

RÉSUMÉ DIGEST

ACT 15 (HB 171)

2023 Regular Session

Beaulieu

Existing 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 existing law shall be collected from dealers.

Existing law provides that the term "dealer", in part, includes any person who does not have a physical presence in Louisiana and whose gross revenue from taxable sales delivered into this state during the previous or current calendar year exceeded \$100,000.

Prior law provided that the term "dealer" included any person who does not have a physical presence in Louisiana and who sold for delivery into this state tangible personal property, products transferred electronically, or services in 200 or more separate transactions during the previous or current calendar year. New law repeals prior law.

Existing 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 existing 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.

Existing 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.

Prior law provided that the requirement to collect and remit sales and use taxes shall only apply 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.

New law revises prior law as follows:

- (1) New law stipulates that the \$100,000 gross revenue condition ((1) above) applies only to retail sales.
- (2) New law repeals the 200-transaction condition ((2) above).

Existing 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 (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.

New law adds to this procedure an interim step 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.

Effective August 1, 2023.

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