

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 17** HLS 182ES 59

Bill Text Version: **ENROLLED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

| | | |
|---|----------|----------------------------------|
| Date: June 6, 2018 | 11:39 AM | Author: FOIL |
| Dept./Agy.: REVENUE | | Analyst: Benjamin Vincent |
| Subject: Definition: Remote Dealer | | |

TAX/SALES & USE EN SEE FISC NOTE GF RV See Note Page 1 of 1
Provides criteria for the definition of "dealer" for purposes of the sales tax imposed on transactions involving a remote seller (Item #26)

Present law defines "dealer" for purposes of state sales and use tax as a person who manufactures or produces tangible personal property for sale at retail, use or consumption or for storage to be used or consumed in a taxing jurisdiction. Proposed law adds to the definition of "dealer" individuals or businesses not physically present in the state that sell over \$100,000 of goods or services into the state, engage in 200 or more separate transactions with Louisiana customers, or voluntarily register to collect and remit sales tax. Proposed law is contingent upon a United States Supreme Court decision in favor of South Dakota in *South Dakota v. Wayfair, Inc.*, and includes this ruling as a source of authority for the LA Sales and Use Tax Commission for Remote Sellers to require remote sellers to collect and remit sales taxes. Proposed law provides that dealers are required to collect and remit consumer use tax until the Commission for Remote Sellers is established. Proposed law extends the sales tax refund on purchases of tangible personal property that is part of a home that was destroyed by a natural disaster to purchases by nonpublic schools damaged in the August 2016 floods. Governor's signature.

| EXPENDITURES | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | SEE BELOW | |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| Annual Total | | | | | | |

| REVENUES | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 | 5 -YEAR TOTAL |
|---------------------|----------------|----------------|----------------|----------------|----------------|----------------------|
| State Gen. Fd. | DECREASE | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Agy. Self-Gen. | SEE BELOW | |
| Ded./Other | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | SEE BELOW | |
| Annual Total | | | | | | |

EXPENDITURE EXPLANATION

Act 274 of the 2017 Regular Session established the Louisiana State Sales and Use Tax Commission for Remote Sellers, contingent on federal law requiring remote sellers to remit sales tax. Proposed law implements this commission under the alternative of a Supreme Court decision favorable to South Dakota in *South Dakota v. Wayfair, Inc.*

As reported in the fiscal note for Act 274, LDR anticipates hiring four employees with an associated annual cost of some \$322,000. These expenditures would be funded by the commission retaining up to 1% of local and state sales taxes from remote sellers and would be a portion of new revenues that the state would collect due to the expanded population of dealers provided by proposed law, and contingent upon the requisite federal law changes or Supreme Court decision.

REVENUE EXPLANATION

Current law imposes a state tax of 5% and a local tax of 4% on remote dealers, and distributes the local tax to local taxing authorities based on parish population. LDR reports that dealers currently meeting and complying with this criteria typically remit approximately \$1 million per quarter.

Proposed law, contingent on a favorable United States Supreme Court ruling, would expand the population of dealers qualifying as remote dealers.

To the extent that dealers meet the expanded definition and comply with the requirements to collect and remit the tax, state and local sales tax revenues will increase, along with a 1% share retained by the Commission. Such dealers would be required to collect and remit the consumer use tax in R.S. 47:302(K) until the Sales and Use Tax Commission for Remote Sellers is established and provides requirements for remote dealers to collect and remit sales and use tax. Any particular estimate of the magnitude and timing of possible additional collections is speculative.

Proposed law extends a sales tax refund to purchases that are part of and used in a nonpublic school that was damaged during the floods of August 2016, including construction materials. This provision will reduce general fund revenue to an unknown extent in FY19. A large impact on revenues due to this provision is not anticipated.

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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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