
DIGEST

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HB 524 Original

2019 Regular Session

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Abstract: Provides for the establishment of marketplace facilitators and the administration of tax collection related to remote seller transactions.

Present law establishes the La. Sales and Use Tax Commission for Remote Sellers hereinafter "commission" as an independent agency within the Dept. of Revenue for the administration and collection of sales and use taxes related to remote sales.

Present law provides that the commission serves as the single entity in La. required under any potential federal law that may require remote sellers to collect and remit sales and use tax on remote sales. Proposed law expands the definition of federal law for the purposes of present law and proposed law.

Present law provides for a refund procedure for taxpayers to voluntarily pay use tax. Further provides that a refund request is filed in a manner determined by the secretary of the Dept. of Revenue (DOR) and accompanied by documentation along with an affidavit confirming delivery and use of the taxable property in a parish where no local use tax is levied.

Proposed law retains present law but provides that when delivery and use of taxable property occurs in a parish where there is no local use tax, an affidavit confirming no local use tax will be accepted in lieu of local paid use tax returns.

Present law provides that until the establishment of the commission, dealers are required to collect tax and to file all returns.

Proposed law changes present law by requiring dealers to collect tax and file returns until the commission enforces the collection and remittance of state and local sales tax and that notice by the commission to commence enforcement shall be published no later than 30 days prior to the date of enforcement.

Present law defines "non-remote sales", "non-remote sellers", "person", "sales and use taxes" and "taxes". Proposed law retains present law but also provides definitions for "marketplace facilitator", "marketplace seller", "remote sale", "remote seller" and changes the definition of "person."

Present law establishes a method of funding the commission's operations, however the Commission shall not be authorized to use these funds unless and until a federal law authorizes states to require remote sellers to collect state and local sales and use taxes becomes effective.

Proposed law retains present law but expands the definition of federal law for the purposes of this Section. Proposed law also provides that local collectors may be allowed to retain the usual and customary percentage of the taxes they collect.

Present law provides that the commission shall develop rules and procedures to carry out its purpose. Proposed law retains present law and expands the actions in which the commission is allow to take.

Present law provides for the powers and duties of the commission including requiring remote sellers to register with the commission. Proposed law retains present law but provides for time periods in which remote sellers much register.

Proposed law provides that marketplace facilitators must register with the Commission and shall collect and remit state and local sales and use tax on all taxable remote sales for delivery into La. which the marketplace facilitator transacts on its own behalf or facilitates on behalf of a marketplace seller.

Proposed law provides that the marketplace facilitator shall be responsible for the determination of taxability of remote sales for delivery into La.

Proposed law provides for the administrative requirements of filing a monthly return and remitting tax collected to the commission.

Present law provides for the jurisdiction of the Board of Tax Appeals. Proposed law expands the Board of Tax Appeal's jurisdiction to all matters related to the commission.

Present law, regarding the applicability of the provisions of present law relative to the commission and collection of state and local sales and use taxes on remote sales provides that the provisions of present law apply to all taxable periods beginning on or after the date of the final ruling by the U.S. Supreme Court in *South Dakota v. Wayfair Inc, Overstock.com, Inc., and Newegg Inc.*, finding South Dakota 2016 Senate Bill No. 106 constitutional.

Proposed law repeals the contingent applicability provisions thereby giving the provisions of present law immediate applicability.

(Amends R.S. 47:302(W)(3) and (6), 339(A)(2), (B)(3), (5) through (8), 340(E)(3),(F), (G)(1), and (H)(1) and §2 of Act No. 5 of the 2018 2nd E.S.; Adds R.S.47:339(B)(9), 340(G)(6)(a) and (b), and (11), 340.1, and 1407(6))