

2024 Third Extraordinary Session

HOUSE BILL NO. 8

BY REPRESENTATIVE BRASS

TAX/SALES & USE: Levies sales and use taxes on certain digital products and services
(Items #8 and 13)

1 AN ACT

2 To amend and reenact R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and

3 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a),

4 (g), and (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u),

5 (ff), and (hh), (12), (13)(a), (14)(h) through (k), (15), (18)(a), (d)(i), (e), and (f), (19),

6 and (29)(x)(ix), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(introductory

7 paragraph), (a), and (b)(introductory paragraph), (BB)(9), (13), (17), (23), (25), (27),

8 (30), (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a) and (G),

9 303.1(A) and (B)(1)(introductory paragraph) and (c) and (2)(b), 304(B), 305(E),

10 305.10(A) and (C) through (E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A),

11 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c), 307(A) through (C), 309(A)(1),

12 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A),

13 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23), (25), (27), (30),

14 (33), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13), (17), (23),

15 (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(9),

16 (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W),

17 337.3(A), and 340.1(A)(3) and (5) and R.S. 51:1286(B), to enact R.S.

18 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and

19 305.5, and to repeal R.S. 47:301(16)(h) and (p) and (23), relative to sales and use

20 taxes; to provide for the levy of sales and use taxes on certain digital products and

1 services; to provide for the rates of such taxes; to provide for definitions; to provide
 2 relative to exclusions and exemptions from sales and use taxes; to provide relative
 3 to administration of sales and use taxes; to provide relative to tax collection and
 4 enforcement; to provide for liability for collection and payment of certain sales and
 5 use taxes; to provide for record keeping and reporting; to provide for sourcing; to
 6 provide for certain limitations and requirements; to provide for effectiveness; to
 7 provide for applicability; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:301(3)(a), (b), and (i)(i)(introductory paragraph) and
 10 (ii)(aa)(I)(aaa), (4)(introductory paragraph), (a) through (e), (h), and (i), (5), (7)(a), (g), and
 11 (i), (8)(b), (9), (10)(a)(i) through (iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u), (ff), and (hh),
 12 (12), (13)(a), (14)(h) through (k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix),
 13 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(introductory paragraph), (a), and
 14 (b)(introductory paragraph), (BB)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81),
 15 (109), and (113), and (CC), 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(introductory
 16 paragraph) and (c) and (2)(b), 304(B), 305(E), 305.10(A) and (C) through (E),
 17 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c),
 18 307(A) through (C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A)
 19 and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23),
 20 (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13),
 21 (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B),
 22 (V)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W),
 23 337.3(A), and 340.1(A)(3) and (5) are hereby amended and reenacted and R.S.
 24 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and 305.5
 25 are hereby enacted to read as follows:

1 §301. Definitions

2 As used in this Chapter, the following words, terms, and phrases have the
3 meanings ascribed to them in this Section, unless the context clearly indicates a
4 different meaning:

5 * * *

6 (3)(a) "Cost price" means the actual cost of the articles of tangible personal
7 property or digital products without any deductions therefrom on account of the cost
8 of materials used, labor, or service cost, except those service costs for installing the
9 articles of tangible personal property or digital products if ~~such the~~ cost is separately
10 billed to the customer at the time of installation, transportation charges, or any other
11 expenses whatsoever, or the reasonable market value of the tangible personal
12 property or digital products at the time it becomes susceptible to the use tax,
13 whichever is less.

14 (b) In the case of tangible personal property or digital products which ~~has~~
15 have acquired a tax situs in a taxing jurisdiction and ~~is~~ are thereafter transported
16 outside the taxing jurisdiction for repairs performed outside the taxing jurisdiction
17 and ~~is~~ thereafter returned to the taxing jurisdiction, the cost price shall be deemed to
18 be the actual cost of any parts ~~and/or,~~ materials, or both used in performing ~~such the~~
19 repairs, if applicable labor charges are separately stated on the invoice. If the
20 applicable labor charges are not separately stated on the invoice, it shall be presumed
21 that the cost price is the total charge reflected on the invoice.

22 * * *

23 (i)(i) For purposes of the imposition of the use tax levied by the state ~~under~~
24 pursuant to R.S. 47:302, 321, 321.1, and 331, the cost price of machinery and
25 equipment used by a manufacturer in a plant facility predominately and directly in
26 the actual manufacturing for agricultural purposes or the actual manufacturing
27 process of an item of tangible personal property or a digital product, which is for

1 ultimate sale to another and not for internal use, at one or more fixed locations within
2 Louisiana, shall be reduced as follows:

3 * * *

4 (ii) For purposes of this Subparagraph, the following definitions shall apply:

5 (aa) "Machinery and equipment" means tangible personal property or other
6 property that is eligible for depreciation for federal income tax purposes and that is
7 used as an integral part in the manufacturing of tangible personal property for sale.
8 "Machinery and equipment" shall also mean tangible personal property or other
9 property that is eligible for depreciation for federal income tax purposes and that is
10 used as an integral part of the production, processing, and storing of food and fiber
11 or of timber.

12 (I) Machinery and equipment, for purposes of this Subparagraph, also
13 includes but is not limited to the following:

14 (aaa) Computers and software that are an integral part of the machinery and
15 equipment used directly in the manufacturing process, or which control or
16 communicate with computer systems that control heating or cooling systems for
17 machinery or equipment that manufactures tangible personal property for sale.
18 Computers and software used for inventory and accounting systems or that control
19 non-qualifying machinery and equipment are not considered machinery and
20 equipment for purposes of this Subparagraph.

21 * * *

22 (4) "Dealer" includes every person who manufactures or produces tangible
23 personal property or digital products for sale at retail, for use, or consumption, or
24 distribution, or for storage to be used or consumed in a taxing jurisdiction. "Dealer"
25 is further defined to mean:

26 (a) Every person who imports, or causes to be imported, tangible personal
27 property or digital products from any other state, foreign country, or other taxing
28 jurisdiction for sale at retail, for use, or consumption, or distribution, or for storage
29 to be used or consumed in a taxing jurisdiction.

1 (b) Every person who sells at retail, or who offers for sale at retail, or who
2 has in his possession for sale at retail, or for use, or consumption, or distribution, or
3 storage to be used or consumed in the taxing jurisdiction, tangible personal property
4 or digital products as defined ~~herein~~ in this Section.

5 (c) Any person who has sold at retail, or used, or consumed, or distributed,
6 or stored for use or consumption in the taxing jurisdiction, tangible personal property
7 or digital products and who cannot prove that the tax levied by this Chapter has been
8 paid on the sale at retail, the use, the consumption, the distribution, or the storage of
9 ~~said~~ the tangible personal property or digital products.

10 (d)(i) Any person who leases or rents tangible personal property or digital
11 products for a consideration, permitting the use or possession of the ~~said~~ property or
12 products without transferring title thereto.

13 (ii) However, a person who leases or rents tangible personal property or
14 digital products to customers who provide information to ~~such~~ the person that they
15 will use the property or products only offshore beyond the territorial limits of the
16 state shall not be included in the term "dealer" for purposes of the collection of the
17 rental or lease tax of the state, statewide political subdivisions, and other political
18 subdivisions on ~~such~~ lease or rental contracts. For purposes of this Item, "use" means
19 the operational or functional use of the property and not other uses related to its
20 possession such as transportation, maintenance, and repair. It is the intention of this
21 Item that the customers of such persons shall remit any tax due on the lease or rental
22 of ~~such~~ the property or digital products directly to the state and local taxing bodies
23 to whom they are due.

24 (e) Any person who is the lessee or rentee of tangible personal property or
25 digital products and who pays to the owner of ~~such~~ the property or product a
26 consideration for the use or possession of ~~such~~ the property without acquiring title
27 thereto.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (h) Any person engaging in business in the taxing jurisdiction. "Engaging in
 2 business in the taxing jurisdiction" means and includes any of the following methods
 3 of transacting business: maintaining directly, indirectly, or through a subsidiary, an
 4 office, distribution house, sales house, warehouse, or other place of business or by
 5 having an agent, salesman, or solicitor operating within the taxing jurisdiction under
 6 the authority of the seller or its subsidiary irrespective of whether ~~such~~ the place of
 7 business, agent, salesman, or solicitor is located in ~~such~~ the taxing jurisdiction
 8 permanently or temporarily or whether ~~such~~ the seller or subsidiary is qualified to
 9 do business in ~~such~~ the taxing jurisdiction, or any person who makes deliveries of
 10 tangible personal property or digital products into the taxing jurisdiction other than
 11 by a common or contract carrier.

12 (i) Any person who sells at retail any tangible personal property or digital
 13 products to a vending machine operator for resale through coin-operated vending
 14 machines.

15 * * *

16 (5) "Gross sales" means the sum total of all retail sales of tangible personal
 17 property or digital products, without any deduction whatsoever of any kind or
 18 character except as provided in this Chapter.

19 * * *

20 (7)(a) "Lease or rental" means the leasing or renting of tangible personal
 21 property or digital products and the possession or use thereof by the lessee or renter,
 22 for a consideration, without transfer of the title of ~~such~~ the property or products. For
 23 the purpose of the leasing or renting of automobiles, "lease" means the leasing of
 24 automobiles and the possession or use thereof by the lessee, for a consideration,
 25 without the transfer of the title of ~~such~~ that property for a one hundred eighty-day
 26 period or more. "Rental" means the renting of automobiles and the possession or use
 27 thereof by the renter, for a consideration, without the transfer of the title of ~~such~~ that
 28 property for a period less than one hundred eighty days.

29 * * *

1 (g) For purposes of state and political subdivision sales and use tax, "lease
2 or rental" shall not mean the lease or rental of tangible personal property or digital
3 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which ~~is~~
4 property or products are used by ~~such~~ those organizations for their educational and
5 public service programs for youth.

6 * * *

7 (i) For purposes of sales and use taxes levied and imposed by local
8 governmental subdivisions, school boards, and other political subdivisions whose
9 boundaries are not coterminous with those of the state, "lease or rental" by a person
10 shall not mean or include the lease or rental of tangible personal property or digital
11 products if ~~such~~ the lease or rental is made under the provisions of Medicare.

12 * * *

13 (8)

14 * * *

15 (b) Solely for purposes of the payment of state sales or use tax on the lease
16 or rental or the purchase of tangible personal property, digital products, or services,
17 "person" shall not include a regionally accredited independent institution of higher
18 education which is a member of the Louisiana Association of Independent Colleges
19 and Universities, if ~~such~~ the lease or rental or purchase is directly related to the
20 educational mission of ~~such~~ the institution. However, the term "person" shall include
21 such an institution for purposes of the payment of tax on sales by ~~such~~ the institution
22 if the sales are not otherwise exempt.

23 * * *

24 (9) "Purchaser" means and includes any person who acquires or receives any
25 tangible personal property or digital products, or the privilege of using any tangible
26 personal property or digital products, or receives any services pursuant to a
27 transaction subject to tax under this Chapter.

28 (10)(a)(i) Solely for the purposes of the imposition of the state sales and use
29 tax, "retail sale" or "sale at retail" means a sale to a consumer, end user, or to any

1 other person for any purpose other than for resale as tangible personal property or a
2 digital product, or for the lease of automobiles in an arm's length transaction, and
3 shall mean and include all ~~such~~ transactions ~~as~~ the secretary, upon investigation,
4 finds to be in lieu of sales; provided that sales for resale or for lease of automobiles
5 in an arm's length transaction must be made in strict compliance with the rules and
6 regulations. Any dealer making a sale for resale or for the lease of automobiles,
7 which is not in strict compliance with the rules and regulations, shall himself be
8 liable for and pay the tax.

9 (ii) Solely for purposes of the imposition of the sales and use tax levied by
10 a political subdivision or school board, "retail sale" or "sale at retail" shall mean a
11 sale to a consumer or to any other person for any purpose other than for resale in the
12 form of tangible personal property or a digital product, or resale of those services
13 defined in Paragraph (14) of this Section provided the retail sale of the service is
14 subject to sales tax in this state, and shall mean and include all ~~such~~ transactions ~~as~~
15 the collector, upon investigation, finds to be in lieu of sales; provided that sales for
16 resale be made in strict compliance with the rules and regulations. Any dealer
17 making a sale for resale, which is not in strict compliance with the rules and
18 regulations shall himself be liable for and pay the tax. A local collector shall accept
19 a resale certificate issued by the Department of Revenue, provided the taxpayer
20 includes the parish of its principal place of business and local sales tax account
21 number on the state certificate. However, in the case of an intra-parish transaction
22 from dealer to dealer, the collector may require that the local exemption certificate
23 be used in lieu of the state certificate. The department shall accommodate the
24 inclusion of ~~such~~ this information on its resale certificate for ~~such~~ these purposes.

25 (iii) "Retail sale" or "sale at retail" for purposes of sales and use taxes
26 imposed by the state on transactions involving the sale for rental of automobiles
27 which take place on or after January 1, 1991, and by political subdivisions on ~~such~~
28 transactions on or after July 1, 1996, and state sales and use taxes imposed on
29 transactions involving the lease or rental of digital products or tangible personal

1 property other than automobiles which take place on or after July 1, 1991, means a
2 sale to a consumer or to any other person for any purpose other than for resale as
3 tangible personal property or a digital product, or for lease or rental in an arm's
4 length transaction in the form of tangible personal property or a digital product, and
5 shall mean and include all ~~such~~ transactions ~~as~~ the secretary, upon investigation,
6 finds to be in lieu of sales; provided that sales for resale or for lease or rental in an
7 arm's length transaction must be made in strict compliance with the rules and
8 regulations. Any dealer making a sale for resale or for lease or rental, which is not
9 in strict compliance with the rules and regulations, shall himself be liable for and pay
10 the tax. For purposes of the imposition of the tax imposed by any political
11 subdivision of the state, for the period beginning on July 1, 1999, and ending on June
12 30, 2000, the term "retail sale" or "sale at retail" shall not include one-fourth of the
13 sales price of any tangible personal property which is sold in order to be leased or
14 rented in an arm's length transaction in the form of tangible personal property. For
15 purposes of the imposition of the tax imposed by any political subdivision of the
16 state, for the period beginning on July 1, 2000, and ending on June 30, 2001, the
17 term "retail sale" or "sale at retail" shall not include one-half of the sales price of any
18 tangible personal property which is sold in order to be leased or rented in an arm's
19 length transaction in the form of tangible personal property. For purposes of the
20 imposition of the tax imposed by any political subdivision of the state, for the period
21 beginning on July 1, 2001, and ending on June 30, 2002, the term "retail sale" or
22 "sale at retail" shall not include three-fourths of the sales price of any tangible
23 personal property which is sold in order to be leased or rented in an arm's length
24 transaction in the form of tangible personal property. Beginning July 1, 2002, for the
25 purposes of imposition of the tax levied by any political subdivision of the state, the
26 term "retail sale" or "sale at retail" shall not include the sale of any tangible personal
27 property which is sold in order to be leased or rented in an arm's length transaction
28 in the form of tangible personal property.

1 (iv) "Retail sale" or "sale at retail", for purposes of sales and use taxes
2 imposed by the state on transactions involving the sale for rental of automobiles
3 which take place prior to January 1, 1991, and by political subdivisions on ~~such~~
4 transactions prior to July 1, 1996, and imposed on transactions involving the lease
5 or rental of digital products or tangible personal property other than autos which take
6 place prior to July 1, 1991, and for purposes of local sales and use taxes levied by
7 political subdivisions except for transactions involving the sale for rental of
8 automobiles on or after July 1, 1996, means a sale to a consumer or to any other
9 person for any purpose other than for resale in the form of tangible personal property
10 or digital products, and shall mean and include all ~~such~~ transactions ~~as~~ the secretary,
11 upon investigation, finds to be in lieu of sales; provided that sales for resale must be
12 made in strict compliance with the rules and regulations. Any dealer making a sale
13 for resale, which is not in strict compliance with the rules and regulations, shall
14 himself be liable for and pay the tax. However, contrary provisions of law
15 notwithstanding, any political subdivision may, by ordinance, adopt the definition
16 of "retail sale" or "sale at retail" provided in Item (iii) of this Subparagraph for
17 purposes of the imposition of its sales and use tax.

* * *

19 (c)

* * *

21 (ii)

* * *

23 (bb) The term "sale at retail" does not include an isolated or occasional sale
24 of tangible personal property or digital products by a person not engaged in such
25 business.

26 (cc) The term "sale at retail" does not include consuming any digital product
27 in producing for sale a new product, where the digital product becomes an ingredient
28 or component of the new product. A digital code becomes an ingredient or

1 component of a new product if the digital product, through the use of the digital
2 code, becomes an ingredient or component of the new product.

3 * * *

4 (j) The term "sale at retail" does not include the sale of tangible personal
5 property or digital products to food banks, as defined in R.S. 9:2799.

6 * * *

7 (l) Solely for purposes of the state sales and use tax imposed under R.S.
8 47:302, 321, 321.1, and 331, the term "sale at retail" shall not include the sale of a
9 pollution control device or system. Pollution control device or system shall mean any
10 tangible personal property or digital products approved by the Department of
11 Revenue and the Department of Environmental Quality and sold or leased and used
12 or intended for the purpose of eliminating, preventing, treating, or reducing the
13 volume or toxicity or potential hazards of industrial pollution of air, water,
14 groundwater, noise, solid waste, or hazardous waste in the state of Louisiana. For the
15 purposes of any sales and use tax levied by a political subdivision, the term "sale at
16 retail" shall include the sale of a pollution control device or system. In order to
17 qualify, the pollution control device or system must demonstrate either: a net
18 decrease in the volume or toxicity or potential hazards of pollution as a result of the
19 installation of the device or system; or that installation is necessary to comply with
20 federal or state environmental laws or regulations.

21 * * *

22 (q) For purposes of state and political subdivision sales and use tax, the term
23 "sale at retail" shall not include:

24 (i) The sale of tangible personal property or digital products by approved
25 parochial and private elementary and secondary schools which comply with the court
26 order from the Dodd Brumfield decision and Section 501(c)(3) of the Internal
27 Revenue Code, or students, administrators, or teachers, or other employees of the
28 school, if the money from ~~such~~ sales, less reasonable and necessary expenses
29 associated with the sale, is used solely and exclusively to support the school or its

1 program or curricula. This exclusion shall not be construed to allow tax-free sales
2 to students or their families by promoters or regular commercial dealers through the
3 use of schools, school faculty, or school facilities.

4 * * *

5 (r) For purposes of state and political subdivision sales and use tax, the term
6 "sale at retail" shall not include the sale of tangible personal property or digital
7 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which ~~is~~
8 property or products are used by such those organizations for their educational and
9 public service programs for youth.

10 (s) The term "sale at retail" or "retail sale", for purposes of sales and use
11 taxes imposed by the state or any political subdivision or other taxing entity, shall
12 not include any charge, fee, money, or other consideration received, given, or paid
13 for the performance of funeral directing services. For purposes of this Subparagraph,
14 "funeral directing services" means the operation of a funeral home, or by way of
15 illustration and not limitation, any service whatsoever connected with the
16 management of funerals, or the supervision of hearses or funeral cars, the cleaning
17 or dressing of dead human bodies for burial, and the performance or supervision of
18 any service or act connected with the management of funerals from time of death
19 until the body or bodies are delivered to the cemetery, crematorium, or other agent
20 for the purpose of disposition. However, such services shall not mean or include the
21 sale, lease, rental, or use of any tangible personal property or digital product as those
22 terms are defined in this Section.

23 * * *

24 (u) For purposes of sales and use taxes levied and imposed by local
25 governmental subdivisions, school boards, and other political subdivisions whose
26 boundaries are not coterminous with those of the state, "sale at retail" by a person
27 shall not mean or include the sale of tangible personal property or digital products
28 if ~~such~~ the sale is made under the provisions of Medicare.

29 * * *

1 (ff) For purposes of sales taxes imposed by the state or any political
2 subdivision of the state, the term "retail sale" or "sale at retail" shall not include sales
3 of tangible personal property or digital products by the Military Department, state
4 of Louisiana, which occur on an installation or other property owned or operated by
5 the Military Department.

6 * * *

7 (hh) For purposes of sales and use tax imposed by the state under R.S.
8 47:302, 321, 321.1, and 331, or any other political subdivision, the term "sale at
9 retail" shall not include the sale of tangible personal property or digital products at
10 an event providing Louisiana heritage, culture, crafts, art, food, and music which is
11 sponsored by a domestic nonprofit organization that is exempt from tax under
12 Section 501(c)(3) of the Internal Revenue Code. The provisions of this Subparagraph
13 shall apply only to an event which transpires over a minimum of seven but not more
14 than twelve days and has a five-year annual average attendance of at least three
15 hundred thousand over the duration of the event. For purposes of determining the
16 five-year annual average attendance, the calculation shall include the total annual
17 attendance for each of the five most recent years. The provisions of this
18 Subparagraph shall apply only to sales by the sponsor of the event.

19 * * *

20 (jj) With respect to digital products, the term "sale at retail" does not include
21 making any digital product available free of charge for the use or enjoyment of
22 others. For purposes of this Subparagraph, "free of charge" means that the recipient
23 of the digital product is not required to provide anything of significant value in
24 exchange for the product. A transfer is not free of charge if the digital product is
25 bundled or combined with other products or services subject to sales or use tax
26 regardless of whether such items are separately stated and invoiced.

27 * * *

28 (12)(a) "Sale" means any transfer of title or possession, or both, exchange,
29 barter, conditional or otherwise, in any manner or by any means whatsoever, of

1 tangible personal property or digital products, for a consideration, and includes the
2 fabrication of tangible personal property for consumers who furnish, either directly
3 or indirectly, the materials used in fabrication work, and the furnishing, preparing or
4 serving, for a consideration, of any tangible personal property, consumed on the
5 premises of the person furnishing, preparing or serving ~~such~~ the tangible personal
6 property. A transaction whereby the possession of property is transferred but the
7 seller retains title as security for the payment of the price shall be deemed a sale.

8 (b) With respect to digital products, "sale" means the first act within this
9 state by which the taxpayer, as a consumer, views, accesses, downloads, possesses,
10 stores, opens, manipulates, or otherwise uses or enjoys the product.

11 (c) With respect to prewritten computer access services and information
12 services, "sale" means the first act within this state by which the taxpayer, as a
13 consumer, uses, enjoys, or otherwise receives the benefit of the service.

14 (13)(a) "Sales price" means the total amount for which tangible personal
15 property ~~is~~ or digital products are sold, less the market value of any article traded in
16 including any services, except services for financing, that are a part of the sale valued
17 in money, whether paid in money or otherwise, and includes the cost of materials
18 used, labor or service costs, except costs for financing which shall not exceed the
19 legal interest rate and a service charge not to exceed six percent of the amount
20 financed, and losses; provided that cash discounts allowed and taken on sales shall
21 not be included, nor shall the sales price include the amount charged for labor or
22 services rendered in installing, applying, remodeling, or repairing property sold.

23 * * *

24 (14) "Sales of services" means and includes the following:

25 * * *

26 (h) The furnishing of prewritten computer software access services. For
27 purposes of this Subparagraph, prewritten computer software access services means
28 charges made to customers for the right to access and use prewritten computer
29 software, where possession of the software is maintained by the seller or third party

1 regardless of whether the charge for the services is on a per use, per user, per license,
2 subscription, or some other basis.

3 (i)(i) The furnishing of information services. For purposes of this
4 Subparagraph, information services means electronic data retrieval or research; and
5 collecting, compiling, analyzing, or furnishing of information of any kind including
6 but not limited to general or specialized news and other current information or
7 financial information, by printed, mimeographed, electronic, or electrical
8 transmission, or by utilizing wires, cable, radio waves, microwaves, satellites, fiber
9 optics, or any other method now in existence or which may be devised; this includes
10 delivering or providing access to information through databases or subscriptions.
11 Information services include but are not limited to the following:

12 (aa) Furnishing newsletters; tax guides; research publications; financial,
13 investment, circulation, credit, stock market, or bond rating reports; mailing lists;
14 abstracts of title; news clipping services; wire services; scouting reports; surveys;
15 bad check lists; and broadcast rating services.

16 (bb) Subscriptions to genealogical, financial, or similar databases.

17 (cc) Global positioning system services including driving directions and
18 sports, news, and similar information provided through satellite audio programming
19 services.

20 (ii) Information services shall not include any of the following:

21 (aa) Information sold to a newspaper or a radio or television station licensed
22 by the Federal Communication Commission, if the information is gathered or
23 purchased for direct use in newspapers or radio or television broadcasts.

24 (bb) Charges to a person by a financial institution for account balance
25 information; or information gathered or compiled on behalf of a particular client, if
26 the information is of a proprietary nature to that client and may not be sold to others
27 by the person who compiled the information, except for a subsequent sale of the
28 information by the client for whom the information was gathered or compiled.

1 (cc) Internet access service or information services that are provided in
2 conjunction with and merely incidental to the provision of internet access service
3 when provided for a single charge.

4 (j) The term "sale of service" shall not include an action performed pursuant
5 to a contract with the United States Department of the Navy for construction or
6 overhaul of U.S. Naval vessels.

7 (†) (k) Solely for purposes of the sales and use tax levied by the state, the
8 furnishing of telecommunications services for compensation, in accordance with the
9 provisions of R.S. 47:301.1. Local political subdivisions are prohibited from levying
10 a sales and use tax on telecommunications services not in effect on July 1, 1990;
11 provided, however, that the provisions of this Subparagraph shall not be construed
12 to prohibit the levy or collection of any franchise, excise, gross receipts, or similar
13 tax or assessment by any political subdivision of the state as defined in Article VI,
14 Section 44(2) of the Constitution of Louisiana.

15 (†) (l) Notwithstanding any provision of law to the contrary, for purposes of
16 sales or use taxation by the state or any local political subdivision, the term "sales of
17 services" shall not mean or include any funeral directing services as defined in
18 Subparagraph (10)(s) of this Section. Subject to approval by the House Committee
19 on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the
20 state Department of Revenue shall devise a formula for the calculation of the tax.

21 (†) (m) Solely for purposes of sales and use tax imposed by the state ~~under~~
22 pursuant to R.S. 47:302, 321, 321.1, and 331, any political subdivision whose
23 boundaries are coterminous with those of the state, or any other political subdivision,
24 the term "sales of services" shall not mean or include admission charges for, outside
25 gate admissions to, or parking fees associated with an event providing Louisiana
26 heritage, culture, crafts, art, food, and music which is sponsored by a domestic
27 nonprofit organization that is exempt from tax under Section 501(c)(3) of the
28 Internal Revenue Code. The provisions of this Subparagraph shall apply only to an
29 event which transpires over a minimum of seven but not more than twelve days and

1 has a five-year annual average attendance of at least three hundred thousand over the
2 duration of the event. For purposes of determining the five-year annual average
3 attendance, the calculation shall include the total annual attendance for each of the
4 five most recent years. The provisions of this Subparagraph shall apply only to
5 admission charges for, outside gate admissions to, or parking fees associated with
6 an event when the charges and fees are payable to or for the benefit of the sponsor
7 of the event.

8 (15) "Storage" means and includes any keeping or retention in the taxing
9 jurisdiction of tangible personal property or digital products for use or consumption
10 within the taxing jurisdiction or for any purpose other than for sale at retail in the
11 regular course of business.

12 * * *

13 (18)(a)(i) Solely for purposes of the imposition of the state sales and use tax,
14 "use" means and includes the exercise of any right or power over tangible personal
15 property or digital products incident to the ownership thereof, except that it shall not
16 include the sale at retail of ~~that property~~ those items of property or products in the
17 regular course of business or the donation to a school in the state which meets the
18 definition provided in R.S. 17:236 or to a public or recognized independent
19 institution of higher education in the state of property previously purchased for resale
20 in the regular course of a business. The term "use" shall not include the purchase, the
21 importation, the consumption, the distribution, or the storage of automobiles to be
22 leased in an arm's length transaction, nor shall the term "use" include the donation
23 of food items to a food bank as defined in R.S. 9:2799(B).

24 (ii) For purposes of the imposition of the sales and use tax levied by a
25 political subdivision or school board, "use" shall mean and include the exercise of
26 any right or power over tangible personal property or digital products incident to the
27 ownership thereof, except that it shall not include the sale at retail of ~~that property~~
28 those items of property or products in the regular course of business or the donation
29 to a school in the state which meets the definition provided in R.S. 17:236 or to a

1 public or recognized independent institution of higher education in the state of
2 property previously purchased for resale in the regular course of a business. The term
3 "use" shall not include the donation of food items to a food bank as defined in R.S.
4 9:2799(B).

5 (iii) The term "use", for purposes of sales and use taxes imposed by the state
6 on the use for rental of automobiles which take place on or after January 1, 1991, and
7 by political subdivisions on such use on or after July 1, 1996, and state sales and use
8 taxes imposed on the use for lease or rental of digital products or tangible personal
9 property other than automobiles which take place on or after July 1, 1991, shall not
10 include the purchase, the importation, the consumption, the distribution, or the
11 storage of tangible personal property or digital products to be leased or rented in an
12 arm's length transaction as tangible personal property or digital products. For
13 purposes of the imposition of the tax levied by any political subdivision of the state,
14 for the period beginning July 1, 1999, and ending on June 30, 2000, the term "use"
15 shall not include one-fourth of the cost price of any tangible personal property which
16 is purchased, imported, consumed, distributed, or stored and which is to be leased
17 or rented in an arm's length transaction in the form of tangible personal property. For
18 purposes of the imposition of the tax levied by any political subdivision of the state,
19 for the period beginning July 1, 2000, and ending on June 30, 2001, the term "use"
20 shall not include one-half of the cost price of any tangible personal property which
21 is purchased, imported, consumed, distributed, or stored and which is to be leased
22 or rented in an arm's length transaction in the form of tangible personal property. For
23 purposes of the imposition of the tax levied by any political subdivision of the state,
24 for the period beginning July 1, 2001, and ending on June 30, 2002, the term "use"
25 shall not include three-fourths of the cost price of any tangible personal property
26 which is purchased, imported, consumed, distributed, or stored and which is to be
27 leased or rented in an arm's length transaction in the form of tangible personal
28 property. Beginning July 1, 2002, for purposes of the imposition of the tax levied by
29 any political subdivision of the state, the term "use" shall not include the purchase,

1 the importation, the consumption, the distribution, or the storage of any tangible
2 personal property or digital product which is to be leased or rented in an arm's length
3 transaction in the form of tangible personal property or digital product.

4 (iv) The term "use", for purposes of sales and use taxes imposed by the state
5 on the use for rental automobiles which take place prior to January 1, 1991, and by
6 political subdivisions on such use prior to July 1, 1996, and imposed on the use for
7 lease or rental of tangible personal property other than automobiles which take place
8 prior to July 1, 1991, and for purposes of local sales and use taxes levied by political
9 subdivisions, except for any use for rental automobiles on or after July 1, 1996, shall
10 include the purchase, the importation, the consumption, the distribution, or the
11 storage of tangible personal property or digital products to be leased or rented in an
12 arm's length transaction as tangible personal property or digital products.

13 (v) The term "use" applies to the first act within this state by which the
14 taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens,
15 manipulates, or otherwise enjoys, uses, or receives the benefits of the digital product,
16 prewritten computer access service, and information service. Use includes access
17 and use of digital products, prewritten computer access services, and information
18 services that remain in the possession of the dealer or in the possession of a third
19 party on behalf of the dealer.

20 * * *

21 (d)(i) Notwithstanding any other provision of law to the contrary, and except
22 as provided in Item (iii) of this Subparagraph, for purposes of state and political
23 subdivision sales and use tax, "use" means and includes the exercise of any right or
24 power over tangible personal property or digital products incident to the ownership
25 thereof, except that it shall not include the further processing of tangible personal
26 property into articles of tangible personal property or digital products for sale.

27 * * *

28 (e) For purposes of state and political subdivision sales and use tax, "use"
29 shall not include the purchase of or the exercise of any right or power over:

1 (i) Tangible personal property or digital products sold by approved parochial
 2 and private elementary and secondary schools which comply with the court order
 3 from the Dodd Brumfield decision and Section 501(c)(3) of the Internal Revenue
 4 Code, or students, administrators, or teachers, or other employees of the school, if
 5 the money from ~~such~~ the sales, less reasonable and necessary expenses associated
 6 with the sale, is used solely and exclusively to support the school or its program or
 7 curricula.

8 (ii) Educational materials or equipment used for classroom instruction by
 9 approved parochial and private elementary and secondary schools which comply
 10 with the court order from the Dodd Brumfield decision and Section 501(c)(3) of the
 11 Internal Revenue Code, limited to books, workbooks, computers, computer software,
 12 films, videos, and audio tapes, including when these items are transferred
 13 electronically.

14 (f) For purposes of state and political subdivision sales and use tax, "use"
 15 shall not include the purchase of or the exercise of any right or power over tangible
 16 personal property or digital products used by Boys State of Louisiana, Inc. and Girls
 17 State of Louisiana, Inc. for their educational and public service programs for youth.

18 * * *

19 (19) "Use tax" includes the use, the consumption, the distribution, and the
 20 storage as ~~herein~~ defined in this Section. No use tax shall be due to or collected by:

21 (a) The state on tangible personal property or digital products used,
 22 consumed, distributed, or stored for use or consumption in the state if the sale of
 23 ~~such~~ the property or products would have been exempted or excluded from sales tax
 24 at the time ~~such~~ the property or products became subject to the taxing jurisdiction of
 25 the state.

26 (b) Any political subdivision on tangible personal property or digital
 27 products used, consumed, distributed, or stored for use or consumption in ~~such~~ the
 28 political subdivision if the sale of ~~such~~ the property or products would have been

1 exempted or excluded from sales tax at the time ~~such~~ the property or products
2 became subject to the taxing jurisdiction of the political subdivision.

3 * * *

4 (29) With respect to the furnishing of telecommunications and ancillary
5 services, as used in this Chapter the following words, terms, and phrases have the
6 meaning ascribed to them in this Paragraph, unless the context clearly indicates a
7 different meaning:

8 * * *

9 (x) "Telecommunications service" means the electronic transmission,
10 conveyance, or routing of voice, data, audio, video, or any other information or
11 signals to a point, or between or among points. "Telecommunications service"
12 includes ~~such~~ the transmission, conveyance, or routing in which computer processing
13 applications are used to act on the form, code, or protocol of the content for purposes
14 of transmission, conveyance, or routing without regard to whether ~~such~~ the service
15 is referred to as voice over Internet protocol service or is classified by the Federal
16 Communications Commission as an enhanced or value-added service.
17 "Telecommunications service" does not include any of the following:

18 * * *

19 (ix) Digital products ~~delivered electronically~~, including but not limited to
20 software, music, video, reading materials, or ring tones.

21 * * *

22 (32)(a) "Digital product" means digital audiovisual works, digital audio
23 works, digital books, digital codes, digital applications and games, digital periodicals
24 and discussion forums, and any other otherwise taxable tangible personal property
25 transferred electronically, whether digitally delivered, streamed, or accessed and
26 whether purchased singly, by subscription, or in any other manner, including
27 maintenance, updates, and support.

28 (b) For purposes of this Paragraph, the following terms have the meanings
29 ascribed to them in this Subparagraph:

1 (i) "Digital audiovisual works" means a series of related images that, when
2 shown in succession, impart an impression of motion, together with accompanying
3 sounds. "Digital audiovisual works" include but are not limited to motion pictures;
4 musical, videos, news, and entertainment programs; and live events.

5 (ii) "Digital audio works" means works that result from the fixation of a
6 series of musical, spoken, or other sounds that are transferred electronically,
7 including prerecorded or live songs, music, readings of books or other written
8 materials, speeches, ring tones, or other sound recording.

9 (iii) "Digital books" means works that are generally recognized in the
10 ordinary and usual sense as books and which are transferred electronically, including
11 works of fiction, nonfiction, and short stories.

12 (iv) "Digital code" means a code that provides the person who holds the code
13 a right to obtain one or more digital products. A digital code may be obtained by any
14 means, including tangible forms and electronic mail, regardless of whether the code
15 is designated as a song code, video code, or book code. The term "digital code"
16 includes codes used to access or obtain any digital products that have been
17 previously purchased and promotion cards or codes that are purchased by a retailer
18 or other business entity for use by the retailer's or entity's customers. "Digital code"
19 does not include any gift certificate or gift card with monetary value that may be
20 redeemable for an item other than a digital product.

21 (v) "Digital applications and games" means any application or game,
22 including add-ons or additional content, that can be used by a computer, mobile
23 device, or tablet notwithstanding the function performed.

24 (vi) "Digital periodicals and discussion forums" means a newspaper,
25 magazine, periodical, chat room discussion, weblog, or any other similar product.

26 (c) "Digital product" shall not include any of the following:

27 (i) Any intangible such as a patent, stock, bond, goodwill, trademark,
28 franchise, or copyright.

1 (ii) Telecommunications services and ancillary services as those terms are
2 defined in Subparagraphs (29)(b) and (x) of this Section.

3 (iii) Internet access service charges.

4 (iv) The representation of a work product resulting from a professional
5 service, as described in Subparagraph (16)(e) of this Section, in an electronic form,
6 such as an electronic copy of an engineering report prepared by an engineer that
7 primarily involves the application of human effort, and the human effort originated
8 after the customer requested the service.

9 (v) A product having electrical, digital, magnetic, wireless, optical,
10 electromagnetic, or similar capabilities where the purchaser holds a copyright or
11 other intellectual property interest in the product, in whole or part, if the purchaser
12 uses the product solely for commercial purposes, including advertising or other
13 marketing activities.

14 (d) The sale of a digital code that may be utilized to obtain a digital product
15 shall be taxed in the same manner as the digital product.

16 (e) For purposes of taxes imposed under this Chapter and Chapters 2A and
17 2B of this Subtitle, whenever the words "property" or "personal property" are used,
18 those terms shall be construed to include any digital product unless any of the
19 following circumstances apply:

20 (i) It is clear from the context that the term "personal property" is intended
21 only to refer to tangible personal property.

22 (ii) It is clear from the context that the term "property" is intended only to
23 refer to tangible personal property, real property, or both.

24 (iii) To construe the term "property" or "personal property" as including any
25 digital product would yield unlikely, absurd, or strained consequences.

26 (33)(a) "Transferred electronically" means any product obtained by the
27 purchaser by means other than tangible storage media, regardless of whether the
28 seller grants permanent or less than permanent use and regardless of whether the
29 transaction is conditioned upon contingent payment. It is not necessary that a copy

1 of the product be physically transferred to the purchaser. So long as the purchaser
2 may access the product, it shall be considered to have been transferred electronically
3 to the purchaser.

4 (b) For purposes of this Paragraph, the term "permanent use" means perpetual
5 use or use for an indefinite or unspecified length of time.

6 (34)(a) "End user" means any purchaser other than a purchaser who receives
7 by contract a digital product for further commercial broadcast, rebroadcast,
8 transmission, retransmission, licensing, relicensing, distribution, redistribution, or
9 exhibition of the product, in whole or in part, to others. A person who purchases
10 digital products for the purpose of giving away those products or codes shall not be
11 considered to have engaged in the distribution or redistribution of such products or
12 codes and shall be treated as an end user.

13 (b) If a purchaser of a digital product does not receive the contractual right
14 to further redistribute, after the digital code is redeemed, the underlying product to
15 which the digital code relates, then the purchaser of the digital code shall be deemed
16 an end user. If the purchaser of the digital code receives the contractual right to
17 further redistribute, after the digital code is redeemed, the underlying product to
18 which the digital code relates, then the purchaser of the digital code shall not be
19 deemed an end user. A purchaser of a digital code who has the contractual right to
20 further redistribute the digital code shall be deemed an end user if that purchaser
21 does not have the right to further redistribute, after the digital code is redeemed, the
22 underlying product to which the digital code relates.

23 * * *

24 §301.3. Digital products

25 A. Nexus. For purposes of the taxes imposed under this Chapter and
26 Chapters 2A and 2B of this Subtitle, the department shall not consider a person's
27 ownership of, or rights in, digital products residing on servers located in this state in
28 determining whether the person has substantial nexus with this state. For purposes
29 of this Section, "substantial nexus" means the requisite connection that a person has

1 with a state to allow the state to subject the person to the state's taxing authority,
2 consistent with the commerce clause of the United States Constitution.

3 B. Bundled Transactions. (1) In the case of the sale of a digital code that
4 provides a purchaser with the right to obtain more than one digital product, and
5 which may also include the right to obtain other products or services, and all of the
6 products and services, digital or otherwise, to be obtained through the use of the code
7 do not have the same sales and use tax treatment, both of the following requirements
8 apply:

9 (a) The transaction shall be deemed to be the sale of the products and
10 services to be obtained through the use of the code.

11 (b) The sales and use tax shall apply to the entire selling price of the code,
12 except as provided in Paragraph (2) of this Subsection.

13 (2) If the seller can identify by reasonable and verifiable standards the
14 portion of the selling price attributable to the products and services that are not
15 subject to sales and use tax from its books and records that are kept in the regular
16 course of business for other purposes, including but not limited to nontax purposes,
17 sales and use tax shall not apply to that portion of the selling price of the code
18 attributable to the products and services that are not subject to sales and use tax.

19 C. Rules. The secretary may promulgate rules and regulations in accordance
20 with the Administrative Procedure Act to implement the provisions of this Section,
21 including rules addressing the taxation of any and all digital products and services.
22 Any rule promulgated by the department pursuant to this Section shall be construed
23 in favor of the secretary.

24 §301.4. Sales transaction sourcing rules

25 A. Application. The provisions of this Section shall apply regardless of the
26 characterization of a transaction as the sale of tangible personal property, the sale of
27 a digital product, or the sale of a service. These provisions do not affect the
28 obligation of a purchaser to remit use tax.

1 B. Definitions. For purposes of this Section, the following terms have the
2 meanings ascribed to them in this Subsection unless the context indicates otherwise:

3 (1) "Receive" or "receipt" means taking possession of tangible personal
4 property, making first use of services, or taking possession or making first use of
5 digital products by the purchaser or purchaser's designee.

6 (2) "Use of digital products" means the location of the first act within this
7 state by which the taxpayer, as a consumer, views, accesses, downloads, possesses,
8 stores, opens, manipulates, or otherwise uses or enjoys a digital product.

9 (3) "Use of a service" means the location of the first act within the state by
10 which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of
11 the service.

12 C. General sourcing rules. Except as provided in Subsection E of this
13 Section, for purposes of collecting or remitting sales or use taxes to the appropriate
14 taxing jurisdictions, otherwise known as sourcing, on sales of tangible personal
15 property, digital products, and services, the following requirements apply:

16 (1) If the sale of tangible personal property, digital products, or services is
17 received by the purchaser, or the purchaser's designee, at a business location of the
18 seller, the sale shall be sourced to that business location.

19 (2) If the sale of tangible personal property, digital products, or services is
20 not received by the purchaser at a business location of the seller, the sale shall be
21 sourced to the location where receipt by the purchaser or the purchaser's designee
22 occurs, including the location indicated by instructions for delivery to the purchaser
23 or designee, if that location is known to the seller.

24 (3) If Paragraphs (1) and (2) of this Subsection do not apply, the sale shall
25 be sourced to the location indicated by an address for the purchaser that is available
26 from the business records of the seller that are maintained in the ordinary course of
27 the seller's business, when use of this address does not constitute bad faith.

28 (4) If Paragraphs (1), (2), and (3) of this Subsection do not apply, the sale
29 shall be sourced to the location indicated by an address for the purchaser obtained

1 during the sale, including if no other address is available, the address of a purchaser's
2 payment instrument, when use of this address does not constitute bad faith.

3 (5) If Paragraphs (1), (2), (3), and (4) of this Subsection do not apply, or if
4 the seller is without sufficient information to apply the sourcing requirements set
5 forth in Paragraphs (1), (2), (3), and (4) of this Subsection, the sale shall be sourced
6 to one of the following locations:

7 (a) The location indicated by the address from which the tangible personal
8 property was shipped.

9 (b) The location from which the digital product was first available for
10 transmission by the seller.

11 (c) The location from which the service was provided.

12 D. Sourcing for lease or rental of tangible personal property. The lease or
13 rental of tangible personal property, excluding motor vehicles, shall be sourced as
14 follows:

15 (1) For a lease or rental that requires recurring periodic payments, payments
16 shall be sourced to the primary location of the property leased or rented for each
17 period covered by the payment. The primary location of the property shall be as
18 indicated by an address for the property provided by the lessee that is available to the
19 lessor from its records maintained in the ordinary course of business, when use of
20 this address does not constitute bad faith. The primary location of the property may
21 not be altered by intermittent use at different locations, such as use of business
22 property that accompanies employees on business trips and service calls.

23 (2) For a lease or rental that does not require periodic payments, the payment
24 shall be sourced in the same manner as a retail sale in accordance with Subsection
25 C of this Section.

26 (3) This Subsection shall not be construed to affect the imposition or
27 computation of sales or use tax on leases or rentals based on a lump-sum or
28 accelerated basis, or on the acquisition of property for lease.

1 E. Exceptions to the general sourcing rules. The following sales shall be
2 sourced in accordance with the following requirements:

3 (1) Sales and leases of vehicles subject to the Vehicle Registration License
4 Tax Law, R.S. 47:451 et seq., shall be sourced as provided in R.S. 47:301(10)(f).

5 (2) Sales of telecommunications services shall be sourced as provided in R.S.
6 47:301.1.

7 §302. Imposition of tax

8 A. There is hereby levied a tax upon the sale at retail, the use, the
9 consumption, the distribution, and the storage for use or consumption in this state,
10 of each item or article of tangible personal property or digital product, as defined
11 ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

12 (1) At the rate of ~~two per centum (2%)~~ two percent of the sales price of each
13 item or article of tangible personal property or digital product when sold at retail in
14 this state; the tax to be computed on gross sales for the purpose of remitting the
15 amount of tax due the state, and to include each and every retail sale.

16 (2) At the rate of ~~two per centum (2%)~~ two percent of the cost price of each
17 item or article of tangible personal property or digital product when the same is not
18 sold but is used, consumed, distributed, or stored for use or consumption in this state;
19 provided there shall be no duplication of the tax.

20 B. There is hereby levied a tax upon the lease or rental within this state of
21 each item or article of tangible personal property or digital product, as defined
22 ~~herein, the levy of said tax to~~ in this Chapter. The levy of the tax shall be as follows:

23 (1) At the rate of ~~two per centum (2%)~~ two percent of the gross proceeds
24 derived from the lease or rental of tangible personal property or a digital product, as
25 defined ~~herein~~ in this Chapter, where the lease or rental of ~~such~~ the property or
26 product is an established business, or part of an established business, or the same is
27 incidental or germane to the ~~said~~ business.

1 (2) At the rate of ~~two per centum (2%)~~ two percent of the monthly lease or
 2 rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or
 3 rentee to the owner of the tangible personal property or digital product.

4 * * *

5 D. Notwithstanding any other provision of law to the contrary, no sales or
 6 use tax of any taxing authority shall be levied on any advertising service rendered by
 7 an advertising business, including but not limited to advertising agencies, design
 8 firms, and print and broadcast media, or any member, agent, or employee thereof, to
 9 any client whether or not ~~such~~ the service also involves a transfer to the client of
 10 tangible personal property or a digital product. However, a transfer of mass-produced
 11 advertising items by an advertising business which manufactures the items itself to
 12 a client for the client's use, which transfer involves the furnishing of minimal
 13 services other than manufacturing services by the advertising business, shall be a
 14 taxable sale or use of tangible personal property; provided that in no event shall tax
 15 be levied on charges for creative services which are separately invoiced.

16 * * *

17 K. An additional tax shall be levied as follows:

18 (1) At the rate of four percent of the sales price of each item or article of
 19 tangible personal property or digital product when sold at retail in this state; the tax
 20 to be computed on gross sales for the purpose of remitting the amount of tax due the
 21 state, and to include each and every retail sale.

22 (2) At the rate of four percent of the cost price of each item or article of
 23 tangible personal property or digital product when the same is not sold but is used,
 24 consumed, distributed, or stored for use or consumption in this state; provided there
 25 shall be no duplication of the tax.

26 * * *

27 U. Collection of consumer use tax. It is the duty of the secretary of the
 28 Department of Revenue to collect all taxes imposed pursuant to this Chapter and
 29 Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote

1 retailer of tangible personal property, digital products, or services in Louisiana. The
2 secretary is authorized and directed to employ all means available to ensure the
3 collection of the tax in an equitable, efficient, and effective manner.

4 V.(1) In addition to the definition of "dealer" as provided in R.S. 47:301(4)
5 for purposes of the consumer use tax, the term "dealer" includes every person who
6 manufactures or produces tangible personal property or digital products for sale at
7 retail, for use or consumption, or distribution, or for storage to be used or consumed
8 in a taxing jurisdiction. "Dealer" is further defined to mean:

9 (a) Any person engaging in business in the taxing jurisdiction which shall
10 mean the solicitation of business through an independent contractor or any other
11 representative pursuant to an agreement with a Louisiana resident or business under
12 which the resident or business, for a commission, referral fee, or other consideration
13 of any kind, directly or indirectly, refers potential customers, whether by link on an
14 internet website, an in-person oral presentation, telemarketing, or otherwise to the
15 seller. If the cumulative gross receipts from sales of tangible personal property or
16 digital products to customers in this state who are referred to the person through ~~such~~
17 an agreement exceeds fifty thousand dollars during the preceding twelve months, the
18 presumption regarding the status of that person as a dealer may be rebutted if the
19 person can demonstrate, to the satisfaction of the secretary, that he cannot reasonably
20 be expected to have gross receipts in excess of fifty thousand dollars for the
21 succeeding twelve months.

22 (b) Any person selling tangible personal property, digital products, or
23 services, the use of which is taxed pursuant to this Chapter, who:

24 * * *

25 BB. Notwithstanding any other provision of law to the contrary, including
26 but not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
27 through June 30, 2025, there shall be no exemptions and no exclusions to the tax

1 levied pursuant to the provisions of this Section, except for the retail sale, use,
2 consumption, distribution, or storage for use or consumption of the following:

3 * * *

4 (9) Installation charges on tangible personal property and digital products as
5 provided in R.S. 47:301(3)(a).

6 * * *

7 (13) Sales, leases, or rentals of tangible personal property and digital
8 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

9 * * *

10 (17) Tangible personal property and digital products that are sold or donated
11 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

12 * * *

13 (23) Sales, purchases, and leases of tangible personal property and digital
14 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

15 * * *

16 (25) Tangible personal property and digital products for resale as provided
17 in R.S. 47:301(10)(a)(i).

18 * * *

19 (27) Isolated or occasional sales of tangible personal property and digital
20 products by a person not engaged in such business as provided in R.S. 47:301(1) and
21 (10)(c)(ii)(bb).

22 * * *

23 (30) An article traded in on the purchase of tangible personal property or a
24 digital product as provided in R.S. 47:301(13)(a).

25 * * *

26 (33) Credit for sales and use taxes paid to another state on tangible personal
27 property or digital products imported ~~in~~ into Louisiana as provided in R.S.
28 47:303(A)(3)(a).

29 * * *

1 (56) Transactions in interstate commerce and tangible personal property and
2 digital products imported into this state, or produced or manufactured in this state,
3 for export as provided in R.S. 47:305(E).

4 * * *

5 (66) Sales, leases, and rentals of tangible personal property and digital
6 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
7 provided in R.S. 47:301(7)(g) and (10)(r).

8 * * *

9 (81) Sales of admissions, parking fees, ~~and sales of~~ tangible personal
10 property, and digital products at events sponsored by domestic, civic, educational,
11 historical, charitable, fraternal, or religious nonprofit organizations as provided in
12 R.S. 47:305.14(A)(1).

13 * * *

14 (109) Sales of tangible personal property, digital products, and services at
15 certain public facilities as provided in R.S. 39:467 and 468.

16 * * *

17 (113) Purchases of tangible personal property and digital products pursuant
18 to the sales tax holiday as provided in R.S. 47:305.74.

19 * * *

20 CC. The provisions of Subsection BB of this Section shall supercede and
21 control to the extent of conflict with any other provision of law beginning July 1,
22 2018, through June 30, 2025. Digital products shall be taxed in the same manner as
23 any complementary tangible personal property or service included in Subsection BB
24 of this Section.

25 * * *

26 §303. Collection

27 A. Collection from dealer.

28 * * *

1 (2) On all tangible personal property or digital products imported, or caused
2 to be imported, from other states or foreign countries, and used by him, the "dealer",
3 as hereinafter defined, shall pay the tax imposed by this Chapter on all articles of
4 tangible personal property or digital products ~~so~~ imported and used, the same as if
5 ~~the said~~ those articles or products had been sold at retail for use or consumption in
6 this state. For the purposes of this Chapter, the use, or consumption, or distribution,
7 or storage to be used or consumed in this state of tangible personal property or digital
8 products, shall each be equivalent to a sale at retail, and the tax shall thereupon
9 immediately levy and be collected in the manner provided herein, provided there
10 shall be no duplication of the tax ~~in any event~~.

11 (3)(a) A credit against the use tax imposed by this Chapter shall be granted
12 to taxpayers who have paid a similar tax upon the sale or use of the same tangible
13 personal property or digital products in another state. The credit provided herein
14 shall only be granted ~~only~~ in the case where the state to which a similar tax has been
15 paid grants a similar credit as provided herein, provided that members of the armed
16 forces who are citizens of this state and whose orders or enlistment contracts
17 stipulate a period of active duty of two years or more and who purchase automobiles
18 outside of the state of Louisiana while on ~~such~~ a tour of active duty shall be granted
19 ~~such~~ the credit in connection with the purchase of ~~such~~ the automobiles whether or
20 not the state to which ~~such~~ the tax thereon has been paid grants a similar credit as
21 herein provided. The amount of the credit shall be calculated by multiplying the rate
22 of the similar tax paid in the other state by the cost price which is subject to
23 Louisiana use tax at the time of the importation of the tangible personal property or
24 digital products. The proof of payment of a similar tax to another state shall be made
25 according to rules and regulations promulgated by the secretary. In no event shall the
26 credit be greater than the tax imposed by Louisiana upon the particular tangible
27 personal property or digital product which is the subject of the Louisiana use tax.

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 G. Direct Payment Numbers. Notwithstanding any provision of law to the
2 contrary, a Louisiana taxpayer who obtains a DP Number as provided in R.S.
3 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible
4 personal property, digital products, and taxable services directly to the state and local
5 taxing bodies to whom the sales and use taxes are due, and shall not be liable to remit
6 the tax to the vendor or lessor of the tangible personal property, digital products, and
7 taxable services, as provided in R.S. 47:303.1.

8 * * *

9 §303.1. Direct Payment Numbers

10 A. Notwithstanding any other law to the contrary except for the provisions
11 of R.S. 47:303(B) and (E), the state and local sales and use tax due on the purchase,
12 importation, or lease of tangible personal property, digital products, or taxable
13 services by taxpayers who have obtained a Direct Payment Number, hereinafter
14 referred to as a "~~DP Number~~," "DP Number", shall be remitted directly to the state
15 and appropriate political subdivision by ~~such~~ the taxpayer, as provided in this
16 Section. The vendor or lessor of tangible personal property, digital products, or
17 taxable services shall not be responsible for collecting sales and use tax on ~~such~~
18 or leases, and shall not be liable for ~~such~~ the tax as provided in R.S. 47:304(C), upon
19 presentation to him of a valid DP Number by such purchaser or lessee, provided that
20 the vendor or lessor notes the DP Number on the untaxed contract or invoice
21 submitted to ~~such~~ the purchaser and lessee.

22 B.(1) A DP Number shall be issued to and shall be continued to be held by
23 a taxpayer who obtains the required approvals and who meets all of the following
24 qualifications and all other applicable qualifications provided for in this Section ~~and~~
25 ~~the following qualifications~~:

26 * * *

27 (c) The taxpayer has an annual average of five million dollars of taxable
28 purchases or leases of tangible personal property ~~and~~, digital products, or taxable

1 services for three calendar years prior to the year of application by the taxpayer, and
2 has such an average for each subsequent three-year period.

3 * * *

4 (2)

5 * * *

6 (b) Separate DP Numbers shall be issued to and shall be continued to be held
7 by taxpayers that are subsidiary entities of a private, nonprofit, tax-exempt
8 organization, as defined under Section 501(c)(3) of the Internal Revenue Code, that
9 meets the requirements of Subparagraph (a) of this Paragraph, as well as to those
10 taxpayer entities in which the tax-exempt organization is the sole member, provided
11 that these entities are licensed by the Louisiana Department of Health, Louisiana
12 Board of Pharmacy, or otherwise have as their mission promoting the delivery of
13 healthcare and patient medical services and products and further provided that these
14 entities and the tax exempt organization together have in the aggregate an annual
15 average of ten million dollars of taxable purchases or leases of tangible personal
16 property ~~and, digital products, or taxable services~~ for three calendar years prior to the
17 year of application, and have ~~such~~ an average for each subsequent three-year period,
18 and which obtain the required approvals and meet the qualifications provided for in
19 Subparagraphs (1)(b) and (1)(d) of this Subsection.

20 * * *

21 §304. Treatment of tax by dealer

22 * * *

23 B. Every dealer located outside the state making sales of tangible personal
24 property or digital products for distribution, storage, use, or other consumption; in
25 this state; shall, at the time of making sales, collect the tax imposed by this Chapter
26 from the purchaser.

27 * * *

28 §305. Exclusions and exemptions from the tax

29 * * *

1 E. It is not the intention of any taxing authority to levy a tax upon articles of
 2 tangible personal property or digital products imported into this state, or produced
 3 or manufactured in this state, for export; nor is it the intention of any taxing authority
 4 to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent
 5 the collection of the taxes due on sales of tangible personal property or digital
 6 products into this state which are promoted through the use of catalogs and other
 7 means of sales promotion and for which federal legislation or federal jurisprudence
 8 enables the enforcement of the sales tax of a taxing authority upon the conduct of
 9 such business. It is, however, the intention of the taxing authorities to levy a tax on
 10 the sale at retail, the use, the consumption, the distribution, and the storage to be used
 11 or consumed in this state, of tangible personal property or digital products after ~~it has~~
 12 they have come to rest in this state and ~~has~~ become a part of the mass of property
 13 in this state. ~~At such time as~~ When federal legislation or federal jurisprudence as to
 14 sales in interstate commerce promoted through the use of catalogs and other means
 15 of sales promotions enables the enforcement of this Chapter or any other law or local
 16 ordinance imposing a sales tax against vendors that have no other nexus with the
 17 taxing jurisdiction, the following provisions shall apply to such sales on which sales
 18 and use tax would not otherwise be collected.

19 * * *

20 §305.5. Exemptions; business use of software and digital products

21 A.(1) The sales and use tax imposed by taxing authorities shall not apply to
 22 computer software or prewritten computer software access services, information
 23 services, or digital products when all of the following conditions are met:

24 (a) The service or product is purchased or licensed exclusively for
 25 commercial purposes.

26 (b) The service or product is used by the business directly in the production
 27 of goods or services for sale to its customers.

28 (c) The goods or services produced and sold by the business are subject to
 29 sales and use tax.

1 reports, and business practices are sufficient to permit verification that tangible
2 personal property or a digital product purchased or imported tax-free ~~under~~ pursuant
3 to this Subsection is, in fact, being purchased or imported for use offshore beyond
4 the territorial limits of any state. In cases of purchases of fungible goods, including
5 vessel fuel and lubricants, the required records shall include purchase invoices,
6 vessel logs, fuel usage records, fuel transfer records, and other reports and records
7 that will enable the secretary to determine the amount of fungible goods consumed
8 within Louisiana so as to be subject to the sales and use tax, and the amount of
9 fungible goods delivered to or consumed at offshore locations beyond the territorial
10 limits of the state, so as not to be subject to the sales and use tax. For ~~the purpose~~
11 purposes of the this Section, the term "fungible goods" means goods of which any
12 unit is unidentifiable and is, from its nature or by mercantile custom, treated as the
13 equivalent of any other unit and shall include crude petroleum and its refined
14 products.

15 ~~(b)~~ (ii) The offshore registration number issued by the secretary ~~under~~
16 pursuant to this Subsection may be revoked by the secretary at any time if the
17 purchaser or importer fails to meet the conditions set herein, or if the secretary finds
18 that the purchaser or importer is consistently using the certificate to purchase or
19 import tax-free tangible personal property or digital products for first use in state.

20 ~~(c)~~ (iii) If the offshore registration number is revoked, all tangible personal
21 property or digital products purchased or imported tax-free under this Paragraph and
22 in the possession of the purchaser or importer within this state shall be deemed
23 taxable unless otherwise exempt ~~under~~ pursuant to the provisions of Paragraph ~~(1)~~
24 ~~of this Subsection~~ Subparagraph (a) of this Paragraph. If the provisions of Paragraph
25 ~~(1) of this Subsection~~ Subparagraph (a) of this Paragraph are not complied with, any
26 subsequent purchase or import of tangible personal property will be taxable, whether
27 for instate or offshore use, until the certificate and offshore number are reissued.

28 ~~(d)~~ (iv) Whenever there is a conflict between a purchaser or importer and the
29 secretary as to whether an offshore registration number shall be issued, reissued, or

1 revoked, it shall be the responsibility of the purchaser or importer to show that he
 2 meets the conditions and requirements ~~set herein~~ provided in this Section for having
 3 and retaining ~~said the~~ certificate and offshore registration number.

4 ~~(3)~~ (2) Except for purchases or importation of tangible personal property or
 5 digital products in accordance with ~~Paragraphs (1) and (2)~~ Subparagraphs (1)(a) and
 6 (1)(b) of this Subsection, any purchase or importation of property is taxable at the
 7 time of purchase or import unless otherwise exempt.

8 D. If tangible personal property or digital products purchased or imported
 9 tax-free ~~under~~ pursuant to the provisions of this Section ~~is~~ are subsequently used for
 10 any taxable purpose within the state, use tax shall be paid by the purchaser or
 11 importer as of the time of its use in this state. Storage of property purchased or
 12 imported tax-free ~~under~~ pursuant to this Section which is ultimately used in another
 13 state will be considered a "subsequent use for a taxable purpose".

14 E. If tangible personal property or digital products purchased within or
 15 imported into the state tax-free ~~under~~ pursuant to the provisions of this Section ~~is~~ are
 16 later returned to Louisiana for use for a taxable purpose, the property shall be subject
 17 to the Louisiana use tax as of the time it is brought into the state, subject to the credit
 18 provided in R.S. 47:303(A).

19 * * *

20 §305.14. Exclusions and exemptions; nonprofit organizations; nature of exemption;
 21 limitations; qualifications; newspapers; determination of tax exempt status

22 A.(1)(a) The sales and use taxes imposed by taxing authorities shall not
 23 apply to sales of tangible personal property or digital products at, or admission
 24 charges for, outside gate admissions to, or parking fees associated with, events
 25 sponsored by domestic, civic, educational, historical, charitable, fraternal, or
 26 religious organizations, which are nonprofit, when the entire proceeds, except for
 27 necessary expenses such as fees paid for guest speakers, chair and table rentals, and
 28 food and beverage utility related items connected therewith, are used for educational,
 29 charitable, religious, or historical restoration purposes, including the furtherance of

1 the civic, educational, historical, charitable, fraternal, or religious purpose of the
2 organization. In addition, newspapers published in this state by religious
3 organizations shall also be exempt from such taxes, provided that the price paid for
4 the newspaper or a subscription to the newspaper does not exceed the cost to publish
5 ~~such~~ the newspaper.

6 * * *

7 (5) Notwithstanding any other provision of law to the contrary, for purposes
8 of state and political subdivision sales and use tax, "sales and use" shall not mean the
9 purchase of tangible personal property, digital products, or taxable services; by
10 nonprofit literacy organizations in compliance with the court order from the Dodd
11 Brumfield decision and Section 501(c)(3) of the Internal Revenue Code, limited to
12 books, workbooks, computers, computer software, films, videos, and audio tapes.

13 * * *

14 §305.38. Exclusions and exemptions; sheltered workshop or supported employment
15 provider for persons with intellectual disabilities

16 The sale at retail, the use, the consumption, the distribution, and the storage
17 for use or consumption in this state of each item or article of tangible personal
18 property or digital products by a sheltered workshop or a supported employment
19 provider as defined in R.S. 39:1604.4 for persons with intellectual disabilities
20 licensed by the Department of Children and Family Services as a day developmental
21 training center for persons with intellectual disabilities shall not be subject to the
22 sales and use taxes levied by the state or by any political subdivision thereof.

23 * * *

24 §305.53. Exclusions and exemptions; sickle cell disease organizations

25 A. The sale at retail, the rental or lease, the use, the consumption, the
26 distribution, and the storage for use or consumption in this state of each item or
27 article of tangible personal property; or digital product, or any taxable service, by a
28 nonprofit organization established prior to 1975 which conducts a comprehensive
29 program on sickle cell disease which includes but is not limited to free education,

1 free testing, free counseling, and free prescriptions, transportation, and food
2 packages for sickle cell patients shall not be subject to the sales and use taxes levied
3 by the state or by any other ~~tax~~ taxing authority.

4 * * *

5 §305.54. Exemption; Annual Louisiana Sales Tax Holidays Act

6 * * *

7 B.(1) Notwithstanding any other ~~provisions~~ provision of law to the contrary,
8 the sales tax levied by the state of Louisiana and its political subdivisions whose
9 boundaries are coterminous with those of the state shall not apply to the first two
10 thousand five hundred dollars of the sales price or cost price of any consumer
11 purchases of tangible personal property or digital products that occur on the first
12 consecutive Friday and Saturday of August each year.

13 (2) For purposes of this Section, "consumer purchases" shall mean purchases
14 of items of tangible personal property or digital products other than vehicles subject
15 to license and title. Consumer purchases shall not include the purchase of meals
16 furnished for consumption on the premises where purchased, including to-go orders.

17 C. This provision will apply if and only if during the time period provided
18 for in Paragraph (B)(1) of this Section, one of the following occurs:

19 (1) Title to or possession of an item of tangible personal property or a digital
20 product is transferred from a selling dealer to a purchaser.

21 * * *

22 §306.5. Annual reporting requirement

23 A.(1) Notwithstanding any provision of law to the contrary, transactions
24 listed in Subsection B of this Section involving sales of tangible personal property,
25 digital products, or services that are not subject to state sales and use tax pursuant to
26 the exclusions and exemptions provided by law shall be subject to an annual
27 reporting requirement based on transactions occurring during the previous fiscal
28 year, beginning on July first of the preceding year and ending on June thirtieth of the
29 current year.

1 (2) The annual report shall include all of the following information:

2 * * *

3 (c) Annual gross sales of tangible personal property, digital products, or
4 services that are not subject to state sales and use tax pursuant to the exclusions and
5 exemptions provided for in Subsection B of this Section.

6 * * *

7 §307. Collector's authority to determine the tax in certain cases

8 A. In the event any dealer fails to make a report and pay the tax as provided
9 in this Chapter or in case the dealer makes a grossly incorrect report or a report that
10 is false or fraudulent, the collector shall make an estimate of the retail sales of ~~such~~
11 the dealer for the taxable period, of the gross proceeds from rentals or leases of
12 tangible personal property by the dealer, or the cost price of all articles of tangible
13 personal property or digital products imported by the dealer for use or consumption
14 or distribution or storage to be used or consumed in this state, and of the gross
15 amounts paid or charged for services taxable; and it shall be the duty of the collector
16 to assess and collect the tax together with any interest and penalty that may have
17 accrued thereon, which assessment shall be considered prima facie correct and the
18 burden to show the contrary shall rest upon the dealer.

19 B. In the event the dealer has imported tangible personal property or digital
20 products and ~~he~~ fails to produce an invoice showing the cost price of the articles
21 which are subject to tax, or the invoice does not reflect the true or actual cost, then
22 the collector shall ascertain in any manner feasible the true cost price and shall assess
23 and collect the tax, together with any interest and penalties that may have accrued,
24 on the basis of the true cost as assessed by him. The assessment ~~so made~~ shall be
25 considered prima facie correct, and the burden shall be on the dealer to show the
26 contrary.

27 C. In the case of the lease or rental of tangible personal property or digital
28 products, if the consideration given or reported by the dealer does not, in the
29 judgment of the collector, represent the true or actual consideration, then the

1 collector is authorized to ascertain in any manner feasible the true or actual
2 consideration and assess and collect the tax thereon together with any interest and
3 penalties that may have accrued. The assessment ~~so made~~ shall be considered prima
4 facie correct and the burden shall be on the dealer to show the contrary.

5 * * *

6 §309. Dealers required to keep records

7 A.(1) Every dealer required to make a report and pay any tax ~~under~~ pursuant
8 to this Chapter shall keep and preserve suitable records of the sales, purchases, or
9 leases taxable ~~under~~ pursuant to this Chapter, and ~~such~~ other books of accounts as
10 may be necessary to determine the amount of tax due hereunder, and other
11 information as may be required by the secretary; and each dealer shall secure,
12 maintain, and keep, until the taxes to which they relate have prescribed, a complete
13 record of tangible personal property or digital products received, used, sold at retail,
14 distributed, or stored, leased or rented, within this state by the ~~said~~ dealer, together
15 with invoices, bills of lading, and other pertinent records and papers as may be
16 required by the secretary for the reasonable administration of this Chapter, and a
17 complete record of all sales or purchases of services taxable ~~under~~ pursuant to this
18 Chapter until the taxes to which they relate have prescribed.

19 * * *

20 §309.1. Sales in Louisiana of tangible personal property, digital products, and
21 taxable services by a dealer or remote retailer; ~~the~~ provision of lists, notices,
22 and statements by a dealer or remote retailer

23 * * *

24 B. Definitions. As used in this Section, the following words and phrases have
25 the following meanings unless the context clearly indicates otherwise:

26 (1) "Louisiana purchaser" or "purchaser" means a person who purchases
27 tangible personal property, digital products, or taxable services in a transaction with
28 a remote retailer for property or a service that is delivered for use or benefit in

1 Louisiana, and no Louisiana sales and use tax was collected or paid on the
2 transaction.

3 (2) "Remote retailer" or "retailer" means a retailer that purposefully avails
4 itself in any way of the benefits of an economic market in Louisiana or who has any
5 other minimum contacts with the state and who meets all of the following criteria:

6 * * *

7 (b) Makes retail sales of tangible personal property, digital products, or
8 taxable services where the property is delivered into Louisiana or the beneficial use
9 of the service occurs in Louisiana, and the cumulative annual gross receipts for the
10 retailer and its affiliates from those sales exceeds fifty thousand dollars per calendar
11 year.

12 * * *

13 D. Annual statement submitted by remote retailer. By March first of each
14 year, a remote retailer who made retail sales of tangible personal property, digital
15 products, or taxable services to Louisiana purchasers in the immediately preceding
16 calendar year shall file with the secretary an annual statement for each purchaser
17 which includes the total amount paid by the purchaser to that retailer in the
18 immediately preceding calendar year. Under no circumstances shall the statement
19 contain detail as to specific property or services purchased, but it shall include the
20 total amount paid. The statement shall be submitted on forms to be developed and
21 provided by the secretary. The secretary ~~is authorized to~~ may require the electronic
22 filing of statements by a remote retailer who had sales in Louisiana in excess of one
23 hundred thousand dollars in the immediately preceding calendar year.

24 * * *

25 §310. Wholesalers and jobbers required to keep records

26 A. All wholesale dealers and jobbers in this state shall keep a record of all
27 sales of tangible personal property or digital products made in this state whether ~~such~~
28 the sales be for cash or on terms of credit. These records shall contain and include
29 the name and address of the purchaser, the date of the purchase, the article

1 purchased, and the price at which the article is sold to the purchaser. These records
2 shall be kept until the taxes to which they relate have prescribed and shall be open
3 to the inspection of the secretary at all reasonable hours.

4 * * *

5 §312. Failure to pay tax on imported tangible personal property or digital products;
6 grounds for attachment

7 A. The failure of any dealer to pay the tax and any interest, penalties, or
8 costs due ~~under~~ pursuant to the provisions of this Chapter on any tangible personal
9 property or digital products imported from outside the state for use, consumption,
10 distribution, or storage to be used in this state, or imported for the purpose of leasing
11 or renting the same, shall make the tax, interest, penalties, or costs ipso facto
12 delinquent. This failure shall ~~moreover~~ be a sufficient ground for the attachment of
13 the personal property imported wherever it may be found, whether the delinquent
14 taxpayer is a resident or nonresident, and whether the property is in the possession
15 of the delinquent taxpayer or in the possession of other persons.

16 B. It is the intention of this law to prevent the disposition of ~~the said~~ tangible
17 personal property or digital products in order to insure payment of the tax imposed
18 by this Chapter, together with interest, penalties and costs, and authority to attach is
19 hereby specifically granted to the collector. The procedure prescribed by law in
20 attachment proceedings shall be followed except that no bond shall be required of
21 the ~~State~~ state.

22 * * *

23 §314. Failure to pay tax; rule to cease business

24 Failure to pay any tax due as provided in this Chapter shall ipso facto,
25 without demand or putting in default, cause the tax, interest, penalties, and costs to
26 become immediately delinquent, and the collector has the authority, on motion in a
27 court of competent jurisdiction, to take a rule on the dealer, to show cause in not less
28 than two or more than ten days, exclusive of holidays, why the dealer should not be
29 ordered to cease from further pursuit of business as a dealer. This rule may be tried

1 out of term and in chambers, and shall always be tried by preference. If the rule is
 2 made absolute, the order rendered thereon shall be considered a judgment in favor
 3 of the state, prohibiting the dealer from the further pursuit of ~~said~~ business until ~~such~~
 4 the time as he has paid the delinquent tax, interest, penalties, and costs, and every
 5 violation of the injunction shall be considered as a contempt of court, and punished
 6 according to law. For the purpose of the enforcement of this Chapter and the
 7 collection of the tax levied hereunder, it is presumed that all tangible personal
 8 property and digital products imported or held in this state by any dealer ~~is~~ are to be
 9 sold at retail, used or consumed, or stored for use or consumption in this state, or
 10 leased or rented within this state, and ~~is~~ are subject to the tax herein levied; this
 11 presumption shall be prima facie only, and subject to proof furnished to the collector.

12 §315. Sales returned to dealer; credit or refund of tax

13 A. Whenever tangible personal property or digital products are sold ~~is~~ and
 14 returned to the dealer by the purchaser or consumer, or in the event the amount paid
 15 or charged for services is refunded or credited to the purchaser or consumer after the
 16 tax imposed by this Chapter has been collected, or charged to the account of the
 17 purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the
 18 amount of tax so collected or charged by him, in the manner prescribed by the
 19 collector; and ~~in case~~ if the tax has not been remitted by the dealer to the collector,
 20 the dealer may deduct the same in submitting his return. Upon receipt of a signed
 21 statement of the dealer as to the gross amount of ~~such~~ refunds during the period
 22 covered by the signed statement, which period shall not be longer than ninety days,
 23 the collector shall issue to the dealer an official credit memorandum equal to the net
 24 amount remitted by the dealer for the tax collected. This memorandum shall be
 25 accepted by the collector at full face value from the dealer to whom it is issued, in
 26 the remittance for subsequent taxes accrued ~~under~~ pursuant to the provisions of this
 27 Chapter. In cases where a dealer has retired from business and has filed a final
 28 return, a refund of tax may be made if it can be established to the satisfaction of the
 29 collector that the tax paid was not due.

1 B. As used in this Section, "qualified charitable institution" means an
2 organization which meets the following criteria:

3 * * *

4 (3) It routinely sells donated tangible personal property, digital products, or
5 items made from such donated property.

6 * * *

7 C.(1)

8 * * *

9 (c) Once approved, the charitable institution shall file sales tax returns as
10 required reporting the total state sales tax it has collected and take a deduction
11 therefrom for the amount of state sales tax collected on qualifying exempt sales of
12 donated tangible personal property, digital products, or items made from donated
13 tangible personal property.

14 * * *

15 §321. Imposition of tax

16 A. In addition to the tax levied by R.S. 47:302(A), 321.1(A), and 331(A) and
17 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this
18 Subtitle H of this Title, there is hereby levied an additional tax upon the sale at retail,
19 the use, the consumption, the distribution, and the storage for use or consumption in
20 this state of each item or article of tangible personal property or digital product, as
21 defined in Chapter 2 of this Subtitle H of this Title. The levy of ~~said~~ the tax shall be
22 as follows:

23 (1) At the rate of one percent of the sales price of each item or article of
24 tangible personal property or digital product when sold at retail in this state except
25 for prepaid calling service and prepaid wireless calling service, the tax to be
26 computed on gross sales for the purpose of remitting the amount of tax to the state,
27 and to include each and every retail sale.

28 (2) At the rate of one percent of the cost price of each item or article of
29 tangible personal property or digital product except for prepaid calling service and

1 prepaid wireless calling service when the same is not sold but is used, consumed,
2 distributed, or stored for use or consumption in this state, provided that there shall
3 be no duplication of the tax.

4 B. In addition to the tax levied by R.S. 47:302(B), 321.1(B), and 331(B) and
5 collected ~~under pursuant to~~ the provisions of ~~Chapter~~ Chapters 2 and 2B of this
6 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~, there is hereby
7 levied a tax upon the lease or rental within this state of each item or article of
8 tangible personal property or digital product, as defined by ~~said~~ in Chapter 2 of this
9 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~; the levy of ~~said~~ the
10 tax to be as follows:

11 (1) At the rate of one percent of the gross proceeds derived from the lease
12 or rental of tangible personal property or digital product, as defined in Chapter 2 of
13 this ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~, where the lease
14 or rental of ~~such~~ the property or product is in an established business, or part of an
15 established business, or the same is incidental or germane to the business.

16 (2) At the rate of one percent of the monthly lease or rental price paid by a
17 lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner
18 of the tangible personal property or digital product.

19 * * *

20 P. Notwithstanding any other provision of law to the contrary, including but
21 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
22 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
23 levied pursuant to the provisions of this Section, except for the retail sale, use,
24 consumption, distribution, or storage for use or consumption of the following:

25 * * *

26 (9) Installation charges on tangible personal property and digital products as
27 provided in R.S. 47:301(3)(a).

28 * * *

1 (13) Sales, leases, or rentals of tangible personal property and digital
2 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

3 * * *

4 (17) Tangible personal property and digital products that are sold or donated
5 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

6 * * *

7 (23) Sales, purchases, and leases of tangible personal property and digital
8 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

9 * * *

10 (25) Tangible personal property and digital products for resale as provided
11 in R.S. 47:301(10)(a)(i).

12 * * *

13 (27) Isolated or occasional sales of tangible personal property and digital
14 products by a person not engaged in such business as provided in R.S. 47:301(1) and
15 (10)(c)(ii)(bb).

16 * * *

17 (30) An article traded in on the purchase of tangible personal property or a
18 digital product as provided in R.S. 47:301(13)(a).

19 * * *

20 (33) Credit for sales and use taxes paid to another state on tangible personal
21 property and digital products imported in Louisiana as provided in R.S.
22 47:303(A)(3)(a).

23 * * *

24 (56) Transactions in interstate commerce and tangible personal property and
25 digital products imported into this state, or produced or manufactured in this state,
26 for export as provided in R.S. 47:305(E).

27 * * *

1 (66) Sales, leases, and rentals of tangible personal property and digital
2 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
3 provided in R.S. 47:301(7)(g) and (10)(r).

4 * * *

5 (81) Sales of admissions, parking fees, and sales of tangible personal
6 property and digital products at events sponsored by domestic, civic, educational,
7 historical, charitable, fraternal, or religious nonprofit organizations as provided in
8 R.S. 47:305.14(A)(1).

9 * * *

10 (109) Sales of tangible personal property, digital products, and services at
11 certain public facilities as provided in R.S. 39:467 and 468.

12 * * *

13 (114) Purchases of tangible personal property and digital products pursuant
14 to the sales tax holiday as provided in R.S. 47:305.74.

15 * * *

16 Q. The provisions of Subsection P of this Section shall supercede and control
17 to the extent of conflict with any other provision of law beginning July 1, 2018,
18 through June 30, 2025. Digital products shall be taxed in the same manner as any
19 complementary tangible personal property or service included in Subsection P of this
20 Section.

21 §321.1. Imposition of tax

22 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 331(A) and
23 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this
24 Subtitle, there is hereby levied an additional tax upon the sale at retail, the use, the
25 consumption, the distribution, and the storage for use or consumption in this state of
26 each item or article of tangible personal property or digital product as defined in
27 Chapter 2 of this Subtitle. The levy of ~~said~~ the tax shall be as follows:

28 (1) At the rate of forty-five hundredths of one percent of the sales price of
29 each item or article of tangible personal property or digital product when sold at

1 retail in this state, the tax to be computed on gross sales for the purpose of remitting
2 the amount of tax to the state, and to include each and every retail sale.

3 (2) At the rate of forty-five hundredths of one percent of the cost price of
4 each item or article of tangible personal property or digital product when the same
5 is not sold but is used, consumed, distributed, or stored for use or consumption in this
6 state, provided that there shall be no duplication of the tax.

7 B. In addition to the tax levied by R.S. 47:302(B), 321(B), and 331(B) and
8 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2B of this
9 Subtitle, there is hereby levied a tax upon the lease or rental within this state of each
10 item or article of tangible personal property or digital product, as defined by Chapter
11 2 of this Subtitle; the levy of the tax to be as follows:

12 (1) At the rate of forty-five hundredths of one percent of the gross proceeds
13 derived from the lease or rental of tangible personal property or digital product, as
14 defined in Chapter 2 of this Subtitle, where the lease or rental of ~~such~~ the property
15 or product is in an established business, or part of an established business, or the
16 same is incidental or germane to the business.

17 (2) At the rate of forty-five hundredths of one percent of the monthly lease
18 or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a
19 lessee or rentee, to the owner of the tangible personal property or digital product.

20 * * *

21 I. Notwithstanding any other provision of law to the contrary, including but
22 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
23 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
24 levied pursuant to the provisions of this Section, except for the retail sale, use,
25 consumption, distribution, or storage for use or consumption of the following:

26 * * *

27 (9) Installation charges on tangible personal property and digital products as
28 provided in R.S. 47:301(3)(a).

29 * * *

1 (13) Sales, leases, or rentals of tangible personal property and digital
2 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

3 * * *

4 (17) Tangible personal property and digital products that are sold or donated
5 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

6 * * *

7 (23) Sales, purchases, and leases of tangible personal property and digital
8 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

9 * * *

10 (25) Tangible personal property and digital products for resale as provided
11 in R.S. 47:301(10)(a)(i).

12 * * *

13 (27) Isolated or occasional sales of tangible personal property and digital
14 products by a person not engaged in such business as provided in R.S. 47:301(1) and
15 (10)(c)(ii)(bb).

16 * * *

17 (30) An article traded in on the purchase of tangible personal property or a
18 digital product as provided in R.S. 47:301(13)(a).

19 * * *

20 (33) Credit for sales and use taxes paid to another state on tangible personal
21 property and digital products imported in Louisiana as provided in R.S.
22 47:303(A)(3)(a).

23 * * *

24 (56) Transactions in interstate commerce and tangible personal property and
25 digital products imported into this state, or produced or manufactured in this state,
26 for export as provided in R.S. 47:305(E).

27 * * *

1 (66) Sales, leases, and rentals of tangible personal property and digital
2 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
3 provided in R.S. 47:301(7)(g) and (10)(r).

4 * * *

5 (81) Sales of admissions, parking fees, and sales of tangible personal
6 property and digital products at events sponsored by domestic, civic, educational,
7 historical, charitable, fraternal, or religious nonprofit organizations as provided in
8 R.S. 47:305.14(A)(1).

9 * * *

10 (109) Sales of tangible personal property, digital products, and services at
11 certain public facilities as provided in R.S. 39:467 and 468.

12 * * *

13 (114) Purchases of tangible personal property and digital products pursuant
14 to the sales tax holiday as provided in R.S. 47:305.74.

15 * * *

16 J. The provisions of Subsection I of this Section shall supercede and control
17 to the extent of conflict with any other provision of law beginning July 1, 2018,
18 through June 30, 2025. Digital products shall be taxed in the same manner as any
19 complementary tangible personal property or service included in Subsection I of this
20 Section.

21 * * *

22 §331. Imposition of tax

23 A. In addition to the tax levied by R.S. 47:302(A), 321(A), and 321.1(A) and
24 collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2A of this
25 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~, there is hereby
26 levied an additional tax upon the sale at retail, the use, the consumption, the
27 distribution, and the storage for use or consumption in this state of each item or
28 article of tangible personal property or digital product, as defined in Chapter 2 of this

1 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
2 levied pursuant to the provisions of this Section, except for the retail sale, use,
3 consumption, distribution, or storage for use or consumption of the following:

4 * * *

5 (9) Installation charges on tangible personal property and digital products as
6 provided in R.S. 47:301(3)(a).

7 * * *

8 (13) Sales, leases, or rentals of tangible personal property and digital
9 products paid by or under the provisions of Medicare as provided in R.S. 47:315.3.

10 * * *

11 (17) Tangible personal property and digital products that are sold or donated
12 to a food bank as provided in R.S. 47:301(10)(j) and (18)(a)(i).

13 * * *

14 (23) Sales, purchases, and leases of tangible personal property and digital
15 products by free hospitals as provided in R.S. 47:301(7)(e), (10)(p), and (18)(c).

16 * * *

17 (25) Tangible personal property and digital products for resale as provided
18 in R.S. 47:301(10)(a)(i).

19 * * *

20 (27) Isolated or occasional sales of tangible personal property and digital
21 products by a person not engaged in such business as provided in R.S. 47:301(1) and
22 (10)(c)(ii)(bb).

23 * * *

24 (30) An article traded in on the purchase of tangible personal property or a
25 digital product as provided in R.S. 47:301(13)(a).

26 * * *

1 (33) Credit for sales and use taxes paid to another state on tangible personal
2 property and digital products imported ~~in~~ into Louisiana as provided in R.S.
3 47:303(A)(3)(a).

4 * * *

5 (56) Transactions in interstate commerce and tangible personal property and
6 digital products imported into this state, or produced or manufactured in this state,
7 for export as provided in R.S. 47:305(E).

8 * * *

9 (66) Sales, leases, and rentals of tangible personal property and digital
10 products to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. as
11 provided in R.S. 47:301(7)(g) and (10)(r).

12 * * *

13 (81) Sales of admissions, parking fees, and sales of tangible personal
14 property and digital products at events sponsored by domestic, civic, educational,
15 historical, charitable, fraternal, or religious nonprofit organizations as provided in
16 R.S. 47:305.14(A)(1).

17 * * *

18 (109) Sales of tangible personal property, digital products, and services at
19 certain public facilities as provided in R.S. 39:467 and 468.

20 * * *

21 (114) Purchases of tangible personal property and digital products pursuant
22 to the sales tax holiday as provided in R.S. 47:305.74.

23 * * *

24 W. The provisions of Subsection V of this Section shall supercede and
25 control to the extent of conflict with any other provision of law beginning July 1,
26 2018, through June 30, 2025. Digital products shall be taxed in the same manner as
27 any complementary tangible personal property or service included in Subsection V
28 of this Section.

29 * * *

1 §337.3. Imposition of political subdivision tax

2 A.(1) A taxing authority may continue to levy sales and use taxes under
3 authority provided for ~~such~~ political subdivisions by the statutes or Constitution of
4 Louisiana.

5 (2) A taxing authority shall levy sales and use taxes on the sale at retail, the
6 use, the lease or rental, the consumption, and the storage of digital products. The
7 levy of local sales and use tax on digital products shall be subject to the definitions,
8 exclusions, and exemptions provided in Chapters 2, 2-A, and 2-B of this Subtitle.

9 * * *

10 §340.1. Marketplace facilitators; collection and remittance of state and local sales
11 and use tax

12 A. Definitions. For purposes of this Section, the following words and phrases
13 shall have the following meanings, unless the context clearly indicates otherwise:

14 * * *

15 (3) "Marketplace" means any physical or electronic platform or forum,
16 owned, operated, or otherwise controlled by the marketplace facilitator₂ through
17 which a marketplace seller may sell or offer for sale tangible personal property₂,
18 digital products, or sales of services for delivery into Louisiana.

19 * * *

20 (5) "Marketplace seller" means a person who sells or offers for sale tangible
21 personal property, digital products, or sales of services for delivery into Louisiana
22 through a marketplace that is owned, operated, or controlled by a marketplace
23 facilitator.

24 * * *

25 Section 2. R.S. 51:1286(B) is hereby amended and reenacted to read as follows:

26 §1286. Sales and use tax

27 * * *

28 B. The tax ~~so~~ authorized pursuant to this Section shall be imposed by
29 ordinance adopted by the district without the need of an election and shall be levied

1 upon the sale at retail, the use, the lease or rental, the distribution, the consumption,
 2 and the storage for use or consumption of tangible personal property, digital
 3 products, and on sales of services in the state of Louisiana, as now or hereafter
 4 defined in and as provided by Chapter 2 of Subtitle II of Title 47 of the Louisiana
 5 Revised Statutes of 1950, subject to the exemptions and suspensions of exemptions
 6 to the same extent that ~~such~~ the exemptions and suspensions of exemptions now or
 7 hereafter apply to the tax levied in R.S. 47:331.

8 * * *

9 Section 3. R.S. 47:301(16)(h) and (p) and (23) are hereby repealed in their entirety.

10 Section 4. The provisions of this Act shall apply to taxable periods beginning on or
 11 after January 1, 2025.

12 Section 5. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

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 8 Original 2024 Third Extraordinary Session Brass

Abstract: Levies a sales and use taxes on certain digital products and digital services.

Present law imposes a state sales and use tax upon the sale, use, lease, or rental of tangible personal property, and upon the sale of certain services, which tax is composed of the following levies in the following amounts:

R.S. 47:302	.....	2.00%
R.S. 47:321	.....	1.00%
R.S. 47:321.1	.....	0.45%
R.S. 47:331	.....	0.97%
R.S. 51:1286	.....	0.03%

Present law terminates the 0.45% sales and use tax levy effective July 1, 2025.

Present law provides for general conformity of sales and use tax bases (the sets of goods and services subject to tax) of local taxing authorities with the state's sales and use tax base; but authorizes local taxing authorities, individually, to adopt certain sales and use tax exemptions for particular goods and services, allowing for dissimilarity between local bases and the state's base.

Proposed law imposes sales and use tax on certain digital products and digital services as defined and provided for in proposed law.

Proposed law provides that "digital product" means digital audiovisual works, digital audio works, digital books, digital codes, digital applications and games, digital periodicals and discussion forums, all as defined in proposed law, and any other otherwise-taxable tangible personal property transferred electronically, whether digitally delivered, streamed, or accessed and whether purchased singly, by subscription, or in any other manner, including maintenance, updates, and support.

Proposed law stipulates that "digital product" shall not include any of the following:

- (1) Any intangible such as a patent, stock, bond, goodwill, trademark, franchise, or copyright.
- (2) Telecommunications services and ancillary services as defined in present law and proposed law.
- (3) Internet access service charges.
- (4) The representation of a work product resulting from a professional service, as described in present law, in an electronic form, such as an electronic copy of an engineering report prepared by an engineer that primarily involves the application of human effort, and the human effort originated after the customer requested the service.
- (5) A product having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities where the purchaser holds a copyright or other intellectual property interest in the product, in whole or part, if the purchaser uses the product solely for commercial purposes, including advertising or other marketing activities.

Proposed law provides that for purposes of sales and use tax administration, the Dept. of Revenue shall not consider a person's ownership of, or rights in, digital products residing on servers located in this state in determining whether the person has substantial nexus with this state. Provides that for purposes of proposed law, "substantial nexus" means the requisite connection that a person has with a state to allow the state to subject the person to the state's taxing authority, consistent with the commerce clause of the U.S. Constitution.

Proposed law encompasses provisions addressing bundled transactions. Stipulates that in the case of the sale of a digital code that provides a purchaser with the right to obtain more than one digital product, and which may also include the right to obtain other products or services, and all of the products and services, digital or otherwise, to be obtained through the use of the code do not have the same sales and use tax treatment, both of the following shall apply:

- (1) The transaction shall be deemed to be the sale of the products and services to be obtained through the use of the code.
- (2) The state sales and use tax shall apply to the entire selling price of the code, except as otherwise provided in proposed law.

Proposed law establishes sourcing rules for purposes of collecting sales and use taxes, or remitting sales taxes to the appropriate taxing jurisdictions, on sales of tangible personal property, digital products, and services.

Proposed law establishes the following exemptions from state and local sales and use taxes:

- (1) Sales taxes on computer software or prewritten computer software access services, information services, and digital products when all of the following conditions are met:
 - (a) The service or product is purchased or licensed exclusively for commercial purposes.
 - (b) The service or product is used by the business directly in the production of goods or services for sale to its customers.
 - (c) The goods or services produced and sold by the business are subject to sales and use tax.
- (2) Use taxes on digital products created solely for the business needs of the person who created the digital products and are not the type of digital products that are offered for sale.

Proposed law provides that with respect to digital products, "sale" means the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the product.

Proposed law provides that with respect to digital services, "sale" means the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service.

Proposed law stipulates that, solely for purposes of the state sales and use tax, the following exceptions apply:

- (1) The term "sale at retail" does not include consuming any digital product in producing for sale a new product, where the digital product becomes an ingredient or component of the new product.
- (2) With respect to digital products, the term "sale at retail" does not include making any digital product available free of charge for the use or enjoyment of others.

Proposed law adds the following into the "sales of services" definition provided in present law, thereby subjecting these services to sales and use tax:

- (1) The furnishing of prewritten computer software access services as defined in proposed law.
- (2) The furnishing of information services as defined in proposed law.

Proposed law adds references to digital products alongside existing references to tangible personal property in the definitions of the following defined terms pertaining to sales and use tax provided in present law: "cost price", "dealer", "gross sales", "lease or rental", "purchaser", "sale", "retail sale" and "sale at retail", "sales price", "storage", "use", and "use tax".

Proposed law adds references to digital products alongside existing references to tangible personal property in present law providing for sales tax exemptions, thereby causing the exemptions to apply to digital products as well as to tangible personal property.

Proposed law adds references to digital products alongside existing references to tangible personal property in miscellaneous provisions of present law relative to sales and use tax administration.

Proposed law deletes from present law relative to sales and use taxes the defined term "computer software" and its corresponding definition.

Proposed law repeals from present law sales tax exclusions (provisions excluding certain items from the taxable base) for custom computer software and for newspapers.

Proposed law applies to taxable periods beginning on or after Jan. 1, 2025.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:301(3)(a), (b), and (i)(i)(intro. para.) and (ii)(aa)(I)(aaa), (4)(intro. para.), (a)–(e), (h), and (i), (5), (7)(a), (g), and (i), (8)(b), (9), (10)(a)(i)–(iv), (c)(ii)(bb), (j), (l), (q)(i), (r), (s), (u), (ff), and (hh), (12), (13)(a), (14)(h)–(k), (15), (18)(a), (d)(i), (e), and (f), (19), and (29)(x)(ix), 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(intro. para.), (a), and (b)(intro. para.), (BB)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (113), and (CC), 303(A)(2) and (3)(a) and (G), 303.1(A) and (B)(1)(intro. para.) and (c) and (2)(b), 304(B), 305(E), 305.10(A) and (C)–(E), 305.14(A)(1)(a) and (5), 305.38, 305.53(A), 305.54(B) and (C)(1), 306.5(A)(1) and (2)(c), 307(A)–(C), 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 315.3(A), 315.5(A), (B)(3), and (C)(1)(c), 321(A), (B), (P)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (Q), 321.1(A), (B), (I)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (J), 331(A), (B), (V)(9), (13), (17), (23), (25), (27), (30), (33), (56), (66), (81), (109), and (114), and (W), 337.3(A), and 340.1(A)(3) and (5) and R.S. 51:1286(B); Adds R.S. 47:301(10)(c)(ii)(cc) and (jj), (14)(l) and (m), (32), (33), and (34), 301.3, 301.4, and 305.5; Repeals R.S. 47:301(16)(h) and (p) and (23))