
HOUSE COMMITTEE AMENDMENTS

2015 Regular Session

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 555 by Representative Fannin

AMENDMENT NO. 1

On page 1, line 2, after "reenact" delete "R.S. 47:301(4)(h), and to enact R.S. 47:301(4)(m)" and insert "R.S. 47:302(U), and 305(E), and to enact R.S. 47:302(V)"

AMENDMENT NO. 2

On page 1, line 8, after "Section 1." delete the remainder of the line and insert the following:

"R.S. 47:302(U) and 305(E) are hereby amended and reenacted, and R.S. 47:302(V) is"

AMENDMENT NO. 3

On page 1, delete lines 10 through 19 in their entirety and on page 2, delete lines 1 through 12 in their entirety, and insert the following:

"§302. Imposition of tax

* * *

U. It is the duty of the secretary of the Department of Revenue to collect all taxes imposed pursuant to this Chapter and Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote ~~seller~~ dealer of tangible personal property or services in Louisiana. The secretary is authorized and directed to employ all means available to ensure the collection of the tax in an equitable, efficient, and effective manner.

V. In addition to the definition of "dealer" as provided in R.S. 47:301(4), for purposes of the consumer use tax, the term "dealer" includes 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. "Dealer" is further defined to mean:

(1) Any person engaging in business in the taxing jurisdiction which shall include:

(a) Any of the following methods of transacting business:

(i) Maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place or location of business.

(ii) Or by having an agent, salesman, independent contractor, or solicitor operating within the taxing jurisdiction under the authority of or through an agreement with the person or its subsidiary irrespective of whether such place of business, agent, salesman, or solicitor is located in the taxing jurisdiction permanently or temporarily or whether the person or subsidiary is qualified to do business in the taxing jurisdiction.

(iii) Or any person who makes deliveries of tangible personal property into the taxing jurisdiction other than by a common or contract carrier."

AMENDMENT NO. 4

On page 2, at the beginning of line 13, delete "(ii)" and insert "(b)"

1 AMENDMENT NO. 5

2 On page 2, line 17, after "website" delete the remainder of the line, delete lines 18 through
3 27 in their entirety, and insert a comma "," and insert the following:

4 "an in-person oral presentation, telemarketing, or otherwise to the seller. If the
5 cumulative gross receipts from sales of tangible personal property by the person to
6 customers in this state who are referred to the person through such an agreement is
7 in excess of fifty thousand dollars during the preceding twelve months, the
8 presumption regarding the status of that person as a dealer may be rebutted if the
9 person can demonstrate, to the satisfaction of the secretary, that he cannot reasonably
10 be expected to have gross receipts in excess of fifty thousand dollars for the
11 succeeding twelve months."

12 AMENDMENT NO. 6

13 On page 2, at the beginning of line 28, delete "(m)(i)" and insert "(2)"

14 AMENDMENT NO. 7

15 On page 3, at the beginning of line 1, delete "(aa)" and insert "(a)"

16 AMENDMENT NO. 8

17 On page 3, at the beginning of line 5, delete "(bb)" and insert "(b)"

18 AMENDMENT NO. 9

19 On page 3, at the beginning of line 8, delete "(cc)" and insert "(c)"

20 AMENDMENT NO. 10

21 On page 3, delete lines 19 and 20 in their entirety and insert the following:

22 "(3) In addition to those persons established as dealers according to
23 Paragraph (2) of this Subsection, the provisions of this Subsection shall be presumed
24 by"

25 AMENDMENT NO. 11

26 On page 3, line 25, delete "(bb) For purposes of this Subparagraph" and insert "For purposes
27 of this Paragraph"

28 AMENDMENT NO. 12

29 On page 4, at the beginning of line 3, delete "(iii)" and insert "(4)"

30 AMENDMENT NO. 13

31 On page 4, at the beginning of line 7, delete "(iv) The provisions of this Subparagraph" and
32 insert "(5) The provisions of this Subsection"

33 AMENDMENT NO. 14

34 On page 4, between lines 12 and 13, insert the following:

35 "§305. Exclusions and exemptions from the tax

36 * * *

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

18 * * *

19
20 Section 2. The provisions of this Act shall apply to tax periods beginning on
21 and after July 1, 2015. If the United States Congress enacts legislation authorizing states to
22 require a remote seller to collect sales taxes on taxable transactions, such legislation shall
23 preempt the provisions of R.S. 47:302(V) and the Department of Revenue shall have the
24 authority to promulgate regulations under the Louisiana Administrative Procedure Act to
25 carry out the provisions of the federal legislation. The Department of Revenue shall begin
26 to promulgate such rules within ninety days of the effective date of the federal legislation."

27 AMENDMENT NO. 15

28 On page 4, at the beginning of line 13, change "Section 2." to "Section 3."