HLS 23RS-88 ORIGINAL

2023 Regular Session

HOUSE BILL NO. 257

1

BY REPRESENTATIVE WRIGHT

TAX/SALES & USE: Reduces the state sales and use tax rate and extends sales and use taxes to digital goods delivered into Louisiana

AN ACT

2 To amend and reenact R.S. 47:301(4)(introductory paragraph), to enact R.S. 47:301(32), and 3 to repeal R.S. 47:321.1, relative to sales and use tax; to provide for the rate of the 4 state sales and use tax; to provide for certain definitions; to extend state and local 5 sales and use taxes to certain digital goods delivered into Louisiana; to provide for 6 an effective date; and to provide for related matters. 7 Be it enacted by the Legislature of Louisiana: 8 Section 1. R.S. 47:301(4)(introductory paragraph) is hereby amended and reenacted 9 and R.S. 47:301(32) is hereby enacted to read as follows: 10 §301. Definitions 11 As used in this Chapter, the following words, terms, and phrases have the 12 meanings ascribed to them in this Section, unless the context clearly indicates a 13 different meaning: 14 15 (4) "Dealer" includes every person who manufactures or produces tangible 16 personal property or who delivers digital goods into this state for sale at retail, for use, or consumption, or distribution, or for storage to be used or consumed in a 17 taxing jurisdiction. "Dealer" is further defined to mean: 18 19

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(32)(a) "Digital goods" for purposes of sales and use taxes imposed by the
2	state and any political subdivision of the state shall be considered tangible personal
3	property and shall mean and include all of the following:
4	(i) Digital products or prewritten computer software delivered electronically
5	to an end user, regardless of whether the end user receives permanent or temporary
6	rights to access or utilize the product or software or whether the end user is required
7	to make continued payments for the rights or access.
8	(ii) Digital products or prewritten computer software in which a person may
9	be permitted rights for access or use and possession is maintained by the seller or a
10	third party, regardless of whether charges for access or utilization are per use, per
11	user, per license, or by subscription.
12	(iii) Digital codes.
13	(iv) Rights, licenses, or benefits delivered electronically to enhance,
14	maintain, update, renew, upgrade, or expand benefits for digital products or
15	prewritten computer software.
16	(b) For purposes of this Paragraph the following words have the following
17	meanings:
18	(i) Digital code shall mean a key, activation, or enabling code that provides
19	the purchaser with a right or access to obtain one or more digital products that may
20	be obtained by any means including electronic delivery or any tangible means.
21	Digital code shall not include a code that represents stored monetary value that is
22	deducted from a total as it is used by the purchaser, or a redeemable card, gift card,
23	or gift certificate that entitles the holder of the instrument to select specified digital
24	products of an indicated cash value.
25	(ii) Digital product shall include the following:
26	(aa) Digital audiovisual works.
27	(bb) Digital audio works.
28	(cc) Digital books.
29	(dd) Digital artwork.

1 (ee) Digital photographs. 2 (ff) Digital periodicals. 3 (gg) Digital newspapers. 4 (hh) Digital magazines. 5 (ii) Digital video greeting cards. 6 (jj) Audio greeting cards. 7 (kk) Digital greeting cards or invitations. 8 (ll) Video games. 9 Section 2. R.S. 47:321.1 is hereby repealed in its entirety. 10 Section 3. This Act shall become effective on July 1, 2023; if vetoed by the governor 11 and subsequently approved by the legislature, this Act shall become effective on July 1, 12 2023, or on the day following such approval by the legislature, whichever is later.

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 257 Original

2023 Regular Session

Wright

Abstract: Reduces the state sales and use tax rate <u>from</u> 4.45% <u>to</u> 4% and extends sales and use taxes imposed by the state and political subdivisions to digital goods delivered into La.

<u>Present law</u> imposes state sales and use taxes on the sale, use, lease, or rental of tangible personal property pursuant to the following levies in the following amounts:

R.S. 47:302 - 2%

R.S. 47:321 - 1%

R.S. 47:321.1 - .45%

R.S. 47:331 - .97%

R.S. 51:1286 - .03%

Proposed law repeals the present law state sales and use tax levy of .45% (R.S. 47:321.1).

<u>Present law</u> suspends numerous exemptions from the four levies of state sales and use tax (R.S. 47:302, 321, 321.1, and 331) through June 30, 2025, and provides a list of exemptions that are currently effective.

<u>Present law</u> authorizes numerous sales and use tax exemptions and exclusions.

<u>Present law</u> suspends effectiveness of various sales and use tax exemptions and exclusions, through June 30, 2025, thereby making these items subject to state sales and use tax.

Proposed law retains present law.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> provides that for purposes of sales and use taxes imposed by the state and political subdivisions, "digital goods" shall be considered tangible personal property and shall be defined as all of the following:

- (1) Digital products or prewritten computer software delivered electronically to an end user, regardless of whether the end user receives permanent or temporary rights to access or utilize the product or software or whether the end user is required to make continued payments for the rights or access.
- (2) Digital products or prewritten computer software in which a person may be permitted rights for access or use and possession is maintained by the seller or a third party, regardless of whether charges for access or utilization are per use, per user, per license, or by subscription.
- (3) Digital codes.
- (4) Rights, licenses, or benefits delivered electronically to enhance, maintain, update, renew, upgrade, or expand benefits for digital products or prewritten computer software.

<u>Proposed law</u> defines a "digital code" as a key, activation, or enabling code that provides the purchaser with a right or access to obtain one or more digital products that may be obtained by any means including electronic or tangible means. Digital code shall not include a code that represents stored monetary value that is deducted from a total as it sued by the purchaser or a redeemable card, gift card, or gift certificate that entitles the holder of the instrument to select specified digital products of an indicated cash value.

<u>Proposed law</u> provides that a "digital product" shall include the following:

- (1) Digital audiovisual works.
- (2) Digital audio works.
- (3) Digital books.
- (4) Digital artwork.
- (5) Digital photographs.
- (6) Digital periodicals.
- (7) Digital newspapers.
- (8) Digital magazines.
- (9) Digital video greeting cards.
- (10) Audio greeting cards.
- (11) Digital greeting cards or invitations.
- (12) Video games.

Effective July 1, 2023.

(Amends R.S. 47:301(4)(intro. para.); Adds R.S. 47:301(32); Repeals R.S. 47:321.1)