be collected from dealers.

Proposed law amends present law to do the following:

- (1) Eliminate from the definition of "dealer" any person who does not have a physical presence in La. and, during the previous or current calendar year, sells for delivery into La. tangible personal property, products transferred electronically, or services in 200 or more separate transactions.
- (2) Retain within the definition of "dealer" any person who does not have a physical presence in La. and whose gross revenue for sales delivered into La. during the previous or current calendar year has exceeded \$100,000 from sales of tangible personal property, products transferred electronically, or services.

Present law provides relative to imposition, 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 30 business days after receiving the completed application.

(Amends R.S. 47:301(4)(m)(i) and 340.1(C)(2) and (3) and (D))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Amend present law (R.S. 47:301(4)) defining the term "dealer" for purposes of sales tax administration to do the following:
  - (a) Eliminate from the definition of "dealer" any person who does not have a physical presence in La. and, during the previous or current calendar year, sells for delivery into La. tangible personal property, products transferred electronically, or services in 200 or more separate transactions.

- (b) Retain within the definition of "dealer" any person who does not have a physical presence in La. and whose gross revenue for sales delivered into La. during the previous or current calendar year has exceeded \$100,000 from sales of tangible personal property, products transferred electronically, or services.
- 2. Revise proposed law requiring that the commission approve or deny a marketplace facilitator's application and notify the marketplace facilitator of the approval or denial no later than 20 calendar days after receiving the application to require instead that the commission take such action no later than 30 business days after receiving the marketplace facilitator's completed application.