

2024 Third Extraordinary Session

HOUSE BILL NO. 8

BY REPRESENTATIVE BRASS AND SENATOR JENKINS

1 AN ACT

2 To amend and reenact R.S. 47:301(3)(a), (4)(introductory paragraph), (a) through (e), and
3 (h), (5), (7)(a), (9), (10)(a)(i), (12), (13)(a), (15), (18)(a)(i) and (d)(i), (19), and
4 (29)(x)(introductory paragraph) and (ix), 302(A), (B), (K)(1) and (2), (U), and
5 (V)(1)(introductory paragraph), (a), and (b)(introductory paragraph), 303(A)(2) and
6 (3)(a) and (G), 303.1(A) and (B)(1)(introductory paragraph) and (c) and (2)(b),
7 304(B), 305(E), 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5), 305.38,
8 305.53(A), 306.5(A)(1) and (2)(c), 307(A) through (C), 309(A)(1), 309.1(B)(1) and
9 (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and
10 (C)(1)(c), 321(A) and (B), 321.1(A) and (B), 331(A) and (B), 337.3(A), and
11 340.1(A)(3) and (5) and R.S. 51:1286(B), to enact R.S. 47:301(10)(c)(ii)(cc) and (jj),
12 (18)(a)(v), (32), (33), and (34), 301.3, and 305.5, and to repeal R.S. 47:301(16)(h)
13 and (p) and (23), relative to sales and use taxes; to provide for the levy of sales and
14 use taxes on certain digital products and services; to provide for the rates of such
15 taxes; to provide for definitions; to provide relative to exclusions and exemptions
16 from sales and use taxes; to provide relative to administration of sales and use taxes;
17 to provide relative to tax collection and enforcement; to provide for liability for
18 collection and payment of certain sales and use taxes; to provide for record keeping
19 and reporting; to provide for sourcing; to provide for certain limitations and
20 requirements; to provide for effectiveness; to provide for applicability; and to
21 provide for related matters.

22 Be it enacted by the Legislature of Louisiana:

23 Section 1. R.S. 47:301(3)(a), (4)(introductory paragraph), (a) through (e), and (h),
24 (5), (7)(a), (9), (10)(a)(i), (12), (13)(a), (15), (18)(a)(i) and (d)(i), (19), and

1 (29)(x)(introductory paragraph) and (ix), 302(A), (B), (K)(1) and (2), (U), and
 2 (V)(1)(introductory paragraph), (a), and (b)(introductory paragraph), 303(A)(2) and (3)(a)
 3 and (G), 303.1(A) and (B)(1)(introductory paragraph) and (c) and (2)(b), 304(B), 305(E),
 4 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 306.5(A)(1) and
 5 (2)(c), 307(A) through (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314,
 6 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A) and (B), 321.1(A) and
 7 (B), 331(A) and (B), 337.3(A), and 340.1(A)(3) and (5) are hereby amended and reenacted
 8 and R.S. 47:301(10)(c)(ii)(cc) and (jj), (18)(a)(v), (32), (33), and (34), 301.3, and 305.5 are
 9 hereby enacted to read as follows:

10 §301. Definitions

11 As used in this Chapter, the following words, terms, and phrases have the
 12 meanings ascribed to them in this Section, unless the context clearly indicates a
 13 different meaning:

14 * * *

15 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
 16 property or digital products without any deductions therefrom on account of the cost
 17 of materials used, labor, or service cost, except those service costs for installing the
 18 articles of tangible personal property or digital products if ~~such~~ the cost is separately
 19 billed to the customer at the time of installation, transportation charges, or any other
 20 expenses whatsoever, or the reasonable market value of the tangible personal
 21 property or digital products at the time it becomes susceptible to the use tax,
 22 whichever is less.

23 * * *

24 (4) "Dealer" includes every person who manufactures or produces tangible
 25 personal property or digital products for sale at retail, for use, or consumption, or
 26 distribution, or for storage to be used or consumed in a taxing jurisdiction. "Dealer"
 27 is further defined to mean:

28 (a) Every person who imports, or causes to be imported, tangible personal
 29 property or digital products from any other state, foreign country, or other taxing

1 jurisdiction for sale at retail, for use, or consumption, or distribution, or for storage
2 to be used or consumed in a taxing jurisdiction.

3 (b) Every person who sells at retail, or who offers for sale at retail, or who
4 has in his possession for sale at retail, or for use, or consumption, or distribution, or
5 storage to be used or consumed in the taxing jurisdiction, tangible personal property
6 or digital products as defined ~~herein~~ in this Section.

7 (c) Any person who has sold at retail, or used, or consumed, or distributed,
8 or stored for use or consumption in the taxing jurisdiction, tangible personal property
9 or digital products and who cannot prove that the tax levied by this Chapter has been
10 paid on the sale at retail, the use, the consumption, the distribution, or the storage of
11 ~~said~~ the tangible personal property or digital products.

12 (d)(i) Any person who leases or rents tangible personal property or digital
13 products for a consideration, permitting the use or possession of the ~~said~~ property or
14 products without transferring title thereto.

15 (ii) However, a person who leases or rents tangible personal property or
16 digital products to customers who provide information to ~~such~~ the person that they
17 will use the property or products only offshore beyond the territorial limits of the
18 state shall not be included in the term "dealer" for purposes of the collection of the
19 rental or lease tax of the state, statewide political subdivisions, and other political
20 subdivisions on ~~such~~ lease or rental contracts. For purposes of this Item, "use" means
21 the operational or functional use of the property and not other uses related to its
22 possession such as transportation, maintenance, and repair. It is the intention of this
23 Item that the customers of such persons shall remit any tax due on the lease or rental
24 of ~~such~~ the property or digital products directly to the state and local taxing bodies
25 to whom they are due.

26 (e) Any person who is the lessee or rentee of tangible personal property or
27 digital products and who pays to the owner of ~~such~~ the property or product a
28 consideration for the use or possession of ~~such~~ the property without acquiring title
29 thereto.

30 * * *

1 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
 2 business in the taxing jurisdiction" means and includes any of the following methods
 3 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
 4 office, distribution house, sales house, warehouse, or other place of business or by
 5 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
 6 the authority of the seller or its subsidiary irrespective of whether ~~such~~ the place of
 7 business, agent, salesman, or solicitor is located in ~~such~~ the taxing jurisdiction
 8 permanently or temporarily or whether ~~such~~ the seller or subsidiary is qualified to
 9 do business in ~~such~~ the taxing jurisdiction, or any person who makes deliveries of
 10 tangible personal property or digital products into the taxing jurisdiction other than
 11 by a common or contract carrier.

12 * * *

13 (5) "Gross sales" means the sum total of all retail sales of tangible personal
 14 property or digital products, without any deduction whatsoever of any kind or
 15 character except as provided in this Chapter.

16 * * *

17 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
 18 property or digital products and the possession or use thereof by the lessee or renter,
 19 for a consideration, without transfer of the title of ~~such~~ the property or products. For
 20 the purpose of the leasing or renting of automobiles, "lease" means the leasing of
 21 automobiles and the possession or use thereof by the lessee, for a consideration,
 22 without the transfer of the title of ~~such~~ that property for a one hundred eighty-day
 23 period or more. "Rental" means the renting of automobiles and the possession or use
 24 thereof by the renter, for a consideration, without the transfer of the title of ~~such~~ that
 25 property for a period less than one hundred eighty days.

26 * * *

27 (9) "Purchaser" means and includes any person who acquires or receives any
 28 tangible personal property or digital products, or the privilege of using any tangible
 29 personal property or digital products, or receives any services pursuant to a
 30 transaction subject to tax under this Chapter.

1 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
 2 tax, "retail sale" or "sale at retail" means a sale to a consumer, end user, or to any
 3 other person for any purpose other than for resale as tangible personal property or a
 4 digital product, or for the lease of automobiles in an arm's length transaction, and
 5 shall mean and include all ~~such~~ transactions as ~~that~~ the secretary, upon investigation,
 6 finds to be in lieu of sales; provided that sales for resale or for lease of automobiles
 7 in an arm's length transaction must be made in strict compliance with the rules and
 8 regulations. Any dealer making a sale for resale or for the lease of automobiles,
 9 which is not in strict compliance with the rules and regulations, shall himself be
 10 liable for and pay the tax.

11 * * *

12 (c)

13 * * *

14 (ii)

15 * * *

16 (cc) The term "sale at retail" does not include consuming any digital product
 17 in producing for sale a new product or taxable service, where the digital product
 18 becomes an ingredient or component of the new product or taxable service. A digital
 19 code becomes an ingredient or component of a new product or taxable service if the
 20 digital product, through the use of the digital code, becomes an ingredient or
 21 component of the new product or taxable service.

22 * * *

23 (jj) With respect to digital products, the term "sale at retail" does not include
 24 making any digital product available free of charge for the use or enjoyment of
 25 others. For purposes of this Subparagraph, "free of charge" means that the recipient
 26 of the digital product is not required to provide anything of significant value in
 27 exchange for the product. A transfer is not free of charge if the digital product is
 28 bundled or combined with other products or services subject to sales or use tax
 29 regardless of whether such items are separately stated and invoiced.

30 * * *

1 (32)(a) "Digital product" means digital audiovisual works, digital audio
2 works, digital books, digital codes, digital applications and games, digital periodicals
3 and discussion forums, and any other otherwise taxable tangible personal property
4 transferred electronically, whether digitally delivered, streamed, or accessed and
5 whether purchased singly, by subscription, or in any other manner, including
6 maintenance, updates, and support.

7 (b) For purposes of this Paragraph, the following terms have the meanings
8 ascribed to them in this Subparagraph:

9 (i) "Digital audiovisual works" means a series of related images that, when
10 shown in succession, impart an impression of motion, together with accompanying
11 sounds. "Digital audiovisual works" include but are not limited to motion pictures;
12 musical, videos, news, and entertainment programs; and live events.

13 (ii) "Digital audio works" means works that result from the fixation of a
14 series of musical, spoken, or other sounds that are transferred electronically,
15 including prerecorded or live songs, music, readings of books or other written
16 materials, speeches, ring tones, or other sound recording.

17 (iii) "Digital books" means works that are generally recognized in the
18 ordinary and usual sense as books and which are transferred electronically, including
19 works of fiction, nonfiction, and short stories.

20 (iv) "Digital code" means a code that provides the person who holds the code
21 a right to obtain one or more digital products. A digital code may be obtained by any
22 means, including tangible forms and electronic mail, regardless of whether the code
23 is designated as a song code, video code, or book code. The term "digital code"
24 includes codes used to access or obtain any digital products that have been
25 previously purchased and promotion cards or codes that are purchased by a retailer
26 or other business entity for use by the retailer's or entity's customers. "Digital code"
27 does not include any gift certificate or gift card with monetary value that may be
28 redeemable for an item other than a digital product.

1 (v) "Digital applications and games" means any application or game,
2 including add-ons or additional content, that can be used by a computer, mobile
3 device, or tablet notwithstanding the function performed.

4 (vi) "Digital periodical and discussion forum" means a digital newspaper,
5 digital magazine, other digital periodical, chat room discussion, weblog, or any other
6 similar product.

7 (c) "Digital product" shall not include any of the following:

8 (i) Any intangible such as a patent, stock, bond, goodwill, trademark,
9 franchise, or copyright.

10 (ii) Telecommunications services and ancillary services as those terms are
11 defined in Subparagraphs (27)(b) and (x) of this Section.

12 (iii) Internet access service charges.

13 (iv) The representation of a work product resulting from a professional
14 service, as described in Subparagraph (16)(d) of this Section, in an electronic form,
15 such as an electronic copy of an engineering report prepared by an engineer that
16 primarily involves the application of human effort, and the human effort originated
17 after the customer requested the service.

18 (v) A product having electrical, digital, magnetic, wireless, optical,
19 electromagnetic, or similar capabilities where the purchaser holds a copyright or
20 other intellectual property interest in the product, in whole or part, if the purchaser
21 uses the product solely for commercial purposes, including advertising or other
22 marketing activities.

23 (vi) Cable television services, direct-to-home satellite services, video
24 programming services, or satellite digital audio radio services.

25 (d) The sale of a digital code that may be utilized to obtain a digital product
26 shall be taxed in the same manner as the digital product.

27 (e) For purposes of taxes imposed under this Chapter and Chapters 2-A and
28 2-B of this Subtitle, whenever the words "property" or "personal property" are used,
29 those terms shall be construed to include any digital product unless any of the
30 following circumstances apply:

1 (i) It is clear from the context that the term "personal property" is intended
2 only to refer to tangible personal property.

3 (ii) It is clear from the context that the term "property" is intended only to
4 refer to tangible personal property, immovable property, or both.

5 (iii) To construe the term "property" or "personal property" as including any
6 digital product would yield unlikely, absurd, or strained consequences.

7 (33)(a) "Transferred electronically" means any product obtained by the
8 purchaser by means other than tangible storage media, regardless of whether the
9 seller grants permanent or less than permanent use and regardless of whether the
10 transaction is conditioned upon contingent payment. It is not necessary that a copy
11 of the product be physically transferred to the purchaser. So long as the purchaser
12 may access the product, it shall be considered to have been transferred electronically
13 to the purchaser.

14 (b) For purposes of this Paragraph, the term "permanent use" means perpetual
15 use or use for an indefinite or unspecified length of time.

16 (34)(a) "End user" means any purchaser other than a purchaser who receives
17 by contract a digital product for further commercial broadcast, rebroadcast,
18 transmission, retransmission, licensing, relicensing, distribution, redistribution, or
19 exhibition of the product, in whole or in part, to others. A person who purchases
20 digital products for the purpose of giving away those products or codes shall not be
21 considered to have engaged in the distribution or redistribution of such products or
22 codes and shall be treated as an end user.

23 (b) If a purchaser of a digital product does not receive the contractual right
24 to further redistribute, after the digital code is redeemed, the underlying product to
25 which the digital code relates, then the purchaser of the digital code shall be deemed
26 an end user. If the purchaser of the digital code receives the contractual right to
27 further redistribute, after the digital code is redeemed, the underlying product to
28 which the digital code relates, then the purchaser of the digital code shall not be
29 deemed an end user. A purchaser of a digital code who has the contractual right to
30 further redistribute the digital code shall be deemed an end user if that purchaser

1 Any rule promulgated by the department pursuant to this Section shall be construed
2 in favor of the secretary.

3 §302. Imposition of tax

4 A. There is hereby levied a tax upon the sale at retail, the use, the
5 consumption, the distribution, and the storage for use or consumption in this state,
6 of each item or article of tangible personal property or digital product, as defined
7 ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

8 (1) At the rate of ~~two per centum (2%)~~ two percent of the sales price of each
9 item or article of tangible personal property or digital product when sold at retail in
10 this state; the tax to be computed on gross sales for the purpose of remitting the
11 amount of tax due the state, and to include each and every retail sale.

12 (2) At the rate of ~~two per centum (2%)~~ two percent of the cost price of each
13 item or article of tangible personal property or digital product when the same is not
14 sold but is used, consumed, distributed, or stored for use or consumption in this state;
15 provided there shall be no duplication of the tax.

16 B. There is hereby levied a tax upon the lease or rental within this state of
17 each item or article of tangible personal property or digital product, as defined
18 ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

19 (1) At the rate of ~~two per centum (2%)~~ two percent of the gross proceeds
20 derived from the lease or rental of tangible personal property or a digital product, as
21 defined ~~herein~~ in this Chapter, where the lease or rental of ~~such~~ the property or
22 product is an established business, or part of an established business, or the same is
23 incidental or germane to the ~~said~~ business.

24 (2) At the rate of ~~two per centum (2%)~~ two percent of the monthly lease or
25 rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or
26 rentee to the owner of the tangible personal property or digital product.

27 * * *

28 K. An additional tax shall be levied as follows:

29 (1) At the rate of four percent of the sales price of each item or article of
30 tangible personal property or digital product when sold at retail in this state; the tax

1 to be computed on gross sales for the purpose of remitting the amount of tax due the
2 state, and to include each and every retail sale.

3 (2) At the rate of four percent of the cost price of each item or article of
4 tangible personal property or digital product when the same is not sold but is used,
5 consumed, distributed, or stored for use or consumption in this state; provided there
6 shall be no duplication of the tax.

7 * * *

8 U. Collection of consumer use tax. It is the duty of the secretary of the
9 Department of Revenue to collect all taxes imposed pursuant to this Chapter and
10 Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote
11 retailer of tangible personal property, digital products, or services in Louisiana. The
12 secretary is authorized and directed to employ all means available to ensure the
13 collection of the tax in an equitable, efficient, and effective manner.

14 V.(1) In addition to the definition of "dealer" as provided in R.S. 47:301(4)
15 for purposes of the consumer use tax, the term "dealer" includes every person who
16 manufactures or produces tangible personal property or digital products for sale at
17 retail, for use or consumption, or distribution, or for storage to be used or consumed
18 in a taxing jurisdiction. "Dealer" is further defined to mean:

19 (a) Any person engaging in business in the taxing jurisdiction which shall
20 mean the solicitation of business through an independent contractor or any other
21 representative pursuant to an agreement with a Louisiana resident or business under
22 which the resident or business, for a commission, referral fee, or other consideration
23 of any kind, directly or indirectly, refers potential customers, whether by link on an
24 internet website, an in-person oral presentation, telemarketing, or otherwise to the
25 seller. If the cumulative gross receipts from sales of tangible personal property or
26 digital products to customers in this state who are referred to the person through ~~such~~
27 an agreement exceeds fifty thousand dollars during the preceding twelve months, the
28 presumption regarding the status of that person as a dealer may be rebutted if the
29 person can demonstrate, to the satisfaction of the secretary, that he cannot reasonably

1 be expected to have gross receipts in excess of fifty thousand dollars for the
2 succeeding twelve months.

3 (b) Any person selling tangible personal property, digital products, or
4 services, the use of which is taxed pursuant to this Chapter, who:

5 * * *

6 §303. Collection

7 A. Collection from dealer.

8 * * *

9 (2) On all tangible personal property or digital products imported, or caused
10 to be imported, from other states or foreign countries, and used by him, the "dealer",
11 as hereinafter defined, shall pay the tax imposed by this Chapter on all articles of
12 tangible personal property or digital products ~~so~~ imported and used, the same as if
13 ~~the said~~ those articles or products had been sold at retail for use or consumption in
14 this state. For the purposes of this Chapter, the use, or consumption, or distribution,
15 or storage to be used or consumed in this state of tangible personal property or digital
16 products, shall each be equivalent to a sale at retail, and the tax shall thereupon
17 immediately levy and be collected in the manner provided herein, provided there
18 shall be no duplication of the tax ~~in any event~~.

19 (3)(a) A credit against the use tax imposed by this Chapter shall be granted
20 to taxpayers who have paid a similar tax upon the sale or use of the same tangible
21 personal property or digital products in another state. The credit provided herein
22 shall only be granted ~~only~~ in the case where the state to which a similar tax has been
23 paid grants a similar credit as provided herein, provided that members of the armed
24 forces who are citizens of this state and whose orders or enlistment contracts
25 stipulate a period of active duty of two years or more and who purchase automobiles
26 outside of the state of Louisiana while on ~~such~~ a tour of active duty shall be granted
27 ~~such~~ the credit in connection with the purchase of ~~such~~ the automobiles whether or
28 not the state to which ~~such~~ the tax thereon has been paid grants a similar credit as
29 herein provided. The amount of the credit shall be calculated by multiplying the rate
30 of the similar tax paid in the other state by the cost price which is subject to

1 Louisiana use tax at the time of the importation of the tangible personal property or
 2 digital products. The proof of payment of a similar tax to another state shall be made
 3 according to rules and regulations promulgated by the secretary. In no event shall the
 4 credit be greater than the tax imposed by Louisiana upon the particular tangible
 5 personal property or digital product which is the subject of the Louisiana use tax.

* * *

7 G. Direct Payment Numbers. Notwithstanding any provision of law to the
 8 contrary, a Louisiana taxpayer who obtains a DP Number as provided in R.S.
 9 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible
 10 personal property, digital products, and taxable services directly to the state and local
 11 taxing bodies to whom the sales and use taxes are due, and shall not be liable to remit
 12 the tax to the vendor or lessor of the tangible personal property, digital products, and
 13 taxable services, as provided in R.S. 47:303.1.

* * *

15 §303.1. Direct Payment Numbers

16 A. Notwithstanding any other law to the contrary except for the provisions
 17 of R.S. 47:303(B) and (E), the state and local sales and use tax due on the purchase,
 18 importation, or lease of tangible personal property, digital products, or taxable
 19 services by taxpayers who have obtained a Direct Payment Number, hereinafter
 20 referred to as a ~~"DP Number,"~~ "DP Number", shall be remitted directly to the state
 21 and appropriate political subdivision by ~~such~~ the taxpayer, as provided in this
 22 Section. The vendor or lessor of tangible personal property, digital products, or
 23 taxable services shall not be responsible for collecting sales and use tax on ~~such~~
 24 or leases, and shall not be liable for ~~such~~ the tax as provided in R.S. 47:304(C), upon
 25 presentation to him of a valid DP Number by such purchaser or lessee, provided that
 26 the vendor or lessor notes the DP Number on the untaxed contract or invoice
 27 submitted to ~~such~~ the purchaser and lessee.

28 B.(1) A DP Number shall be issued to and shall be continued to be held by
 29 a taxpayer who obtains the required approvals and who meets all of the following

1 qualifications and all other applicable qualifications provided for in this Section ~~and~~
2 ~~the following~~ qualifications:

3 * * *

4 (c) The taxpayer has an annual average of five million dollars of taxable
5 purchases or leases of tangible personal property ~~and, digital products,~~ taxable
6 services, or any combination of these for three calendar years prior to the year of
7 application by the taxpayer, and has such an average for each subsequent three-year
8 period.

9 * * *

10 (2)

11 * * *

12 (b) Separate DP Numbers shall be issued to and shall be continued to be held
13 by taxpayers that are subsidiary entities of a private, nonprofit, tax-exempt
14 organization, as defined under Section 501(c)(3) of the Internal Revenue Code, that
15 meets the requirements of Subparagraph (a) of this Paragraph, as well as to those
16 taxpayer entities in which the tax-exempt organization is the sole member, provided
17 that these entities are licensed by the Louisiana Department of Health, Louisiana
18 Board of Pharmacy, or otherwise have as their mission promoting the delivery of
19 healthcare and patient medical services and products and further provided that these
20 entities and the tax exempt organization together have in the aggregate an annual
21 average of ten million dollars of taxable purchases or leases of tangible personal
22 property ~~and, digital products,~~ or taxable services for three calendar years prior to the
23 year of application, and have ~~such an~~ that average for each subsequent three-year
24 period, and which obtain the required approvals and meet the qualifications provided
25 for in Subparagraphs (1)(b) and (1)(d) of this Subsection.

26 * * *

27 §304. Treatment of tax by dealer

28 * * *

29 B. Every dealer located outside the state making sales of tangible personal
30 property or digital products for distribution, storage, use, or other consumption; in

1 this state; shall, at the time of making sales, collect the tax imposed by this Chapter
2 from the purchaser.

3 * * *

4 §305. Exclusions and exemptions from the tax

5 * * *

6 E. It is not the intention of any taxing authority to levy a tax upon articles of
7 tangible personal property or digital products imported into this state, or produced
8 or manufactured in this state, for export; nor is it the intention of any taxing authority
9 to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent
10 the collection of the taxes due on sales of tangible personal property or digital
11 products into this state which are promoted through the use of catalogs and other
12 means of sales promotion and for which federal legislation or federal jurisprudence
13 enables the enforcement of the sales tax of a taxing authority upon the conduct of
14 such business. It is, however, the intention of the taxing authorities to levy a tax on
15 the sale at retail, the use, the consumption, the distribution, and the storage to be used
16 or consumed in this state, of tangible personal property or digital products after it has
17 they have come to rest in this state and ~~has~~ become a part of the mass of property
18 in this state. ~~At such time as~~ When federal legislation or federal jurisprudence as to
19 sales in interstate commerce promoted through the use of catalogs and other means
20 of sales promotions enables the enforcement of this Chapter or any other law or local
21 ordinance imposing a sales tax against vendors that have no other nexus with the
22 taxing jurisdiction, the following provisions shall apply to such sales on which sales
23 and use tax would not otherwise be collected.

24 * * *

25 §305.5. Exemptions; software and digital products; business use; healthcare use

26 A.(1) The sales and use tax imposed by taxing authorities shall not apply to
27 computer software or prewritten computer software access services, information
28 services, or digital products when all of the following conditions are met:

29 (a) The service or product is purchased or licensed exclusively for
30 commercial purposes.

1 or imported into Louisiana for first use exclusively beyond the territorial limits of
2 Louisiana as specifically provided hereinafter in this Section.

3 * * *

4 C.(1) If the first use of tangible personal property or digital products
5 purchased within or imported into Louisiana occurs offshore beyond the territorial
6 limits of any state, the exemption provided ~~herein~~ in this Section shall apply only if
7 either of the following conditions are met:

8 ~~(1)~~ (a) The purchaser or importer has determined the location of the first use
9 of the tangible personal property or digital product at the time of its purchase and has
10 notified the vendor of that location; ~~or,~~

11 ~~(2)~~ (b) The purchaser or importer has not determined the intended offshore
12 location of first use at the time of purchase or importation, but has obtained from the
13 secretary of the Department of Revenue an "offshore registration number"
14 authorizing him to claim the exemption under the following conditions ~~provided in~~
15 ~~this Paragraph:~~

16 ~~(a)~~ ~~Said~~ (i) ~~The~~ offshore registration number shall be issued only if the
17 purchaser or importer has shown, to the satisfaction of the secretary, that records,
18 reports, and business practices are sufficient to permit verification that tangible
19 personal property or a digital product purchased or imported tax-free ~~under~~ pursuant
20 to this Subsection is, in fact, being purchased or imported for use offshore beyond
21 the territorial limits of any state. In cases of purchases of fungible goods, including
22 vessel fuel and lubricants, the required records shall include purchase invoices,
23 vessel logs, fuel usage records, fuel transfer records, and other reports and records
24 that will enable the secretary to determine the amount of fungible goods consumed
25 within Louisiana so as to be subject to the sales and use tax, and the amount of
26 fungible goods delivered to or consumed at offshore locations beyond the territorial
27 limits of the state, so as not to be subject to the sales and use tax. For ~~the purpose~~
28 purposes of ~~the~~ this Section, the term "fungible goods" means goods of which any
29 unit is unidentifiable and is, from its nature or by mercantile custom, treated as the

1 equivalent of any other unit and shall include crude petroleum and its refined
 2 products.

3 ~~(b)~~ (ii) The offshore registration number issued by the secretary ~~under~~
 4 pursuant to this Subsection may be revoked by the secretary at any time if the
 5 purchaser or importer fails to meet the conditions set herein, or if the secretary finds
 6 that the purchaser or importer is consistently using the certificate to purchase or
 7 import tax-free tangible personal property or digital products for first use in state.

8 ~~(c)~~ (iii) If the offshore registration number is revoked, all tangible personal
 9 property or digital products purchased or imported tax-free under this Paragraph and
 10 in the possession of the purchaser or importer within this state shall be deemed
 11 taxable unless otherwise exempt ~~under pursuant to~~ the provisions of ~~Paragraph (1)~~
 12 ~~of this Subsection~~ Subparagraph (a) of this Paragraph. If the provisions of ~~Paragraph~~
 13 ~~(1) of this Subsection~~ Subparagraph (a) of this Paragraph are not complied with, any
 14 subsequent purchase or import of tangible personal property will be taxable, whether
 15 for instate or offshore use, until the certificate and offshore number are reissued.

16 ~~(d)~~ (iv) Whenever there is a conflict between a purchaser or importer and the
 17 secretary as to whether an offshore registration number shall be issued, reissued, or
 18 revoked, it shall be the responsibility of the purchaser or importer to show that he
 19 meets the conditions and requirements ~~set herein~~ provided in this Section for having
 20 and retaining ~~said~~ the certificate and offshore registration number.

21 ~~(3)~~ (2) Except for purchases or importation of tangible personal property or
 22 digital products in accordance with ~~Paragraphs (1) and (2)~~ Subparagraphs (1)(a) and
 23 (1)(b) of this Subsection, any purchase or importation of property is taxable at the
 24 time of purchase or import unless otherwise exempt.

25 D. If tangible personal property or digital products purchased or imported
 26 tax-free ~~under pursuant to~~ the provisions of this Section ~~is~~ are subsequently used for
 27 any taxable purpose within the state, use tax shall be paid by the purchaser or
 28 importer as of the time of its use in this state. Storage of property purchased or
 29 imported tax-free ~~under pursuant to~~ this Section which is ultimately used in another
 30 state will be considered a "subsequent use for a taxable purpose".

1 (2) The annual report shall include all of the following information:

2 * * *

3 (c) Annual gross sales of tangible personal property, digital products, or
4 services that are not subject to state sales and use tax pursuant to the exclusions and
5 exemptions provided for in Subsection B of this Section.

6 * * *

7 §307. Collector's authority to determine the tax in certain cases

8 A. In the event any dealer fails to make a report and pay the tax as provided
9 in this Chapter or in case the dealer makes a grossly incorrect report or a report that
10 is false or fraudulent, the collector shall make an estimate of the retail sales of ~~such~~
11 the dealer for the taxable period, of the gross proceeds from rentals or leases of
12 tangible personal property by the dealer, or the cost price of all articles of tangible
13 personal property or digital products imported by the dealer for use or consumption
14 or distribution or storage to be used or consumed in this state, and of the gross
15 amounts paid or charged for services taxable; and it shall be the duty of the collector
16 to assess and collect the tax together with any interest and penalty that may have
17 accrued thereon, which assessment shall be considered prima facie correct and the
18 burden to show the contrary shall rest upon the dealer.

19 B. In the event the dealer has imported tangible personal property or digital
20 products and ~~he~~ fails to produce an invoice showing the cost price of the articles
21 which are subject to tax, or the invoice does not reflect the true or actual cost, then
22 the collector shall ascertain in any manner feasible the true cost price and shall assess
23 and collect the tax, together with any interest and penalties that may have accrued,
24 on the basis of the true cost as assessed by him. The assessment ~~so made~~ shall be
25 considered prima facie correct, and the burden shall be on the dealer to show the
26 contrary.

27 C. In the case of the lease or rental of tangible personal property or digital
28 products, if the consideration given or reported by the dealer does not, in the
29 judgment of the collector, represent the true or actual consideration, then the
30 collector is authorized to ascertain in any manner feasible the true or actual

1 consideration and assess and collect the tax thereon together with any interest and
2 penalties that may have accrued. The assessment ~~so made~~ shall be considered prima
3 facie correct and the burden shall be on the dealer to show the contrary.

4 * * *

5 §309. Dealers required to keep records

6 A.(1) Every dealer required to make a report and pay any tax ~~under~~ pursuant
7 to this Chapter shall keep and preserve suitable records of the sales, purchases, or
8 leases taxable ~~under~~ pursuant to this Chapter, and ~~such~~ other books of accounts as
9 may be necessary to determine the amount of tax due hereunder, and other
10 information as may be required by the secretary; and each dealer shall secure,
11 maintain, and keep, until the taxes to which they relate have prescribed, a complete
12 record of tangible personal property or digital products received, used, sold at retail,
13 distributed, or stored, leased, or rented, within this state by the ~~said~~ dealer, together
14 with invoices, bills of lading, and other pertinent records and papers as may be
15 required by the secretary for the reasonable administration of this Chapter, and a
16 complete record of all sales or purchases of services taxable ~~under~~ pursuant to this
17 Chapter until the taxes to which they relate have prescribed.

18 * * *

19 §309.1. Sales in Louisiana of tangible personal property, digital products, and
20 taxable services by a dealer or remote retailer; ~~the~~ provision of lists, notices,
21 and statements by a dealer or remote retailer

22 * * *

23 B. Definitions. As used in this Section, the following words and phrases have
24 the following meanings unless the context clearly indicates otherwise:

25 (1) "Louisiana purchaser" or "purchaser" means a person who purchases
26 tangible personal property, digital products, or taxable services in a transaction with
27 a remote retailer for property or a service that is delivered for use or benefit in
28 Louisiana, and no Louisiana sales and use tax was collected or paid on the
29 transaction.

1 (2) "Remote retailer" or "retailer" means a retailer that purposefully avails
2 itself in any way of the benefits of an economic market in Louisiana or who has any
3 other minimum contacts with the state and who meets all of the following criteria:

4 * * *

5 (b) Makes retail sales of tangible personal property, digital products, or
6 taxable services where the property is delivered into Louisiana or the beneficial use
7 of the service occurs in Louisiana, and the cumulative annual gross receipts for the
8 retailer and its affiliates from those sales exceeds fifty thousand dollars per calendar
9 year.

10 * * *

11 D. Annual statement submitted by remote retailer. By March first of each
12 year, a remote retailer who made retail sales of tangible personal property, digital
13 products, or taxable services to Louisiana purchasers in the immediately preceding
14 calendar year shall file with the secretary an annual statement for each purchaser
15 which includes the total amount paid by the purchaser to that retailer in the
16 immediately preceding calendar year. Under no circumstances shall the statement
17 contain detail as to specific property or services purchased, but it shall include the
18 total amount paid. The statement shall be submitted on forms to be developed and
19 provided by the secretary. The secretary ~~is authorized to~~ may require the electronic
20 filing of statements by a remote retailer who had sales in Louisiana in excess of one
21 hundred thousand dollars in the immediately preceding calendar year.

22 * * *

23 §310. Wholesalers and jobbers required to keep records

24 A. All wholesale dealers and jobbers in this state shall keep a record of all
25 sales of tangible personal property or digital products made in this state whether ~~such~~
26 the sales be for cash or on terms of credit. These records shall contain and include
27 the name and address of the purchaser, the date of the purchase, the article
28 purchased, and the price at which the article is sold to the purchaser. These records

1 shall be kept until the taxes to which they relate have prescribed and shall be open
2 to the inspection of the secretary at all reasonable hours.

3 * * *

4 §312. Failure to pay tax on imported tangible personal property or digital products;
5 grounds for attachment

6 A. The failure of any dealer to pay the tax and any interest, penalties, or
7 costs due ~~under~~ pursuant to the provisions of this Chapter on any tangible personal
8 property or digital products imported from outside the state for use, consumption,
9 distribution, or storage to be used in this state, or imported for the purpose of leasing
10 or renting the same, shall make the tax, interest, penalties, or costs ipso facto
11 delinquent. This failure shall ~~moreover~~ be a sufficient ground for the attachment of
12 the personal property imported wherever it may be found, whether the delinquent
13 taxpayer is a resident or nonresident, and whether the property is in the possession
14 of the delinquent taxpayer or in the possession of other persons.

15 B. It is the intention of this law to prevent the disposition of ~~the said~~ tangible
16 personal property or digital products in order to insure payment of the tax imposed
17 by this Chapter, together with interest, penalties and costs, and authority to attach is
18 hereby specifically granted to the collector. The procedure prescribed by law in
19 attachment proceedings shall be followed except that no bond shall be required of
20 the ~~State~~ state.

21 * * *

22 §314. Failure to pay tax; rule to cease business

23 Failure to pay any tax due as provided in this Chapter shall ipso facto,
24 without demand or putting in default, cause the tax, interest, penalties, and costs to
25 become immediately delinquent, and the collector has the authority, on motion in a
26 court of competent jurisdiction, to take a rule on the dealer, to show cause in not less
27 than two or more than ten days, exclusive of holidays, why the dealer should not be
28 ordered to cease from further pursuit of business as a dealer. This rule may be tried
29 out of term and in chambers, and shall always be tried by preference. If the rule is
30 made absolute, the order rendered thereon shall be considered a judgment in favor

1 of the state, prohibiting the dealer from ~~the~~ further pursuit of ~~said~~ the business until
 2 ~~such time as~~ he has paid the delinquent tax, interest, penalties, and costs, and every
 3 violation of the injunction shall be considered as a contempt of court; and punished
 4 according to law. For ~~the purpose~~ purposes of the enforcement of this Chapter and
 5 the collection of the tax levied hereunder, it is presumed that all tangible personal
 6 property and digital products imported or held in this state by any dealer ~~is~~ are to be
 7 sold at retail, used or consumed, or stored for use or consumption in this state, or
 8 leased or rented within this state, and ~~is~~ are subject to the tax herein levied; this
 9 presumption shall be prima facie only, and subject to proof furnished to the collector.

10 §315. Sales returned to dealer; credit or refund of tax

11 A. Whenever tangible personal property or digital products are sold ~~is~~ and
 12 returned to the dealer by the purchaser or consumer, or in the event the amount paid
 13 or charged for services is refunded or credited to the purchaser or consumer after the
 14 tax imposed by this Chapter has been collected, or charged to the account of the
 15 purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the
 16 amount of tax so collected or charged by him, in the manner prescribed by the
 17 collector; and ~~in case~~ if the tax has not been remitted by the dealer to the collector,
 18 the dealer may deduct the same in submitting his return. Upon receipt of a signed
 19 statement of the dealer as to the gross amount of ~~such~~ refunds during the period
 20 covered by the signed statement, which period shall not be longer than ninety days,
 21 the collector shall issue to the dealer an official credit memorandum equal to the net
 22 amount remitted by the dealer for the tax collected. This memorandum shall be
 23 accepted by the collector at full face value from the dealer to whom it is issued, in
 24 the remittance for subsequent taxes accrued ~~under~~ pursuant to the provisions of this
 25 Chapter. In cases where a dealer has retired from business and has filed a final
 26 return, a refund of tax may be made if it can be established to the satisfaction of the
 27 collector that the tax paid was not due.

28 B.(1) Whenever the unpaid balance of an account due to the dealer for the
 29 purchase of tangible personal property, digital products, or the sale of services
 30 subject to sales taxation has been found to be bad in accordance with Section 166 of

1 the United States Internal Revenue Code and has actually been charged off for
2 federal income tax purposes, the dealer shall be entitled to reimbursement of the
3 amount of tax previously paid by the dealer on such amounts.

4 * * *

5 §315.3. Sales tax refund; sales and rentals covered by Medicare

6 A. Any person who has paid sales and use taxes, levied by the state and any
7 other taxing authorities in the state, upon the sale, lease, or rental of tangible personal
8 property or digital products when ~~such~~ the sale, lease, or rental is paid by or ~~under~~
9 pursuant to the provisions of Medicare, shall be entitled to reimbursement of the
10 amount of tax paid on ~~such property~~ those items of property or products. Upon
11 receipt of a signed statement of ~~such~~ a person as to the amount of taxes paid ~~under~~
12 pursuant to the provisions of this Chapter on ~~such~~ tangible personal property or
13 digital products and upon proof of payment by or ~~under~~ pursuant to the provisions
14 of Medicare, the secretary and the appropriate taxing authorities shall make a refund
15 to ~~such~~ the person in the amount to which he is entitled.

16 * * *

17 §315.5. Sales tax refund; nonprofits employing or training persons with workplace
18 disabilities or disadvantages

19 A. A qualified charitable institution which submits an application to the
20 secretary of the Department of Revenue shall receive an exemption in the form of a
21 restricted refund of the sales and use tax of the state which the institution has
22 collected on the sale of donated tangible personal property, digital products, or items
23 made from such donated property; provided that, the refund is used exclusively in
24 this state for land acquisition, capital construction, or equipment, or debt service
25 related thereto, ~~and/or~~, or job training, job placement, employment, or other related
26 community services and support program costs.

27 B. As used in this Section, "qualified charitable institution" means an
28 organization which meets the following criteria:

29 * * *

1 (3) It routinely sells donated tangible personal property, digital products, or
2 items made from such donated property.

3 * * *

4 C.(1)

5 * * *

6 (c) Once approved, the charitable institution shall file sales tax returns as
7 required reporting the total state sales tax it has collected and take a deduction
8 therefrom for the amount of state sales tax collected on qualifying exempt sales of
9 donated tangible personal property, digital products, or items made from donated
10 tangible personal property.

11 * * *

12 §321. Imposition of tax

13 A. In addition to the tax levied by R.S. 47:302(A), 321.1(A), and 331(A) and
14 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-B of this
15 ~~Subtitle H of this Title~~, there is hereby levied an additional tax upon the sale at retail,
16 the use, the consumption, the distribution, and the storage for use or consumption in
17 this state of each item or article of tangible personal property or digital product, as
18 defined in Chapter 2 of this ~~Subtitle H of this Title~~. The levy of ~~said the~~ tax shall be
19 as follows:

20 (1) At the rate of one percent of the sales price of each item or article of
21 tangible personal property or digital product when sold at retail in this state except
22 for prepaid calling service and prepaid wireless calling service, the tax to be
23 computed on gross sales for the purpose of remitting the amount of tax to the state,
24 and to include each and every retail sale.

25 (2) At the rate of one percent of the cost price of each item or article of
26 tangible personal property or digital product except for prepaid calling service and
27 prepaid wireless calling service when the same is not sold but is used, consumed,
28 distributed, or stored for use or consumption in this state, provided that there shall
29 be no duplication of the tax.

1 is not sold but is used, consumed, distributed, or stored for use or consumption in this
2 state, provided that there shall be no duplication of the tax.

3 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
4 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-B of this
5 Subtitle, there is hereby levied a tax upon the lease or rental within this state of each
6 item or article of tangible personal property or digital product, as defined by Chapter
7 2 of this Subtitle; the levy of the tax to be as follows:

8 (1) At the rate of forty-five hundredths of one percent of the gross proceeds
9 derived from the lease or rental of tangible personal property or digital product, as
10 defined in Chapter 2 of this Subtitle, where the lease or rental of ~~such~~ the property
11 or product is in an established business, or part of an established business, or the
12 same is incidental or germane to the business.

13 (2) At the rate of forty-five hundredths of one percent of the monthly lease
14 or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a
15 lessee or rentee, to the owner of the tangible personal property or digital product.

16 * * *

17 §331. Imposition of tax

18 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 321.1(A) and
19 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-A of this
20 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~, there is hereby
21 levied an additional tax upon the sale at retail, the use, the consumption, the
22 distribution, and the storage for use or consumption in this state of each item or
23 article of tangible personal property or digital product, as defined in Chapter 2 of this
24 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~; the. The levy of
25 ~~said tax to~~ the tax shall be as follows:

26 (1) At the rate of ninety-seven ~~one~~ hundredths of one ~~percentum~~ percent of
27 the sales price of each item or article of tangible personal property or digital product
28 when sold at retail in this state, the tax to be computed on gross sales for the purpose
29 of remitting the amount of tax to the state, and to include each and every retail sale.

1 (2) At the rate of ninety-seven ~~one~~ hundredths of one ~~percentum~~ percent of
2 the cost price of each item or article of tangible personal property or digital product
3 when the same is not sold but is used, consumed, distributed, or stored for use or
4 consumption in this state, provided that there shall be no duplication of the tax.

5 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 321.1(B) and
6 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-A of this
7 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~, there is hereby
8 levied a tax upon the lease or rental within this state of each item or article of
9 tangible personal property or digital product, as defined by ~~said~~ in Chapter 2 of this
10 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950; the.~~ The levy of
11 ~~said tax to~~ the tax shall be as follows:

12 (1) At the rate of ninety-seven ~~one~~ hundredths of one ~~percentum~~ percent of
13 the gross proceeds derived from the lease or rental of tangible personal property or
14 digital product, as defined in Chapter 2 of this ~~Subtitle H of Title 47 of the Louisiana~~
15 ~~Revised Statutes of 1950~~, where the lease or rental of ~~such~~ the property or product
16 is in an established business, or part of an established business, or the same is
17 incidental or germane to the business.

18 (2) At the rate of ninety-seven ~~one~~ hundredths of one ~~percentum~~ percent of
19 the monthly lease or rental price paid by a lessee or rentee, or contracted or agreed
20 to be paid by a lessee or rentee, to the owner of the tangible personal property.

21 * * *

22 §337.3. Imposition of political subdivision tax

23 A.(1) A taxing authority may continue to levy sales and use taxes under
24 authority provided for ~~such~~ political subdivisions by the statutes or Constitution of
25 Louisiana.

26 (2) A taxing authority shall levy sales and use taxes on the sale at retail, the
27 use, the lease or rental, the consumption, and the storage of digital products. The

1 to the same extent that ~~such~~ the exemptions and suspensions of exemptions now or
2 hereafter apply to the tax levied in R.S. 47:331.

3 * * *

4 Section 3. R.S. 47:301(16)(h) and (p) and (23) are hereby repealed in their entirety.

5 Section 4. The provisions of this Act shall apply to taxable periods beginning on or
6 after January 1, 2025.

7 Section 5. In any instance in which a provision of this Act conflicts with a provision
8 of the Act which originated as House Bill No. 10 of this 2024 Third Extraordinary Session
9 of the Legislature, the provision of the Act which originated as House Bill No. 10 of this
10 2024 Third Extraordinary Session of the Legislature shall prevail and be given effect.

11 Section 6. This Act shall become effective upon signature by the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without signature
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
15 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____