

SENATE BILL NO. 235

BY SENATOR ALLAIN

1 AN ACT

2 To amend and reenact R.S. 47:340(E)(3) and (5), (G)(1) through (5), the introductory
3 paragraph of (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I), to enact R.S.
4 47:339.1, and to repeal R.S. 47:340(H)(15), relative to the administration of local
5 sales and use taxes; to provide for the powers and duties of the Louisiana Sales and
6 Use Tax Commission for Remote Sellers; to authorize the commission to collect
7 local sales and use taxes for collectors that enter into contracts with the commission;
8 to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:340(E)(3) and (5), (G)(1) through (5), the introductory paragraph
11 of (G)(6), (G)(8), and (11), (H)(3), (12), and (13), and (I) are hereby amended and reenacted
12 and R.S. 47:339.1 is hereby enacted to read as follows:

13 **§339.1. Louisiana Sales and Use Tax Commission for Remote Sellers;**

14 **nonremote sales**

15 **A. In addition to the duties of the commission pursuant to R.S. 47:339,**
16 **the commission shall:**

17 **(1) Develop a single electronic return for all state and local sales and use**
18 **taxes in consultation with the Louisiana Uniform Local Sales Tax Board and the**
19 **Department of Revenue.**

20 **(2) Have the authority to enter into contracts with collectors of local sales**
21 **and use tax and state sales and use tax for the collection of tax from qualifying**
22 **nonremote sellers. The tax monies received pursuant to these contracts shall, at**
23 **all times, be and remain the property of the respective taxing authorities.**

24 **(3) Provide the minimum tax administration, collection, and payment**
25 **requirements required by federal law with respect to the collection and**

1 remittance of sales and use tax imposed on nonremote sales that the commission
2 is authorized by contract to collect.

3 (4) Establish a fiscal agent for the purpose of nonremote sales and use tax
4 remittances.

5 **B. Definitions.**

6 (1) "Local taxing authority" and "local" means those parishes,
7 municipalities, special tax districts, political subdivisions, parish governing
8 bodies, and school boards who are authorized under the provisions of the
9 Constitution of Louisiana, the Louisiana Revised Statutes of 1950, and
10 jurisprudence to levy and collect local sales and use taxes.

11 (2) The term "nonremote sale" means a sale that is made by a nonremote
12 seller that is not a remote sale.

13 (3) The term "nonremote seller" means a seller that is not a remote
14 seller.

15 (4) The term "remote sale" means a sale that is made by a remote seller
16 for delivery into Louisiana.

17 (5) The term "remote seller" means a seller who sells for sale at retail,
18 use, consumption, distribution, or for storage to be used for consumption or
19 distribution any taxable tangible personal property, products transferred
20 electronically, or services for delivery within Louisiana, but does not have a
21 physical presence in Louisiana. The term "remote seller" includes
22 "marketplace facilitators" as defined in R.S. 47:340.1.

23 (6) The term "qualifying nonremote sale" means a sale by a qualifying
24 nonremote seller in a parish that has entered into a contract for collection by
25 the commission pursuant to Paragraph (A)(2) of this Section.

26 (7) The term "qualifying nonremote seller" means a nonremote seller
27 that has a physical location in this state and is registered to file and remit local
28 sales and use taxes pursuant to a local ordinance in two or more parishes.

29 (8) "Sales and use taxes" and "taxes" shall mean the sales and use taxes
30 levied by the state of Louisiana under the provisions of Title 47 of the Louisiana

1 Revised Statutes of 1950, and the sales and use taxes levied by local taxing
2 authorities in Louisiana under the provisions of the Constitution of Louisiana,
3 statutory laws authorizing the imposition of such taxes, and local sales and use
4 tax ordinances.

5 C. (1) Notwithstanding the provisions of Subsection A of this Section, the
6 commission shall not begin development of the single electronic return and the
7 implementation of the other duties set forth in Subsection A of this Section until
8 either a local collector or the Department of Revenue executes a contract
9 pursuant to this Section with the commission. Once a contract is executed, the
10 single electronic return shall be available to taxpayers on the first day of the
11 second calendar quarter after the contract is executed.

12 (2) If the commission certifies at a joint meeting of the Senate Committee
13 on Revenue and Fiscal Affairs and the House Committee on Ways and Means
14 that the commission has insufficient funds available from R.S. 47:340(E)(3) to
15 meet the deadline set forth in Paragraph (1) of this Subsection for the
16 development, the commission may request an extension of the deadline from the
17 committees until funds are available either through R.S. 47:340(E)(3) or an
18 appropriation.

19 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
20 powers

21 * * *

22 E. * * *

23 (3) The commission and its operations shall be funded by an amount equal
24 to actual expenses incurred which amount shall not exceed one percent of the total
25 amount of state and local sales and use tax collected on ~~remote~~ sales by the
26 commission. Subject to the limitations provided in this Paragraph, this amount shall
27 be retained by the commission on a monthly basis from current collections of state
28 and local sales tax on ~~remote~~ sales as collected by the commission prior to monthly
29 distribution to the state and local collectors. ~~The commission shall have no authority~~
30 ~~to retain these monies unless and until a federal law authorizing states to require~~

1 ~~remote sellers and their agents to collect state and local sales and use taxes on their~~
 2 ~~sales in each state has been enacted and becomes effective or a decision by the~~
 3 ~~United States Supreme Court overrules the physical presence requirement for a~~
 4 ~~remote seller to collect and remit state and local sales and use tax on remote sales for~~
 5 ~~delivery into the state.~~ Upon distribution of the local sales and use tax collected from
 6 remote sellers by the commission, the local collectors may retain the usual and
 7 customary percentage of collections in accordance with local ordinances or
 8 agreements.

9 * * *

10 (5)(a) If use tax collections pursuant to R.S. 47:302(K) yield insufficient
 11 revenue to fulfill the dedication for the adjudication of local sales and use tax matters
 12 that is made pursuant to R.S. 47:302(K)(7) for interagency transfers to the
 13 Department of State Civil Service, Board of Tax Appeals, Local Tax Division, ~~and~~
 14 ~~there is no means of financing available to satisfy the dedication pursuant to R.S.~~
 15 ~~47:337.102(I)(3);~~ the remaining amount necessary to satisfy the dedication shall be
 16 considered an actual expense of this commission pursuant to Paragraph (3) of this
 17 Subsection, and payment of the interagency transfer due shall be made from local
 18 sales and use tax collections of the commission **within the first thirty days of the**
 19 **fiscal year.**

20 (b) A part of the interagency transfer due pursuant to Section 2 of Act No.
 21 198 of the 2014 Regular Session of the Legislature may be designated as an actual
 22 expense of the commission pursuant to Paragraph (3) of this Subsection, and
 23 payment of that designated part may be made from state sales and use tax collections
 24 of the commission **pursuant to a written agreement with the secretary.**

25 * * *

26 G. The commission shall have the power, duty, and authority:

27 (1) To serve as the single entity within the state of Louisiana responsible for
 28 all state and local sales and use tax administration, return processing, and audits for
 29 remote sales delivered into Louisiana **and for nonremote sales that the**
 30 **commission is authorized by contract to collect.**

1 (2) To serve as the central, single agency to which remote sellers shall make
 2 state and local sales and use tax remittances **and as the central, single agency to**
 3 **which qualifying nonremote sellers shall make state and local sales and use tax**
 4 **remittances on nonremote sales that the commission is authorized by contract**
 5 **to collect.**

6 (3) To assign and direct a single audit of remote sellers for the state and all
 7 local taxing authorities **and assign and direct a single audit of qualifying**
 8 **nonremote sellers for all state and local taxing authorities that have entered into**
 9 **a contract with the commission pursuant to R.S. 47:339.1.**

10 (4) To serve as the single state of Louisiana agency to represent both state
 11 and local taxing authorities in taking appropriate action to enable Louisiana to
 12 participate in programs designed to allow Louisiana to more efficiently enforce and
 13 collect state and local sales and use taxes on sales made by remote sellers **and**
 14 **qualifying nonremote sellers.**

15 (5) To conduct administrative hearings as requested by aggrieved remote
 16 sellers **and qualifying nonremote sellers**, administer oaths, and make adjustments
 17 to assessments when justified by the facts and the law, and render decisions
 18 following such hearings.

19 (6) To require remote sellers **and qualifying nonremote sellers** to register
 20 with the commission.

21 * * *

22 (8) To enter into agreements to waive or suspend prescription with remote
 23 sellers as to state and local taxes **and with qualifying nonremote sellers.**

24 * * *

25 (11) To enter into voluntary disclosure agreements with remote sellers as to
 26 state and local sales and use taxes **and with qualifying nonremote sellers.**

27 H. Nothing in this Chapter shall be construed to:

28 * * *

29 (3) Authorize the commission to exercise any right or perform any function
 30 presently exercised by local sales and use tax authorities under present law **except**

1 **as provided in contracts entered into pursuant to R.S. 47:339.1.**

2 * * *

3 (12) Authorize the commission to serve as a central state collection agency
 4 for local sales and use taxes **except as provided in contracts entered into pursuant**
 5 **to R.S. 47:339.1.**

6 (13) Limit any statutory and ordinal provisions in place as of June 16, 2017,
 7 that require dealers and taxpayers, with respect to non-remote sales, to pay and remit
 8 directly to the single sales and use tax collector in each parish the sales and use taxes
 9 due to each local taxing authority within each parish **except as provided in**
 10 **contracts entered into pursuant to R.S. 47:339.1.**

11 * * *

12 ~~(15)~~**I.** The sums of money collected by ~~the remote seller~~ **remote sellers and**
 13 **nonremote sellers and remitted to the commission pursuant to R.S. 47:339 and**
 14 **339.1** for payment of sales and use taxes imposed by the state and local taxing
 15 authorities shall, at all times, be and remain the property of the respective taxing
 16 authorities and deemed held in trust for taxing authorities, including while in the
 17 possession of the commission.

18 ~~I. The Louisiana State Law Institute is hereby authorized and requested to~~
 19 ~~review all statutes which contain phrases being changed by this Chapter and in all~~
 20 ~~locations it deems appropriate change the references, particularly those that apply to~~
 21 ~~the levy and collection of state and local sales and use taxes.~~

22 Section 2. R.S. 47:340(H)(15) is hereby repealed.

23 Section 3. On or before January 31, 2023, the Department of Revenue, the Louisiana
 24 Uniform Local Sales Tax Board, and the Louisiana Sales and Use Tax Commission for
 25 Remote Sellers shall jointly submit an informational report on the benefits, challenges,
 26 savings, and costs associated with the development, implementation, and maintenance of a
 27 combined state and local sales and use tax return for remote and nonremote sales and the
 28 designation of a centralized processor of state and local sales tax returns and remittances.
 29 The report shall include information on best practices from other states in which a single
 30 entity receives and remits revenues directly to all taxing authorities in the state and

1 information on the feasibility of remitting local sales and use taxes daily as received from
 2 dealers to the local sales tax collectors. The report shall be submitted to the Senate
 3 Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.
 4 Following publication of the report, interested stakeholders shall be invited to provide
 5 written comments within forty-five days of publication which shall be added as an appendix
 6 to the report and submitted to the committees.

7 Section 4. This Act shall become effective on January 1, 2023; if vetoed by the
 8 governor and subsequently approved by the legislature, this Act shall become effective on
 9 the day following such approval by the legislature or January 1, 2023, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____