

2023 Regular Session

HOUSE BILL NO. 642

BY REPRESENTATIVE JENKINS

TAX/SALES & USE: Provides relative to sales and use taxation of certain digital products and services

1 AN ACT

2 To amend and reenact R.S. 47:301(3)(a), (b), and (i)(ii)(aa)(I)(aaa), (4)(introductory

3 paragraph), (a) through (e), (h), and (i), (5), (7)(a), (g), and (i), (8)(b), (9), (10)(a)(i),

4 (ii), and (iii), (c)(ii)(bb), (j), (q)(i), (r), (s), (u), (ff), and (hh), (12), (13)(a), (14)(h),

5 (i), (j), and (k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix), 302(A), (B),

6 (D), (K)(1) and (2), (U), (V)(1)(introductory paragraph), (a), and (b)(introductory

7 paragraph) and (i), (BB)(13), (17), (25), (27), (30), (33), (56), (66), (81), (109), and

8 (113), and (CC), 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(c) and (2)(b),

9 304(B), 305(E), 305.10(A), (C)(introductory paragraph), (1), (2)(a), (b), and (c), and

10 (3), (D), and (E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 305.54(B) and (C)(1),

11 306.5(A)(1) and (2)(c), 307(A), (B), and (C), 309(A)(1), 309.1(B)(1) and (2)(a) and

12 (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c),

13 321(A), (B), (P)(9), (17), (23), (25), (27), (30), (56), (66), (81), (109), and (114), and

14 (Q), 321.1(A), (B), (I)(13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109),

15 and (114), and (J), 331(A), (B), (V)(13), (17), (23), (25), (27), (30), (33), (56), (66),

16 (81), (109), and (114), and (W), and 340.1(A)(3) and (5) and R.S. 51:1286(B), to

17 enact R.S. 47:301(10)(c)(ii)(cc), (jj), and (kk), (14)(l), (32), (33), and (34), and

18 301.3, and to repeal R.S. 47:301(16)(h) and (p) and 23, relative to sales and use

19 taxation of certain digital products and services; to provide for the levy of sales and

20 use taxes on certain digital products and services; to provide for the rates of the

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

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:301(3)(a), (b), and (i)(ii)(aa)(I)(aaa), (4)(introductory paragraph),  
9 (a) through (e), (h), (i), and (j), (5), (7)(a), (g), and (i), (8)(a) and (b), (9), (10)(a)(i), (ii), and  
10 (iii), (c)(ii)(bb), (j), (q)(i), (r), (s), (u), (ff), and (hh), (12), (13)(a), (14)(h), (i), (j), and (k),  
11 (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix), 302(A), (B), (D), (K)(1) and (2), (U),  
12 (V)(1)(introductory paragraph), (a), and (b)(introductory paragraph) and (i), (BB)(13), (17),  
13 (25), (27), (30), (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a) and  
14 (G), 303.1(A) and (B)(1)(c) and (2)(b), 304(B), 305(E), 305.10(A), (C)(introductory  
15 paragraph), (1), (2)(a), (b), and (c), and (3), (D), and (E), 305.14(A)(1)(a) and (5), 305.38,  
16 305.53(A), 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c), 307(A), (B), and (C), 309(A)(1),  
17 309.1(B)(1) and (2)(a) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A),  
18 (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (17), (23), (25), (27), (30), (56), (66), (81), (109),  
19 and (114), and (Q), 321.1(A), (B), (D)(13), (17), (23), (25), (27), (30), (33), (56), (66), (81),  
20 (109), and (114), and (J), 331(A), (B), (V)(13), (17), (23), (25), (27), (30), (33), (56), (66),  
21 (81), (109), and (114), and (W), and 340.1(A)(3) and (5) and R.S. 51:1286(B) are hereby  
22 amended and reenacted and R.S. 47:301(10)(c)(ii)(cc), (jj), and (kk), (14)(l), (32), (33), and  
23 (34), and 301.3 are hereby enacted to read as follows:

24 §301. Definitions

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

28 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.







1 \* \* \*

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

5 \* \* \*

6 (7)(a) "Lease or rental" means the leasing or renting of tangible personal  
7 property or digital products and the possession or use thereof by the lessee or renter,  
8 for a consideration, without transfer of the title of such property. For the purpose of  
9 the leasing or renting of automobiles, "lease" means the leasing of automobiles and  
10 the possession or use thereof by the lessee, for a consideration, without the transfer  
11 of the title of such property for a one hundred eighty-day period or more. "Rental"  
12 means the renting of automobiles and the possession or use thereof by the renter, for  
13 a consideration, without the transfer of the title of such property for a period less  
14 than one hundred eighty days.

15 \* \* \*

16 (g) For purposes of state and political subdivision sales and use tax, "lease  
17 or rental" shall not mean the lease or rental of tangible personal property or digital  
18 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is  
19 used by such organizations for their educational and public service programs for  
20 youth.

21 \* \* \*

22 (i) For purposes of sales and use taxes levied and imposed by local  
23 governmental subdivisions, school boards, and other political subdivisions whose  
24 boundaries are not coterminous with those of the state, "lease or rental" by a person  
25 shall not mean or include the lease or rental of tangible personal property or digital  
26 products if such lease or rental is made under the provisions of Medicare.

27 \* \* \*

28 (8)

29 \* \* \*

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

9 \* \* \*

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

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

23 (ii) Solely for purposes of the imposition of the sales and use tax levied by  
 24 a political subdivision or school board, "retail sale" or "sale at retail" shall mean a  
 25 sale to a consumer or to any other person for any purpose other than for resale in the  
 26 form of tangible personal property or digital product, or resale of those services  
 27 defined in Paragraph (14) of this Section provided the retail sale of the service is  
 28 subject to sales tax in this state, and shall mean and include all such transactions as  
 29 the collector, upon investigation, finds to be in lieu of sales; provided that sales for

1 resale be made in strict compliance with the rules and regulations. Any dealer  
2 making a sale for resale, which is not in strict compliance with the rules and  
3 regulations shall himself be liable for and pay the tax. A local collector shall accept  
4 a resale certificate issued by the Department of Revenue, provided the taxpayer  
5 includes the parish of its principal place of business and local sales tax account  
6 number on the state certificate. However, in the case of an intra-parish transaction  
7 from dealer to dealer, the collector may require that the local exemption certificate  
8 be used in lieu of the state certificate. The department shall accommodate the  
9 inclusion of such information on its resale certificate for such purposes.

10 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes  
11 imposed by the state on transactions involving the sale for rental of automobiles  
12 which take place on or after January 1, 1991, and by political subdivisions on such  
13 transactions on or after July 1, 1996, and state sales and use taxes imposed on  
14 transactions involving the lease or rental of tangible personal property or digital  
15 products other than automobiles which take place on or after July 1, 1991, means a  
16 sale to a consumer or to any other person for any purpose other than for resale as  
17 tangible personal property or digital product, or for lease or rental in an arm's length  
18 transaction in the form of tangible personal property or digital product, and shall  
19 mean and include all such transactions as the secretary, upon investigation, finds to  
20 be in lieu of sales; provided that sales for resale or for lease or rental in an arm's  
21 length transaction must be made in strict compliance with the rules and regulations.  
22 Any dealer making a sale for resale or for lease or rental, which is not in strict  
23 compliance with the rules and regulations, shall himself be liable for and pay the tax.  
24 For purposes of the imposition of the tax imposed by any political subdivision of the  
25 state, for the period beginning on July 1, 1999, and ending on June 30, 2000, the  
26 term "retail sale" or "sale at retail" shall not include one-fourth of the sales price of  
27 any tangible personal property which is sold in order to be leased or rented in an  
28 arm's length transaction in the form of tangible personal property. For purposes of  
29 the imposition of the tax imposed by any political subdivision of the state, for the

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

\* \* \*

(c)

\* \* \*

(ii)

\* \* \*

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

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

\* \* \*

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

3 \* \* \*

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

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

15 \* \* \*

16 (r) For purposes of state and political subdivision sales and use tax, the term  
17 "sale at retail" shall not include the sale of tangible personal property or digital  
18 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is  
19 used by such organizations for their educational and public service programs for  
20 youth.

21 (s) The term "sale at retail" or "retail sale", for purposes of sales and use  
22 taxes imposed by the state or any political subdivision or other taxing entity, shall  
23 not include any charge, fee, money, or other consideration received, given, or paid  
24 for the performance of funeral directing services. For purposes of this Subparagraph,  
25 "funeral directing services" means the operation of a funeral home, or by way of  
26 illustration and not limitation, any service whatsoever connected with the  
27 management of funerals, or the supervision of hearses or funeral cars, the cleaning  
28 or dressing of dead human bodies for burial, and the performance or supervision of  
29 any service or act connected with the management of funerals from time of death



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

\* \* \*

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

(kk) Solely for purposes of the sales and use tax levied by the State, with respect to digital products, the term "sale at retail" does not include the sale of audio or video programing by a radio or television broadcaster. The term "sale at retail" does include programming, sold by a radio or television broadcaster, that is sold on a pay per program basis or that allows the buyer to access a library of programs at any time for a specific charge for that service. For purposes of this Subparagraph, "radio or television broadcaster" includes, but is not limited to, satellite radio providers, satellite television providers, cable television providers and providers of subscription internet television. In the event a radio or television broadcaster provides a nontaxable good or service along with a taxable good or service, the entire purchase is subject to state sales and use tax, regardless of whether or not such items are separately stated and invoiced.

\* \* \*

(12)(a) "Sale" means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property or digital products, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal

1 property. A transaction whereby the possession of property is transferred but the  
2 seller retains title as security for the payment of the price shall be deemed a sale.

3 (b) With respect to digital products, "sale" means the first act within this  
4 state by which the taxpayer, as a consumer, views, accesses, downloads, possesses,  
5 stores, opens, manipulates, or otherwise uses or enjoys the product.

6 (c) With respect to a digital automated service, "sale" means the first act  
7 within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise  
8 receives the benefit of the service.

9 (13)(a) "Sales price" means the total amount for which tangible personal  
10 property ~~is~~ or digital products are sold, less the market value of any article traded in  
11 including any services, except services for financing, that are a part of the sale valued  
12 in money, whether paid in money or otherwise, and includes the cost of materials  
13 used, labor or service costs, except costs for financing which shall not exceed the  
14 legal interest rate and a service charge not to exceed six percent of the amount  
15 financed, and losses; provided that cash discounts allowed and taken on sales shall  
16 not be included, nor shall the sales price include the amount charged for labor or  
17 services rendered in installing, applying, remodeling, or repairing property sold.

18 \* \* \*

19 (14) "Sales of services" means and includes the following:

20 \* \* \*

21 (h)(i) The furnishing of a digital automated service. For purposes of this  
22 Subparagraph, "digital automated service" means any service transferred  
23 electronically that uses one or more software applications either prewritten or  
24 custom, as well as components that are similar to stand-alone digital products.

25 (ii) "Digital automated service" does not include any of the following:

26 (aa) Any service that primarily involves the application of human effort, and  
27 the human effort originated after the customer requested the service.

28 (bb) The loaning or transferring of money or the purchase, sale, or transfer  
29 of financial instruments. For purposes of this Subparagraph, "financial instruments"

1 includes cash, accounts receivable and payable, loans and notes receivable and  
2 payable, debt securities, equity securities, as well as derivative contracts such as  
3 forward contracts, swap contracts, and options.

4 (cc) Dispensing cash or other physical items from a machine.

5 (dd) Payment processing services.

6 (ee) Pari-mutuel wagering or fantasy sports betting.

7 (ff) Telecommunications services and ancillary services as those terms are  
8 defined in Subparagraphs (29)(b) and (x) of this Section.

9 (gg) Internet access service charges.

10 (hh) Online educational programs provided by any of the following:

11 (I) A public or private elementary or secondary school.

12 (II) An institution of higher education as defined in sections 1001 or 1002  
13 of the federal higher education act of 1965 (20 U.S.C. 1001 and 1002), as existing  
14 on July 1, 2009, if the online educational program is encompassed within the  
15 institution's accreditation.

16 (ii) Travel agent services, including online travel services, and automated  
17 systems used by travel agents to book reservations.

18 (jj) Live presentations, such as lectures, seminars, workshops, or courses,  
19 where participants are connected to other participants via the internet or  
20 telecommunications equipment, which allows audience members and the presenter  
21 or instructor to give, receive, and discuss information with each other in real time.

22 (kk) A service that allows the person receiving the service to make online  
23 sales of products or services, digital or otherwise, using the service provider's  
24 website. The service described in this Subitem does not include the underlying sale  
25 of the products or services, digital or otherwise, by the person receiving the service.

26 (ll) Advertising services. For purposes of this Subparagraph, "advertising  
27 services" means all services directly related to the creation, preparation, production,  
28 or the dissemination of advertisements. "Advertising services" includes layout, art  
29 direction, graphic design, mechanical preparation, production supervision,

1 placement, and rendering advice to a client concerning the best methods of  
2 advertising that client's products or services. "Advertising services" also includes  
3 online referrals, search engine marketing and lead generation optimization, web  
4 campaign planning, the acquisition of advertising space in the internet media, and  
5 the monitoring and evaluation of website traffic for purposes of determining the  
6 effectiveness of an advertising campaign. "Advertising services" does not include  
7 web hosting services and domain name registration.

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

11 ~~(j)~~ (j) Solely for purposes of the sales and use tax levied by the state, the  
12 furnishing of telecommunications services for compensation, in accordance with the  
13 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying  
14 a sales and use tax on telecommunications services not in effect on July 1, 1990,  
15 provided, however, that the provisions of this Subparagraph shall not be construed  
16 to prohibit the levy or collection of any franchise, excise, gross receipts, or similar  
17 tax or assessment by any political subdivision of the state as defined in Article VI,  
18 Section 44(2) of the Constitution of Louisiana.

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

25 ~~(l)~~ (l) Solely for purposes of sales and use tax imposed by the state under  
26 R.S. 47:302, 321, and 331, any political subdivision whose boundaries are  
27 coterminous with those of the state, or any other political subdivision, the term "sales  
28 of services" shall not mean or include admission charges for, outside gate admissions  
29 to, or parking fees associated with an event providing Louisiana heritage, culture,

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

11 (15) "Storage" means and includes any keeping or retention in the taxing  
 12 jurisdiction of tangible personal property or digital products for use or consumption  
 13 within the taxing jurisdiction or for any purpose other than for sale at retail in the  
 14 regular course of business.

15 \* \* \*

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

27 (ii) For purposes of the imposition of the sales and use tax levied by a  
 28 political subdivision or school board, "use" shall mean and include the exercise of  
 29 any right or power over tangible personal property or digital products incident to the

1 ownership thereof, except that it shall not include the sale at retail of that property  
2 in the regular course of business or the donation to a school in the state which meets  
3 the definition provided in R.S. 17:236 or to a public or recognized independent  
4 institution of higher education in the state of property previously purchased for resale  
5 in the regular course of a business. The term "use" shall not include the donation of  
6 food items to a food bank as defined in R.S. 9:2799(B).

7 (iii) The term "use", for purposes of sales and use taxes imposed by the state  
8 on the use for rental of automobiles which take place on or after January 1, 1991, and  
9 by political subdivisions on such use on or after July 1, 1996, and state sales and use  
10 taxes imposed on the use for lease or rental of tangible personal property or digital  
11 products other than automobiles which take place on or after July 1, 1991, shall not  
12 include the purchase, the importation, the consumption, the distribution, or the  
13 storage of tangible personal property or digital products to be leased or rented in an  
14 arm's length transaction as tangible personal property or digital products. For  
15 purposes of the imposition of the tax levied by any political subdivision of the state,  
16 for the period beginning July 1, 1999, and ending on June 30, 2000, the term "use"  
17 shall not include one-fourth of the cost price of any tangible personal property which  
18 is purchased, imported, consumed, distributed, or stored and which is to be leased  
19 or rented in an arm's length transaction in the form of tangible personal property.  
20 For purposes of the imposition of the tax levied by any political subdivision of the  
21 state, for the period beginning July 1, 2000, and ending on June 30, 2001, the term  
22 "use" shall not include one-half of the cost price of any tangible personal property  
23 which is purchased, imported, consumed, distributed, or stored and which is to be  
24 leased or rented in an arm's length transaction in the form of tangible personal  
25 property. For purposes of the imposition of the tax levied by any political  
26 subdivision of the state, for the period beginning July 1, 2001, and ending on June  
27 30, 2002, the term "use" shall not include three-fourths of the cost price of any  
28 tangible personal property which is purchased, imported, consumed, distributed, or  
29 stored and which is to be leased or rented in an arm's length transaction in the form

1 of tangible personal property. Beginning July 1, 2002, for purposes of the imposition  
2 of the tax levied by any political subdivision of the state, the term "use" shall not  
3 include the purchase, the importation, the consumption, the distribution, or the  
4 storage of any tangible personal property which is to be leased or rented in an arm's  
5 length transaction in the form of tangible personal property.

6 (iv) The term "use", for purposes of sales and use taxes imposed by the state  
7 on the use for rental automobiles which take place prior to January 1, 1991, and by  
8 political subdivisions on such use prior to July 1, 1996, and imposed on the use for  
9 lease or rental of tangible personal property other than automobiles which take place  
10 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political  
11 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall  
12 include the purchase, the importation, the consumption, the distribution, or the  
13 storage of tangible personal property or digital products to be leased or rented in an  
14 arm's length transaction as tangible personal property or digital products.

15 (v) The term "use" for purposes of sales and use tax imposed by the state on  
16 digital products, including digital automated services, applies to the first act within  
17 this state by which the taxpayer, as a consumer, views, accesses, downloads,  
18 possesses, stores, opens, manipulates or otherwise enjoys, uses or receives the  
19 benefits of the digital product or digital automated services. "Use" includes access  
20 and use of digital products that remain in the possession of the dealer or in the  
21 possession of a third party on behalf of the dealer

22 \* \* \*

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

29 \* \* \*

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

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

10 (ii) Educational materials or equipment used for classroom instruction by  
11 approved parochial and private elementary and secondary schools which comply  
12 with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the  
13 Internal Revenue Code, limited to books, workbooks, computers, computer software,  
14 films, videos, and audio tapes, including when these items are transferred  
15 electronically.

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

20 \* \* \*

21 (19) "Use tax" includes the use, the consumption, the distribution, and the  
22 storage as herein defined. No use tax shall be due to or collected by:

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

27 (b) Any political subdivision on tangible personal property or digital  
28 products used, consumed, distributed, or stored for use or consumption in such  
29 political subdivision if the sale of such property would have been exempted or

1 excluded from sales tax at the time such property became subject to the taxing  
2 jurisdiction of the political subdivision.

3 \* \* \*

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

8 \* \* \*

9 (x) "Telecommunications service" means the electronic transmission,  
10 conveyance, or routing of voice, data, audio, video, or any other information or  
11 signals to a point, or between or among points. "Telecommunications service"  
12 includes such transmission, conveyance, or routing in which computer processing  
13 applications are used to act on the form, code, or protocol of the content for purposes  
14 of transmission, conveyance, or routing without regard to whether such service is  
15 referred to as voice over Internet protocol service or is classified by the Federal  
16 Communications Commission as an enhanced or value-added service.  
17 "Telecommunications service" does not include any of the following:

18 \* \* \*

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

21 \* \* \*

22 (32) "Digital code" means a code that permits a purchaser to obtain at a later  
23 date one or more digital products, if all of the digital products to be obtained through  
24 the use of the code have the same sales and use tax treatment. "Digital code" does  
25 not include a code that represents a stored monetary value that is deducted from a  
26 total as it is used by the purchaser. "Digital code" also does not include a code that  
27 represents a redeemable card, gift card, or gift certificate that entitles the holder to  
28 select digital products of an indicated cash value. A digital code may be obtained by

1 any means, including e-mail or by tangible means regardless of its designation as  
2 song code, video code, book code, or some other term.

3 (33)(a) "Digital product" means a product that is transferred electronically or  
4 delivered by means other than tangible storage media through the use of technology  
5 having electrical, digital, magnetic, wireless, optical or electromagnetic, or similar  
6 capabilities.

7 (b) "Digital product" includes, but is not limited to, all of the following:

8 (i) Sounds, images, data, facts, or information, or any combination thereof.

9 (ii) Computer software as defined in Paragraph (22) of this Section.

10 (iii) Charges made to customers for the right to access and use prewritten  
11 computer software, where possession of the software is maintained by the seller or  
12 a third party regardless of whether the charge for the service is on a per use, per user,  
13 per license, subscription or some other basis.

14 (iv) Digital codes.

15 (c) "Digital product" does 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 professional service, as described in R.S.  
22 Subparagraph (16)(e) of this Section, in an electronic form, such as an electronic  
23 copy of an engineering report prepared by an engineer that primarily involves the  
24 application of human effort, and the human effort originated after the customer  
25 requested the service.

26 (v) Subscription sales of magazines or periodicals transferred electronically  
27 to the buyer.

28 (vi) Newspapers transferred electronically if the exclusion in Subparagraph  
29 (16)(p) of this Section is in effect.

1           (d) For purposes of this Section, the term "permanent use" means use that  
2           is perpetual or for an indefinite or unspecified length of time.

3           (e)(i) For the purposes of this Section, "end user" means any purchaser other  
4           than a purchaser who receives by contract a digital product for further commercial  
5           broadcast, rebroadcast, transmission, retransmission, licensing, relicensing,  
6           distribution, redistribution or exhibition of the product, in whole or in part, to others.  
7           A person that purchases digital products for the purpose of giving away such  
8           products or codes will not be considered to have engaged in the distribution or  
9           redistribution of such products or codes and will be treated as an end user.

10           (ii) If a purchaser of a digital product does not receive the contractual right  
11           to further redistribute, after the digital code is redeemed, the underlying product to  
12           which the digital code relates, then the purchaser of the digital code is an end user.  
13           If the purchaser of the digital code receives the contractual right to further  
14           redistribute, after the digital code is redeemed, the underlying product to which the  
15           digital code relates, then the purchaser of the digital code is not an end user. A  
16           purchaser of a digital code who has the contractual right to further redistribute the  
17           digital code is an end user if that purchaser does not have the right to further  
18           redistribute, after the digital code is redeemed, the underlying product to which the  
19           digital code relates.

20           (f) The sale of a digital code that may be utilized to obtain a digital product  
21           shall be taxed in the same manner as the digital product.

22           (g) For purposes of taxes imposed under this Chapter or Chapter 2-A or 2-C  
23           of this Title, whenever the words "property" or "personal property" are used, those  
24           terms shall be construed to include any digital product unless any of the following  
25           applies:

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

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



1           (3) Nothing in this Subsection shall be construed as authorizing the refund  
2           of state sales and use taxes properly paid on the sale or use of digital products before  
3           July 1, 2023.

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

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

15           (3) A buyer claiming an exemption pursuant to this Subsection shall report  
16           and pay all state sales and use tax due directly to the department in accordance with  
17           R.S. 47:306(A).

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

26           (5) A business or other organization subject to use tax on digital products or  
27           services that are concurrently available for use within and outside this state is entitled  
28           to allocate the amount of tax due this state based on users in this state compared to  
29           users everywhere. Additionally, the department may authorize or require an

1 alternative method of allocation supported by the taxpayer's records that fairly  
2 reflects the proportion of in-state to out-of-state use by the taxpayer. No allocation  
3 is allowed pursuant to this Subsection unless the allocation method is supported by  
4 the taxpayer's records kept in the ordinary course of business.

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

10 (a) The transaction is deemed to be the sale of the products and services to  
11 be obtained through the use of the code.

12 (b) The state sales and use tax applies to the entire selling price of the code,  
13 except as provided in Paragraph (2) of this Subsection.

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

20 E. Sourcing for sales tax purposes. (1) Sales or leases of digital products or  
21 services are deemed to take place at the first of the following locations that applies  
22 to the transaction:

23 (a) The business location, in cases where the digital product or service is  
24 received by the buyer at a business location.

25 (b) If Subparagraph (a) of this Paragraph is not applicable, the location  
26 where receipt of the digital product or service takes place.

27 (c) If Subparagraph (a) or (b) of this Paragraph is not applicable, the location  
28 indicated by an address for the buyer that is available from the seller's business

1 records maintained in the ordinary course of business, so long as the address does not  
2 constitute bad faith.

3 (d) If Subparagraph (a), (b) or (c) of this Paragraph is not applicable, the  
4 location indicated by an address for the buyer obtained during the sale.

5 (e) If Subparagraph (a), (b), (c), or (d) of this Paragraph is not applicable or  
6 the seller is without sufficient information to apply those provisions, the location  
7 determined by the address from which the digital product or service was first  
8 available for transmission by the seller, or from which the digital service was  
9 provided.

10 (2) For purposes of Paragraph (1) of this Subsection, "receive" or "receipt"  
11 means:

12 (a) Making first use of a digital service; or

13 (b) Taking possession or making first use of a digital product, whichever  
14 occurs first.

15 F. Sourcing for use tax purposes. (1) Use of digital products means the  
16 location of the first act within this state by which the taxpayer, as a consumer, views,  
17 accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or  
18 enjoys a digital product.

19 (2) Use of a digital service means the location of the first act within this state  
20 by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit  
21 of the service.

22 G. Rules. The secretary may promulgate rules and regulations in accordance  
23 with the Administrative Procedure Act to implement the provisions of this Section,  
24 including rules addressing the taxation of any and all digital products and services.  
25 Any rule promulgated by the department shall be construed in favor of the secretary.

26 §302. Imposition of tax

27 A. There is hereby levied a tax upon the sale at retail, the use, the  
28 consumption, the distribution, and the storage for use or consumption in this state,

1 of each item or article of tangible personal property or digital product, as defined  
2 herein, the levy of said tax to be as follows:

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

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

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

14 (1) At the rate of two per centum (2%) of the gross proceeds derived from  
15 the lease or rental of tangible personal property or digital product, as defined herein,  
16 where the lease or rental of such property or products is an established business, or  
17 part of an established business, or the same is incidental or germane to the said  
18 business.

19 (2) At the rate of two per centum (2%) of the monthly lease or rental price  
20 paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the  
21 owner of the tangible personal property or digital product.

22 \* \* \*

23 D. Notwithstanding any other provision of law to the contrary, no sales or  
24 use tax of any taxing authority shall be levied on any advertising service rendered by  
25 an advertising business, including but not limited to advertising agencies, design  
26 firms, and print and broadcast media, or any member, agent, or employee thereof, to  
27 any client whether or not such service also involves a transfer to the client of tangible  
28 personal property or digital product. However, a transfer of mass-produced  
29 advertising items by an advertising business which manufactures the items itself to

1 a client for the client's use, which transfer involves the furnishing of minimal  
2 services other than manufacturing services by the advertising business shall be a  
3 taxable sale or use of tangible personal property; provided that in no event shall tax  
4 be levied on charges for creative services which are separately invoiced.

5 \* \* \*

6 K. An additional tax shall be levied as follows:

7 (1) At the rate of four percent of the sales price of each item or article of  
8 tangible personal property or digital product when sold at retail in this state; the tax  
9 to be computed on gross sales for the purpose of remitting the amount of tax due the  
10 state, and to include each and every retail sale.

11 (2) At the rate of four percent of the cost price of each item or article of  
12 tangible personal property or digital product when the same is not sold but is used,  
13 consumed, distributed, or stored for use or consumption in this state; provided there  
14 shall be no duplication of the tax.

15 \* \* \*

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

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

27 (a) Any person engaging in business in the taxing jurisdiction which shall  
28 mean the solicitation of business through an independent contractor or any other  
29 representative pursuant to an agreement with a Louisiana resident or business under

1           which the resident or business, for a commission, referral fee, or other consideration  
 2           of any kind, directly or indirectly, refers potential customers, whether by link on an  
 3           internet website, an in-person oral presentation, telemarketing, or otherwise to the  
 4           seller. If the cumulative gross receipts from sales of tangible personal property or  
 5           digital product to customers in this state who are referred to the person through such  
 6           an agreement exceeds fifty thousand dollars during the preceding twelve months, the  
 7           presumption regarding the status of that person as a dealer may be rebutted if the  
 8           person can demonstrate, to the satisfaction of the secretary, that he cannot reasonably  
 9           be expected to have gross receipts in excess of fifty thousand dollars for the  
 10          succeeding twelve months.

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

13   \*       \*       \*

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

19   \*       \*       \*

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

22   \*       \*       \*

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

25   \*       \*       \*

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

28   \*       \*       \*

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

4 \* \* \*

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

7 \* \* \*

8 (33) Credit for sales and use taxes paid to another state on tangible personal  
9 property or digital products imported in Louisiana as provided in R.S.  
10 47:303(A)(3)(a).

11 \* \* \*

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

15 \* \* \*

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

19 \* \* \*

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

24 \* \* \*

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

27 \* \* \*

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

1 \* \* \*

2 CC. The provisions of Subsection BB of this Section shall supersede and  
3 control to the extent of conflict with any other provision of law beginning July 1,  
4 2018, through June 30, 2025. Digital products will be taxed in the same manner as  
5 any complementary tangible personal property or service included in Subsection BB  
6 of this Section.

7 \* \* \*

8 §303. Collection

9 A. Collection from dealer.

10 \* \* \*

11 (2) On all tangible personal property or digital products imported, or caused  
12 to be imported, from other states or foreign countries, and used by him, the "dealer",  
13 as hereinafter defined, shall pay the tax imposed by this Chapter on all articles of  
14 tangible personal property or digital products so imported and used, the same as if  
15 the said articles had been sold at retail for use or consumption in this state. For the  
16 purposes of this Chapter, the use, or consumption, or distribution, or storage to be  
17 used or consumed in this state of tangible personal property or digital products, shall  
18 each be equivalent to a sale at retail, and the tax shall thereupon immediately levy  
19 and be collected in the manner provided herein, provided there shall be no  
20 duplication of the tax in any event.

21 (3)(a) A credit against the use tax imposed by this Chapter shall be granted  
22 to taxpayers who have paid a similar tax upon the sale or use of the same tangible  
23 personal property or digital products in another state. The credit provided herein  
24 shall be granted only in the case where the state to which a similar tax has been paid  
25 grants a similar credit as provided herein, provided that members of the armed forces  
26 who are citizens of this state and whose orders or enlistment contracts stipulate a  
27 period of active duty of two years or more and who purchase automobiles outside of  
28 the state of Louisiana while on such tour of active duty shall be granted such credit  
29 in connection with the purchase of such automobiles whether or not the state to



1 DP Number on the untaxed contract or invoice submitted to such purchaser and  
2 lessee.

3 B.(1) A DP Number shall be issued to and shall be continued to be held by  
4 a taxpayer who obtains the required approvals and who meets all of the qualifications  
5 provided for in this Section and the following qualifications:

6 \* \* \*

7 (c) The taxpayer has an annual average of five million dollars of taxable  
8 purchases or leases of tangible personal property, digital products, ~~and~~ or taxable  
9 services for three calendar years prior to the year of application by the taxpayer, and  
10 has such an average for each subsequent three-year period.

11 \* \* \*

12 (2)

13 \* \* \*

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

28 \* \* \*

29 §304. Treatment of tax by dealer

1 \* \* \*

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

6 \* \* \*

7 §305. Exclusions and exemptions from the tax

8 \* \* \*

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

27 \* \* \*

28 §305.10. Exclusions and exemptions; property purchase for first use outside the  
29 state



1 mercantile custom, treated as the equivalent of any other unit and shall include crude  
2 petroleum and its refined products.

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

8 (c) If the offshore registration number is revoked, all tangible personal  
9 property or digital products purchased or imported tax-free under this Paragraph and  
10 in the possession of the purchaser or importer within this state shall be deemed  
11 taxable unless otherwise exempt under the provisions of Paragraph (1) of this  
12 Subsection. If the provisions of Paragraph (1) of this Subsection are not complied  
13 with, any subsequent purchase or import of tangible personal property will be  
14 taxable, whether for instate or offshore use, until the certificate and offshore number  
15 are reissued.

16 \* \* \*

17 (3) Except for purchases or importation of tangible personal property or  
18 digital products in accordance with Paragraphs (1) and (2) of this Subsection, any  
19 purchase or importation of property is taxable at the time of purchase or import  
20 unless otherwise exempt.

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

27 E. If tangible personal property or digital products purchased within or  
28 imported into the state tax-free under the provisions of this Section ~~is~~ are later  
29 returned to Louisiana for use for a taxable purpose, the property shall be subject to

1 the Louisiana use tax as of the time it is brought into the state, subject to the credit  
2 provided in R.S. 47:303(A).

3 \* \* \*

4 §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;  
5 limitations; qualifications; newspapers; determination of tax exempt status

6 A.(1)(a) The sales and use taxes imposed by taxing authorities shall not  
7 apply to sales of tangible personal property or digital products at, or admission  
8 charges for, outside gate admissions to, or parking fees associated with, events  
9 sponsored by domestic, civic, educational, historical, charitable, fraternal, or  
10 religious organizations, which are nonprofit, when the entire proceeds, except for  
11 necessary expenses such as fees paid for guest speakers, chair and table rentals, and  
12 food and beverage utility related items connected therewith, are used for educational,  
13 charitable, religious, or historical restoration purposes, including the furtherance of  
14 the civic, educational, historical, charitable, fraternal, or religious purpose of the  
15 organization. In addition, newspapers published in this state by religious  
16 organizations shall also be exempt from such taxes, provided that the price paid for  
17 the newspaper or a subscription to the newspaper does not exceed the cost to publish  
18 such newspaper.

19 \* \* \*

20 (5) Notwithstanding any other provision of law to the contrary, for purposes  
21 of state and political subdivision sales and use tax, "sales and use" shall not mean the  
22 purchase of tangible personal property, digital products, or taxable services, by  
23 nonprofit literacy organizations in compliance with the court order from the Dodd  
24 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, limited to  
25 books, workbooks, computers, computer software, films, videos, and audio tapes.

26 \* \* \*

27 §305.38. Exclusions and exemptions; sheltered workshop or supported employment  
28 provider for persons with intellectual disabilities



1 to license and title. Consumer purchases shall not include the purchase of meals  
2 furnished for consumption on the premises where purchased, including to-go orders.

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

5 (1) Title to or possession of an item of tangible personal property or digital  
6 products is transferred from a selling dealer to a purchaser.

7 \* \* \*

8 §306.5. Annual reporting requirement

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

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

17 \* \* \*

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

21 \* \* \*

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

23 A. In the event any dealer fails to make a report and pay the tax as provided  
24 in this Chapter or in case the dealer makes a grossly incorrect report or a report that  
25 is false or fraudulent, the collector shall make an estimate of the retail sales of such  
26 dealer for the taxable period, of the gross proceeds from rentals or leases of tangible  
27 personal property by the dealer, or the cost price of all articles of tangible personal  
28 property or digital products imported by the dealer for use or consumption or  
29 distribution or storage to be used or consumed in this state, and of the gross amounts



1 and other pertinent records and papers as may be required by the secretary for the  
2 reasonable administration of this Chapter, and a complete record of all sales or  
3 purchases of services taxable under this Chapter until the taxes to which they relate  
4 have prescribed.

5 \* \* \*

6 §309.1. Sales in Louisiana of tangible personal property, digital products, and  
7 taxable services by a dealer or remote retailer; the provision of lists, notices,  
8 and statements by a dealer or remote retailer

9 \* \* \*

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

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

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

20 \* \* \*

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

26 \* \* \*

27 D. Annual statement submitted by remote retailer. By March first of each  
28 year a remote retailer who made retail sales of tangible personal property, digital  
29 products, or taxable services to Louisiana purchasers in the immediately preceding

1 calendar year shall file with the secretary an annual statement for each purchaser  
 2 which includes the total amount paid by the purchaser to that retailer in the  
 3 immediately preceding calendar year. Under no circumstances shall the statement  
 4 contain detail as to specific property or services purchased, but it shall include the  
 5 total amount paid. The statement shall be submitted on forms to be developed and  
 6 provided by the secretary. The secretary is authorized to require the electronic filing  
 7 of statements by a remote retailer who had sales in Louisiana in excess of one  
 8 hundred thousand dollars in the immediately preceding calendar year.

9 \* \* \*

10 §310. Wholesalers and jobbers required to keep records

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

18 \* \* \*

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

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



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

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

21 \* \* \*

22 §315.3. Sales tax refund; sales and rentals covered by Medicare

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

1 of Medicare, the secretary and the appropriate taxing authorities shall make a refund  
2 to such person in the amount to which he is entitled.

3 \* \* \*

4 §315.5. Sales tax refund; nonprofits employing or training persons with workplace  
5 disabilities or disadvantages

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

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

16 \* \* \*

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

19 \* \* \*

20 C.(1)

21 \* \* \*

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

27 \* \* \*

28 §321. Imposition of tax

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

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

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

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

23          (1) At the rate of one percent of the gross proceeds derived from the lease  
24          or rental of tangible personal property or digital product, as defined in Chapter 2 of  
25          Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, where the lease or  
26          rental of such property or product is in an established business, or part of an  
27          established business, or the same is incidental or germane to the business.

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

4 \* \* \*

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

10 \* \* \*

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

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

19 \* \* \*

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

22 \* \* \*

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

26 \* \* \*

27 (30) An article traded in on the purchase of tangible personal property and  
28 digital products as provided in R.S. 47:301(13)(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 Q. The provisions of Subsection P of this Section shall supersede and control  
21 to the extent of conflict with any other provision of law beginning July 1, 2018,  
22 through June 30, 2025. Digital products will be taxed in the same manner as any  
23 complementary tangible personal property or service included in Subsection P of this  
24 Section.

25 §321.1. Imposition of tax

26 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331(A) and  
27 collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied an  
28 additional tax upon the sale at retail, the use, the consumption, the distribution, and  
29 the storage for use or consumption in this state of each item or article of tangible

1 personal property or digital product as defined in Chapter 2 of this Subtitle. The levy  
2 of said tax shall be as follows:

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

7 (2) At the rate of forty-five hundredths of one percent of the cost price of  
8 each item or article of tangible personal property or digital product when the same  
9 is not sold but is used, consumed, distributed, or stored for use or consumption in this  
10 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 331(B) and  
12 collected under the provisions of Chapter 2 of this Subtitle, there is hereby levied a  
13 tax upon the lease or rental within this state of each item or article of tangible  
14 personal property or digital product, as defined by Chapter 2 of this Subtitle; the levy  
15 of the tax to be as follows:

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

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

24 \* \* \*

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

1 \* \* \*

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

4 \* \* \*

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

7 \* \* \*

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

10 \* \* \*

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

13 \* \* \*

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

17 \* \* \*

18 (30) An article traded in on the purchase of tangible personal property and  
19 digital products as provided in R.S. 47:301(13)(a).

20 \* \* \*

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

24 \* \* \*

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

28 \* \* \*

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

4 \* \* \*

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

9 \* \* \*

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

12 \* \* \*

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

15 \* \* \*

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

21 \* \* \*

22 §331. Imposition of tax

23 A. In addition to the tax levied by R.S. 47:302(A) and collected under the  
24 provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes  
25 of 1950, there is hereby levied an additional tax upon the sale at retail, the use, the  
26 consumption, the distribution, and the storage for use or consumption in this state of  
27 each item or article of tangible personal property or digital product, as defined in  
28 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the  
29 levy of said tax to be as follows:

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

5 (2) At the rate of ninety-seven one hundredths of one percentum of the cost  
6 price of each item or article of tangible personal property or digital product when the  
7 same is not sold but is used, consumed, distributed, or stored for use or consumption  
8 in this 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) and collected under the  
10 provisions of Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes  
11 of 1950, there is hereby levied a tax upon the lease or rental within this state of each  
12 item or article of tangible personal property or digital product, as defined by said  
13 Chapter 2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950; the  
14 levy of said tax to be as follows:

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

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

25 \* \* \*

26 V. Notwithstanding any other provision of law to the contrary, including but  
27 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,  
28 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                   (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 and  
21                  digital products 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).

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

22 \* \* \*

23 §340.1. Marketplace facilitators; collection and remittance of state and local sales  
24 and use tax

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

28 \* \* \*

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

5 \* \* \*

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

10 \* \* \*

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

12 §1286. Sales and use tax

13 \* \* \*

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

23 \* \* \*

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

25 Section 4. This Act shall become effective on July 1, 2023; if vetoed by the governor  
26 and subsequently approved by the legislature, this Act shall become effective on July 1,  
27 2023, or on the day following such approval by the legislature, whichever is later.

---

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 642 Original

2023 Regular Session

Jenkins

**Abstract:** Provides for the levy of sales and use taxes on certain digital products, provides for administration of sales and use taxes, and provides for exclusions and exemptions from sales and use taxes.

Present law imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property and on sales of services pursuant to the following levies in the following amounts:

- R.S. 47:302 - 2%
- R.S. 47:321 - 1%
- R.S. 47:321.1 - .45%
- R.S. 47:331 - .97%
- R.S. 51:1286 - .03%

Proposed law adds digital products to the tax levies. Defines "digital product" as a product that is transferred electronically or delivered by means other than tangible storage media through the use of technology having electrical, digital, magnetic, wireless, optical or electromagnetic, or similar capabilities.

Proposed law provides that "digital product" includes, but is not limited to, all of the following:

- (1) Sounds, images, data, facts, or information, or any combination of these.
- (2) Computer software as defined in present law and proposed law.
- (3) Charges made to customers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party regardless of whether the charge for the service is on a per use, per user, per license, subscription or some other basis.
- (4) Digital codes (as defined in proposed law).

Proposed law provides that "digital product" does not include any of the following:

- (1) Any intangible such as a patent, stock, bond, goodwill, trademark, franchise, or copyright.
- (2) Telecommunications services and ancillary services as those terms are defined in present law and proposed law.
- (3) Internet access service charges.
- (4) The representation of a professional service, as described in present law, in an electronic form, such as an electronic copy of an engineering report prepared by an engineer that primarily involves the application of human effort, and the human effort originated after the customer requested the service.
- (5) Subscription sales of magazines or periodicals transferred electronically to the buyer.

- (6) Newspapers transferred electronically if the exclusion in present law is in effect.

Present law defines "sales of services" for purposes of sales and use taxes. Proposed law retains present law and additionally provides that "sales of services" includes the furnishing of a digital automated service. Defines "digital automated service" as any service transferred electronically that uses one or more software applications either prewritten or custom, as well as components that are similar to stand-alone digital products.

Proposed law provides that "digital automated service" does not include any of the following:

- (1) Any service that primarily involves the application of human effort, and the human effort originated after the customer requested the service.
- (2) The loaning or transferring of money or the purchase, sale, or transfer of financial instruments. "Financial instruments" includes cash, accounts receivable and payable, loans and notes receivable and payable, debt securities, equity securities, as well as derivative contracts such as forward contracts, swap contracts, and options.
- (3) Dispensing cash or other physical items from a machine.
- (4) Payment processing services.
- (5) Pari-mutuel wagering or fantasy sports betting.
- (6) Telecommunications services and ancillary services as those terms are defined in present law and proposed law.
- (7) Internet access service charges.
- (8) Online educational programs provided by any of the following:
  - (a) A public or private elementary or secondary school.
  - (b) An institution of higher education as defined in present federal law (20 U.S.C. 1001 and 1002), as existing on July 1, 2009, if the online educational program is encompassed within the institution's accreditation.
- (9) Travel agent services, including online travel services, and automated systems used by travel agents to book reservations.
- (10) Live presentations, such as lectures, seminars, workshops, or courses, where participants are connected to other participants via the internet or telecommunications equipment, which allows audience members and the presenter or instructor to give, receive, and discuss information with each other in real time.
- (11) A service that allows the person receiving the service to make online sales of products or services, digital or otherwise, using the service provider's website.
- (12) Advertising services. Defines "advertising services" to mean all services directly related to the creation, preparation, production, or the dissemination of advertisements. Provides that "advertising services" includes layout, art direction, graphic design, mechanical preparation, production supervision, placement, and rendering advice to a client concerning the best methods of advertising that client's products or services. "Advertising services" also includes online referrals, search engine marketing and lead generation optimization, web campaign planning, the acquisition of advertising space in the internet media, and the monitoring and evaluation of website traffic for purposes of determining the effectiveness of an

advertising campaign. "Advertising services" does not include web hosting services and domain name registration.

Present law provides additional definitions applicable to sales and use taxes. Proposed law amends various definitions including "cost price", "dealer", "gross sales", "lease or rental", "purchaser", "retail sale", and "sales price" to include digital products.

Proposed law provides that for purposes of taxes imposed under present law (Chapter 2, 2-A or 2-C of Title 47), whenever the words "property" or "personal property" are used, those terms shall be construed to include any digital product unless:

- (1) It is clear from the context that the term "personal property" is intended to refer only to tangible personal property.
- (2) It is clear from the context that the term "property" is intended to refer only to tangible personal property, real property, or both.
- (3) To construe the term "property" or "personal property" as including any digital product would yield unlikely, absurd, or strained consequences.

Proposed law provides that for purposes of the taxes imposed in present law and proposed law, the Dept. of Revenue may not consider a person's ownership of, or rights in digital products residing on servers located in this state in determining whether the person has substantial nexus with this state. "Substantial nexus" means the requisite connection that a person has with a state to allow the state to subject the person to the state's taxing authority, consistent with the commerce clause of the U.S. Constitution

Proposed law provides that purchasers of digital products shall amnesty for failing to collect or pay state sales and use taxes accrued before July 1, 2023 on the sale or use of digital products. However, amnesty does not apply in cases where state sales taxes were collected from buyers but these taxes were not remitted to the department.

Proposed law provides that it shall not be construed as authorizing the refund of state sales and use taxes properly paid on the sale or use of digital products before July 1, 2023

Proposed law provides for applicability of proposed law relative to multiple points of use and bundled transactions and for sourcing for use tax purposes.

Proposed law authorizes the secretary of the Dept. of Revenue to promulgate rules and regulations in accordance with present law (Administrative Procedure Act) to implement the provisions of proposed law, including rules addressing the taxation of any and all digital products and services. Provides that any rule promulgated by the department shall be construed in favor of the secretary.

Present law provides for various exclusions and exemptions for sales and use taxes. Proposed law amends present law to include digital products in certain exclusions and exemptions, including those relative to sales, leases, or rentals of tangible personal property or digital products paid by or under the provisions of Medicare; tangible personal property or digital products that are sold or donated to a food bank; tangible personal property or digital products for resale as provided in present law (R.S. 47:301(10)(a)(i)); isolated or occasional sales of tangible personal property or digital products by a person not engaged in such business; an article traded in on the purchase of tangible personal property or digital product; credit for sales and use taxes paid to another state on tangible personal property or digital products imported in La.; transactions in interstate commerce and tangible personal property or digital products imported into this state, or produced or manufactured in this state, for export; sales, leases, and rentals of tangible personal property or digital products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc.; sales of admissions, parking fees, and sales of tangible personal property or digital products at events sponsored

by domestic, civic, educational, historical, charitable, fraternal, or religious nonprofit organizations; sales of tangible personal property or digital products and services at certain public facilities; and purchases of tangible personal property or digital products pursuant to the sales tax holiday as provided in present law (R.S. 47:305.74). Requires that digital products to be taxed in the same manner as any complementary tangible personal property or service included in present law.

Effective July 1, 2023.

(Amends R.S. 47:301(3)(a), (b), and (i)(ii)(aa)(I)(aaa), (4)(intro. para.), (a) through (e), (h), and (i), (5), (7)(a), (g), and (i), (8)(b), (9), (10)(a)(i), (ii), and (iii), (c)(ii)(bb), (j), (q)(i), (r), (s), (u), (ff), and (hh), (12), (13)(a), (14)(h), (i), (j), and (k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(intro. para.), (a), and (b)(intro. para.), (BB)(13), (17), (25), (27), (30), (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(c) and (2)(b), 304(B), 305(E), 305.10(A), (C)(intro. para.), (1), (2)(a), (b), and (c), and (3), (D), and (E), 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), 307(A), (B), and (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (17), (23), (25), (27), (30), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W), and 340.1(A)(3) and (5) and R.S. 51:1286(B); Adds R.S. 47:301(10)(c)(ii)(cc), (jj), and (kk), (14)(l), (32), (33), and (34), and 301.3; Repeals R.S. 47:301(16)(h) and (p) and (23))