

2020 Regular Session

HOUSE BILL NO. 791

BY REPRESENTATIVE MAGEE

TAX/SALES & USE: Requires the Department of Revenue to create and manage a technology solution to centralize sales and use tax registration, filing, and remittance

1 AN ACT

2 To amend and reenact R.S. 47:337.22(C)(1), 337.23(K)(2), 339(A)(4), and 340(A), (E)(2)
3 and (4), (F)(2), (G)(7) and (9), and (I) and to enact R.S. 47:337.23(K)(3), 337.103,
4 339(A)(5), 340(J), and 1520(A)(4), relative to the mandatory filing of certain
5 electronic returns for local sales and use tax remittance; to create an application to
6 facilitate the electronic registration of taxpayers; to provide authority to the
7 Department of Revenue related to registration; to provide for electronic filing; to
8 provide for a registration number; to provide for a technological solution; to provide
9 authority to the Louisiana Sales and Use Tax Commission for Remote Sellers related
10 to the administration of remitting sales and use tax; to provide for funding; to
11 provide for effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:337.22(C)(1), 337.23(K)(2), 339(A)(4), and 340(A), (E)(2) and
14 (4), (F)(2), (G)(7) and (9), and (I) are hereby amended and reenacted and R.S.
15 47:337.23(K)(3), 337.103, 339(A)(5), 340(J), and 1520(A)(4) are hereby enacted to read as
16 follows:

17 §337.22. Sales and use tax returns

18 * * *

19 C.(1) In addition to the authority granted to the Uniform Electronic Local
20 Return and Remittance Advisory Committee as provided for in R.S. 47:337.23, the
21 committee shall also design a standard, uniform, paper return to be used by the

1 collectors of the sales and use tax of political subdivisions. It shall also include a
2 space requiring that the ~~state tax identification~~ registration number, as set forth in
3 R.S. 47:337.103, be provided by the taxpayer.

4 * * *

5 §337.23. Uniform electronic local return and remittance system; official record of
6 tax rates and exemptions; filing and remittance of local sales and use taxes;
7 penalties for violations

8 * * *

9 K.

10 * * *

11 (2) Notwithstanding any law to the contrary, beginning January 1, 2022,
12 every local sales tax collector shall require electronic filing of returns and remittance
13 of local sales and use tax by all taxpayers, unless the taxpayer receives an electronic
14 filing and remittance waiver from the department due to hardship.

15 (3) Failure of a taxpayer to comply with the electronic filing requirements
16 set forth in this Subsection shall result in the collector for the taxing authority
17 assessing a penalty of one hundred dollars or five percent of the tax owed on the
18 return, whichever is greater; however, the total penalty per return shall not exceed
19 five thousand dollars. The local collector for the taxing authority may waive
20 remittance and payment of the penalty in whole or in part if the local collector
21 determines that the failure to comply by the taxpayer was reasonable and was
22 attributable, not to any negligence on the part of the taxpayer, but for a cause which
23 is submitted to the local collector in writing.

24 * * *

25 §337.103. Electronic registration; sharing of registration information with local
26 collectors; creation of technological solution to enable state and local filing
27 and remittance

28 A. Purpose. The intent of this Section is to provide for the creation and
29 utilization of a technology solution to provide a taxpayer or dealer with a single point

1 of electronic registration with the Department of Revenue and each local sales tax
2 collector as required by law. The taxpayer's or dealer's unique Louisiana sales and
3 use tax identification number and related information shall be simultaneously made
4 available to the department, the Louisiana Sales and Use Tax Commission for
5 Remote Sellers, and to all applicable local sales tax collectors to ease the
6 administrative compliance of filing state and local returns and remitting state and
7 local sales and use taxes.

8 B. Definitions. For purposes of this Section, the following words shall have
9 the following meanings unless the context clearly indicates otherwise:

10 (1) "Department" means the Department of Revenue.

11 (2) "Local sales tax collector" means the constitutionally-designated single
12 sales and use tax collector for each parish in the state which levies and imposes a
13 local sales and use tax.

14 (3) "Registration number" means a unique identifying number assigned by
15 the Department to each taxpayer or dealer, or affiliate upon the registration with or
16 remittance of state sales or use tax to the department.

17 (4) "Secretary" means the secretary of the Department of Revenue.

18 (5) "Technological solution" means an information technology system or
19 program in the possession of or purchased by the Department of Revenue necessary
20 to perform the functions described in this Section.

21 C. Administration.

22 (1) There is hereby established a central registration system for taxpayers to
23 be created, modified, managed and maintained by the department.

24 (2) The department shall create, modify, manage and maintain a
25 technological solution to enable taxpayers or dealers to electronically register, file,
26 and remit sales tax, and for coordination with local sales tax collectors for electronic
27 registration, filing, and remittance of local sales tax. Each taxpayer or dealer, or
28 affiliate shall be assigned a unique registration number by the technological solution.

1 (3) A taxpayer's or dealer's registration information and data obtained by the
2 technological solution shall be simultaneously provided to the department, the
3 Louisiana Sales and Use Tax Commission for Remote Sellers, and to all applicable
4 local sales tax collectors electronically in a data or image file transferred in a
5 machine-readable format.

6 (4) The technological solution shall, to the extent permitted by appropriation
7 and available funding, create a standalone, independent application or program
8 which shall be made available to taxpayers or dealers for obtaining a unique
9 registration number for use by the department and local sales tax collectors.

10 (5) In providing taxpayers or dealers with a unique registration number, the
11 technological solution shall obtain pertinent information from the taxpayer or dealer,
12 including but not limited to any parish or parishes in which the taxpayer or dealer
13 maintains a business location and any parish or parishes in the state as identified by
14 the taxpayer or dealer in which it engages in transactions.

15 (6) The technological solution shall enable multiple return and remittance
16 portals to enable taxpayers and dealers a single electronic application or program to
17 file sales and use tax returns required by law and to remit all corresponding sales and
18 use taxes to the appropriate taxing bodies. The technological solution shall not
19 enable the filing of returns by remote sellers or collect state and local sales taxes on
20 remote sales.

21 (7) The technological solution shall provide or convert the state and local
22 registration numbers of existing taxpayers or dealers into one unique registration
23 number for use by both the department and local sales tax collectors.

24 (8) The technological solution shall permit all taxpayers or dealers to edit,
25 add or delete account information with automatic updates of taxpayer or dealer
26 information simultaneously furnished to the department, the Louisiana Sales and Use
27 Tax Commission for Remote Sellers, and applicable local sales tax collectors.

28 (9) The technological solution shall grant local sales tax collectors access to
29 information and data maintained by the department to validate a taxpayer's or

1 dealer's registration number and related information pertaining to the filing and
2 remittance of sales and use taxes.

3 (10) The technological solution shall, to the extent possible, integrate,
4 correspond, or both, with existing information technology systems currently utilized
5 by local sales tax collectors.

6 (11) For all taxpayers or dealers who or which have registered with the
7 department for the filing and remittance of state sales tax prior to January 1, 2021,
8 the department shall assign the taxpayer, dealer, or affiliate a unique registration
9 number, and the department shall share the unique registration number and
10 identifying information with all local sales tax collectors in which the taxpayer or
11 dealer is located or known to conduct business. The department shall provide any
12 and all local sales tax collectors with the information and documents described
13 herein no later than January 1, 2022. Compliance with this Paragraph shall not be
14 deemed to be a violation of R.S. 47:1508 or 1508.1.

15 (12) For all taxpayers or dealers who or which register through the
16 technological solution for the filing and remittance of sales and use tax on or after
17 January 1, 2021, the taxpayer, dealer, or affiliate, shall be assigned a unique
18 registration number, and the department, the Louisiana Sales and Use Tax
19 Commission for Remote Sellers, and all applicable local sales tax collectors shall
20 have access to the unique registration number and identifying information.
21 Compliance with this Paragraph shall not be deemed to be a violation of R.S.
22 47:1508 or 1508.1.

23 (13) For all taxpayers or dealers who or which have registered with one or
24 more local sales tax collectors for the filing and remittance of local sales tax prior to
25 January 1, 2021, the technological solution shall reconcile the conversion of the
26 identification or registration numbers previously issued by the local sales tax
27 collectors with the taxpayer's or dealer's unique registration number recognized by
28 the department. The local sales tax collectors shall provide the department with
29 access to the relevant information and documents related to such taxpayer or dealer.

1 Compliance with this Paragraph shall not be deemed to be a violation of R.S.
2 47:1508 or 1508.1.

3 * * *

4 §339. Louisiana Sales and Use Tax Commission for Remote Sellers

5 A. The Louisiana Sales and Use Tax Commission for Remote Sellers,
6 hereinafter referred to as "commission", is created and established within the
7 Department of Revenue for the administration and collection of the sales and use tax
8 imposed by the state and political subdivisions with respect to remote sales. The
9 commission shall:

10 * * *

11 (4) Establish a fiscal agent solely for the purpose of ~~remote seller~~
12 remittances.

13 (5) Collect pertinent information from remote sellers and coordinate with
14 applicable political subdivisions and the Department of Revenue through the
15 technological solution provided for in R.S. 47:337.103 to ensure that remote sellers
16 are properly registered with unique registration numbers for the filing of returns and
17 remittance of sales and use tax. Compliance with the obligations set forth in this
18 Paragraph shall not be deemed to be a violation of R.S. 47:1508 or 1508.1.

19 * * *

20 §340. Louisiana Sales and Use Tax Commission for Remote Sellers; members;
21 powers

22 A. The duties of the commission shall be exercised and discharged under the
23 supervision and direction of a commission with voting power and a non-voting
24 executive director, all of whom shall be appointed and shall serve as provided in this
25 Section:

26 * * *

27 E.

28 * * *

1 (7) To provide to the single tax collector for each parish an annual report of
2 revenues collected, remitted, and distributed for the previous calendar year, which
3 report shall be provided on or before June first of each year.

4 * * *

5 (9) With the consent of the affected local taxing authority, to issue notices
6 of intent to assess, notices of assessments, enforce collection and remittance of local
7 sales and use taxes by distraint and sale, and institute summary proceedings or
8 ordinary proceedings for collection of local taxes.

9 * * *

10 I. The Louisiana State Law Institute is hereby authorized and requested to
11 review all statutes which contain phrases being changed by this Chapter and in all
12 locations it deems appropriate change the references, particularly those that apply to
13 the levy, remittance, and collection of state and local sales and use taxes.

14 J. Notwithstanding the provisions of this Section, local taxing authorities
15 shall maintain the exclusive right to administer local tax levies and conduct audits
16 related to local taxes.

17 * * *

18 §1520. Electronically filed returns; signatures

19 A.(1) The secretary may require electronic filing of tax returns or reports
20 under any of the following circumstances:

21 * * *

22 (4) Notwithstanding any law to the contrary, beginning January 1, 2022, the
23 Department of Revenue shall require the electronic filing of returns and remittance
24 of state sales and use tax by all taxpayers or dealers, unless the taxpayer receives an
25 electronic filing and remittance waiver from the department due to hardship.

26 * * *

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.
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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 791 Reengrossed

2020 Regular Session

Magee

Abstract: Provides for a technological solution created and maintained by the Dept. of Revenue for the purpose of centralizing sales and use tax collection, filing, and remittance.

Present law establishes a uniform electronic local return and remittance system for sales and use taxes.

Present law establishes the Uniform Electronic Local Return and Remittance Advisory Committee (committee) which makes recommendations to the secretary of the Dept. of Revenue (dept.) regarding the design, implementation, and operation of the uniform electronic local return and remittance system.

Present law requires local sales and use tax collectors to furnish all necessary forms and instructions for filing sales and use tax returns and remitting monies.

Present law requires the committee to design a standard, uniform, paper return to be used by the collectors of the sales and use tax of political subdivisions. Present law further directs the committee to include space in the return for the state tax identification number.

Proposed law retains present law but changes "state tax identification number" to "registration number".

Proposed law provides that beginning Jan. 1, 2022, every local sales and use tax collector shall require electronic filing of returns and remittance by all taxpayers, unless the taxpayer receives a waiver from the dept.

Proposed law establishes a technological solution created and maintained by the dept. to provide taxpayers centralized electronic registration and to be used for taxpayer registration with the dept. and local sales tax collectors.

Proposed law provides for the definitions of "department", "local sales tax collector", "registration number", "secretary", and "technological solution".

Proposed law authorizes the technological solution to convert a taxpayer's state tax identification number and local sales and use tax identification number into a single, unique registration number.

Present law provides the registration number shall be provided to the dept., the La. Sales and Use Tax Commission for Remote Sellers (commission), and local sales tax collectors in a data or image file transferred in a machine-readable format.

Proposed law, to the extent permitted by appropriation and available funding, creates an independent application or program available to taxpayers for obtaining the unique registration number.

Proposed law provides that pertinent taxpayer information such as the parish in which the taxpayer engages in transactions, shall be related to the registration number.

Proposed law provides that the technological solution shall provide multiple return and remittance portals to enable taxpayers a single electronic application or program to file sales and use tax returns and remit all sales and use taxes to the appropriate taxing bodies. The solution shall also allow taxpayers to edit information and data maintained by the dept. to validate the taxpayer's registration number.

Proposed law provides the dept. shall assign all taxpayers who have registered with the dept. for the filing and remittance of state tax prior to Jan. 1, 2021 a registration number. The dept. shall also provide the registration number and associated information to local sales tax collectors in which the taxpayer is located or conducts business no later than Jan. 1, 2022.

Proposed law further provides taxpayers who have registered through the technological solution on or after Jan. 1, 2021, shall be assigned a unique registration number and state and local tax collectors shall have access to the number and associated information.

Proposed law provides that the technological solution shall reconcile the conversion of identification or registration number previously issued by the local sales tax collectors of all taxpayers who have registered with one or more local sales tax collectors prior to Jan. 1, 2021. The local sales tax collectors shall provide the dept. with access to relevant information related to the taxpayer.

Present law establishes the La. Sales and Use Tax Commission for Remote Sellers for the purpose of collecting sales and use taxes from remote sellers without a physical presence in La. Proposed law retains present law.

Present law provides that the commission's operations shall be funded by an amount not to exceed 1% of the total amount of state and local sales and use taxes collected on remote sales by the commission.

Proposed law retains present law.

Present law provides the commission shall establish a fiscal agent for remote seller remittances. Proposed law changes present law to require a fiscal agent for any remittances.

Present law allows for the commission to take any action related to the collection of sales and use tax within its jurisdiction as permitted by law that the secretary of the dept. is authorized to take to enforce administration.

Present law authorizes the commission to take the same actions as the secretary of dept. necessary in order to enforce the remittance of sales and use tax.

Present law provides the commission shall collect taxpayer information from remote sellers and coordinate with tax collectors through the technological solution to ensure remote sellers are properly registered with a unique resignation number.

Present law provides the commission shall remit money monthly less any refund or administrative collection fees to the appropriate collector. Present law further provides the remittance shall be completed by electronic funds on or before the 10th day of the month of collection. Proposed law changes present law to require the remittance to be completed by electronic funds on or before the 10th day of the month monies were received.

Present law authorizes state or local collectors on a monthly basis, to access records of gross collections, refunds, and amounts retained for administrative expenses. Proposed law expands present law to allow access of records of gross remittance.

Present law gives the commission the power, duty, and authority to provide to the single tax collector for each parish, on or before June first of each year, an annual report of revenues collected and distributed in the previous calendar year. Proposed law requires the report to include revenues remitted in the previous calendar year.

Present law authorizes the commission with the consent of the affected local taxing authority to issue certain notices and enforce collection of sales and use tax collection. Proposed law retains present law and expands the commission's power to enforce remittance of local sales and use taxes.

Present law provides that nothing in present law provisions related to the commission shall be construed to:

1. Authorize the commission to exercise any right or perform any function presently exercised by local sales and use tax authorities.
2. Authorize the commission to serve as a central state collection agency for local sales and use taxes.
3. Limit any statutory and ordinal provisions in place as of June 16, 2017, that require dealers and taxpayers, with respect to non-remote sales, to pay and remit directly to the single sales and use tax collector in each parish the sales and use taxes due to each local taxing authority within each parish.

Present law authorizes the La. State Law Institute to review all statutes related to the commission and remote sales and make appropriate changes to references.

Proposed law provides local taxing authorities shall maintain exclusive right to administer local tax levies and conduct audits related to local taxes.

Effective upon signature of the governor.

(Amends R.S. 47:337.22(C)(1), 337.23(K)(2), 339(A)(4), and 340(A), (E)(2) and (4), (F)(2), (G)(7) and (9), and (I); Adds R.S. 47:337.23(K)(3), 337.103, 339(A)(5), 340(J), and 1520(A)(4))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove provisions related to the La. Sales and Use Tax Commission for Remote Sellers remitting local sales and use tax on behalf of taxpayers.
2. Require electronic registration and the sharing of taxpayer information among the Dept. of Revenue, local sales tax collectors and the La. Sales and Use Tax Commission for Remote Sellers.
3. Establish a technological solution for the purpose of centralized sales and use tax taxpayer registration and filing sales and use tax returns and remitting monies owed.
4. Change effectiveness to upon signature of the governor.
5. Make technical changes.