

GREEN SHEET REDIGEST

HB 54

2016 First Extraordinary Session

Broadwater

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

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

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HB 54 Engrossed

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

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

Proposed law retains present law but provides that, every wholesale dealer who sells for resale to any person any tobacco or alcoholic beverage products, the retail sale of which is taxable, will collect as advance sales tax, a percent of the sales price of the article equal to the sales tax levied on the article.

Proposed law provides that for purposes of proposed law, wholesaler shall mean any wholesale dealer of tobacco products or any wholesale dealer of alcoholic beverage products.

Proposed law provides that the secretary of the Dept. of Revenue shall promulgate rules and regulations necessary to implement the provisions of the proposed law.

Proposed law provides that the amount paid by dealers to wholesalers shall be advance payment of the La. sales tax that the dealer is required to collect upon the sale at retail, and the advance payment is required only as a means of facilitating collection of the sales tax.

Proposed law provides that wholesalers who collect advance sales tax from a dealer will remit the tax to the collector of revenue in the manner provided in present law for dealers and according to the rules and regulations prescribed by the collector.

Proposed law provides that in making returns to the collector, dealers who have paid advance sales tax shall deduct from the total tax collected upon the retail sale of the tobacco or alcoholic beverage product the amount of advance sales tax paid by the dealer during the reporting period, provided the dealer claiming the refund or credit has retained the invoices evidencing the amount of tax paid. Further provides that if the amount of advance sales tax paid during any reporting period is greater than the tax collected by the dealer for the reporting period, the excess amount paid will be allowed as a refund or credit against the tax collected by the dealer during the succeeding period or periods.

Proposed law provides that wholesalers collecting advance sales taxes will be allowed a 0.935% deduction from the amount of advance sales tax collected and remitted to the secretary as compensation for the collection. This compensation will be allowed only if the payment of the wholesaler is timely paid and the return is timely filed.

Proposed law provides that parishes, municipalities, school boards, and other local governing authorities that levy a sales tax are prohibited from requiring manufacturers, wholesalers, jobbers, or suppliers to collect advance local sales taxes from dealers.

Proposed law provides that absorption of the tax by any wholesaler will constitute a misdemeanor and, upon conviction, will be punishable by a fine of not more than \$2K, or by imprisonment in the parish jail for not more than two years, or both.

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

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

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

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

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

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

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

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

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

#### Summary of Amendments Adopted by House

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

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

7. Exempt any agency, department, or instrumentality of the U.S. government or any agency, department, institution, instrumentality, or political subdivision of the state from the provisions of proposed law.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the engrossed bill

1. Adds provisions for the collection of advance sales taxes from wholesalers who are dealers of tobacco products or alcoholic beverages.