

2024 Third Extraordinary Session

HOUSE BILL NO. 8

BY REPRESENTATIVE BRASS

TAX/SALES & USE: Levies sales and use taxes on certain digital products and services  
(Items #8 and 13)

1 AN ACT

2 To amend and reenact R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and

3 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a),

4 (g), and (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u),

5 (ff), and (hh), (12), (13)(a), (14)(h) through (k), (15), (18)(a), (d)(i), (e), and (f), (19),

6 and (29)(x)(introductory paragraph) and (ix), 302(A), (B), (D), (K)(1) and (2), (U),

7 (V)(1)(introductory paragraph), (a), and (b)(introductory paragraph), (BB)(9), (13),

8 (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (113), and (CC),

9 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(introductory paragraph) and (c)

10 and (2)(b), 304(B), 305(E), 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5),

11 305.38, 305.53(A), 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c), 307(A) through

12 (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1),

13 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23), (25),

14 (27), (30), (33), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13),

15 (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A),

16 (B), (V)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114),

17 and (W), 337.3(A), and 340.1(A)(3) and (5) and R.S. 51:1286(B), to enact R.S.

18 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and

19 305.5, and to repeal R.S. 47:301(16)(h) and (p) and (23), relative to sales and use

20 taxes; to provide for the levy of sales and use taxes on certain digital products and

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and  
 10 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a), (g), and  
 11 (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u), (ff), and (hh),  
 12 (12), (13)(a), (14)(h) through (k), (15), (18)(a), (d)(i), (e), and (f), (19), and  
 13 (29)(x)(introductory paragraph) and (ix), 302(A), (B), (D), (K)(1) and (2), (U),  
 14 (V)(1)(introductory paragraph), (a), and (b)(introductory paragraph), (BB)(9), (13), (17),  
 15 (23), (25), (27), (30), (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a)  
 16 and (G), 303.1(A) and (B)(1)(introductory paragraph) and (c) and (2)(b), 304(B), 305(E),  
 17 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 305.54(B) and  
 18 (C)(1), 306.5(A)(1) and (2)(c), 307(A) through (C), 309(A)(1), 309.1(B)(1) and (2)(b) and  
 19 (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A),  
 20 (B), (P)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (Q),  
 21 321.1(A), (B), (I)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114),  
 22 and (J), 331(A), (B), (V)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and  
 23 (114), and (W), 337.3(A), and 340.1(A)(3) and (5) are hereby amended and reenacted and  
 24 R.S. 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and  
 25 305.5 are hereby enacted to read as follows:

1 §301. Definitions

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

5 \* \* \*

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

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

22 \* \* \*

23 (i)(i) For purposes of the imposition of the use tax levied by the state ~~under~~  
24 pursuant to R.S. 47:302, 321, 321.1, and 331, the cost price of machinery and  
25 equipment used by a manufacturer in a plant facility predominately and directly in  
26 the actual manufacturing for agricultural purposes or the actual manufacturing  
27 process of an item of tangible personal property or a digital product, which is for

1 ultimate sale to another and not for internal use, at one or more fixed locations within  
2 Louisiana, shall be reduced as follows:

3 \* \* \*

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

5 (aa) "Machinery and equipment" means tangible personal property or other  
6 property that is eligible for depreciation for federal income tax purposes and that is  
7 used as an integral part in the manufacturing of tangible personal property for sale.  
8 "Machinery and equipment" shall also mean tangible personal property or other  
9 property that is eligible for depreciation for federal income tax purposes and that is  
10 used as an integral part of the production, processing, and storing of food and fiber  
11 or of timber.

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

14 (aaa) Computers and software that are an integral part of the machinery and  
15 equipment used directly in the manufacturing process, or which control or  
16 communicate with computer systems that control heating or cooling systems for  
17 machinery or equipment that manufactures tangible personal property for sale.  
18 Computers and software used for inventory and accounting systems or that control  
19 non-qualifying machinery and equipment are not considered machinery and  
20 equipment for purposes of this Subparagraph.

21 \* \* \*

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

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

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

5 (c) Any person who has sold at retail, or used, or consumed, or distributed,  
6 or stored for use or consumption in the taxing jurisdiction, tangible personal property  
7 or digital products and who cannot prove that the tax levied by this Chapter has been  
8 paid on the sale at retail, the use, the consumption, the distribution, or the storage of  
9 ~~said~~ the tangible personal property or digital products.

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

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

24 (e) Any person who is the lessee or rentee of tangible personal property or  
25 digital products and who pays to the owner of ~~such~~ the property or product a  
26 consideration for the use or possession of ~~such~~ the property without acquiring title  
27 thereto.

28 \* \* \*

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

1 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in  
 2 business in the taxing jurisdiction" means and includes any of the following methods  
 3 of transacting business: maintaining directly, indirectly, or through a subsidiary, an  
 4 office, distribution house, sales house, warehouse, or other place of business or by  
 5 having an agent, salesman, or solicitor operating within the taxing jurisdiction under  
 6 the authority of the seller or its subsidiary irrespective of whether ~~such~~ the place of  
 7 business, agent, salesman, or solicitor is located in ~~such~~ the taxing jurisdiction  
 8 permanently or temporarily or whether ~~such~~ the seller or subsidiary is qualified to  
 9 do business in ~~such~~ the taxing jurisdiction, or any person who makes deliveries of  
 10 tangible personal property or digital products into the taxing jurisdiction other than  
 11 by a common or contract carrier.

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

15 \* \* \*

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

19 \* \* \*

20 (7)(a) "Lease or rental" means the leasing or renting of tangible personal  
 21 property or digital products and the possession or use thereof by the lessee or renter,  
 22 for a consideration, without transfer of the title of ~~such~~ the property or products. For  
 23 the purpose of the leasing or renting of automobiles, "lease" means the leasing of  
 24 automobiles and the possession or use thereof by the lessee, for a consideration,  
 25 without the transfer of the title of ~~such~~ that property for a one hundred eighty-day  
 26 period or more. "Rental" means the renting of automobiles and the possession or use  
 27 thereof by the renter, for a consideration, without the transfer of the title of ~~such~~ that  
 28 property for a period less than one hundred eighty days.

29 \* \* \*

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

6 \* \* \*

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

12 \* \* \*

13 (8)

14 \* \* \*

15 (b) Solely for purposes of the payment of state sales or use tax on the lease  
 16 or rental or the purchase of tangible personal property, digital products, or services,  
 17 "person" shall not include a regionally accredited independent institution of higher  
 18 education which is a member of the Louisiana Association of Independent Colleges  
 19 and Universities, if ~~such~~ the lease or rental or purchase is directly related to the  
 20 educational mission of ~~such~~ the institution. However, the term "person" shall include  
 21 such an institution for purposes of the payment of tax on sales by ~~such~~ the institution  
 22 if the sales are not otherwise exempt.

23 \* \* \*

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

28 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use  
 29 tax, "retail sale" or "sale at retail" means a sale to a consumer, end user, or to any

1 other person for any purpose other than for resale as tangible personal property or a  
2 digital product, or for the lease of automobiles in an arm's length transaction, and  
3 shall mean and include all ~~such~~ transactions as that the secretary, upon investigation,  
4 finds to be in lieu of sales; provided that sales for resale or for lease of automobiles  
5 in an arm's length transaction must be made in strict compliance with the rules and  
6 regulations. Any dealer making a sale for resale or for the lease of automobiles,  
7 which is not in strict compliance with the rules and regulations, shall himself be  
8 liable for and pay the tax.

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

25 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes  
26 imposed by the state on transactions involving the sale for rental of automobiles  
27 which take place on or after January 1, 1991, and by political subdivisions on ~~such~~  
28 those transactions on or after July 1, 1996, and state sales and use taxes imposed on  
29 transactions involving the lease or rental of digital products or tangible personal



1 property other than automobiles which take place on or after July 1, 1991, means a  
2 sale to a consumer or to any other person for any purpose other than for resale as  
3 tangible personal property or a digital product, or for lease or rental in an arm's  
4 length transaction in the form of tangible personal property or a digital product, and  
5 shall mean and include all ~~such~~ transactions as that the secretary, upon investigation,  
6 finds to be in lieu of sales; provided that sales for resale or for lease or rental in an  
7 arm's length transaction must be made in strict compliance with the rules and  
8 regulations. Any dealer making a sale for resale or for lease or rental, which is not  
9 in strict compliance with the rules and regulations, shall himself be liable for and pay  
10 the tax. For purposes of the imposition of the tax imposed by any political  
11 subdivision of the state, for the period beginning on July 1, 1999, and ending on June  
12 30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the  
13 sales price of any tangible personal property which is sold in order to be leased or  
14 rented in an arm's length transaction in the form of tangible personal property. For  
15 purposes of the imposition of the tax imposed by any political subdivision of the  
16 state, for the period beginning on July 1, 2000, and ending on June 30, 2001, the  
17 term "retail sale" or "sale at retail" shall not include one-half of the sales price of any  
18 tangible personal property which is sold in order to be leased or rented in an arm's  
19 length transaction in the form of tangible personal property. For purposes of the  
20 imposition of the tax imposed by any political subdivision of the state, for the period  
21 beginning on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or  
22 "sale at retail" shall not include three-fourths of the sales price of any tangible  
23 personal property which is sold in order to be leased or rented in an arm's length  
24 transaction in the form of tangible personal property. Beginning July 1, 2002, for the  
25 purposes of imposition of the tax levied by any political subdivision of the state, the  
26 term "retail sale" or "sale at retail" shall not include the sale of any tangible personal  
27 property which is sold in order to be leased or rented in an arm's length transaction  
28 in the form of tangible personal property.

1 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes  
 2 imposed by the state on transactions involving the sale for rental of automobiles  
 3 which take place prior to January 1, 1991, and by political subdivisions on ~~such~~ those  
 4 transactions prior to July 1, 1996, and imposed on transactions involving the lease  
 5 or rental of digital products or tangible personal property other than autos which take  
 6 place prior to July 1, 1991, and for purposes of local sales and use taxes levied by  
 7 political subdivisions except for transactions involving the sale for rental of  
 8 automobiles on or after July 1, 1996, means a sale to a consumer or to any other  
 9 person for any purpose other than for resale in the form of tangible personal property  
 10 or digital products, and shall mean and include all ~~such~~ transactions as that the  
 11 secretary, upon investigation, finds to be in lieu of sales; provided that sales for  
 12 resale must be made in strict compliance with the rules and regulations. Any dealer  
 13 making a sale for resale, which is not in strict compliance with the rules and  
 14 regulations, shall himself be liable for and pay the tax. However, contrary provisions  
 15 of law notwithstanding, any political subdivision may, by ordinance, adopt the  
 16 definition of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph  
 17 for purposes of the imposition of its sales and use tax.

\* \* \*

19 (c)

\* \* \*

21 (ii)

\* \* \*

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

26 (cc) The term "sale at retail" does not include consuming any digital product  
 27 in producing for sale a new product, where the digital product becomes an ingredient  
 28 or component of the new product. A digital code becomes an ingredient or

1 component of a new product if the digital product, through the use of the digital  
2 code, becomes an ingredient or component of the new product.

3 \* \* \*

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

6 \* \* \*

7 (l) Solely for purposes of the state sales and use tax imposed under R.S.  
8 47:302, 321, 321.1, and 331, the term "sale at retail" shall not include the sale of a  
9 pollution control device or system. Pollution control device or system shall mean any  
10 tangible personal property or digital products approved by the Department of  
11 Revenue and the Department of Environmental Quality and sold or leased and used  
12 or intended for the purpose of eliminating, preventing, treating, or reducing the  
13 volume or toxicity or potential hazards of industrial pollution of air, water,  
14 groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the  
15 purposes of any sales and use tax levied by a political subdivision, the term "sale at  
16 retail" shall include the sale of a pollution control device or system. In order to  
17 qualify, the pollution control device or system must demonstrate either: a net  
18 decrease in the volume or toxicity or potential hazards of pollution as a result of the  
19 installation of the device or system; or that installation is necessary to comply with  
20 federal or state environmental laws or regulations.

21 \* \* \*

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

24 (i) The sale of tangible personal property or digital products by approved  
25 parochial and private elementary and secondary schools which comply with the court  
26 order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal  
27 Revenue Code, or students, administrators, or teachers, or other employees of the  
28 school, if the money from ~~such~~ those sales, less reasonable and necessary expenses  
29 associated with the sale, is used solely and exclusively to support the school or its

1 program or curricula. This exclusion shall not be construed to allow tax-free sales  
2 to students or their families by promoters or regular commercial dealers through the  
3 use of schools, school faculty, or school facilities.

4 \* \* \*

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

10 (s) The term "sale at retail" or "retail sale", for purposes of sales and use  
11 taxes imposed by the state or any political subdivision or other taxing entity, shall  
12 not include any charge, fee, money, or other consideration received, given, or paid  
13 for the performance of funeral directing services. For purposes of this Subparagraph,  
14 "funeral directing services" means the operation of a funeral home, or by way of  
15 illustration and not limitation, any service whatsoever connected with the  
16 management of funerals, or the supervision of hearses or funeral cars, the cleaning  
17 or dressing of dead human bodies for burial, and the performance or supervision of  
18 any service or act connected with the management of funerals from time of death  
19 until the body or bodies are delivered to the cemetery, crematorium, or other agent  
20 for the purpose of disposition. However, such services shall not mean or include the  
21 sale, lease, rental, or use of any tangible personal property or digital product as those  
22 terms are defined in this Section.

23 \* \* \*

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

29 \* \* \*

1 (ff) For purposes of sales taxes imposed by the state or any political  
2 subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales  
3 of tangible personal property or digital products by the Military Department, state  
4 of Louisiana, which occur on an installation or other property owned or operated by  
5 the Military Department.

6 \* \* \*

7 (hh) For purposes of sales and use tax imposed by the state under R.S.  
8 47:302, 321, 321.1, and 331, or any other political subdivision, the term "sale at  
9 retail" shall not include the sale of tangible personal property or digital products at  
10 an event providing Louisiana heritage, culture, crafts, art, food, and music which is  
11 sponsored by a domestic nonprofit organization that is exempt from tax under  
12 Section 501(c)(3) of the Internal Revenue Code. The provisions of this Subparagraph  
13 shall apply only to an event which transpires over a minimum of seven but not more  
14 than twelve days and has a five-year annual average attendance of at least three  
15 hundred thousand over the duration of the event. For purposes of determining the  
16 five-year annual average attendance, the calculation shall include the total annual  
17 attendance for each of the five most recent years. The provisions of this  
18 Subparagraph shall apply only to sales by the sponsor of the event.

19 \* \* \*

20 (jj) With respect to digital products, the term "sale at retail" does not include  
21 making any digital product available free of charge for the use or enjoyment of  
22 others. For purposes of this Subparagraph, "free of charge" means that the recipient  
23 of the digital product is not required to provide anything of significant value in  
24 exchange for the product. A transfer is not free of charge if the digital product is  
25 bundled or combined with other products or services subject to sales or use tax  
26 regardless of whether such items are separately stated and invoiced.

27 \* \* \*

28 (12)(a) "Sale" means any transfer of title or possession, or both, exchange,  
29 barter, conditional or otherwise, in any manner or by any means whatsoever, of

1           tangible personal property or digital products, for a consideration, and includes the  
2           fabrication of tangible personal property for consumers who furnish, either directly  
3           or indirectly, the materials used in fabrication work, and the furnishing, preparing or  
4           serving, for a consideration, of any tangible personal property, consumed on the  
5           premises of the person furnishing, preparing or serving ~~such~~ the tangible personal  
6           property. A transaction whereby the possession of property is transferred but the  
7           seller retains title as security for the payment of the price shall be deemed a sale.

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

11                   (c) With respect to prewritten computer access services and information  
12                   services, "sale" means the first act within this state by which the taxpayer, as a  
13                   consumer, uses, enjoys, or otherwise receives the benefit of the service.

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

23   \*           \*           \*

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

25   \*           \*           \*

26                   (h) The furnishing of prewritten computer software access services. For  
27                   purposes of this Subparagraph, prewritten computer software access services means  
28                   charges made to customers for the right to access and use prewritten computer  
29                   software, where possession of the software is maintained by the seller or third party

1 regardless of whether the charge for the services is on a per use, per user, per license,  
2 subscription, or some other basis.

3 (i)(i) The furnishing of information services. For purposes of this  
4 Subparagraph, information services means electronic data retrieval or research; and  
5 collecting, compiling, analyzing, or furnishing of information of any kind including  
6 but not limited to general or specialized news and other current information or  
7 financial information, by printed, mimeographed, electronic, or electrical  
8 transmission, or by utilizing wires, cable, radio waves, microwaves, satellites, fiber  
9 optics, or any other method now in existence or which may be devised; this includes  
10 delivering or providing access to information through databases or subscriptions.

11 Information services include but are not limited to the following:

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

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

17 (cc) Global positioning system services including driving directions and  
18 sports, news, and similar information provided through satellite audio programming  
19 services.

20 (ii) Information services shall not include any of the following:

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

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

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

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

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

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

21           (†) (m) Solely for purposes of sales and use tax imposed by the state ~~under~~  
22           pursuant to R.S. 47:302, 321, 321.1, and 331, any political subdivision whose  
23           boundaries are coterminous with those of the state, or any other political subdivision,  
24           the term "sales of services" shall not mean or include admission charges for, outside  
25           gate admissions to, or parking fees associated with an event providing Louisiana  
26           heritage, culture, crafts, art, food, and music which is sponsored by a domestic  
27           nonprofit organization that is exempt from tax under Section 501(c)(3) of the  
28           Internal Revenue Code. The provisions of this Subparagraph shall apply only to an  
29           event which transpires over a minimum of seven but not more than twelve days and



1 has a five-year annual average attendance of at least three hundred thousand over the  
2 duration of the event. For purposes of determining the five-year annual average  
3 attendance, the calculation shall include the total annual attendance for each of the  
4 five most recent years. The provisions of this Subparagraph shall apply only to  
5 admission charges for, outside gate admissions to, or parking fees associated with  
6 an event when the charges and fees are payable to or for the benefit of the sponsor  
7 of the event.

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

12 \* \* \*

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

24 (ii) For purposes of the imposition of the sales and use tax levied by a  
25 political subdivision or school board, "use" shall mean and include the exercise of  
26 any right or power over tangible personal property or digital products incident to the  
27 ownership thereof, except that it shall not include the sale at retail of ~~that property~~  
28 those items of property or products in the regular course of business or the donation  
29 to a school in the state which meets the definition provided in R.S. 17:236 or to a

1 public or recognized independent institution of higher education in the state of  
2 property previously purchased for resale in the regular course of a business. The term  
3 "use" shall not include the donation of food items to a food bank as defined in R.S.  
4 9:2799(B).

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

1 the importation, the consumption, the distribution, or the storage of any tangible  
2 personal property or digital product which is to be leased or rented in an arm's length  
3 transaction in the form of tangible personal property or digital product.

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

13 (v) The term "use" applies to the first act within this state by which the  
14 taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens,  
15 manipulates, or otherwise enjoys, uses, or receives the benefits of a digital product,  
16 prewritten computer access service, or information service. Use includes access and  
17 use of digital products, prewritten computer access services, and information  
18 services that remain in the possession of the dealer or in the possession of a third  
19 party on behalf of the dealer.

20 \* \* \*

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

27 \* \* \*

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

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

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

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

18 \* \* \*

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

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

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

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

1       exempted or excluded from sales tax at the time ~~such~~ the property or products  
2       became subject to the taxing 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~~ the 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~~ the service  
15      is 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)(a) "Digital product" means digital audiovisual works, digital audio  
23      works, digital books, digital codes, digital applications and games, digital periodicals  
24      and discussion forums, and any other otherwise taxable tangible personal property  
25      transferred electronically, whether digitally delivered, streamed, or accessed and  
26      whether purchased singly, by subscription, or in any other manner, including  
27      maintenance, updates, and support.

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

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

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

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

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

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

24          (vi) "Digital periodical and discussion forum" means a digital newspaper,  
25          digital magazine, other digital periodical, chat room discussion, weblog, or any other  
26          similar product.

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

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

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

3           (iii) Internet access service charges.

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

9           (v) A product having electrical, digital, magnetic, wireless, optical,  
10          electromagnetic, or similar capabilities where the purchaser holds a copyright or  
11          other intellectual property interest in the product, in whole or part, if the purchaser  
12          uses the product solely for commercial purposes, including advertising or other  
13          marketing activities.

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

16          (e) For purposes of taxes imposed under this Chapter and Chapters 2A and  
17          2B of this Subtitle, whenever the words "property" or "personal property" are used,  
18          those terms shall be construed to include any digital product unless any of the  
19          following circumstances apply:

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

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

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

26                (33)(a) "Transferred electronically" means any product obtained by the  
27                purchaser by means other than tangible storage media, regardless of whether the  
28                seller grants permanent or less than permanent use and regardless of whether the  
29                transaction is conditioned upon contingent payment. It is not necessary that a copy

1 of the product be physically transferred to the purchaser. So long as the purchaser  
2 may access the product, it shall be considered to have been transferred electronically  
3 to the purchaser.

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

6 (34)(a) "End user" means any purchaser other than a purchaser who receives  
7 by contract a digital product for further commercial broadcast, rebroadcast,  
8 transmission, retransmission, licensing, relicensing, distribution, redistribution, or  
9 exhibition of the product, in whole or in part, to others. A person who purchases  
10 digital products for the purpose of giving away those products or codes shall not be  
11 considered to have engaged in the distribution or redistribution of such products or  
12 codes and shall be treated as an end user.

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

23 \* \* \*

24 §301.3. Digital products

25 A. Nexus. For purposes of the taxes imposed under this Chapter and  
26 Chapters 2A and 2B of this Subtitle, the department shall not consider a person's  
27 ownership of, or rights in, digital products residing on servers located in this state in  
28 determining whether the person has substantial nexus with this state. For purposes  
29 of this Section, "substantial nexus" means the requisite connection that a person has



1 with a state to allow the state to subject the person to the state's taxing authority,  
2 consistent with the commerce clause of the United States Constitution.

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

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

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

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

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

24 §301.4. Sales transaction sourcing rules

25 A. Application. The provisions of this Section shall apply regardless of the  
26 characterization of a transaction as the sale of tangible personal property, the sale of  
27 a digital product, or the sale of a service. These provisions shall not affect the  
28 obligation of a purchaser to remit use tax.

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

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

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

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

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

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

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

24          (3) If Paragraphs (1) and (2) of this Subsection do not apply, the sale shall  
25          be sourced to the location indicated by an address for the purchaser that is available  
26          from the business records of the seller that are maintained in the ordinary course of  
27          the seller's business, when use of this address does not constitute bad faith.

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

1 during the sale, including, if no other address is available, the address of a  
2 purchaser's payment instrument, when use of this address does not constitute bad  
3 faith.

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

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

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

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

13 D. Sourcing for lease or rental of tangible personal property. The lease or  
14 rental of tangible personal property, excluding motor vehicles, shall be sourced as  
15 follows:

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

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

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

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

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

5           (2) Sales of telecommunications services shall be sourced as provided in R.S.  
6           47:301.1.

7           §302. Imposition of tax

8           A. There is hereby levied a tax upon the sale at retail, the use, the  
9           consumption, the distribution, and the storage for use or consumption in this state,  
10          of each item or article of tangible personal property or digital product, as defined  
11          ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

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

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

20          B. There is hereby levied a tax upon the lease or rental within this state of  
21          each item or article of tangible personal property or digital product, as defined  
22          ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

23          (1) At the rate of ~~two per centum (2%)~~ two percent of the gross proceeds  
24          derived from the lease or rental of tangible personal property or a digital product, as  
25          defined ~~herein~~ in this Chapter, where the lease or rental of ~~such~~ the property or  
26          product is an established business, or part of an established business, or the same is  
27          incidental or germane to the ~~said~~ business.

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

4 \* \* \*

5 D. Notwithstanding any other provision of law to the contrary, no sales or  
6 use tax of any taxing authority shall be levied on any advertising service rendered by  
7 an advertising business, including but not limited to advertising agencies, design  
8 firms, and print and broadcast media, or any member, agent, or employee thereof, to  
9 any client whether or not ~~such~~ the service also involves a transfer to the client of  
10 tangible personal property or a digital product. However, a transfer of mass-produced  
11 advertising items by an advertising business which manufactures the items itself to  
12 a client for the client's use, which transfer involves the furnishing of minimal  
13 services other than manufacturing services by the advertising business, shall be a  
14 taxable sale or use of tangible personal property; provided that in no event shall tax  
15 be levied on charges for creative services which are separately invoiced.

16 \* \* \*

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

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

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

26 \* \* \*

27 U. Collection of consumer use tax. It is the duty of the secretary of the  
28 Department of Revenue to collect all taxes imposed pursuant to this Chapter and  
29 Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote

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

1 retailer of tangible personal property, digital products, or services in Louisiana. The  
2 secretary is authorized and directed to employ all means available to ensure the  
3 collection of the tax in an equitable, efficient, and effective manner.

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

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

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

24 \* \* \*

25 BB. Notwithstanding any other provision of law to the contrary, including  
26 but 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

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

3 \* \* \*

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

6 \* \* \*

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

9 \* \* \*

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

12 \* \* \*

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

15 \* \* \*

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

18 \* \* \*

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

22 \* \* \*

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

25 \* \* \*

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

29 \* \* \*

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

4 \* \* \*

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

8 \* \* \*

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

13 \* \* \*

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

16 \* \* \*

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

25 \* \* \*

26 §303. Collection

27 A. Collection from dealer.

28 \* \* \*



1                   (2) On all tangible personal property or digital products imported, or caused  
 2                   to be imported, from other states or foreign countries, and used by him, the "dealer",  
 3                   as hereinafter defined, shall pay the tax imposed by this Chapter on all articles of  
 4                   tangible personal property or digital products ~~so~~ imported and used, the same as if  
 5                   ~~the said~~ those articles or products had been sold at retail for use or consumption in  
 6                   this state. For the purposes of this Chapter, the use, or consumption, or distribution,  
 7                   or storage to be used or consumed in this state of tangible personal property or digital  
 8                   products, shall each be equivalent to a sale at retail, and the tax shall thereupon  
 9                   immediately levy and be collected in the manner provided herein, provided there  
 10                  shall be no duplication of the tax ~~in any event~~.

11                  (3)(a) A credit against the use tax imposed by this Chapter shall be granted  
 12                  to taxpayers who have paid a similar tax upon the sale or use of the same tangible  
 13                  personal property or digital products in another state. The credit provided herein  
 14                  shall only be granted ~~only~~ in the case where the state to which a similar tax has been  
 15                  paid grants a similar credit as provided herein, provided that members of the armed  
 16                  forces who are citizens of this state and whose orders or enlistment contracts  
 17                  stipulate a period of active duty of two years or more and who purchase automobiles  
 18                  outside of the state of Louisiana while on ~~such~~ a tour of active duty shall be granted  
 19                  ~~such~~ the credit in connection with the purchase of ~~such~~ the automobiles whether or  
 20                  not the state to which ~~such~~ the tax thereon has been paid grants a similar credit as  
 21                  herein provided. The amount of the credit shall be calculated by multiplying the rate  
 22                  of the similar tax paid in the other state by the cost price which is subject to  
 23                  Louisiana use tax at the time of the importation of the tangible personal property or  
 24                  digital products. The proof of payment of a similar tax to another state shall be made  
 25                  according to rules and regulations promulgated by the secretary. In no event shall the  
 26                  credit be greater than the tax imposed by Louisiana upon the particular tangible  
 27                  personal property or digital product which is the subject of the Louisiana use tax.

\*       \*       \*

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

8 \* \* \*

9 §303.1. Direct Payment Numbers

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

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

26 \* \* \*

27 (c) The taxpayer has an annual average of five million dollars of taxable  
 28 purchases or leases of tangible personal property ~~and~~, digital products, taxable  
 29 services, or any combination of these for three calendar years prior to the year of

1 application by the taxpayer, and has such an average for each subsequent three-year  
2 period.

3 \* \* \*

4 (2)

5 \* \* \*

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

20 \* \* \*

21 §304. Treatment of tax by dealer

22 \* \* \*

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

27 \* \* \*

28 §305. Exclusions and exemptions from the tax

29 \* \* \*

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

19 \* \* \*

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

21 A.(1) The sales and use tax imposed by taxing authorities shall not apply to  
 22 computer software or prewritten computer software access services, information  
 23 services, or digital products when all of the following conditions are met:

24 (a) The service or product is purchased or licensed exclusively for  
 25 commercial purposes.

26 (b) The service or product is used by the business directly in the production  
 27 of goods or services for sale to its customers.

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

1                   (2) The exemption provided in this Subsection shall not apply to computer  
2 software or computer software access services not directly involved in the production  
3 of goods or services for the customers of the business.

4                   B. The use tax imposed by taxing authorities shall not apply to the use of  
5 digital products that are created solely for the business needs of the person who  
6 created the digital products and are not the type of digital products that are offered  
7 for sale.

8   \*     \*     \*

9                   §305.10. Exclusions and exemptions; property ~~purchase~~ purchased for first use  
10 outside the state

11                   A. There shall be no sales or use tax due upon the sale at retail or use of  
12 tangible personal property, including diesel fuel, or digital products purchased within  
13 or imported into Louisiana for first use exclusively beyond the territorial limits of  
14 Louisiana as specifically provided hereinafter in this Section.

15   \*     \*     \*

16                   C.(1) If the first use of tangible personal property or digital products  
17 purchased within or imported into Louisiana occurs offshore beyond the territorial  
18 limits of any state, the exemption provided ~~herein~~ in this Section shall apply only if  
19 either of the following conditions are met:

20                   ~~(1)~~ (a) The purchaser or importer has determined the location of the first use  
21 of the tangible personal property or digital product at the time of its purchase and has  
22 notified the vendor of that location; ~~or,~~

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

28                   ~~(a)~~ Said (i) The offshore registration number shall be issued only if the  
29 purchaser or importer has shown, to the satisfaction of the secretary, that records,

1 reports, and business practices are sufficient to permit verification that tangible  
2 personal property or a digital product purchased or imported tax-free ~~under~~ pursuant  
3 to this Subsection is, in fact, being purchased or imported for use offshore beyond  
4 the territorial limits of any state. In cases of purchases of fungible goods, including  
5 vessel fuel and lubricants, the required records shall include purchase invoices,  
6 vessel logs, fuel usage records, fuel transfer records, and other reports and records  
7 that will enable the secretary to determine the amount of fungible goods consumed  
8 within Louisiana so as to be subject to the sales and use tax, and the amount of  
9 fungible goods delivered to or consumed at offshore locations beyond the territorial  
10 limits of the state, so as not to be subject to the sales and use tax. For ~~the purpose~~  
11 purposes of the this Section, the term "fungible goods" means goods of which any  
12 unit is unidentifiable and is, from its nature or by mercantile custom, treated as the  
13 equivalent of any other unit and shall include crude petroleum and its refined  
14 products.

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

20 ~~(c)~~ (iii) If the offshore registration number is revoked, all tangible personal  
21 property or digital products purchased or imported tax-free under this Paragraph and  
22 in the possession of the purchaser or importer within this state shall be deemed  
23 taxable unless otherwise exempt ~~under~~ pursuant to the provisions of Paragraph ~~(1)~~  
24 ~~of this Subsection~~ Subparagraph (a) of this Paragraph. If the provisions of Paragraph  
25 ~~(1) of this Subsection~~ Subparagraph (a) of this Paragraph are not complied with, any  
26 subsequent purchase or import of tangible personal property will be taxable, whether  
27 for instate or offshore use, until the certificate and offshore number are reissued.

28 ~~(d)~~ (iv) Whenever there is a conflict between a purchaser or importer and the  
29 secretary as to whether an offshore registration number shall be issued, reissued, or

1           revoked, it shall be the responsibility of the purchaser or importer to show that he  
 2           meets the conditions and requirements ~~set herein~~ provided in this Section for having  
 3           and retaining ~~said~~ the certificate and offshore registration number.

4                   ~~(3)~~ (2) Except for purchases or importation of tangible personal property or  
 5                   digital products in accordance with ~~Paragraphs (1) and (2)~~ Subparagraphs (1)(a) and  
 6                   (1)(b) of this Subsection, any purchase or importation of property is taxable at the  
 7                   time of purchase or import unless otherwise exempt.

8                   D. If tangible personal property or digital products purchased or imported  
 9                   tax-free ~~under~~ pursuant to the provisions of this Section ~~is~~ are subsequently used for  
 10                   any taxable purpose within the state, use tax shall be paid by the purchaser or  
 11                   importer as of the time of its use in this state. Storage of property purchased or  
 12                   imported tax-free ~~under~~ pursuant to this Section which is ultimately used in another  
 13                   state will be considered a "subsequent use for a taxable purpose".

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

19   \*           \*           \*

20           §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;  
 21                   limitations; qualifications; newspapers; determination of tax exempt status

22                   A.(1)(a) The sales and use taxes imposed by taxing authorities shall not  
 23                   apply to sales of tangible personal property or digital products at, or admission  
 24                   charges for, outside gate admissions to, or parking fees associated with, events  
 25                   sponsored by domestic, civic, educational, historical, charitable, fraternal, or  
 26                   religious organizations, which are nonprofit, when the entire proceeds, except for  
 27                   necessary expenses such as fees paid for guest speakers, chair and table rentals, and  
 28                   food and beverage utility related items connected therewith, are used for educational,  
 29                   charitable, religious, or historical restoration purposes, including the furtherance of

1 the civic, educational, historical, charitable, fraternal, or religious purpose of the  
2 organization. In addition, newspapers published in this state by religious  
3 organizations shall also be exempt from such taxes, provided that the price paid for  
4 the newspaper or a subscription to the newspaper does not exceed the cost to publish  
5 ~~such~~ the newspaper.

6 \* \* \*

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

13 \* \* \*

14 §305.38. Exclusions and exemptions; sheltered workshop or supported employment  
15 provider for persons with intellectual disabilities

16 The sale at retail, the use, the consumption, the distribution, and the storage  
17 for use or consumption in this state of each item or article of tangible personal  
18 property or digital products by a sheltered workshop or a supported employment  
19 provider as defined in R.S. 39:1604.4 for persons with intellectual disabilities  
20 licensed by the Department of Children and Family Services as a day developmental  
21 training center for persons with intellectual disabilities shall not be subject to the  
22 sales and use taxes levied by the state or by any political subdivision thereof.

23 \* \* \*

24 §305.53. Exclusions and exemptions; sickle cell disease organizations

25 A. The sale at retail, the rental or lease, the use, the consumption, the  
26 distribution, and the storage for use or consumption in this state of each item or  
27 article of tangible personal property; or digital product, or any taxable service, by a  
28 nonprofit organization established prior to 1975 which conducts a comprehensive  
29 program on sickle cell disease which includes but is not limited to free education,



1 free testing, free counseling, and free prescriptions, transportation, and food  
2 packages for sickle cell patients shall not be subject to the sales and use taxes levied  
3 by the state or by any other ~~tax~~ taxing authority.

4 \* \* \*

5 §305.54. Exemption; Annual Louisiana Sales Tax Holidays Act

6 \* \* \*

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

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

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

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

21 \* \* \*

22 §306.5. Annual reporting requirement

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

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

2 \* \* \*

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

6 \* \* \*

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

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

19 B. In the event the dealer has imported tangible personal property or digital  
20 products and ~~he~~ fails to produce an invoice showing the cost price of the articles  
21 which are subject to tax, or the invoice does not reflect the true or actual cost, then  
22 the collector shall ascertain in any manner feasible the true cost price and shall assess  
23 and collect the tax, together with any interest and penalties that may have accrued,  
24 on the basis of the true cost as assessed by him. The assessment ~~so made~~ shall be  
25 considered prima facie correct, and the burden shall be on the dealer to show the  
26 contrary.

27 C. In the case of the lease or rental of tangible personal property or digital  
28 products, if the consideration given or reported by the dealer does not, in the  
29 judgment of the collector, represent the true or actual consideration, then the

1 collector is authorized to ascertain in any manner feasible the true or actual  
2 consideration and assess and collect the tax thereon together with any interest and  
3 penalties that may have accrued. The assessment ~~so made~~ shall be considered prima  
4 facie correct and the burden shall be on the dealer to show the contrary.

5 \* \* \*

6 §309. Dealers required to keep records

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

19 \* \* \*

20 §309.1. Sales in Louisiana of tangible personal property, digital products, and  
21 taxable services by a dealer or remote retailer; ~~the~~ provision of lists, notices,  
22 and statements by a dealer or remote retailer

23 \* \* \*

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

26 (1) "Louisiana purchaser" or "purchaser" means a person who purchases  
27 tangible personal property, digital products, or taxable services in a transaction with  
28 a remote retailer for property or a service that is delivered for use or benefit in

1 Louisiana, and no Louisiana sales and use tax was collected or paid on the  
2 transaction.

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

6 \* \* \*

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

12 \* \* \*

13 D. Annual statement submitted by remote retailer. By March first of each  
14 year, a remote retailer who made retail sales of tangible personal property, digital  
15 products, or taxable services to Louisiana purchasers in the immediately preceding  
16 calendar year shall file with the secretary an annual statement for each purchaser  
17 which includes the total amount paid by the purchaser to that retailer in the  
18 immediately preceding calendar year. Under no circumstances shall the statement  
19 contain detail as to specific property or services purchased, but it shall include the  
20 total amount paid. The statement shall be submitted on forms to be developed and  
21 provided by the secretary. The secretary ~~is authorized to~~ may require the electronic  
22 filing of statements by a remote retailer who had sales in Louisiana in excess of one  
23 hundred thousand dollars in the immediately preceding calendar year.

24 \* \* \*

25 §310. Wholesalers and jobbers required to keep records

26 A. All wholesale dealers and jobbers in this state shall keep a record of all  
27 sales of tangible personal property or digital products made in this state whether ~~such~~  
28 the sales be for cash or on terms of credit. These records shall contain and include  
29 the name and address of the purchaser, the date of the purchase, the article

1 purchased, and the price at which the article is sold to the purchaser. These records  
2 shall be kept until the taxes to which they relate have prescribed and shall be open  
3 to the inspection of the secretary at all reasonable hours.

4 \* \* \*

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

7 A. The failure of any dealer to pay the tax and any interest, penalties, or  
8 costs due ~~under~~ pursuant to the provisions of this Chapter on any tangible personal  
9 property or digital products imported from outside the state for use, consumption,  
10 distribution, or storage to be used in this state, or imported for the purpose of leasing  
11 or renting the same, shall make the tax, interest, penalties, or costs ipso facto  
12 delinquent. This failure shall ~~moreover~~ be a sufficient ground for the attachment of  
13 the personal property imported wherever it may be found, whether the delinquent  
14 taxpayer is a resident or nonresident, and whether the property is in the possession  
15 of the delinquent taxpayer or in the possession of other persons.

16 B. It is the intention of this law to prevent the disposition of ~~the said~~ tangible  
17 personal property or digital products in order to insure payment of the tax imposed  
18 by this Chapter, together with interest, penalties and costs, and authority to attach is  
19 hereby specifically granted to the collector. The procedure prescribed by law in  
20 attachment proceedings shall be followed except that no bond shall be required of  
21 the ~~State~~ state.

22 \* \* \*

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

24 Failure to pay any tax due as provided in this Chapter shall ipso facto,  
25 without demand or putting in default, cause the tax, interest, penalties, and costs to  
26 become immediately delinquent, and the collector has the authority, on motion in a  
27 court of competent jurisdiction, to take a rule on the dealer, to show cause in not less  
28 than two or more than ten days, exclusive of holidays, why the dealer should not be  
29 ordered to cease from further pursuit of business as a dealer. This rule may be tried

1 out of term and in chambers, and shall always be tried by preference. If the rule is  
2 made absolute, the order rendered thereon shall be considered a judgment in favor  
3 of the state, prohibiting the dealer from ~~the~~ further pursuit of ~~said~~ the business until  
4 ~~such time as~~ he has paid the delinquent tax, interest, penalties, and costs, and every  
5 violation of the injunction shall be considered as a contempt of court, and punished  
6 according to law. For ~~the purpose~~ purposes of the enforcement of this Chapter and  
7 the collection of the tax levied hereunder, it is presumed that all tangible personal  
8 property and digital products imported or held in this state by any dealer ~~is~~ are to be  
9 sold at retail, used or consumed, or stored for use or consumption in this state, or  
10 leased or rented within this state, and ~~is~~ are subject to the tax herein levied; this  
11 presumption shall be prima facie only, and subject to proof furnished to the collector.

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

13 A. Whenever tangible personal property or digital products are sold ~~is~~ and  
14 returned to the dealer by the purchaser or consumer, or in the event the amount paid  
15 or charged for services is refunded or credited to the purchaser or consumer after the  
16 tax imposed by this Chapter has been collected, or charged to the account of the  
17 purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the  
18 amount of tax so collected or charged by him, in the manner prescribed by the  
19 collector; and ~~in case~~ if the tax has not been remitted by the dealer to the collector,  
20 the dealer may deduct the same in submitting his return. Upon receipt of a signed  
21 statement of the dealer as to the gross amount of ~~such~~ refunds during the period  
22 covered by the signed statement, which period shall not be longer than ninety days,  
23 the collector shall issue to the dealer an official credit memorandum equal to the net  
24 amount remitted by the dealer for the tax collected. This memorandum shall be  
25 accepted by the collector at full face value from the dealer to whom it is issued, in  
26 the remittance for subsequent taxes accrued ~~under~~ pursuant to the provisions of this  
27 Chapter. In cases where a dealer has retired from business and has filed a final  
28 return, a refund of tax may be made if it can be established to the satisfaction of the  
29 collector that the tax paid was not due.

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

7                                   \*       \*       \*

8 §315.3. Sales tax refund; sales and rentals covered by Medicare

9           A. Any person who has paid sales and use taxes, levied by the state and any  
10 other taxing authorities in the state, upon the sale, lease, or rental of tangible personal  
11 property or digital products when ~~such~~ the sale, lease, or rental is paid by or ~~under~~  
12 pursuant to the provisions of Medicare, shall be entitled to reimbursement of the  
13 amount of tax paid on ~~such property~~ those items of property or products. Upon  
14 receipt of a signed statement of ~~such~~ a person as to the amount of taxes paid ~~under~~  
15 pursuant to the provisions of this Chapter on ~~such~~ tangible personal property or  
16 digital products and upon proof of payment by or ~~under~~ pursuant to the provisions  
17 of Medicare, the secretary and the appropriate taxing authorities shall make a refund  
18 to ~~such~~ the person in the amount to which he is entitled.

19                                   \*       \*       \*

20 §315.5. Sales tax refund; nonprofits employing or training persons with workplace  
21 disabilities or disadvantages

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

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

3   \*       \*       \*

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

6   \*       \*       \*

7           C.(1)

8   \*       \*       \*

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

14   \*       \*       \*

15           §321. Imposition of tax

16           A. In addition to the tax levied by R.S. 47:302(A), 321.1(A), and 331(A) and  
17 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this  
18 Subtitle H of this Title, there is hereby levied an additional tax upon the sale at retail,  
19 the use, the consumption, the distribution, and the storage for use or consumption in  
20 this state of each item or article of tangible personal property or digital product, as  
21 defined in Chapter 2 of this Subtitle H of this Title. The levy of ~~said the~~ the tax shall be  
22 as follows:

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

28           (2) At the rate of one percent of the cost price of each item or article of  
29 tangible personal property or digital product except for prepaid calling service and



1 prepaid wireless calling service when the same is not sold but is used, consumed,  
2 distributed, or stored for use or consumption in this state, provided that there shall  
3 be no duplication of the tax.

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

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

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

19 \* \* \*

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

25 \* \* \*

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

3                                   \*       \*       \*

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

6                                   \*       \*       \*

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

9                                   \*       \*       \*

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

12                                   \*       \*       \*

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

15                                   \*       \*       \*

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

19                                   \*       \*       \*

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

22                                   \*       \*       \*

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

26                                   \*       \*       \*

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 supercede 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 shall 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~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this  
28 Subtitle, there is hereby levied an additional tax upon the sale at retail, the use, the  
29 consumption, the distribution, and the storage for use or consumption in this state of

1 each item or article of tangible personal property or digital product as defined in  
2 Chapter 2 of this Subtitle. The levy of ~~said~~ the 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~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this  
13 Subtitle, there is hereby levied a tax upon the lease or rental within this state of each  
14 item or article of tangible personal property or digital product, as defined by Chapter  
15 2 of this Subtitle; the levy 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~~ the property  
19 or product is in an established business, or part of an established business, or the  
20 same 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

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

3   \*           \*           \*

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

6   \*           \*           \*

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

9   \*           \*           \*

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

12   \*           \*           \*

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

15   \*           \*           \*

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

18   \*           \*           \*

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

22   \*           \*           \*

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

25   \*           \*           \*

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

29   \*           \*           \*

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

4 \* \* \*

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

8 \* \* \*

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

13 \* \* \*

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

16 \* \* \*

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

19 \* \* \*

20 J. The provisions of Subsection I of this Section shall supercede 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 shall be taxed in the same manner as any  
 23 complementary tangible personal property or service included in Subsection I of this  
 24 Section.

25 \* \* \*

26 §331. Imposition of tax

27 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 321.1(A) and  
 28 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2A of this  
 29 Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950, there is hereby

1           levied an additional tax upon the sale at retail, the use, the consumption, the  
2           distribution, and the storage for use or consumption in this state of each item or  
3           article of tangible personal property or digital product, as defined in Chapter 2 of this  
4           ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950; the.~~ The levy of  
5           ~~said tax to~~ the tax shall be as follows:

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

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

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

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

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

4   \*       \*       \*

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

16   \*       \*       \*

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

19   \*       \*       \*

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

22   \*       \*       \*

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

25   \*       \*       \*

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

29   \*       \*       \*



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

3 \* \* \*

4 (33) Credit for sales and use taxes paid to another state on tangible personal  
5 property and digital products imported ~~in~~ into Louisiana as provided in R.S.  
6 47:303(A)(3)(a).

7 \* \* \*

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

11 \* \* \*

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

15 \* \* \*

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

20 \* \* \*

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

23 \* \* \*

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

26 \* \* \*

27 W. The provisions of Subsection V of this Section shall supercede and  
28 control to the extent of conflict with any other provision of law beginning July 1,  
29 2018, through June 30, 2025. Digital products shall be taxed in the same manner as

1 any complementary tangible personal property or service included in Subsection V  
2 of this Section.

3 \* \* \*

4 §337.3. Imposition of political subdivision tax

5 A.(1) A taxing authority may continue to levy sales and use taxes under  
6 authority provided for ~~such~~ political subdivisions by the statutes or Constitution of  
7 Louisiana.

8 (2) A taxing authority shall levy sales and use taxes on the sale at retail, the  
9 use, the lease or rental, the consumption, and the storage of digital products. The  
10 levy of local sales and use tax on digital products shall be subject to the definitions,  
11 exclusions, and exemptions provided in Chapters 2, 2-A, and 2-B of this Subtitle.

12 \* \* \*

13 §340.1. Marketplace facilitators; collection and remittance of state and local sales  
14 and use tax

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

17 \* \* \*

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

22 \* \* \*

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

27 \* \* \*

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

2 §1286. Sales and use tax

3 \* \* \*

4 B. The tax ~~so~~ authorized pursuant to this Section shall be imposed by  
5 ordinance adopted by the district without the need of an election and shall be levied  
6 upon the sale at retail, the use, the lease or rental, the distribution, the consumption,  
7 and the storage for use or consumption of tangible personal property, digital  
8 products, and on sales of services in the state of Louisiana, as now or hereafter  
9 defined in and as provided by Chapter 2 of Subtitle II of Title 47 of the Louisiana  
10 Revised Statutes of 1950, subject to the exemptions and suspensions of exemptions  
11 to the same extent that ~~such~~ the exemptions and suspensions of exemptions now or  
12 hereafter apply to the tax levied in R.S. 47:331.

13 \* \* \*

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

15 Section 4. The provisions of this Act shall apply to taxable periods beginning on or  
16 after January 1, 2025.

17 Section 5. This Act shall become effective upon signature by the governor or, if not  
18 signed by the governor, upon expiration of the time for bills to become law without signature  
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
21 effective on the day following such approval.

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

## 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 8 Engrossed

2024 Third Extraordinary Session

Brass

**Abstract:** Levies sales and use taxes on certain digital products and digital services.

Present law imposes a state sales and use tax upon the sale, use, lease, or rental of tangible personal property, and upon the sale of certain services, which tax is composed of the following levies in the following amounts:

R.S. 47:302	.....	2.00%
R.S. 47:321	.....	1.00%
R.S. 47:321.1	.....	0.45%
R.S. 47:331	.....	0.97%
R.S. 51:1286	.....	0.03%

Present law terminates the 0.45% sales and use tax levy effective July 1, 2025.

Present law provides for general conformity of sales and use tax bases (the sets of goods and services subject to tax) of local taxing authorities with the state's sales and use tax base; but authorizes local taxing authorities, individually, to adopt certain sales and use tax exemptions for particular goods and services, allowing for dissimilarity between local bases and the state's base.

Proposed law imposes sales and use tax on certain digital products and digital services as defined and provided for in proposed law.

Proposed law provides that "digital product" means digital audiovisual works, digital audio works, digital books, digital codes, digital applications and games, digital periodicals and discussion forums, all as defined in proposed law, and any other otherwise-taxable tangible personal property transferred electronically, whether digitally delivered, streamed, or accessed and whether purchased singly, by subscription, or in any other manner, including maintenance, updates, and support.

Proposed law stipulates that "digital product" shall 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 defined in present law and proposed law.
- (3) Internet access service charges.
- (4) The representation of a work product resulting from 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) A product having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities where the purchaser holds a copyright or other intellectual

property interest in the product, in whole or part, if the purchaser uses the product solely for commercial purposes, including advertising or other marketing activities.

Proposed law provides that for purposes of sales and use tax administration, the Dept. of Revenue shall 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. Provides that for purposes of proposed law, "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 encompasses provisions addressing bundled transactions. Stipulates that in the case of the sale of a digital code that provides a purchaser with the right to obtain more than one digital product, and which may also include the right to obtain other products or services, and all of the products and services, digital or otherwise, to be obtained through the use of the code do not have the same sales and use tax treatment, both of the following shall apply:

- (1) The transaction shall be deemed to be the sale of the products and services to be obtained through the use of the code.
- (2) The sales and use tax shall apply to the entire selling price of the code, except as otherwise provided in proposed law.

Proposed law establishes sourcing rules for purposes of collecting sales and use taxes, or remitting sales taxes to the appropriate taxing jurisdictions, on sales of tangible personal property, digital products, and services.

Proposed law establishes the following exemptions from state and local sales and use taxes:

- (1) A sales and use tax exemption for computer software or prewritten computer software access services, information services, and digital products when all of the following conditions are met:
  - (a) The service or product is purchased or licensed exclusively for commercial purposes.
  - (b) The service or product is used by the business directly in the production of goods or services for sale to its customers.
  - (c) The goods or services produced and sold by the business are subject to sales and use tax.
- (2) A use tax exemption for digital products created solely for the business needs of the person who created the digital products and are not the type of digital products that are offered for sale.

Proposed law provides that with respect to digital products, "sale" means the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the product.

Proposed law provides that with respect to digital services, "sale" means the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service.

Proposed law stipulates that the term "sale at retail", for purposes of present law and proposed law, does not include either of the following:

- (1) Consuming any digital product in producing for sale a new product, where the digital product becomes an ingredient or component of the new product.
- (2) Making any digital product available free of charge for the use or enjoyment of others.

Proposed law adds the following into the "sales of services" definition provided in present law, thereby subjecting these services to sales and use tax:

- (1) The furnishing of prewritten computer software access services as defined in proposed law.
- (2) The furnishing of information services as defined in proposed law.

Proposed law adds references to digital products alongside existing references to tangible personal property in the definitions of the following defined terms pertaining to sales and use tax provided in present law: "cost price", "dealer", "gross sales", "lease or rental", "purchaser", "sale", "retail sale" and "sale at retail", "sales price", "storage", "use", and "use tax".

Proposed law adds references to digital products alongside existing references to tangible personal property in present law providing for sales tax exemptions, thereby causing the exemptions to apply to digital products as well as to tangible personal property.

Proposed law adds references to digital products alongside existing references to tangible personal property in miscellaneous provisions of present law relative to sales and use tax administration.

Proposed law deletes from present law relative to sales and use taxes the defined term "computer software" and its corresponding definition.

Proposed law repeals from present law sales tax exclusions (provisions excluding certain items from the taxable base) for custom computer software and for newspapers.

Proposed law applies to taxable periods beginning on or after Jan. 1, 2025.

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

(Amends R.S. 47:301(3)(a), (b), and (i)(i)(intro. para.) and (ii)(aa)(I)(aaa), (4)(intro. para.), (a)–(e), (h), and (i), (5), (7)(a), (g), and (i), (8)(b), (9), (10)(a)(i)–(iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u), (ff), and (hh), (12), (13)(a), (14)(h)–(k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(intro. para.) and (ix), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(intro. para.), (a), and (b)(intro. para.), (BB)(9), (13), (17), (23), (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)(intro. para.) and (c) and (2)(b), 304(B), 305(E), 305.10(A) and (C)–(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)–(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), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W), 337.3(A), and 340.1(A)(3) and (5) and R.S. 51:1286(B); Adds R.S. 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and 305.5; Repeals R.S. 47:301(16)(h) and (p) and (23))

Summary of Amendments Adopted by House

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

1. Make technical changes and corrections.