

2025 Regular Session

HOUSE BILL NO. 404

BY REPRESENTATIVE WILLARD

1 AN ACT

2 To amend and reenact R.S. 26:364(C) and R.S. 47:301.4(B)(1), 1621(D)(1), 1624(A)(1), and
3 1676(C)(4), (D)(4)(a)(i) and (ii), (b), and (c), (E), and (F)(1), to enact R.S. 47:31(6),
4 301.4(C)(4) and (5), 303.1(D), and 1621(K), and to repeal R.S. 47:296.1 and
5 1624(A)(2), relative to tax administration; to provide for powers and duties of the
6 Department of Revenue; to provide for administration of income, sales and use, and
7 alcoholic beverage taxes; to provide relative to refunds of overpayments of taxes; to
8 prohibit payment of interest on refunds of certain sales tax overpayments; to provide
9 for sourcing of certain sales; to provide relative to the functions of the office of debt
10 recovery; to repeal outdated references and expired provisions of law; to provide for
11 retroactive application of certain provisions of law; to provide for definitions; to
12 provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

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

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

18 * * *

19 C. The shipper shall prepare and ~~mail~~ submit, in the manner prescribed by
20 the secretary, a notice of shipment to the secretary, and a copy to the Louisiana
21 dealer, not later than the twentieth day of the month following the date of movement
22 from the point of origin. The notice must show ~~such~~ information concerning the

1 alcoholic beverages and the means of transportation as may be specified in
2 regulations.

3 * * *

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

5 §303.1. Direct Payment Numbers

6 * * *

7 D. Notwithstanding any other provision of law to the contrary, the interest
8 provided for in R.S. 47:337.80 and 1624 shall not accrue on any overpayment
9 resulting from the payment of sales and use tax on exempt purchases by a taxpayer
10 holding a DP number until one hundred eighty days after the later of the due date of
11 the return, the filing date of the return or claim for refund on which the overpayment
12 is claimed, or the date the tax was paid.

13 * * *

14 Section 3. R.S. 47:301.4(B)(1) is hereby amended and reenacted and R.S.
15 47:301.4(C)(4) and (5) are hereby enacted to read as follows:

16 §301.4. Sales transaction sourcing rules

17 * * *

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

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

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

28 ~~(b)~~(c) "Use of digital products" means the location of the first act within this
29 state by which the taxpayer, as a consumer, views, accesses, downloads, possesses,
30 stores, opens, manipulates, or otherwise uses or enjoys a digital product.

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

4 * * *

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

7 * * *

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

10 (5) Abstracts of title created by a person having a place of business in
11 Louisiana shall be sourced to the location of the person's principal place of business
12 in Louisiana.

13 * * *

14 Section 4. R.S. 47:1621(D)(1), 1624(A)(1), and 1676(C)(4), (D)(4)(a)(i) and (ii), (b),
15 and (c), (E), and (F)(1) are hereby amended and reenacted and R.S. 47:1621(K) is hereby
16 enacted to read as follows:

17 §1621. Refunds of overpayments authorized

18 * * *

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

31 * * *

1 K. No refund shall be made for any overpayment that is based on a tax
2 shelter, tax sham, tax evasion scheme, or any transaction which lacks a legitimate
3 business purpose or otherwise fails the economic substance doctrine as determined
4 by a final decision of a court of competent jurisdiction.

5 * * *

6 §1624. Interest on refunds

7 ~~A.(1)(a) Except as otherwise provided in this Section and notwithstanding~~
8 ~~any other provision of law to the contrary, on all refunds or credits the secretary shall~~
9 ~~compute and allow as part of the refund or credit, interest at the annual rate~~
10 ~~established in R.S. 13:4202 from ninety days after the later of the due date of the~~
11 ~~return, the filing date of the return or claim for refund on which the overpayment is~~
12 ~~claimed, or the date the tax was paid.~~

13 ~~(b)~~ Except as otherwise provided in Subparagraph (2)(a) of this Subsection,
14 and notwithstanding any other provision of law to the contrary, ~~beginning January~~
15 ~~1, 2022,~~ on all refunds or credits, the secretary shall compute and allow as part of the
16 refund or credit interest at the rate established for tax obligations in R.S.
17 47:1601(A)(2) from ninety days after the later of the due date of the return, the filing
18 date of the return or claim for refund on which the overpayment is claimed, or the
19 date the tax was paid.

20 ~~(c)~~(b) An overpayment shall bear no interest if it is credited to the taxpayer's
21 account. No interest on refunds or credits shall be allowed if the secretary proves by
22 clear and convincing evidence that a person has deliberately overpaid a tax in order
23 to derive the benefit of the interest allowed by this Section. Payments of interest
24 authorized by this Section shall be made from funds derived from current collections
25 of the tax to be refunded or credited.

26 (c) No interest shall accrue on any overpayment that is based on a tax shelter,
27 tax sham, tax evasion scheme, or any transaction which lacks a legitimate business
28 purpose or otherwise fails the economic substance doctrine as determined by a final
29 decision of a court of competent jurisdiction.

30 * * *

§1676. Debt recovery

* * *

C.

* * *

(4) If, in the course of collecting delinquent debt, the secretary determines that the office requires the additional assistance of legal counsel, the secretary shall first seek assistance from the office of the attorney general. If the office of the attorney general is unable to or declines to offer legal counsel, the secretary ~~is authorized to~~ may contract with a third party for such services. Additionally, the legislative auditor shall have authority to conduct audits of such contracts in accordance with the law.

D.

* * *

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

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

* * *

1 (b) Any entity licensed or permitted ~~under~~ pursuant to Chapters 1, 4, 5, ~~or~~
2 7, or 10 of Title 27 of the Louisiana Revised Statutes of 1950 may deduct an
3 administrative fee from each payment of a progressive slot machine annuity or cash
4 gaming winnings in accordance with R.S. 27:24(A)(5)(d) pursuant to a request by
5 the office of debt recovery to such annuities or winnings in the collection of a
6 delinquent debt; however, the licensed or permitted entity shall not withhold more
7 than one administrative fee on such annuities or winnings.

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

16 * * *

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

1 by the legislature beginning in Fiscal Year 2013-2014, and for four consecutive
2 fiscal years thereafter, to the office of state police for a training academy class.

3 F.(1) Notwithstanding any law to the contrary, agencies ~~shall be authorized~~
4 to may transmit data to the office of debt recovery deemed necessary by the secretary
5 to aid in the collection efforts of the office. The secretary shall establish a
6 centralized electronic debt registry to compile the information provided by agencies
7 and shall maintain all information provided from all sources within the state
8 concerning addresses, financial records, and any other information useful in assisting
9 the office in collection services of the centralized registry. The data compiled in the
10 registry from the department, referring agencies, and the office shall be available for
11 cross-referencing and for the identification of debtors necessary for the collection of
12 delinquent debt.

13 * * *

14 Section 5. R.S. 47:31(6) is hereby enacted to read as follows:

15 §31. Individuals, corporations and trusts subject to tax

16 There shall be levied, collected, and paid for each taxable year a tax upon the
17 net income of residents and nonresidents, estates, trusts and corporations, as
18 hereinafter provided.

19 * * *

20 (6) For state income tax purposes, capital construction funds, created in
21 accordance with 46 U.S.C. App. 1177 and 26 U.S.C. 7518, and all related items of
22 income, gain, deduction, loss, credit, adjustment, and basis shall be taxed in the same
23 manner as those items are taxed pursuant to 26 U.S.C. 7518 and applicable federal
24 regulations.

25 Section 6. R.S. 47:296.1 is hereby repealed in its entirety.

26 Section 7. R.S. 47:1624(A)(2) is hereby repealed in its entirety.

27 Section 8. The provisions of Section 3 of this Act shall be given prospective and
28 retroactive application.

29 Section 9. This Section and Section 5 of this Act shall become effective on January
30 1, 2026.

1 Section 10. This Section and Sections 2 and 7 of this Act shall become effective on
2 July 1, 2025.

3 Section 11. This Section and Sections 1, 3, 4, 6, and 8 of this Act shall become
4 effective upon signature by the governor or, if not signed by the governor, upon expiration
5 of the time for bills to become law without signature by the governor, as provided by Article
6 III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently
7 approved by the legislature, this Section and Sections 1, 3, 4, 6, and 8 of this Act shall
8 become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____