

**SENATE COMMITTEE AMENDMENTS**

2016 Regular Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Engrossed House Bill No. 772 by Representative Abramson

1 AMENDMENT NO. 1

2 On page 1, line 2, delete "R.S. 47:6351(B)(1)" and insert "R.S. 47:6351"

3 AMENDMENT NO. 24 On page 1, line 3, at the end of the line, insert "to provide for non-transactional event  
5 rebates;"6 AMENDMENT NO. 3

7 On page 1, line 6, delete "R.S. 47:6351(B)(1)" and insert "R.S. 47:6351"

8 AMENDMENT NO. 4

9 On page 1, between lines 7 and 8 insert:

10 "A. Definitions. For purposes of this Section, the following words shall have  
11 the following meanings unless the context clearly indicates otherwise:12 (1) "Affiliated entity" shall mean a person who, directly or indirectly through  
13 one or more intermediaries, controls or is controlled by or is under common control  
14 with another person.

15 (2) "Department" shall mean the Department of Revenue.

16 (3) "New taxable sales" shall mean the sale of goods and services upon which  
17 state sales and use tax is paid under this Title and which would not have occurred in  
18 the state but for the operation in the state of a procurement processing company. The  
19 term "new taxable sales" shall not include any sales or purchases of services or  
20 property upon which such sales and use tax would have been due if the procurement  
21 processing company was not operating in the state.22 (4) "Non-transactional event company" shall mean a company who has  
23 agreed to absorb the taxes due under R.S. 47:302, 321, 321.1 and 331; has advertised  
24 the same to customers or clients as required by R.S. 47:304; has a contract with the  
25 state or a political subdivision of the state that ensures reimbursement of or  
26 protection, defense and indemnification to the company from sales tax if an existing  
27 sales tax exemption is removed, repealed or modified, or if a new sales or other tax  
28 is levied; and the contract with the state or a political subdivision of the state may  
29 include a bid, invitation, or proposal that has been awarded to the state or a political  
30 subdivision of the state to host, conduct, join, or share in the occurrence of a special  
31 event when the special event requires protection from or reimbursement of any sales  
32 tax levied on the special event as a condition of the award and the special event is  
33 held in a facility owned by the state or a political subdivision of the state.34 (5) "Non-transactional event rebate" shall mean a rebate to a  
35 non-transactional event company by the department for sales taxes absorbed and due  
36 to the department but required to be reimbursed under a contract between the  
37 company and the state or a political subdivision of the state that ensures  
38 reimbursement of or protection, defense and indemnification of a non-transactional  
39 event company from a sales tax if a prior sales tax exemption is removed, repealed  
40 or modified, or if new sales tax is levied. The contract between the company and the  
41 state or political subdivision of the state shall be in effect and duly approved before  
42 any non-transactional event rebate may be authorized for that company.43 ~~(4)~~ (6) "Procurement processing company" means a company engaged in  
44 managing the activities of unrelated purchasing companies.45 ~~(5)~~ (7) "Purchasing company" means a company engaged in the activity of  
46 selling property and services to affiliated entities.

1                   ~~(6)~~ (8) "Secretary" shall mean the secretary of the Department of Revenue.  
2                   ~~(7)~~ (9) "Significant positive economic benefit" means that net positive state  
3 tax revenues are to be generated from the new taxable sales."

4    AMENDMENT NO. 5

5    On page 1, delete lines 8 and 9, and insert:

6                   "B. ~~Contract~~ Procurement processing company contract.  
7                   (1) The secretary of the Department of Economic Development is authorized  
8                   to enter into a contract with a procurement "

9    AMENDMENT NO. 6

10   On page after line 17, add the following:

11                   "(2) The contract shall include a provision whereby the procurement  
12                   processing company expressly acknowledges that if it receives a rebate for new  
13                   taxable sales under the provisions of this Section, in no event shall the taxes on such  
14                   new taxable sales remitted to Louisiana by the purchasing company or affiliated  
15                   entity constitute an overpayment as defined in R.S. 47:1621.

16                   (3) Any contract between the procurement processing company and a  
17                   purchasing company shall include a provision whereby the parties in such contract  
18                   expressly acknowledge that if the procurement processing company receives a rebate  
19                   for new taxable sales under the provisions of this Section, in no event shall the taxes  
20                   on such new taxable sales remitted to Louisiana by the purchasing company or  
21                   affiliated entity constitute an overpayment as defined in R.S. 47:1621.

22                   C. Non-transactional event rebate contract.

23                   (1) The secretary may enter into a contract with a non-transactional event  
24                   company to provide for the identification and tracking of absorbed sales taxes as a  
25                   non-transactional event rebate.

26                   (2) The non-transactional event rebate contract authorized in this Subsection  
27                   shall provide for a rebate of sales tax properly absorbed; set forth a mechanism to  
28                   certify the absorbed sales tax that corresponds to a non-transactional event rebate;  
29                   and attach and reference the authorized contract between the non-transactional event  
30                   company and the state or a political subdivision of the state. The non-transactional  
31                   event rebate contract may also include the designation of a political subdivision of  
32                   the state as the agent of the non-transactional event company for purposes of the  
33                   absorption of the taxes.

34                   (3) The non-transactional event rebate contract authorized in this Subsection  
35                   shall treat the sales tax absorbed by the non-transactional event company as properly  
36                   remitted sales tax and no additional transactions shall occur.

37                   (4) The secretary shall be responsible for properly tracking non-transactional  
38                   event rebates authorized by this Section.

39                   ~~C.~~ D. Certification of sales. The secretary ~~of the department~~ shall determine  
40                   the amount of incentive rebates to be paid to a procurement processing company  
41                   pursuant to ~~the a~~ a contract authorized in this Section. Rebate payments shall be based  
42                   upon the amount of new taxable sales which are certified by the secretary.

43                   E. Certification of non-transactional event rebate. The secretary shall  
44                   determine the amount of the non-transactional event rebate and the rebate shall be  
45                   based upon the amount of sales tax absorbed by the non-transactional event company  
46                   and deemed properly remitted to the state.

47                   ~~D.~~ F. Payment of rebate.

48                   (1) Notwithstanding any provision of law to the contrary, the secretary ~~of the~~  
49                   ~~department~~ shall make the rebate authorized pursuant to the provisions of this  
50                   Section from the state sales tax revenue generated by the new taxable sales occurring  
51                   in this state as a result of the operation of a procurement processing company in  
52                   Louisiana.

53                   (2) If after a rebate has been paid, the department determines that certain  
54                   items included in the rebate payment did not constitute new taxable sales, the amount

1 rebated for those items shall be recaptured by the department from the procurement  
2 processing company, subject to the prescriptive period set forth in R.S. 47:1561.2.

3 (3) Notwithstanding any provision of law to the contrary, if a procurement  
4 processing company receives a rebate for new taxable sales under the provisions of  
5 this Section, in no event shall the taxes on such new taxable sales remitted to  
6 Louisiana by the purchasing company or affiliated entity constitute an overpayment  
7 as defined in R.S. 47:1621.

8 (4) A non-transactional event rebate shall be authorized by the secretary; but,  
9 it shall not otherwise result in any payment being made by the department to the  
10 non-transactional event company. the non-transactional event rebate shall only be  
11 recognized for purposes of identifying and tracking the sales tax absorbed by the  
12 non-transactional event company.

13 (5) In no event shall the sales tax calculated as part of an non-transactional  
14 event rebate constitute an overpayment as defined in R.S. 47:1621 and in no manner  
15 shall the non-transactional event company receive any vendor's compensation  
16 discount under Title 47 for the collection or absorption of sales tax.

17 E. G. The Department of Revenue may promulgate rules and regulations in  
18 accordance with the provisions of the Administrative Procedure Act as are necessary  
19 to implement the provisions of this Section.

20 F. H. Administrative expenses.

21 (1) From the collections of new state sales tax revenue generated by new  
22 taxable sales as a result of the activities of purchasing companies pursuant to the  
23 provisions of this Section, the secretary ~~of the department~~ is authorized to retain an  
24 amount necessary to provide for the expenses the department shall incur in the  
25 administration of the provisions of this Section. Such monies are hereby designated  
26 to be self-generated revenues of the department.

27 (2) A non-transactional event rebate shall not be eligible for administrative  
28 expenses.

29 G. I. Disposition of collections resulting from new taxable sales.

30 The state sales tax revenues generated as a result of the activities of  
31 purchasing companies pursuant to this Section which are deposited into the state  
32 general fund shall thereafter be disbursed during each fiscal year in the following  
33 order of priority:

34 (1) The payment of rebates to procurement processing companies by the  
35 secretary ~~of the Department of Revenue~~ in accordance with the provisions of a  
36 contract, which payments shall be made from current sales tax collections pursuant  
37 to Paragraph ~~(D)~~(F)(1) of this Section.

38 (2) Retention by the department of amounts necessary to provide for the  
39 expenses of the department pursuant to the provisions of Subsection F H of this  
40 Section.

41 (3) Of the monies remaining after satisfaction of the requirements of  
42 Paragraphs (1) and (2) of this Subsection as determined by the secretary pursuant to  
43 Subsection H J of this Section, the state treasurer is hereby authorized and directed  
44 to transfer the amount of thirty million dollars, or as much thereof as is available,  
45 from the state general fund to the Unfunded Accrued Liability and Specialized  
46 Educational Institutions Support Fund-Specialized Educational Institutions Account,  
47 which is established pursuant to R.S. 39:100.136. Each fiscal year, the transfer shall  
48 occur as soon as is practicable, upon notification by the secretary ~~of the Department~~  
49 ~~of Revenue~~ that revenues sufficient to provide for this distribution have been  
50 deposited into the treasury.

51 (4) Of the monies remaining after satisfaction of the requirements of  
52 Paragraphs (1) through (3) of this Subsection as determined by the secretary pursuant  
53 to Subsection H J of this Section, the state treasurer is hereby authorized and  
54 directed to transfer from the state general fund to the Unfunded Accrued Liability  
55 and Specialized Educational Institutions Support Fund-UAL Account an amount  
56 equal to ten percent of the total remaining state sales tax revenues collected in and  
57 attributable to that fiscal year as a result of the activities of purchasing companies.  
58 The transfer shall occur no later than August tenth of each year.

59 (5) The provisions of this Subsection shall not apply to non-transactional  
60 event rebates authorized by this Section.

1           H. J. The availability of monies necessary to comply with the provisions of  
2           Subsection ~~G~~ I of this Section shall be evidenced by the amount of state sales tax  
3           revenue generated by the new taxable sales upon which a rebate has been paid  
4           pursuant to this Section. The secretary is authorized and directed to estimate the  
5           amount of taxes which have been deposited into the state general fund as a result of  
6           such new taxable sales. Upon request, the secretary shall provide written notification  
7           to the state treasurer as to the amount of money available for the making of deposits  
8           as required by this Subsection."