

HOUSE BILL NO.

BY

TAX/SALES & USE: Levies sales and use taxes on certain digital products and services

1 AN ACT
2 To amend and reenact R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and
3 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a),
4 (g), and (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u),
5 (ff), and (hh), (12), (13)(a), (14)(h), through (k), (15), (18)(a), (d)(i), (e), and (f),
6 (19), and (29)(x)(ix), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(introductory
7 paragraph), (a), and (b)(introductory paragraph), (BB)(9), (13), (17), (25), (27), (30),
8 (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a) and (G),
9 303.1(A) and (B)(1)(introductory paragraph) and (c) and (2)(b), 304(B), 305(E),
10 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A),
11 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c), 307(A) through (C), 309(A)(1),
12 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A),
13 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23), (25), (27), (30),
14 (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (D)(9), (13), (17), (23), (25),
15 (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(9), (13),
16 (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W), and
17 340.1(A)(3) and (5) and R.S. 51:1286(B), to enact R.S. 47:301(10)(c)(ii)(cc) and (jj),
18 (14)(l) and (m), (32), and (33), 301.11, 301.12, and 305.5, and to repeal R.S.
19 47:301(16)(h) and (p) and (23), relative to sales and use taxes; to provide for the levy
20 of sales and use taxes on certain digital products and services; to provide for the rates

1 of such taxes; to provide for definitions; to provide relative to exclusions and
2 exemptions from sales and use taxes; to provide relative to administration of sales
3 and use taxes; to provide relative to tax collection and enforcement; to provide for
4 liability for collection and payment of certain sales and use taxes; to provide for
5 record keeping and reporting; to provide for sourcing; to provide for effectiveness;
6 to provide for applicability; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and
9 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a), (g), and
10 (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u), (ff), and (hh),
11 (12), (13)(a), (14)(h), through (k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix),
12 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(introductory paragraph), (a), and
13 (b)(introductory paragraph), (BB)(9), (13), (17), (25), (27), (30), (33), (56), (66), (81), (109),
14 and (113), and (CC), 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(introductory
15 paragraph) and (c) and (2)(b), 304(B), 305(E), 305.10(A) and (C) through (E),
16 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c),
17 307(A) through (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A)
18 and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23),
19 (25), (27), (30), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13), (17),
20 (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(9),
21 (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W), and
22 340.1(A)(3) and (5) are hereby amended and reenacted and R.S. 47:301(10)(c)(ii)(cc) and
23 (jj), (14)(l) and (m), (32), and (33), 301.11, 301.12, and 305.5 are hereby enacted to read as
24 follows:

25 §301. Definitions

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

29 * * *

1 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
2 property or digital products without any deductions therefrom on account of the cost
3 of materials used, labor, or service cost, except those service costs for installing the
4 articles of tangible personal property or digital products if such cost is separately
5 billed to the customer at the time of installation, transportation charges, or any other
6 expenses whatsoever, or the reasonable market value of the tangible personal
7 property or digital products at the time it becomes susceptible to the use tax,
8 whichever is less.

9 (b) In the case of tangible personal property or digital products which ~~has~~
10 have acquired a tax situs in a taxing jurisdiction and ~~is~~ are thereafter transported
11 outside the taxing jurisdiction for repairs performed outside the taxing jurisdiction
12 and ~~is~~ thereafter returned to the taxing jurisdiction, the cost price shall be deemed to
13 be the actual cost of any parts ~~and/or~~, materials, or both used in performing such
14 repairs, if applicable labor charges are separately stated on the invoice. If the
15 applicable labor charges are not separately stated on the invoice, it shall be presumed
16 that the cost price is the total charge reflected on the invoice.

17 * * *

18 (i)(i) For purposes of the imposition of the use tax levied by the state under
19 R.S. 47:302, 321, 321.1, and 331, the cost price of machinery and equipment used
20 by a manufacturer in a plant facility predominately and directly in the actual
21 manufacturing for agricultural purposes or the actual manufacturing process of an
22 item of tangible personal property or a digital product, which is for ultimate sale to
23 another and not for internal use, at one or more fixed locations within Louisiana,
24 shall be reduced as follows:

25 * * *

26 (ii) For purposes of this Subparagraph, the following definitions shall apply:

27 (aa) "Machinery and equipment" means tangible personal property or other
28 property that is eligible for depreciation for federal income tax purposes and that is
29 used as an integral part in the manufacturing of tangible personal property for sale.

1 "Machinery and equipment" shall also mean tangible personal property or other
2 property that is eligible for depreciation for federal income tax purposes and that is
3 used as an integral part of the production, processing, and storing of food and fiber
4 or of timber.

5 (I) Machinery and equipment, for purposes of this Subparagraph, also
6 includes but is not limited to the following:

7 (aaa) Computers and software that are an integral part of the machinery and
8 equipment used directly in the manufacturing process, or which control or
9 communicate with computer systems that control heating or cooling systems for
10 machinery or equipment that manufactures tangible personal property for sale.
11 Computers and software used for inventory and accounting systems or that control
12 non-qualifying machinery and equipment are not considered machinery and
13 equipment for purposes of this Subparagraph.

14 * * *

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

19 (a) Every person who imports, or causes to be imported, tangible personal
20 property or digital products from any other state, foreign country, or other taxing
21 jurisdiction for sale at retail, for use, or consumption, or distribution, or for storage
22 to be used or consumed in a taxing jurisdiction.

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

27 (c) Any person who has sold at retail, or used, or consumed, or distributed,
28 or stored for use or consumption in the taxing jurisdiction, tangible personal property
29 or digital products and who cannot prove that the tax levied by this Chapter has been

1 paid on the sale at retail, the use, the consumption, the distribution, or the storage of
2 ~~said~~ the tangible personal property or digital products.

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

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

17 (e) Any person who is the lessee or rentee of tangible personal property or
18 digital products and who pays to the owner of such property or product a
19 consideration for the use or possession of such property without acquiring title
20 thereto.

21 * * *

22 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
23 business in the taxing jurisdiction" means and includes any of the following methods
24 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
25 office, distribution house, sales house, warehouse, or other place of business or by
26 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
27 the authority of the seller or its subsidiary irrespective of whether ~~such~~ the place of
28 business, agent, salesman, or solicitor is located in ~~such~~ the taxing jurisdiction
29 permanently or temporarily or whether ~~such~~ the seller or subsidiary is qualified to

1 do business in ~~such~~ the taxing jurisdiction, or any person who makes deliveries of
2 tangible personal property or digital products into the taxing jurisdiction other than
3 by a common or contract carrier.

4 (i) Any person who sells at retail any tangible personal property or digital
5 products to a vending machine operator for resale through coin-operated vending
6 machines.

7 * * *

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

11 * * *

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

21 * * *

22 (g) For purposes of state and political subdivision sales and use tax, "lease
23 or rental" shall not mean the lease or rental of tangible personal property or digital
24 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which ~~is~~
25 property or products are used by ~~such~~ those organizations for their educational and
26 public service programs for youth.

27 * * *

28 (i) For purposes of sales and use taxes levied and imposed by local
29 governmental subdivisions, school boards, and other political subdivisions whose

1 boundaries are not coterminous with those of the state, "lease or rental" by a person
2 shall not mean or include the lease or rental of tangible personal property or digital
3 products if ~~such the~~ lease or rental is made under the provisions of Medicare.

4 * * *

5 (8)

6 * * *

7 (b) Solely for purposes of the payment of state sales or use tax on the lease
8 or rental or the purchase of tangible personal property, digital products, or services,
9 "person" shall not include a regionally accredited independent institution of higher
10 education which is a member of the Louisiana Association of Independent Colleges
11 and Universities, if ~~such the~~ lease or rental or purchase is directly related to the
12 educational mission of ~~such the~~ institution. However, the term "person" shall include
13 such an institution for purposes of the payment of tax on sales by ~~such the~~ institution
14 if the sales are not otherwise exempt.

15 * * *

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

20 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
21 tax, "retail sale" or "sale at retail" means a sale to a consumer or to any other person
22 for any purpose other than for resale as tangible personal property or a digital
23 product, or for the lease of automobiles in an arm's length transaction, and shall
24 mean and include all such transactions as the secretary, upon investigation, finds to
25 be in lieu of sales; provided that sales for resale or for lease of automobiles in an
26 arm's length transaction must be made in strict compliance with the rules and
27 regulations. Any dealer making a sale for resale or for the lease of automobiles,
28 which is not in strict compliance with the rules and regulations, shall himself be
29 liable for and pay the tax.

1 (ii) Solely for purposes of the imposition of the sales and use tax levied by
2 a political subdivision or school board, "retail sale" or "sale at retail" shall mean a
3 sale to a consumer or to any other person for any purpose other than for resale in the
4 form of tangible personal property or a digital product, or resale of those services
5 defined in Paragraph (14) of this Section provided the retail sale of the service is
6 subject to sales tax in this state, and shall mean and include all such transactions as
7 the collector, upon investigation, finds to be in lieu of sales; provided that sales for
8 resale be made in strict compliance with the rules and regulations. Any dealer
9 making a sale for resale, which is not in strict compliance with the rules and
10 regulations shall himself be liable for and pay the tax. A local collector shall accept
11 a resale certificate issued by the Department of Revenue, provided the taxpayer
12 includes the parish of its principal place of business and local sales tax account
13 number on the state certificate. However, in the case of an intra-parish transaction
14 from dealer to dealer, the collector may require that the local exemption certificate
15 be used in lieu of the state certificate. The department shall accommodate the
16 inclusion of such information on its resale certificate for such purposes.

17 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
18 imposed by the state on transactions involving the sale for rental of automobiles
19 which take place on or after January 1, 1991, and by political subdivisions on such
20 transactions on or after July 1, 1996, and state sales and use taxes imposed on
21 transactions involving the lease or rental of digital products or tangible personal
22 property other than automobiles which take place on or after July 1, 1991, means a
23 sale to a consumer or to any other person for any purpose other than for resale as
24 tangible personal property or a digital product, or for lease or rental in an arm's
25 length transaction in the form of tangible personal property or a digital product, and
26 shall mean and include all such transactions as the secretary, upon investigation,
27 finds to be in lieu of sales; provided that sales for resale or for lease or rental in an
28 arm's length transaction must be made in strict compliance with the rules and
29 regulations. Any dealer making a sale for resale or for lease or rental, which is not

1 in strict compliance with the rules and regulations, shall himself be liable for and pay
2 the tax. For purposes of the imposition of the tax imposed by any political
3 subdivision of the state, for the period beginning on July 1, 1999, and ending on June
4 30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the
5 sales price of any tangible personal property which is sold in order to be leased or
6 rented in an arm's length transaction in the form of tangible personal property. For
7 purposes of the imposition of the tax imposed by any political subdivision of the
8 state, for the period beginning on July 1, 2000, and ending on June 30, 2001, the
9 term "retail sale" or "sale at retail" shall not include one-half of the sales price of any
10 tangible personal property which is sold in order to be leased or rented in an arm's
11 length transaction in the form of tangible personal property. For purposes of the
12 imposition of the tax imposed by any political subdivision of the state, for the period
13 beginning on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or
14 "sale at retail" shall not include three-fourths of the sales price of any tangible
15 personal property which is sold in order to be leased or rented in an arm's length
16 transaction in the form of tangible personal property. Beginning July 1, 2002, for the
17 purposes of imposition of the tax levied by any political subdivision of the state, the
18 term "retail sale" or "sale at retail" shall not include the sale of any tangible personal
19 property which is sold in order to be leased or rented in an arm's length transaction
20 in the form of tangible personal property.

21 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
22 imposed by the state on transactions involving the sale for rental of automobiles
23 which take place prior to January 1, 1991, and by political subdivisions on such
24 transactions prior to July 1, 1996, and imposed on transactions involving the lease
25 or rental of digital products or tangible personal property other than autos which take
26 place prior to July 1, 1991, and for purposes of local sales and use taxes levied by
27 political subdivisions except for transactions involving the sale for rental of
28 automobiles on or after July 1, 1996, means a sale to a consumer or to any other
29 person for any purpose other than for resale in the form of tangible personal property

1 or digital products, and shall mean and include all such transactions as the secretary,
2 upon investigation, finds to be in lieu of sales; provided that sales for resale must be
3 made in strict compliance with the rules and regulations. Any dealer making a sale
4 for resale, which is not in strict compliance with the rules and regulations, shall
5 himself be liable for and pay the tax. However, contrary provisions of law
6 notwithstanding, any political subdivision may, by ordinance, adopt the definition
7 of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph for
8 purposes of the imposition of its sales and use tax.

9 * * *

10 (c)

11 * * *

12 (ii)

13 * * *

14 (bb) The term "sale at retail" does not include an isolated or occasional sale
15 of tangible personal property or digital products by a person not engaged in such
16 business.

17 (cc) Solely for purposes of the sales and use tax levied by the state, the term
18 "sale at retail" does not include consuming any digital product in producing for sale
19 a new product, where the digital product becomes an ingredient or component of the
20 new product. A digital code becomes an ingredient or component of a new product
21 if the digital product through the use of the digital code becomes an ingredient or
22 component of the new product.

23 * * *

24 (j) The term "sale at retail" does not include the sale of tangible personal
25 property or digital products to food banks, as defined in R.S. 9:2799.

26 * * *

27 (l) Solely for purposes of the state sales and use tax imposed under R.S.
28 47:302, 321, 321.1, and 331, the term "sale at retail" shall not include the sale of a
29 pollution control device or system. Pollution control device or system shall mean any

1 tangible personal property or digital products approved by the Department of
2 Revenue and the Department of Environmental Quality and sold or leased and used
3 or intended for the purpose of eliminating, preventing, treating, or reducing the
4 volume or toxicity or potential hazards of industrial pollution of air, water,
5 groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the
6 purposes of any sales and use tax levied by a political subdivision, the term "sale at
7 retail" shall include the sale of a pollution control device or system. In order to
8 qualify, the pollution control device or system must demonstrate either: a net
9 decrease in the volume or toxicity or potential hazards of pollution as a result of the
10 installation of the device or system; ² or that installation is necessary to comply with
11 federal or state environmental laws or regulations.

12 * * *

13 (q) For purposes of state and political subdivision sales and use tax, the term
14 "sale at retail" shall not include:

15 (i) The sale of tangible personal property or digital products by approved
16 parochial and private elementary and secondary schools which comply with the court
17 order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal
18 Revenue Code, or students, administrators, or teachers, or other employees of the
19 school, if the money from such sales, less reasonable and necessary expenses
20 associated with the sale, is used solely and exclusively to support the school or its
21 program or curricula. This exclusion shall not be construed to allow tax-free sales
22 to students or their families by promoters or regular commercial dealers through the
23 use of schools, school faculty, or school facilities.

24 * * *

25 (r) For purposes of state and political subdivision sales and use tax, the term
26 "sale at retail" shall not include the sale of tangible personal property or digital
27 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which ~~is~~
28 property or products are used by such those organizations for their educational and
29 public service programs for youth.

1 an event providing Louisiana heritage, culture, crafts, art, food, and music which is
2 sponsored by a domestic nonprofit organization that is exempt from tax under
3 Section 501(c)(3) of the Internal Revenue Code. The provisions of this Subparagraph
4 shall apply only to an event which transpires over a minimum of seven but not more
5 than twelve days and has a five-year annual average attendance of at least three
6 hundred thousand over the duration of the event. For purposes of determining the
7 five-year annual average attendance, the calculation shall include the total annual
8 attendance for each of the five most recent years. The provisions of this
9 Subparagraph shall apply only to sales by the sponsor of the event.

10 * * *

11 (jj) Solely for purposes of the sales and use tax levied by the state, with
12 respect to digital products, the term "sale at retail" does not include making any
13 digital product available free of charge for the use or enjoyment of others. For
14 purposes of this Subsection, "free of charge" means that the recipient of the digital
15 product is not required to provide anything of significant value in exchange for the
16 product. A transfer is not free of charge if the digital product is bundled or combined
17 with other products or services subject to sales or use tax regardless of whether such
18 items are separately stated and invoiced.

19 * * *

20 (12)(a) "Sale" means any transfer of title or possession, or both, exchange,
21 barter, conditional or otherwise, in any manner or by any means whatsoever, of
22 tangible personal property or digital products, for a consideration, and includes the
23 fabrication of tangible personal property for consumers who furnish, either directly
24 or indirectly, the materials used in fabrication work, and the furnishing, preparing or
25 serving, for a consideration, of any tangible personal property, consumed on the
26 premises of the person furnishing, preparing or serving such tangible personal
27 property. A transaction whereby the possession of property is transferred but the
28 seller retains title as security for the payment of the price shall be deemed a sale.

1 transmission, or by utilizing wires, cable, radio waves, microwaves, satellites, fiber
2 optics, or any other method now in existence or which may be devised; this includes
3 delivering or providing access to such information through databases or
4 subscriptions. Information services include, but are not limited to, the following:

5 (aa) Furnishing newsletters; tax guides; research publications; financial,
6 investment, circulation, credit, stock market, or bond rating reports; mailing lists;
7 abstracts of title; news clipping services; wire services; scouting reports; surveys;
8 bad check lists; and broadcast rating services.

9 (bb) Subscriptions to genealogical, financial, or similar databases.

10 (cc) Global positioning system services including driving directions and
11 sports, news, and similar information provided through satellite audio programming
12 services.

13 (ii) Information services shall not include:

14 (aa) Information sold to a newspaper or a radio or television station licensed
15 by the Federal Communication Commission, if the information is gathered or
16 purchased for direct use in newspapers or radio or television broadcasts.

17 (bb) Charges to a person by a financial institution for account balance
18 information; or information gathered or compiled on behalf of a particular client, if
19 the information is of a proprietary nature to that client and may not be sold to others
20 by the person who compiled the information, except for a subsequent sale of the
21 information by the client for whom the information was gathered or compiled.

22 (cc) Internet access service or information services that are provided in
23 conjunction with and merely incidental to the provision of internet access service
24 when provided for a single charge.

25 (j) The term "sale of service" shall not include an action performed pursuant
26 to a contract with the United States Department of the Navy for construction or
27 overhaul of U.S. Naval vessels.

28 (k) Solely for purposes of the sales and use tax levied by the state, the
29 furnishing of telecommunications services for compensation, in accordance with the

1 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying
2 a sales and use tax on telecommunications services not in effect on July 1, 1990;
3 provided, however, that the provisions of this Subparagraph shall not be construed
4 to prohibit the levy or collection of any franchise, excise, gross receipts, or similar
5 tax or assessment by any political subdivision of the state as defined in Article VI,
6 Section 44(2) of the Constitution of Louisiana.

7 ~~(j)~~ (l) Notwithstanding any provision of law to the contrary, for purposes of
8 sales or use taxation by the state or any local political subdivision, the term "sales of
9 services" shall not mean or include any funeral directing services as defined in
10 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee
11 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the
12 state Department of Revenue shall devise a formula for the calculation of the tax.

13 ~~(k)~~ (m) Solely for purposes of sales and use tax imposed by the state under
14 R.S. 47:302, 321, 321.1, and 331, any political subdivision whose boundaries are
15 coterminous with those of the state, or any other political subdivision, the term "sales
16 of services" shall not mean or include admission charges for, outside gate admissions
17 to, or parking fees associated with an event providing Louisiana heritage, culture,
18 crafts, art, food, and music which is sponsored by a domestic nonprofit organization
19 that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code. The
20 provisions of this Subparagraph shall apply only to an event which transpires over
21 a minimum of seven but not more than twelve days and has a five-year annual
22 average attendance of at least three hundred thousand over the duration of the event.
23 For purposes of determining the five-year annual average attendance, the calculation
24 shall include the total annual attendance for each of the five most recent years. The
25 provisions of this Subparagraph shall apply only to admission charges for, outside
26 gate admissions to, or parking fees associated with an event when the charges and
27 fees are payable to or for the benefit of the sponsor of the event.

28 (15) "Storage" means and includes any keeping or retention in the taxing
29 jurisdiction of tangible personal property or digital products for use or consumption

1 within the taxing jurisdiction or for any purpose other than for sale at retail in the
2 regular course of business.

3 * * *

4 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
5 "use" means and includes the exercise of any right or power over tangible personal
6 property or digital products incident to the ownership thereof, except that it shall not
7 include the sale at retail of ~~that property~~ those items of property or products in the
8 regular course of business or the donation to a school in the state which meets the
9 definition provided in R.S. 17:236 or to a public or recognized independent
10 institution of higher education in the state of property previously purchased for resale
11 in the regular course of a business. The term "use" shall not include the purchase, the
12 importation, the consumption, the distribution, or the storage of automobiles to be
13 leased in an arm's length transaction, nor shall the term "use" include the donation
14 of food items to a food bank as defined in R.S. 9:2799(B).

15 (ii) For purposes of the imposition of the sales and use tax levied by a
16 political subdivision or school board, "use" shall mean and include the exercise of
17 any right or power over tangible personal property or digital products incident to the
18 ownership thereof, except that it shall not include the sale at retail of ~~that property~~
19 those items of property or products in the regular course of business or the donation
20 to a school in the state which meets the definition provided in R.S. 17:236 or to a
21 public or recognized independent institution of higher education in the state of
22 property previously purchased for resale in the regular course of a business. The term
23 "use" shall not include the donation of food items to a food bank as defined in R.S.
24 9:2799(B).

25 (iii) The term "use", for purposes of sales and use taxes imposed by the state
26 on the use for rental of automobiles which take place on or after January 1, 1991, and
27 by political subdivisions on such use on or after July 1, 1996, and state sales and use
28 taxes imposed on the use for lease or rental of digital products or tangible personal
29 property other than automobiles which take place on or after July 1, 1991, shall not

1 include the purchase, the importation, the consumption, the distribution, or the
2 storage of tangible personal property or digital products to be leased or rented in an
3 arm's length transaction as tangible personal property or digital products. For
4 purposes of the imposition of the tax levied by any political subdivision of the state,
5 for the period beginning July 1, 1999, and ending on June 30, 2000, the term "use"
6 shall not include one-fourth of the cost price of any tangible personal property which
7 is purchased, imported, consumed, distributed, or stored and which is to be leased
8 or rented in an arm's length transaction in the form of tangible personal property. For
9 purposes of the imposition of the tax levied by any political subdivision of the state,
10 for the period beginning July 1, 2000, and ending on June 30, 2001, the term "use"
11 shall not include one-half of the cost price of any tangible personal property which
12 is purchased, imported, consumed, distributed, or stored and which is to be leased
13 or rented in an arm's length transaction in the form of tangible personal property. For
14 purposes of the imposition of the tax levied by any political subdivision of the state,
15 for the period beginning July 1, 2001, and ending on June 30, 2002, the term "use"
16 shall not include three-fourths of the cost price of any tangible personal property
17 which is purchased, imported, consumed, distributed, or stored and which is to be
18 leased or rented in an arm's length transaction in the form of tangible personal
19 property. Beginning July 1, 2002, for purposes of the imposition of the tax levied by
20 any political subdivision of the state, the term "use" shall not include the purchase,
21 the importation, the consumption, the distribution, or the storage of any tangible
22 personal property which is to be leased or rented in an arm's length transaction in the
23 form of tangible personal property.

24 (iv) The term "use", for purposes of sales and use taxes imposed by the state
25 on the use for rental automobiles which take place prior to January 1, 1991, and by
26 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
27 lease or rental of tangible personal property other than automobiles which take place
28 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
29 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall

1 include the purchase, the importation, the consumption, the distribution, or the
2 storage of tangible personal property or digital products to be leased or rented in an
3 arm's length transaction as tangible personal property or digital products.

4 (v) For purposes of sales and use tax imposed by the state on digital
5 products, the term "use" applies to the first act within this state by which the
6 taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens,
7 manipulates or otherwise enjoys, uses or receives the benefits of the digital product.
8 Use includes access and use of digital products that remain in the possession of the
9 dealer or in the possession of a third party on behalf of the dealer.

10 * * *

11 (d)(i) Notwithstanding any other provision of law to the contrary, and except
12 as provided in Item (iii) of this Subparagraph, for purposes of state and political
13 subdivision sales and use tax, "use" means and includes the exercise of any right or
14 power over tangible personal property or digital products incident to the ownership
15 thereof, except that it shall not include the further processing of tangible personal
16 property into articles of tangible personal property or digital products for sale.

17 * * *

18 (e) For purposes of state and political subdivision sales and use tax, "use"
19 shall not include the purchase of or the exercise of any right or power over:

20 (i) Tangible personal property or digital products sold by approved parochial
21 and private elementary and secondary schools which comply with the court order
22 from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue
23 Code, or students, administrators, or teachers, or other employees of the school, if
24 the money from such sales, less reasonable and necessary expenses associated with
25 the sale, is used solely and exclusively to support the school or its program or
26 curricula.

27 (ii) Educational materials or equipment used for classroom instruction by
28 approved parochial and private elementary and secondary schools which comply
29 with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the

1 Internal Revenue Code, limited to books, workbooks, computers, computer software,
2 films, videos, and audio tapes, including when these items are transferred
3 electronically.

4 (f) For purposes of state and political subdivision sales and use tax, "use"
5 shall not include the purchase of or the exercise of any right or power over tangible
6 personal property or digital products used by Boys State of Louisiana, Inc. and Girls
7 State of Louisiana, Inc. for their educational and public service programs for youth.

8 * * *

9 (19) "Use tax" includes the use, the consumption, the distribution, and the
10 storage as ~~herein~~ defined in this Section. No use tax shall be due to or collected by:

11 (a) The state on tangible personal property or digital products used,
12 consumed, distributed, or stored for use or consumption in the state if the sale of
13 such property or products would have been exempted or excluded from sales tax at
14 the time ~~such~~ the property or products became subject to the taxing jurisdiction of
15 the state.

16 (b) Any political subdivision on tangible personal property or digital
17 products used, consumed, distributed, or stored for use or consumption in ~~such~~ the
18 political subdivision if the sale of such property or products would have been
19 exempted or excluded from sales tax at the time ~~such~~ the property or products
20 became subject to the taxing jurisdiction of the political subdivision.

21 * * *

22 (29) With respect to the furnishing of telecommunications and ancillary
23 services, as used in this Chapter the following words, terms, and phrases have the
24 meaning ascribed to them in this Paragraph, unless the context clearly indicates a
25 different meaning:

26 * * *

27 (x) "Telecommunications service" means the electronic transmission,
28 conveyance, or routing of voice, data, audio, video, or any other information or
29 signals to a point, or between or among points. "Telecommunications service"

1 includes such transmission, conveyance, or routing in which computer processing
2 applications are used to act on the form, code, or protocol of the content for purposes
3 of transmission, conveyance, or routing without regard to whether such service is
4 referred to as voice over Internet protocol service or is classified by the Federal
5 Communications Commission as an enhanced or value-added service.

6 "Telecommunications service" does not include any of the following:

7 * * *

8 (ix) Digital products ~~delivered electronically~~, including but not limited to
9 software, music, video, reading materials, or ring tones.

10 * * *

11 (32)(a) "Digital product" means digital audiovisual works, digital audio
12 works, digital books, digital codes, digital applications and games, digital periodicals
13 and discussion forums, and any other otherwise taxable tangible personal property
14 transferred electronically, whether digitally delivered, streamed, or accessed and
15 whether purchased singly, by subscription, or in any other manner, including
16 maintenance, updates, and support.

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

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

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

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

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

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

13 (vi) "Digital periodicals and discussion forums" means a newspaper,
14 magazine, periodical, chat room discussion, weblog or any other similar product.

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

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

18 (ii) Telecommunications services and ancillary services as those terms are
19 defined in Subparagraphs (29)(b) and (x) of this Section.

20 (iii) Internet access service charges.

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

26 (v) A product having electrical, digital, magnetic, wireless, optical,
27 electromagnetic, or similar capabilities where the purchaser holds a copyright or
28 other intellectual property interest in the product, in whole or part, if the purchaser

1 uses the product solely for commercial purposes, including advertising or other
2 marketing activities.

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

5 (e) For purposes of taxes imposed under this Chapter, Chapter 2A, or
6 Chapter 2C of this Subtitle, whenever the words "property" or "personal property"
7 are used, those terms shall be construed to include any digital product unless any of
8 the following circumstances apply:

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

11 (ii) It is clear from the context that the term "property" is intended only to
12 refer to tangible personal property, real property, or both.

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

15 (33)(a) "Transferred electronically" means any product obtained by the
16 purchaser by means other than tangible storage media, regardless of whether the
17 seller grants permanent or less than permanent use and regardless of whether the
18 transaction is conditioned upon contingent payment. It is not necessary that a copy
19 of the product be physically transferred to the purchaser. So long as the purchaser
20 may access the product, it shall be considered to have been transferred electronically
21 to the purchaser. The definition applies whether the transfer is to an end user or to
22 a person who is not an end user, unless otherwise exempted.

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

25 (c)(i) For purposes of this Paragraph, "end user" means any purchaser other
26 than a purchaser who receives by contract a digital product for further commercial
27 broadcast, rebroadcast, transmission, retransmission, licensing, relicensing,
28 distribution, redistribution, or exhibition of the product, in whole or in part, to others.

29 A person who purchases digital products for the purpose of giving away those

1 products or codes shall not be considered to have engaged in the distribution or
2 redistribution of such products or codes and shall be treated as an end user;

3 (ii) If a purchaser of a digital product does not receive the contractual right
4 to further redistribute, after the digital code is redeemed, the underlying product to
5 which the digital code relates, then the purchaser of the digital code shall be deemed
6 an end user. If the purchaser of the digital code receives the contractual right to
7 further redistribute, after the digital code is redeemed, the underlying product to
8 which the digital code relates, then the purchaser of the digital code shall not be
9 deemed an end user. A purchaser of a digital code who has the contractual right to
10 further redistribute the digital code shall be deemed an end user if that purchaser
11 does not have the right to further redistribute, after the digital code is redeemed, the
12 underlying product to which the digital code relates.

13 * * *

14 §301.11. Digital products

15 A. Nexus. For purposes of the taxes imposed in this Chapter, the department
16 shall not consider a person's ownership of, or rights in, digital products residing on
17 servers located in this state in determining whether the person has substantial nexus
18 with this state. For purposes of this Section, "substantial nexus" means the requisite
19 connection that a person has with a state to allow the state to subject the person to
20 the state's taxing authority, consistent with the commerce clause of the United States
21 Constitution.

22 B. Amnesty. (1) Purchasers of digital products shall have the following
23 amnesty:

24 (a) Except as provided in Subparagraph (b) of this Paragraph, no person may
25 be held liable for the failure to collect or pay state and local sales and use taxes
26 accrued before January 1, 2025, on the sale or use of digital products except to the
27 extent those products met the definition of tangible personal property in effect before
28 January 1, 2025.

1 **(b) The provisions of Subparagraph (a) of this Paragraph do not relieve any**
2 **person from liability for state and local sales taxes that the person collected from**
3 **buyers but did not remit to the department.**

4 **(2) Nothing in this Subsection may be construed as authorizing the refund**
5 **of state and local sales and use taxes properly paid on the sale or use of digital**
6 **products before January 1, 2025.**

7 **C. Multiple Points of Use. (1) State sales and use tax impositions shall not**
8 **apply to the sale of digital products defined by R.S. 47:301(10) as a retail sale or sale**
9 **at retail to a buyer who provides the seller with an exemption certificate claiming**
10 **multiple points of use. An exemption certificate claiming multiple points of use shall**
11 **be in a form and contain such information as required by the department.**

12 **(2) A buyer shall be entitled to use an exemption certificate claiming**
13 **multiple points of use only if the buyer is a business or other organization and the**
14 **purchased digital products will be concurrently available for use within and outside**
15 **this state. A buyer shall not be entitled to use an exemption certificate claiming**
16 **multiple points of use for digital products that are purchased for personal use.**

17 **(3) A buyer claiming an exemption under this Subsection must report and**
18 **pay all state sales and use tax due directly to the department in accordance with R.S.**
19 **47:306(A).**

20 **(4) For purposes of this Subsection, "concurrently available for use within**
21 **and outside this state" means that employees or other agents of the buyer may use the**
22 **digital products, acquired through a retail sale or sale at retail as defined in R.S.**
23 **47:301(10), simultaneously from one or more locations within this state and one or**
24 **more locations outside this state. A digital code shall be considered concurrently**
25 **available for use within and outside this state if employees or other agents of the**
26 **buyer may use the digital goods to be obtained by the code simultaneously at one or**
27 **more locations within this state and one or more locations outside this state.**

28 **(5) A business or other organization subject to use tax on digital products**
29 **that are concurrently available for use within and outside this state is entitled to**

1 allocate the amount of tax due this state based on users in this state compared to
2 users everywhere. Additionally, the department may authorize or require an
3 alternative method of allocation supported by the taxpayer's records that fairly
4 reflects the proportion of in-state to out-of-state use by the taxpayer. No allocation
5 shall be allowed under this Subsection unless the allocation method is supported by
6 the taxpayer's records kept in the ordinary course of business.

7 D. Bundled Transactions. (1) In the case of the sale of a digital code that
8 provides a purchaser with the right to obtain more than one digital product, and
9 which may also include the right to obtain other products or services, and all of the
10 products and services, digital or otherwise, to be obtained through the use of the code
11 do not have the same sales and use tax treatment, both of the following shall apply:

12 (a) The transaction shall be deemed to be the sale of the products and
13 services to be obtained through the use of the code.

14 (b) The state sales and use tax shall apply to the entire selling price of the
15 code, except as provided in Paragraph (2) of this Subsection.

16 (2) If the seller can identify by reasonable and verifiable standards the
17 portion of the selling price attributable to the products and services that are not
18 subject to state sales and use tax from its books and records that are kept in the
19 regular course of business for other purposes including, but not limited to, nontax
20 purposes, state sales and use tax shall not apply to that portion of the selling price of
21 the code attributable to the products and services that are not subject to state sales
22 and use tax.

23 E. The secretary may promulgate rules and regulations in accordance with
24 the Administrative Procedure Act to implement the provisions of this Section,
25 including, without limitation, rules addressing the taxation of any and all digital
26 products and services. Any rule promulgated by the department pursuant to this
27 Section shall be construed in favor of the secretary.

28 §301.12. Sales transaction sourcing rules

1 A. The provisions of this Section shall apply regardless of the
2 characterization of a transaction as a sale of tangible personal property, a digital
3 product, or a service. These provisions do not affect the obligation of a purchaser to
4 remit use tax.

5 B. For purposes of this Section, the following terms have the meanings
6 ascribed to them in this Subsection unless the context indicates otherwise:

7 (1) "Receive" or "receipt" means taking possession of tangible personal
8 property, making first use of services, or taking possession or making first use of
9 digital products by the purchaser or purchaser's designee.

10 (2) "Use of digital products" means the location of the first act within this
11 state by which the taxpayer, as a consumer, views, accesses, downloads, possesses,
12 stores, opens, manipulates, or otherwise uses or enjoys a digital product.

13 (3) "Use of a service" means the location of the first act within the state by
14 which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of
15 the service.

16 C. General sourcing rules. Except as provided in Subsection E of this
17 Section, for purposes of collecting or remitting sales or use taxes to the appropriate
18 taxing jurisdictions, otherwise known as sourcing, on sales of tangible personal
19 property, digital products, and services, the following requirements shall apply:

20 (1) If the sale of tangible personal property, digital products, or services is
21 received by the purchaser, or the purchaser's designee, at a business location of the
22 seller, the sale shall be sourced to that business location.

23 (2) If the sale of tangible personal property, digital products, or services is
24 not received by the purchaser at a business location of the seller, the sale shall be
25 sourced to the location where receipt by the purchaser or the purchaser's designee
26 occurs, including the location indicated by instructions for delivery to the purchaser
27 or designee, if that location is known to the seller.

28 (3) If Paragraphs (1) and (2) of this Subsection do not apply, the sale shall
29 be sourced to the location indicated by an address for the purchaser that is available

1 from the business records of the seller that are maintained in the ordinary course of
2 the seller's business, when use of this address does not constitute bad faith.

3 (4) If Paragraphs (1), (2), and (3) of this Subsection do not apply, the sale
4 shall be sourced to the location indicated by an address for the purchaser obtained
5 during the sale, including, if no other address is available, the address of a
6 purchaser's payment instrument, when use of this address does not constitute bad
7 faith.

8 (5) If Paragraphs (1), (2), (3), and (4) of this Subsection do not apply, or if
9 the seller is without sufficient information to apply the rules set forth in Paragraphs
10 (1), (2), (3), and (4) of this Subsection, the sale shall be sourced to one of the
11 following locations:

12 (a) The location indicated by the address from which the tangible personal
13 property was shipped.

14 (b) The location from which the digital product was first available for
15 transmission by the seller.

16 (c) The location from which the service was provided.

17 D. Sourcing for lease or rental of tangible personal property. The lease or
18 rental of tangible personal property, excluding motor vehicles, shall be sourced as
19 follows:

20 (1) For a lease or rental that requires recurring periodic payments, payments
21 shall be sourced to the primary location of the property leased or rented for each
22 period covered by the payment. The primary location of the property shall be as
23 indicated by an address for the property provided by the lessee that is available to the
24 lessor from its records maintained in the ordinary course of business, when use of
25 this address does not constitute bad faith. The primary location of the property may
26 not be altered by intermittent use at different locations, such as use of business
27 property that accompanies employees on business trips and service calls.

1 (2) For a lease or rental that does not require periodic payments, the payment
2 shall be sourced in the same manner as a retail sale in accordance with Subsection
3 C of this Section.

4 (3) This Subsection shall not be construed to affect the imposition or
5 computation of sales or use tax on leases or rentals based on a lump-sum or
6 accelerated basis, or on the acquisition of property for lease.

7 E. Exceptions to the general sourcing rules. The following sales shall be
8 sourced in accordance with the following requirements:

9 (1) Sales and leases of vehicles subject to the Vehicle Registration License
10 Tax Law, R.S. 47:451 et seq., shall be sourced as provided in R.S. 47:301(10)(f).

11 (2) Sales of telecommunications services shall be sourced as provided in R.S.
12 47:301.1.

13 §302. Imposition of tax

14 A. There is hereby levied a tax upon the sale at retail, the use, the
15 consumption, the distribution, and the storage for use or consumption in this state,
16 of each item or article of tangible personal property or digital product, as defined
17 herein, the levy of said tax to be as follows:

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

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

26 B. There is hereby levied a tax upon the lease or rental within this state of
27 each item or article of tangible personal property or digital product, as defined
28 herein; the levy of said tax to be as follows:

1 consumed, distributed, or stored for use or consumption in this state; provided there
2 shall be no duplication of the tax.

3 * * *

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

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

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

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

1 * * *

2 BB. Notwithstanding any other provision of law to the contrary, including
3 but not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
4 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
5 levied pursuant to the provisions of this Section, except for the retail sale, use,
6 consumption, distribution, or storage for use or consumption of the following:

7 * * *

8 (9) Installation charges on tangible personal property and digital products as
9 provided in R.S. 47:301(3)(a).

10 * * *

11 (13) Sales, leases, or rentals of tangible personal property and digital
12 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

13 * * *

14 (17) Tangible personal property and digital products that are sold or donated
15 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

16 * * *

17 (25) Tangible personal property and digital products for resale as provided
18 in R.S. 47:301(10)(a)(i).

19 * * *

20 (27) Isolated or occasional sales of tangible personal property and digital
21 products by a person not engaged in such business as provided in R.S. 47:301(1) and
22 (10)(c)(ii)(bb).

23 * * *

24 (30) An article traded in on the purchase of tangible personal property or a
25 digital product as provided in R.S. 47:301(13)(a).

26 * * *

27 (33) Credit for sales and use taxes paid to another state on tangible personal
28 property or digital products imported ~~in~~ into Louisiana as provided in R.S.
29 47:303(A)(3)(a).

1 * * *

2 (56) Transactions in interstate commerce and tangible personal property and
3 digital products imported into this state, or produced or manufactured in this state,
4 for export as provided in R.S. 47:305(E).

5 * * *

6 (66) Sales, leases, and rentals of tangible personal property and digital
7 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
8 provided in R.S. 47:301(7)(g) and (10)(r).

9 * * *

10 (81) Sales of admissions, parking fees, ~~and sales of~~ tangible personal
11 property, and digital products at events sponsored by domestic, civic, educational,
12 historical, charitable, fraternal, or religious nonprofit organizations as provided in
13 R.S. 47:305.14(A)(1).

14 * * *

15 (109) Sales of tangible personal property, digital products, and services at
16 certain public facilities as provided in R.S. 39:467 and 468.

17 * * *

18 (113) Purchases of tangible personal property and digital products pursuant
19 to the sales tax holiday as provided in R.S. 47:305.74.

20 * * *

21 CC. The provisions of Subsection BB of this Section shall supercede and
22 control to the extent of conflict with any other provision of law beginning July 1,
23 2018, through June 30, 2025. Digital products shall be taxed in the same manner as
24 any complementary tangible personal property or service included in Subsection BB
25 of this Section.

26 * * *

27 §303. Collection

28 A. Collection from dealer.

29 * * *

1 G. Direct Payment Numbers. Notwithstanding any provision of law to the
2 contrary, a Louisiana taxpayer who obtains a DP Number as provided in R.S.
3 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible
4 personal property, digital products, and taxable services directly to the state and local
5 taxing bodies to whom the sales and use taxes are due, and shall not be liable to remit
6 the tax to the vendor or lessor of the tangible personal property, digital products, and
7 taxable services, as provided in R.S. 47:303.1.

* * *

8
9 §303.1. Direct Payment Numbers

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

22 B.(1) A DP Number shall be issued to and shall be continued to be held by
23 a taxpayer who obtains the required approvals and who meets all of the following
24 qualifications and all other qualifications provided for in this Section ~~and the~~
25 ~~following qualifications:~~

* * *

26
27 (c) The taxpayer has an annual average of five million dollars of taxable
28 purchases or leases of tangible personal property ~~and~~, digital products, or taxable

1 services for three calendar years prior to the year of application by the taxpayer, and
2 has such an average for each subsequent three-year period.

3 * * *

4 (2)

5 * * *

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

20 * * *

21 §304. Treatment of tax by dealer

22 * * *

23 B. Every dealer located outside the state making sales of tangible personal
24 property or digital products for distribution, storage, use, or other consumption, in
25 this state, shall at the time of making sales collect the tax imposed by this Chapter
26 from the purchaser.

27 * * *

28 §305. Exclusions and exemptions from the tax

29 * * *

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

19 * * *

20 §305.5. Exemptions; business use of software and digital products

21 A. The sales and use tax imposed by taxing authorities shall not apply to
22 computer software or prewritten computer software access services, information
23 services, and digital products when all of the following conditions are met:

24 (1) It is purchased or licensed exclusively for commercial purposes.

25 (2) It is used by the business directly in the production of goods or services
26 for sale to its customers.

27 (3) The goods or services produced and sold by the business are subject to
28 sales and use tax.

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

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

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

27 ~~(c)~~ (iii) If the offshore registration number is revoked, all tangible personal
28 property or digital products purchased or imported tax-free under this Paragraph and
29 in the possession of the purchaser or importer within this state shall be deemed

1 taxable unless otherwise exempt under the provisions of ~~Paragraph (1) of this~~
2 ~~Subsection~~ Subparagraph (a) of this Paragraph. If the provisions of ~~Paragraph (1)~~
3 ~~of this Subsection~~ Subparagraph (a) of this Paragraph are not complied with, any
4 subsequent purchase or import of tangible personal property will be taxable, whether
5 for instate or offshore use, until the certificate and offshore number are reissued.

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

11 ~~(3)~~ (2) Except for purchases or importation of tangible personal property or
12 digital products in accordance with ~~Paragraphs (1) and (2)~~ Subparagraphs (1)(a) and
13 (1)(b) of this Subsection, any purchase or importation of property is taxable at the
14 time of purchase or import unless otherwise exempt.

15 D. If tangible personal property or digital products purchased or imported
16 tax-free under the provisions of this Section ~~is~~ are subsequently used for any taxable
17 purpose within the state, use tax shall be paid by the purchaser or importer as of the
18 time of its use in this state. Storage of property purchased or imported tax-free under
19 this Section which is ultimately used in another state will be considered a
20 "subsequent use for a taxable purpose".

21 E. If tangible personal property or digital products purchased within or
22 imported into the state tax-free under the provisions of this Section ~~is~~ are later
23 returned to Louisiana for use for a taxable purpose, the property shall be subject to
24 the Louisiana use tax as of the time it is brought into the state, subject to the credit
25 provided in R.S. 47:303(A).

26 * * *

27 §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;
28 limitations; qualifications; newspapers; determination of tax exempt status

1 training center for persons with intellectual disabilities shall not be subject to the
2 sales and use taxes levied by the state or by any political subdivision thereof.

3 * * *

4 §305.53. Exclusions and exemptions; sickle cell disease organizations

5 A. The sale at retail, the rental or lease, the use, the consumption, the
6 distribution, and the storage for use or consumption in this state of each item or
7 article of tangible personal property, digital products, or any taxable service; by a
8 nonprofit organization established prior to 1975 which conducts a comprehensive
9 program on sickle cell disease which includes but is not limited to free education,
10 free testing, free counseling, and free prescriptions, transportation, and food
11 packages for sickle cell patients shall not be subject to the sales and use taxes levied
12 by the state or by any other ~~tax~~ taxing authority.

13 * * *

14 §305.54. Exemption; Annual Louisiana Sales Tax Holidays Act

15 * * *

16 B.(1) Notwithstanding any other provisions of law to the contrary, the sales
17 tax levied by the state of Louisiana and its political subdivisions whose boundaries
18 are coterminous with those of the state shall not apply to the first two thousand five
19 hundred dollars of the sales price or cost price of any consumer purchases of tangible
20 personal property or digital products that occur on the first consecutive Friday and
21 Saturday of August each year.

22 (2) For purposes of this Section, "consumer purchases" shall mean purchases
23 of items of tangible personal property or digital products other than vehicles subject
24 to license and title. Consumer purchases shall not include the purchase of meals
25 furnished for consumption on the premises where purchased, including to-go orders.

26 C. This provision will apply if and only if during the time period provided
27 for in Paragraph (B)(1) of this Section, one of the following occurs:

28 (1) Title to or possession of an item of tangible personal property or a digital
29 product is transferred from a selling dealer to a purchaser.

1 * * *

2 §306.5. Annual reporting requirement

3 A.(1) Notwithstanding any provision of law to the contrary, transactions
4 listed in Subsection B of this Section involving sales of tangible personal property,
5 digital products, or services that are not subject to state sales and use tax pursuant to
6 the exclusions and exemptions provided by law shall be subject to an annual
7 reporting requirement based on transactions occurring during the previous fiscal
8 year, beginning on July first of the preceding year and ending on June thirtieth of the
9 current year.

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

11 * * *

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

15 * * *

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

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

28 B. In the event the dealer has imported tangible personal property or digital
29 products and he fails to produce an invoice showing the cost price of the articles

1 which are subject to tax, or the invoice does not reflect the true or actual cost, then
2 the collector shall ascertain in any manner feasible the true cost price and shall assess
3 and collect the tax, together with any interest and penalties that may have accrued,
4 on the basis of the true cost as assessed by him. The assessment so made shall be
5 considered prima facie correct, and the burden shall be on the dealer to show the
6 contrary.

7 C. In the case of the lease or rental of tangible personal property or digital
8 products, if the consideration given or reported by the dealer does not, in the
9 judgment of the collector, represent the true or actual consideration, then the
10 collector is authorized to ascertain in any manner feasible the true or actual
11 consideration and assess and collect the tax thereon together with any interest and
12 penalties that may have accrued. The assessment so made shall be considered prima
13 facie correct and the burden shall be on the dealer to show the contrary.

14 * * *

15 §309. Dealers required to keep records

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

28 * * *

1 §309.1. Sales in Louisiana of tangible personal property, digital products, and
2 taxable services by a dealer or remote retailer; the provision of lists, notices,
3 and statements by a dealer or remote retailer

4 * * *

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

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

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

15 * * *

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

21 * * *

22 D. Annual statement submitted by remote retailer. By March first of each
23 year a remote retailer who made retail sales of tangible personal property, digital
24 products, or taxable services to Louisiana purchasers in the immediately preceding
25 calendar year shall file with the secretary an annual statement for each purchaser
26 which includes the total amount paid by the purchaser to that retailer in the
27 immediately preceding calendar year. Under no circumstances shall the statement
28 contain detail as to specific property or services purchased, but it shall include the
29 total amount paid. The statement shall be submitted on forms to be developed and

1 provided by the secretary. The secretary is authorized to require the electronic filing
2 of statements by a remote retailer who had sales in Louisiana in excess of one
3 hundred thousand dollars in the immediately preceding calendar year.

4 * * *

5 §310. Wholesalers and jobbers required to keep records

6 A. All wholesale dealers and jobbers in this state shall keep a record of all
7 sales of tangible personal property or digital products made in this state whether such
8 sales be for cash or on terms of credit. These records shall contain and include the
9 name and address of the purchaser, the date of the purchase, the article purchased,
10 and the price at which the article is sold to the purchaser. These records shall be kept
11 until the taxes to which they relate have prescribed and shall be open to the
12 inspection of the secretary at all reasonable hours.

13 * * *

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

16 A. The failure of any dealer to pay the tax and any interest, penalties, or
17 costs due under the provisions of this Chapter on any tangible personal property or
18 digital products imported from outside the state for use, consumption, distribution
19 or storage to be used in this state, or imported for the purpose of leasing or renting
20 the same, shall make the tax, interest, penalties, or costs ipso facto delinquent. This
21 failure shall moreover be a sufficient ground for the attachment of the personal
22 property imported wherever it may be found, whether the delinquent taxpayer is a
23 resident or nonresident, and whether the property is in the possession of the
24 delinquent taxpayer or in the possession of other persons.

25 B. It is the intention of this law to prevent the disposition of the said tangible
26 personal property or digital products in order to insure payment of the tax imposed
27 by this Chapter, together with interest, penalties and costs, and authority to attach is
28 hereby specifically granted to the collector. The procedure prescribed by law in

1 attachment proceedings shall be followed except that no bond shall be required of
2 the State.

3 * * *

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

5 Failure to pay any tax due as provided in this Chapter shall ipso facto,
6 without demand or putting in default, cause the tax, interest, penalties, and costs to
7 become immediately delinquent, and the collector has the authority, on motion in a
8 court of competent jurisdiction, to take a rule on the dealer, to show cause in not less
9 than two or more than ten days, exclusive of holidays, why the dealer should not be
10 ordered to cease from further pursuit of business as a dealer. This rule may be tried
11 out of term and in chambers, and shall always be tried by preference. If the rule is
12 made absolute, the order rendered thereon shall be considered a judgment in favor
13 of the state, prohibiting the dealer from the further pursuit of said business until such
14 time as he has paid the delinquent tax, interest, penalties and costs, and every
15 violation of the injunction shall be considered as a contempt of court, and punished
16 according to law. For the purpose of the enforcement of this Chapter and the
17 collection of the tax levied hereunder, it is presumed that all tangible personal
18 property or digital products imported or held in this state by any dealer is to be sold
19 at retail, used or consumed, or stored for use or consumption in this state, or leased
20 or rented within this state, and is subject to the tax herein levied; this presumption
21 shall be prima facie only, and subject to proof furnished to the collector.

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

23 A. Whenever tangible personal property or digital products are sold ~~is and~~
24 returned to the dealer by the purchaser or consumer or in the event the amount paid
25 or charged for services is refunded or credited to the purchaser or consumer after the
26 tax imposed by this Chapter has been collected, or charged to the account of the
27 purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the
28 amount of tax so collected or charged by him, in the manner prescribed by the
29 collector; and in case the tax has not been remitted by the dealer to the collector, the

1 dealer may deduct the same in submitting his return. Upon receipt of a signed
2 statement of the dealer as to the gross amount of such refunds during the period
3 covered by the signed statement, which period shall not be longer than ninety days,
4 the collector shall issue to the dealer an official credit memorandum equal to the net
5 amount remitted by the dealer for the tax collected. This memorandum shall be
6 accepted by the collector at full face value from the dealer to whom it is issued, in
7 the remittance for subsequent taxes accrued under the provisions of this Chapter. In
8 cases where a dealer has retired from business and has filed a final return, a refund
9 of tax may be made if it can be established to the satisfaction of the collector that the
10 tax paid was not due.

11 B.(1) Whenever the unpaid balance of an account due to the dealer for the
12 purchase of tangible personal property, digital goods, or the sale of services subject
13 to sales taxation has been found to be bad in accordance with Section 166 of the
14 United States Internal Revenue Code and has actually been charged off for federal
15 income tax purposes, the dealer shall be entitled to reimbursement of the amount of
16 tax previously paid by the dealer on such amounts.

17 * * *

18 §315.3. Sales tax refund; sales and rentals covered by Medicare

19 A. Any person who has paid sales and use taxes, levied by the state and any
20 other taxing authorities in the state, upon the sale, lease, or rental of tangible personal
21 property or digital products when such sale, lease, or rental is paid by or under the
22 provisions of Medicare, shall be entitled to reimbursement of the amount of tax paid
23 on such property. Upon receipt of a signed statement of such person as to the
24 amount of taxes paid under the provisions of this Chapter on such tangible personal
25 property or digital products and upon proof of payment by or under the provisions
26 of Medicare, the secretary and the appropriate taxing authorities shall make a refund
27 to such person in the amount to which he is entitled.

28 * * *

1 §315.5. Sales tax refund; nonprofits employing or training persons with workplace
2 disabilities or disadvantages

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

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

13 * * *

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

16 * * *

17 C.(1)

18 * * *

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

24 * * *

25 §321. Imposition of tax

26 A. In addition to the tax levied by R.S. 47:302(A), 321.1(A), and 331(A) and
27 collected under the provisions of Chapter 2 of this Subtitle ~~H of this Title~~, there is
28 hereby levied an additional tax upon the sale at retail, the use, the consumption, the
29 distribution, and the storage for use or consumption in this state of each item or

1 article of tangible personal property or digital product, as defined in Chapter 2 of this
2 Subtitle ~~H of this Title~~. The levy of said tax shall be as follows:

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

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

13 B. In addition to the tax levied by R.S. 47:302(B), 321.1(B), and 331(B) and
14 collected under the provisions of Chapter 2 of this Subtitle ~~H of Title 47 of the~~
15 ~~Louisiana Revised Statutes of 1950~~, there is hereby levied a tax upon the lease or
16 rental within this state of each item or article of tangible personal property or digital
17 product, as defined ~~by said~~ in Chapter 2 of this Subtitle ~~H of Title 47 of the Louisiana~~
18 ~~Revised Statutes of 1950~~; the levy of said tax to be as follows:

19 (1) At the rate of one percent of the gross proceeds derived from the lease
20 or rental of tangible personal property or digital product, as defined in Chapter 2 of
21 this Subtitle ~~H of Title 47 of the Louisiana Revised Statutes of 1950~~, where the lease
22 or rental of such property or product is in an established business, or part of an
23 established business, or the same is incidental or germane to the business.

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

27 * * *

28 P. Notwithstanding any other provision of law to the contrary, including but
29 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,

1 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
2 levied pursuant to the provisions of this Section, except for the retail sale, use,
3 consumption, distribution, or storage for use or consumption of the following:

4 * * *

5 (9) Installation charges on tangible personal property and digital products as
6 provided in R.S. 47:301(3)(a).

7 * * *

8 (13) Sales, leases, or rentals of tangible personal property and digital
9 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

10 * * *

11 (17) Tangible personal property and digital products that are sold or donated
12 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

13 * * *

14 (23) Sales, purchases, and leases of tangible personal property and digital
15 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

16 * * *

17 (25) Tangible personal property and digital products for resale as provided
18 in R.S. 47:301(10)(a)(i).

19 * * *

20 (27) Isolated or occasional sales of tangible personal property and digital
21 products by a person not engaged in such business as provided in R.S. 47:301(1) and
22 (10)(c)(ii)(bb).

23 * * *

24 (30) An article traded in on the purchase of tangible personal property or a
25 digital product as provided in R.S. 47:301(13)(a).

26 * * *

27 (56) Transactions in interstate commerce and tangible personal property and
28 digital products imported into this state, or produced or manufactured in this state,
29 for export as provided in R.S. 47:305(E).

1 * * *

2 (66) Sales, leases, and rentals of tangible personal property and digital
3 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
4 provided in R.S. 47:301(7)(g) and (10)(r).

5 * * *

6 (81) Sales of admissions, parking fees, and sales of tangible personal
7 property and digital products at events sponsored by domestic, civic, educational,
8 historical, charitable, fraternal, or religious nonprofit organizations as provided in
9 R.S. 47:305.14(A)(1).

10 * * *

11 (109) Sales of tangible personal property, digital products, and services at
12 certain public facilities as provided in R.S. 39:467 and 468.

13 * * *

14 (114) Purchases of tangible personal property and digital products pursuant
15 to the sales tax holiday as provided in R.S. 47:305.74.

16 * * *

17 Q. The provisions of Subsection P of this Section shall supercede and control
18 to the extent of conflict with any other provision of law beginning July 1, 2018,
19 through June 30, 2025. Digital products shall be taxed in the same manner as any
20 complementary tangible personal property or service included in Subsection P of this
21 Section.

22 §321.1. Imposition of tax

23 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331(A) and
24 collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied an
25 additional tax upon the sale at retail, the use, the consumption, the distribution, and
26 the storage for use or consumption in this state of each item or article of tangible
27 personal property or digital product as defined in Chapter 2 of this Subtitle. The levy
28 of said tax shall be as follows:

1 (1) At the rate of forty-five hundredths of one percent of the sales price of
2 each item or article of tangible personal property or digital product when sold at
3 retail in this state, the tax to be computed on gross sales for the purpose of remitting
4 the amount of tax to the state, and to include each and every retail sale.

5 (2) At the rate of forty-five hundredths of one percent of the cost price of
6 each item or article of tangible personal property or digital product when the same
7 is not sold but is used, consumed, distributed, or stored for use or consumption in this
8 state, provided that there shall be no duplication of the tax.

9 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
10 collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied a
11 tax upon the lease or rental within this state of each item or article of tangible
12 personal property or digital product, as defined by Chapter 2 of this Subtitle; the levy
13 of the tax to be as follows:

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

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

22 * * *

23 I. Notwithstanding any other provision of law to the contrary, including but
24 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
25 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
26 levied pursuant to the provisions of this Section, except for the retail sale, use,
27 consumption, distribution, or storage for use or consumption of the following:

28 * * *

1 (9) Installation charges on tangible personal property and digital products as
2 provided in R.S. 47:301(3)(a).

3 * * *

4 (13) Sales, leases, or rentals of tangible personal property and digital
5 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

6 * * *

7 (17) Tangible personal property and digital products that are sold or donated
8 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

9 * * *

10 (23) Sales, purchases, and leases of tangible personal property and digital
11 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

12 * * *

13 (25) Tangible personal property and digital products for resale as provided
14 in R.S. 47:301(10)(a)(i).

15 * * *

16 (27) Isolated or occasional sales of tangible personal property and digital
17 products by a person not engaged in such business as provided in R.S. 47:301(1) and
18 (10)(c)(ii)(bb).

19 * * *

20 (30) An article traded in on the purchase of tangible personal property or a
21 digital product as provided in R.S. 47:301(13)(a).

22 * * *

23 (33) Credit for sales and use taxes paid to another state on tangible personal
24 property and digital products imported in Louisiana as provided in R.S.
25 47:303(A)(3)(a).

26 * * *

27 (56) Transactions in interstate commerce and tangible personal property and
28 digital products imported into this state, or produced or manufactured in this state,
29 for export as provided in R.S. 47:305(E).

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(66) Sales, leases, and rentals of tangible personal property and digital products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as provided in R.S. 47:301(7)(g) and (10)(r).

* * *

(81) Sales of admissions, parking fees, and sales of tangible personal property and digital products at events sponsored by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations as provided in R.S. 47:305.14(A)(1).

* * *

(109) Sales of tangible personal property, digital products, and services at certain public facilities as provided in R.S. 39:467 and 468.

* * *

(114) Purchases of tangible personal property and digital products pursuant to the sales tax holiday as provided in R.S. 47:305.74.

* * *

J. The provisions of Subsection I of this Section shall supercede and control to the extent of conflict with any other provision of law beginning July 1, 2018, through June 30, 2025. Digital products shall be taxed in the same manner as any complementary tangible personal property or service included in Subsection I of this Section.

* * *

§331. Imposition of tax

A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 321.1(A) and collected under the provisions of Chapter 2 of this Subtitle ~~H~~ of Title ~~47~~ of the ~~Louisiana Revised Statutes of 1950~~, there is hereby levied an additional tax upon the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of each item or article of tangible personal property or

1 digital product, as defined in Chapter 2 of this Subtitle H of Title 47 of the Louisiana
2 ~~Revised Statutes of 1950~~; the levy of said tax to be as follows:

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

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

11 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 321.1(B) and
12 collected under the provisions of Chapter 2 of this Subtitle H of Title 47 of the
13 ~~Louisiana Revised Statutes of 1950~~, there is hereby levied a tax upon the lease or
14 rental within this state of each item or article of tangible personal property or digital
15 product, as defined ~~by said~~ in Chapter 2 of this Subtitle H of Title 47 of the Louisiana
16 ~~Revised Statutes of 1950~~; the levy of said tax to be as follows:

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

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

26 * * *

27 V. Notwithstanding any other provision of law to the contrary, including but
28 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
29 through June 30, 2025, there shall be no exemptions and no exclusions to the tax

1 levied pursuant to the provisions of this Section, except for the retail sale, use,
2 consumption, distribution, or storage for use or consumption of the following:

3 * * *

4 (9) Installation charges on tangible personal property and digital products as
5 provided in R.S. 47:301(3)(a).

6 * * *

7 (13) Sales, leases, or rentals of tangible personal property and digital
8 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

9 * * *

10 (17) Tangible personal property and digital products that are sold or donated
11 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

12 * * *

13 (23) Sales, purchases, and leases of tangible personal property and digital
14 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

15 * * *

16 (25) Tangible personal property and digital products for resale as provided
17 in R.S. 47:301(10)(a)(i).

18 * * *

19 (27) Isolated or occasional sales of tangible personal property and digital
20 products by a person not engaged in such business as provided in R.S. 47:301(1) and
21 (10)(c)(ii)(bb).

22 * * *

23 (30) An article traded in on the purchase of tangible personal property or a
24 digital product as provided in R.S. 47:301(13)(a).

25 * * *

26 (33) Credit for sales and use taxes paid to another state on tangible personal
27 property and digital products imported ~~in~~ into Louisiana as provided in R.S.
28 47:303(A)(3)(a).

29 * * *

1 (56) Transactions in interstate commerce and tangible personal property and
2 digital products imported into this state, or produced or manufactured in this state,
3 for export as provided in R.S. 47:305(E).

4 * * *

5 (66) Sales, leases, and rentals of tangible personal property and digital
6 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
7 provided in R.S. 47:301(7)(g) and (10)(r).

8 * * *

9 (81) Sales of admissions, parking fees, and sales of tangible personal
10 property and digital products at events sponsored by domestic, civic, educational,
11 historical, charitable, fraternal, or religious nonprofit organizations as provided in
12 R.S. 47:305.14(A)(1).

13 * * *

14 (109) Sales of tangible personal property, digital products, and services at
15 certain public facilities as provided in R.S. 39:467 and 468.

16 * * *

17 (114) Purchases of tangible personal property and digital products pursuant
18 to the sales tax holiday as provided in R.S. 47:305.74.

19 * * *

20 W. The provisions of Subsection V of this Section shall supercede and
21 control to the extent of conflict with any other provision of law beginning July 1,
22 2018, through June 30, 2025. Digital products shall be taxed in the same manner as
23 any complementary tangible personal property or service included in Subsection V
24 of this Section.

25 * * *

26 §340.1. Marketplace facilitators; collection and remittance of state and local sales
27 and use tax

28 A. Definitions. For purposes of this Section, the following words and phrases
29 shall have the following meanings, unless the context clearly indicates otherwise:

1 * * *

2 (3) "Marketplace" means any physical or electronic platform or forum,
3 owned, operated, or otherwise controlled by the marketplace facilitator through
4 which a marketplace seller may sell or offer for sale tangible personal property,
5 digital products, or sales of services for delivery into Louisiana.

6 * * *

7 (5) "Marketplace seller" means a person who sells or offers for sale tangible
8 personal property, digital products, or sales of services for delivery into Louisiana
9 through a marketplace that is owned, operated, or controlled by a marketplace
10 facilitator.

11 * * *

12 Section 2. R.S. 51:1286(B) is hereby amended and reenacted to read as follows:

13 §1286. Sales and use tax

14 * * *

15 B. The tax so authorized shall be imposed by ordinance adopted by the
16 district without the need of an election and shall be levied upon the sale at retail, the
17 use, the lease or rental, the distribution, the consumption, and the storage for use or
18 consumption of tangible personal property, digital products, and on sales of services
19 in the state of Louisiana, as now or hereafter defined in and as provided by Chapter
20 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, subject to the
21 exemptions and suspensions of exemptions to the same extent that such exemptions
22 and suspensions of exemptions now or hereafter apply to the tax levied in R.S.
23 47:331.

24 * * *

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

26 Section 4. This Act shall become effective on January 1, 2025, and shall apply to
27 taxable periods beginning on or after January 1, 2025.

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 Draft

Abstract: ABSTRACT

(Amends CITE)