

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 1121** HLS 16RS 2118

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

<b>Date:</b> April 30, 2016	3:51 PM	<b>Author:</b> LEGER
<b>Dept./Agy.:</b> Revenue		<b>Analyst:</b> Deborah Vivien
<b>Subject:</b> Notification and reporting for remote sellers		

TAX/SALES & USE

OR SEE FISC NOTE GF RV See Note

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Establish notification and reporting requirements relative to retail sales made in Louisiana by remote retailers

Current law requires dealers to report names and addresses of state residents with purchases of property or services of \$250 or more to the Secretary of Revenue upon request.

Proposed law repeals current law, defines remote sellers and requires the remote sellers with gross receipts greater than \$50,000 who do not collect state and local sales tax to notify the state resident purchaser that the sale is subject to use tax unless specifically exempt, and that LA use tax is paid annually on the individual income tax return or as stated by rule. In addition, annual reports of aggregate calendar year purchase amounts by each purchaser are required to be sent to the purchaser and the department. Penalties for failure to comply are stipulated in the bill but may be waived by the Secretary for reasonable cause. The Secretary has further legal remedy as stipulated in the bill. Implementation may only occur once rules are promulgated by the Department of Revenue.

<b>EXPENDITURES</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>REVENUES</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	SEE BELOW					
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

The Department indicates that the bill will require about \$480,000 to implement, including programming, testing and system development for the electronic filing. However, it is not clear what department will have to do in order to interpret the information mandated to be sent to them.

For instance, if the department is given a purchaser's name, significant effort could be required to legally connect that name with a specific taxpayer with certainty. Further, if the data only includes an aggregate value of purchases, it is not clear how the department will determine taxability in order to enforce use tax collections. Enforcement of the bill may require a relatively stringent process to determine an appropriate use tax assessment. Such effort could be expensive relative to the use tax potential per taxpayer. However, the bill may help identify high volume purchasers which may allow for more efficient enforcement.

**REVENUE EXPLANATION**

To the extent that notifications on remote sales and/or an annual report of sales compel purchasers to remit use tax that otherwise would not be remitted, this bill will raise additional revenue. Further, any penalties as authorized in the bill that are collected due to non-compliance, will increase self-generated revenue for the agency.

It is not clear how the agency will utilize data which includes a single amount of calendar year purchases and a name from each remote retailer in order to assess use tax on a single taxpayer.

A recent federal district court ruling in Colorado indicates that tax-due notifications and annual reporting requirements placed upon remote sellers are binding and enforceable as federal law. According to the agency, should the compliance burden to remote retailers be too great, it is possible that they may decide to no longer ship to Louisiana in a manner similar to Amazon disassociating with all affiliates upon passage of Act 22 of the 2016 ES1. However, the federal ruling does imply that this provision may soon be required in numerous locations which could force a more widespread compliance in order to maintain marketshare.

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|---|--|--------------|
| <u>Senate</u>   | <u>Dual Referral Rules</u>   | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}       | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}                    |              |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |              |

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