

2016 First Extraordinary Session

HOUSE BILL NO. 54

BY REPRESENTATIVE BROADWATER

TAX/SALES & USE: Requires the advance payment of sales tax (Item #35)

1 AN ACT

2 To enact R.S. 47:306(B), relative to collection of advance sales tax; to provide for the
3 disposition of the tax; to authorize the secretary of the Department of Revenue to
4 promulgate rules; to provide for exemptions; to provide for an effective date; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:306(B) is hereby enacted to read as follows:

8 §306. Returns and payment of tax; penalty for absorption

9 * * *

10 B. Advanced sales tax deposit required. (1) Notwithstanding the provisions
11 of Subsection A or any other provision of this Chapter, every dealer required to
12 collect state sales tax pursuant to this Chapter and having an average monthly state
13 sales and use tax liability of at least twenty thousand dollars for the twelve-month
14 period commencing April 1, 2015, and ending March 30, 2016, shall be required to
15 remit to the secretary on or before April 20, 2016, and on or before the twentieth day
16 of each succeeding month, an advanced sales tax deposit using either of the
17 following methods:

18 (a) Actual Sales Method. A dealer using the actual sales method is required
19 to remit a deposit equal to at least ninety percent of the dealer's sales and use tax

1 liability for the sale or use of tangible personal property for the first through the
2 fifteenth of the current month.

3 (b) Estimated Sales Method. A dealer using the estimated sales method is
4 required to remit a deposit equal to at least seventy-five percent of the dealer's sales
5 and use tax liability for the sale of tangible personal property for the comparable
6 month of the preceding year. For the purposes of calculating a dealer's estimated
7 sales tax liability for the comparable month of the preceding year, the dealer is not
8 required to include taxes due on sales of tangible personal property refunded or
9 credited to the customer in accordance with R.S. 47:315.

10 (2) Any adjustment necessary to properly report and pay the tax using either
11 the actual sales method or the estimated sales method shall be reported on and paid
12 with the monthly return due on or before the twentieth day of the month following
13 the month in which the advanced sales tax deposit is paid. Any advance sales tax
14 deposit in excess of the actual tax due for a preceding month may be credited or
15 refunded.

16 (3) Deposits required to be made under this Subsection shall be received by
17 the secretary of the Department of Revenue no later than the twentieth day of the
18 month in order to be considered timely. A dealer that fails to comply with the
19 requirements of this Subsection may be assessed a penalty in an amount equal to ten
20 percent of the difference between any amount of the dealer deposits pursuant to this
21 Subsection and the dealer's actual sales tax liability for the month for which the
22 advanced sales tax deposit was required.

23 (4) Deposits made by a dealer under this Subsection shall not be considered
24 to be collected for the purposes of any sales tax refunds or credits required by law
25 until the dealer files a return for the actual sales taxes collected during the month to
26 which the advanced sales tax deposit applies.

27 (5) This Subsection shall not apply to any agency, department, or
28 instrumentality, of the United States, any agency, department, institution,
29 instrumentality, or political subdivision of the state of Louisiana.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

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 54 Engrossed

2016 First Extraordinary Session

Broadwater

Abstract: Requires advance sales tax deposits by certain dealers and authorizes a credit or refund in certain circumstances.

Present law provides for returns and monthly or quarterly payment of sales tax by dealers. Further requires certain reporting relative to sales by dealers. Authorizes a vendor's compensation of 0.935% of the sales tax remitted by a dealer for timely remitting the sales tax. Requires registration by certain nonresident contractors. Provides for payment of the tax by a licensed vehicle dealer.

Proposed law retains present law and requires dealers who have an average monthly sales and use tax liability of at least \$20K between April 1, 2015, and March 30, 2016, to remit an advance sales tax deposit beginning on April 20, 2016, and then on the 20th day of every month thereafter. Further authorizes the secretary to assess a penalty for failure of a dealer to timely remit.

Proposed law authorizes two methods by which a dealer may determine the amount of the advance sales tax deposit to be remitted.

Proposed law authorizes the "actual sales method" by which a dealer is required to remit an advance sales tax deposit in an amount equal to at least 90% of the dealer's sales and use tax liability collected for the 1st through 15th of the current month.

Proposed law further authorizes the "estimated sales method" by which a dealer is required to remit an advance sales tax deposit in an amount equal to at least 75% of the dealer's sales and use tax liability for the comparable month of the preceding year.

Proposed law requires any adjustments necessary for proper reporting and payment of tax collected to be completed with the monthly return due on the 20th day of the month following the month in which the advance sales tax deposit was made.

Proposed law authorizes a credit or refund of any advance sales tax deposit collected in excess of the actual tax due, but prohibits a credit or refund on any advance sales tax deposit prior to the dealer filing the return for the actual sales taxes collected during the month for which the advance sales tax deposit applied.

Proposed law exempts any agency, department, or instrumentality of the U.S. government or any agency, department, institution, instrumentality, or political subdivision of the state.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 47:306(B))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete all proposed law in the original bill.
2. Require dealers who have an average monthly sales and use tax liability of at least \$20K between April 1, 2015, and March 30, 2016, to remit an advance sales tax deposit beginning on April 20, 2016, and then on the 20th day of every month thereafter and authorize the secretary to assess a penalty for failure to remit timely.
3. Authorize the "actual sales method" requiring a dealer to remit an advanced sales tax deposit in an amount equal to at least 90% of the dealer's sales and use tax liability collected for the 1st through 15th of the current month.
4. Authorize the "estimated sales method" requiring a dealer to remit an advanced sales tax deposit in an amount equal to at least 75% of the dealer's sales and use tax liability for the comparable month of the preceding year.
5. Require any adjustment to be completed with the monthly return due on the 20th day of the month following the month in which the advanced sales tax deposit was made.
6. Authorize a credit or refund for any advance sales tax deposit collected in excess of the actual tax due, but require the dealer to file the return for the actual sales taxes collected prior to issuance of a credit or refund.
7. Exempt any agency, department, or instrumentality of the U.S. government or any agency, department, institution, instrumentality, or political subdivision of the state from the provisions of proposed law.