

2025 Regular Session

HOUSE BILL NO. 404

BY REPRESENTATIVE WILLARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE DEPARTMENT: Provides relative to various tax administration functions of the Department of Revenue

1 AN ACT

2 To amend and reenact R.S. 26:364(C) and R.S. 47:301.4(B)(1), 1517(C), (E), and (F),

3 1621(D)(1), and 1676(C)(4), (D)(4)(a)(i) and (ii), (b), and (c), (E), and (F)(1), to

4 enact R.S. 47:301.4(C)(4) and 303.1(D), and to repeal R.S. 26:346(B) and 354(C)(2)

5 and R.S. 47:296.1, 1517(B)(1)(c) through (e) and (2) through (4), 1517.1, and

6 1624(A)(2), relative to tax administration; to provide for powers and duties of the

7 Department of Revenue; to provide for administration of income, sales and use, and

8 alcoholic beverage taxes; to provide relative to refunds of overpayments of taxes; to

9 prohibit payment of interest on refunds of certain sales tax overpayments; to provide

10 for sourcing of certain sales; to provide relative to the functions of the office of debt

11 recovery; to provide relative to the tax exemption budget; to repeal reporting

12 requirements pertaining to certain tax incentives; to repeal outdated references and

13 expired provisions of law; to provide for retroactive application of certain provisions

14 of law; to provide for definitions; to provide for an effective date; and to provide for

15 related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 26:364(C) is hereby amended and reenacted to read as follows:

1 §364. Receipt of alcoholic beverages to avoid tax prohibited; out-of-state
2 manufacturers and wholesalers to obtain written authority to make shipment
3 and furnish notice of shipment; enforcement

4 * * *

5 C. The shipper shall prepare and ~~mail~~ submit, in the manner prescribed by
6 the secretary, a notice of shipment to the secretary, and a copy to the Louisiana
7 dealer, not later than the twentieth day of the month following the date of movement
8 from the point of origin. The notice must show ~~such~~ information concerning the
9 alcoholic beverages and the means of transportation as may be specified in
10 regulations.

11 * * *

12 Section 2. R.S. 47:303.1(D) is hereby enacted to read as follows:

13 §303.1. Direct Payment Numbers

14 * * *

15 D. Any overpayment resulting from the payment of sales and use tax on
16 exempt purchases by a taxpayer holding a DP Number shall not be entitled to interest
17 on refunds as provided in R.S. 47:337.80 or 1624.

18 * * *

19 Section 3. R.S. 47:301.4(B)(1) is hereby amended and reenacted and R.S.
20 47:301.4(C)(4) is hereby enacted to read as follows:

21 §301.4. Sales transaction sourcing rules

22 * * *

23 B.(1) Definitions. For purposes of this Section, the following terms have the
24 meanings ascribed to them unless the context indicates otherwise:

25 (a) "Drop shipment sale" means a sales transaction in which goods are
26 shipped directly to the customer by a third party. Drop shipment sales include sales
27 in which a dealer accepts an order for goods from a customer and places the order
28 with a third party, and the third party delivers or causes to be delivered the goods
29 directly to the dealer's customer.

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

~~(b)~~(c) "Use of digital products" means the location of 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 a digital product.

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

* * *

C. Exceptions to the general sourcing rules. The following sales are sourced as follows:

* * *

(4) Drop shipment sales shall be sourced to the location of the transfer of title or of possession, whichever occurs first.

* * *

Section 4. R.S. 47:1517(C), (E), and (F), 1621(D)(1), and 1676(C)(4), (D)(4)(a)(i) and (ii), (b), and (c), (E), and (F)(1) are hereby amended and reenacted to read as follows:

§1517. Tax exemption budget

* * *

~~C. The annual tax exemption budget shall also include an assessment of each tax exemption based on the following criteria:~~

(1) Whether or not each tax exemption has been successful in meeting the purpose for which it was enacted, in particular, whether each tax exemption benefits those originally intended to be benefited, and if not, those who do benefit.

(2) Whether each tax exemption is the most fiscally effective means of achieving its purpose.

~~(3) Unintended or inadvertent effects, benefits, or harm caused by each tax exemption, including whether each tax exemption conflicts with other state laws or regulations.~~

~~(4) Whether each tax exemption simplifies or complicates the state tax statutes.~~

(1) In addition to preparing and submitting the tax exemption budget, the Department of Revenue shall perform a comprehensive return on investment analysis for all tax incentives for which the revenue loss was one million dollars or more in the previous fiscal year. The department shall perform this analysis regardless of which agency administers the tax incentive. The department's report of the results of the analysis shall include a ranking of tax incentives by return on investment.

(2) Nothing in this Subsection shall be construed to require the disclosure of proprietary or trade secret information that has been submitted to any state agency with respect to a tax credit or incentive.

* * *

E. For purposes of this Section, the following terms shall have the meanings
ascribed to them in this Subsection:

(1) "State agency" means any office, department, board, commission,
institution, or division within the executive branch of state government.

(2) "Tax exemptions" means those revenue losses attributable to provisions of the state tax statutes or rules promulgated pursuant to such statutes, which allow a special exclusion, exemption, or deduction from gross income or sales or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.

~~F. The House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, hereinafter referred to as "committees", shall conduct hearings on the tax exemption budget every odd-numbered year, to be concluded thirty days before the beginning of the regular session of the Louisiana Legislature. The committees shall analyze and consider tax exemptions which have caused revenue loss to the state of ten million dollars or more in any one of the last three~~

1 fiscal years. ~~From time to time, the committees may report to the legislature findings~~
2 ~~or recommendations developed as a result of the hearings.~~ Nothing in this Section
3 shall be construed to supersede any provision of R.S. 47:1508 with respect to the
4 confidentiality of taxpayer records.

5 * * *

6 §1621. Refunds of overpayments authorized

7 * * *

8 D.(1) ~~Such refunds~~ Refunds required by the provisions of this Section shall
9 be made out of any current collections of the particular tax which was overpaid. The
10 ~~secretary may make payment of refunds by means of a debit card at the option of the~~
11 ~~taxpayer. However, the paper form for an individual income tax return shall include~~
12 provisions whereby the taxpayer may choose to receive a refund of an overpayment
13 by check, ~~debit card~~, or direct deposit. A refund for a taxpayer who filed a paper tax
14 return for individual income tax shall be made in accordance with the method chosen
15 by the taxpayer on the tax return. If the tax return does not reflect the selection of
16 a specific method of payment by the taxpayer, any refund due shall be paid by check.
17 ~~If a taxpayer chooses to receive a refund of an overpayment by debit card, the~~
18 ~~Department of Revenue shall allow the taxpayer no less than twelve months to~~
19 ~~activate the debit card.~~

20 * * *

21 §1676. Debt recovery

22 * * *

23 C.

24 * * *

25 (4) If, in the course of collecting delinquent debt, the secretary determines
26 that the office requires the additional assistance of legal counsel, the secretary shall
27 first seek assistance from the office of the attorney general. If the office of the
28 attorney general is unable to or declines to offer legal counsel, the secretary is
29 ~~authorized to~~ may contract with a third party for such services. Additionally, the

1 legislative auditor shall have authority to conduct audits of such contracts in
2 accordance with the law.

3 D.

4 * * *

5 (4)(a)(i) The office ~~shall be authorized to~~ may withhold, offset, levy, garnish,
6 or seize payments of progressive slot machine annuities and cash gaming winnings
7 in the same manner set forth in R.S. 27:24 and payments of lottery prizes in the same
8 manner as set forth in R.S. 47:9026 and may assume the obligation for payment of
9 such services in order to collect delinquent debt. However, the withholding, offset,
10 levy, garnishment, or seizure of progressive slot machine annuities, cash gaming
11 winnings, and payments of lottery prizes pursuant to the provisions of this Paragraph
12 shall not be conducted until a single-point inquiry system which allows for searches
13 of one or more real-time databases containing debt information pursuant to this
14 Subsection and R.S. 46:236.15 is available to entities licensed or permitted ~~under~~
15 pursuant to Chapters 1, 4, 5, ~~or 7, or 10~~ of Title 27 of the Louisiana Revised Statutes
16 of 1950.

17 (ii) The office ~~is authorized to~~ may enter into a memorandum of
18 understanding with the Louisiana Casino Association on behalf of its member
19 casinos to facilitate the development and implementation of a single-point inquiry
20 system.

21 * * *

22 (b) Any entity licensed or permitted ~~under~~ pursuant to Chapters 1, 4, 5, ~~or~~
23 7, or 10 of Title 27 of the Louisiana Revised Statutes of 1950 may deduct an
24 administrative fee from each payment of a progressive slot machine annuity or cash
25 gaming winnings in accordance with R.S. 27:24(A)(5)(d) pursuant to a request by
26 the office of debt recovery to such annuities or winnings in the collection of a
27 delinquent debt; however, the licensed or permitted entity shall not withhold more
28 than one administrative fee on such annuities or winnings.

1 (c) The Louisiana Gaming Control Board or any entity licensed or permitted
2 ~~under~~ pursuant to Chapters 1, 4, 5, ~~or 7, or 10~~ of Title 27 of the Louisiana Revised
3 Statutes of 1950 shall be immune from civil or criminal liability for the disclosure
4 of certain information or from any claims for damages arising from withholding or
5 failing to withhold any progressive slot machine annuities or cash winnings in
6 accordance with R.S. 27:24(A)(5)(b) when the disclosure of such information or the
7 withholding of such annuities or winnings is done pursuant to a request by the office
8 of debt recovery.

9 * * *

10 E. The office shall charge the debtor a fee not to exceed twenty-five percent
11 of the total liability of debt which has become final after the initial effective date of
12 this Section. The amount of the fee shall be established by rule promulgated by the
13 department and shall be uniformly applied to all debts. Fees collected under this
14 Subsection shall be retained by the office after the debt is collected and shall be
15 divided in accordance with an agreement between the office and the office of the
16 attorney general after payment of costs set forth in the agreement. Monies collected
17 by the office pursuant to the provisions of this Section shall be transferred to the
18 referring agency within thirty days after the end of the month in which the monies
19 were collected and shall be used, subject to an annual appropriation, by the referring
20 agency as they would have been had they been timely collected. ~~However, any~~
21 ~~monies collected for delinquent debt as a result of nonpayment of tax liabilities~~
22 ~~pursuant to Title 47 of the Louisiana Revised Statutes of 1950, as amended, after~~
23 ~~deposit into the state general fund, the first five million dollars shall be appropriated~~
24 ~~by the legislature beginning in Fiscal Year 2013-2014, and for four consecutive~~
25 ~~fiscal years thereafter, to the office of state police for a training academy class.~~

26 F.(1) Notwithstanding any law to the contrary, agencies ~~shall be authorized~~
27 ~~to~~ may transmit data to the office of debt recovery deemed necessary by the secretary
28 to aid in the collection efforts of the office. The secretary shall establish a
29 centralized electronic debt registry to compile the information provided by agencies

1 and shall maintain all information provided from all sources within the state
2 concerning addresses, financial records, and any other information useful in assisting
3 the office in collection services of the centralized registry. The data compiled in the
4 registry from the department, referring agencies, and the office shall be available for
5 cross-referencing and for the identification of debtors necessary for the collection of
6 delinquent debt.

7 * * *

8 Section 5. R.S. 26:346(B) and 354(C)(2) and R.S. 47:296.1, 1517(B)(1)(c) through
9 (e) and (2) through (4), and 1517.1 are hereby repealed in their entirety.

10 Section 6. R.S. 47:1624(A)(2) is hereby repealed in its entirety.

11 Section 7. The provisions of Section 3 of this Act shall be given prospective and
12 retroactive application.

13 Section 8. This Section and Sections 2 and 6 of this Act shall become effective on
14 July 1, 2025.

15 Section 9. This Section and Sections 1, 3 through 5, and 7 of this Act shall become
16 effective upon signature by the governor or, if not signed by the governor, upon expiration
17 of the time for bills to become law without signature by the governor, as provided by Article
18 III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently
19 approved by the legislature, this Section and Sections 1, 3 through 5, and 7 of this Act shall
20 become effective on the day following such approval.

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 404 Reengrossed

2025 Regular Session

Willard

Abstract: Provides with respect to administrative functions of the Dept. of Revenue including duties and procedures relative to administration of particular taxes, functions of the office of debt recovery within the department, and reporting on tax exemptions and incentives.

Present law establishes the Dept. of Revenue, referred to hereafter as the "department", as the collector of revenue for this state. Requires the department to collect and enforce collection of all taxes, penalties, interest, and other charges due pursuant to present law relative to revenue and taxation.

Proposed law revises various provisions of present law pertaining to administration by the department of various types of taxes, functions of the office of debt recovery within the department, and reporting on tax exemptions and incentives.

With respect to administration of alcoholic beverage taxes, proposed law repeals a requirement that out-of-state alcoholic beverage shippers mail their notices of shipments into La. and instead allows the secretary of the department to prescribe the method of reporting.

With respect to income tax administration, proposed law repeals an authorization for the department to institute a no-return option.

With respect to sales and use tax administration, proposed law prohibits refunding of certain sales and use tax overpayments to taxpayers holding direct payment numbers. Also establishes a definition of "drop shipment sale" and rules for sourcing of such sales. Provides that these rules shall be given prospective and retroactive application.

Proposed law repeals a special interest rate applicable to certain severance tax overpayments, thereby causing the general refund interest rate to apply to those overpayments.

Present law requires the department to prepare and submit to the governor and the legislature a tax exemption budget on or before March 1st annually. Proposed law revises requirements relative to the content of the tax exemption budget.

Present law requires each state agency that administers tax credits and rebates to report certain information on these tax incentives to the legislature in every even-numbered year. Proposed law repeals present law and reestablishes certain return-on-investment analysis requirements within present law and proposed law relative to the tax exemption budget.

Proposed law repeals present law requiring the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs to conduct hearings on the tax exemption budget every odd-numbered year.

Present law establishes the office of debt recovery within the department. Establishes among the office's powers and duties the authority to recover delinquent tax debt from taxpayers' winnings from certain forms of gaming. Proposed law retains present law and extends this authority to winnings from sports wagering.

Proposed law repeals outdated references and expired provisions of present law.

The following provisions of proposed law become effective July 1, 2025: Prohibition on refunding of certain sales and use tax overpayments to taxpayers holding direct payment numbers; repeal of the special interest rate applicable to certain severance tax overpayments; and reduction of the rate of interest on delinquent tax liabilities. The remainder of proposed law becomes effective upon signature of the governor.

(Amends R.S. 26:364(C) and R.S. 47:301.4(B)(1), 1517(C), (E), and (F), 1621(D)(1), and 1676(C)(4), (D)(4)(a)(i) and (ii), (b), and (c), (E), and (F)(1); Adds R.S. 47:301.4(C)(4) and 303.1(D); Repeals R.S. 26:346(B) and 354(C)(2) and R.S. 47:296.1, 1517(B)(1)(c)-(e) and (2)-(4), 1517.1, and 1624(A)(2))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Delete proposed law reducing the rate of interest on delinquent tax liabilities.