

NOTICE OF INTENT

Department of Revenue Sales and Use Tax Commission for Remote Sellers

Mandatory Electronic Filing of Remote Sellers Tax Returns and Payment of Related Sales and Use Tax
(LAC 61:III.1537 and 1538)

Under the authority of R.S. 47:1519, 47:1520, and 47:340, and in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, The Louisiana Sales and Use Tax Commission For Remote Sellers, gives notice that rulemaking procedures have been initiated to adopt LAC 61:III.1537 and 1538 to provide mandatory electronic filing and payment requirements for the remote sellers tax return.

R.S. 47:340(F) gives the Louisiana Sales and Use Tax Commission the same collection powers enjoyed by the Secretary of the Department of Revenue under chapter 18, subtitle II of Title 47; which includes those provided by R.S. 47:1519(B)(1) and R.S. 47:1520(A)(2). The purpose of this regulation is to mandate electronic filing of all remote seller tax returns and electronic payment of all related sales and use tax.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1537. Remote Seller Tax Return – Electronic Filing Requirements

A. For tax periods beginning on or after July 1, 2020, every remote seller shall be required to file the remote sellers tax return electronically with the Louisiana Sales and Use Tax Commission for Remote Sellers (the “commission”) using the electronic format prescribed by the commission.

B. Remote sellers may not send paper versions of any returns required to be filed.

C. 1. R.S. 47:340(F) allows the commission to use the administrative provisions found in chapter 18 of subtitle II of the revised statutes in the same manner as the Secretary of the Department of Revenue. Therefore, failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B) per authority granted to the commission in R.S. 47:340(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520 and 47:340.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

§1538. Remote Seller Derived Sales and Use Tax - Electronic Payment Required

A. Effective for all taxable periods beginning on or after July 1, 2020, all payments by any remote seller shall be electronically transferred to the commission on or before the twentieth day following the close of the reporting period using the electronic format provided by the commission.

B. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided in applicable state law and local ordinances.

C. If a remote seller has made a good faith attempt and exercises due diligence in initiating a payment according to this rule, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived by the commission. Before a waiver will be considered, remote sellers must furnish the commission with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

D. In any case where the remote seller can prove payment by electronic funds transfer would create an undue hardship, the commission shall exempt the remote seller from the requirement to transmit funds electronically.

E. The tax returns must be filed electronically, separately from the electronic transmission of the remittance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519 and 47:340.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on the provider. Specifically;

1. This rule will not affect the staffing levels, requirements or qualifications required to provide the same level of service.
2. This rule will not affect the total direct and indirect costs to the provider to provide the same level of service.
3. This rule will not affect the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written data, views, arguments, or comments regarding this proposed rule to Stacey Greaud, Attorney, Department of Revenue, Office of Legal Affairs, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments must be received no later than 4:30 p.m. on Monday, November 25, 2019.

Public Hearing

A public hearing will be held on Tuesday, November 26, 2019 at 1:30 p.m. in the LaBelle Room on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Jeanine P. Theriot
Chairman

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Jeanine P. Theriot
Chairman

**Fiscal and Economic Impact Statement
For Administrative Rules**

Person preparing statement:	<u>Erica Spears</u>	Department:	<u>Revenue</u>
Phone:	<u>(225) 219-3580</u>	Office:	<u>Louisiana Sales and Use Tax Commission for Remote Sellers</u>
Return Address:	<u>617 North Third Street Baton Rouge, LA 70802</u>	Rule Title:	<u>LAC 61:III.1537 and 1538</u>
		Date Rule Takes Effect:	<u>January 20, 2020</u>

Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Louisiana Revised Statute 47:340 provides remote sellers, those delivering goods and services into Louisiana but lacking physical presence in the state, will be mandated to collect and remit sales and use tax following July 1, 2020. The purpose of this rule is to require every remote seller to electronically file the remote sellers tax return with the Louisiana Sales and Use Tax Commission for Remote Sellers (“commission”) using the electronic format prescribed by the commission, for all taxable periods beginning on or after July 1, 2020.

This proposal requires every remote seller to transfer all payments, for all taxable periods beginning on or after July 1, 2020, to the commission on or before the twentieth day following the close of the reporting period using the electronic format provided by the commission. This proposal also provides for the assessment and waiver of penalties for non-compliance.

Implementation of this proposal will not result in material additional costs or cost savings to governmental units. With the passage of R.S. 47:340, the commission would be implementing a new tax return for electronic filing with or without this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposal may increase revenues from penalties by an indeterminable amount. A slight and temporary increase in revenue from penalties is possible as the proposed rule is implemented, although the commission cannot predict non-compliant behavior.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The commission does not have the information necessary to determine the additional costs to comply with this change, but these costs are expected to be minimal. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. The commission cannot estimate the additional penalty amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)


No effect on competition or employment is anticipated by this proposal.



Signature of Agency Head or Designee
Jeanine P. Theriot, Chairman

Typed Name and Title of Agency Head or Designee
10/3/19

Date of Signature



Legislative Fiscal Officer Designee
Greg Albrecht, Chief Economist

Typed Name of Legislative Fiscal Officer Designee
10/8/2019

Date of Signature