

SENATE COMMITTEE AMENDMENTS

2024 Third Extraordinary Session

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Reengrossed House Bill No. 10 by Representative Wright

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 47: 301(3)," delete the remainder of the line and delete lines
3 3 through 15 and insert the following:

4 "(4)(introductory paragraph), (4)(a) through (e) and (h) through (k), (5)
5 through (10), (12) through (16), (18), (19), and (23) through (31), 301.1(A)
6 (introductory paragraph), (B)(2)(b) through (d), (C)(2)(b), (D), and (E),
7 302(A), (B), (D), (K)(1) and (2), (U), (V)(1)(introductory paragraph), (a) and
8 (b)(introductory paragraph), 303(A)(2) and (3)(a), (B)(introductory
9 paragraph), (1)(introductory paragraph) and (b)(introductory paragraph),
10 (3)(b)(ii) and (4), (D)(1), (E), (F), and (G), 303.1(A), (B)(1)(introductory
11 paragraph) and (c), (2)(b), and (5), 304(A) and (B), 305(A), (B), (C), (D)(1)
12 and (E) through (I), 305.2 through 305.4, 305.6 through 305.8, 305.10(A) and
13 (C) through (F), 305.13, 305.14(A)(1)(a) and (5), 305.20(A), (C) and (D),
14 305.38, 305.39, 305.50(B) through (F), 305.72(C), 305.73(B) through (F),
15 305.75, 306(A)(3)(a), 306.5(A)(1) and (2)(c) and (B), 307(A) through (C),
16 309(A)(1), 309.1(B)(1) and (2)(b) and (D), 310(A), 312, 314, 315(A) and
17 (B)(1), 318(A), 321(A), (B), and (C), 321.1(A), (B) and (C), 322, 331(A)
18 through (C), 332, 337.2(C)(2) and (4)(a) and (b)(i)(aa)(II) and (bb)(II),
19 337.3(A), 337.4(B)(6), (7), and (8), 337.6(B), 337.8(B), 337.13(A),
20 340.1(A)(3) and (5), 463.8(B)(1)(b) and (3), and 6001(A), and R.S. 51:1286,
21 to enact R.S. 47:301(4)(l) and (32) through (35), 301.3, 301.4, 301.5, 301.6
22 and 301.7, 305(J), 305.5, 305.12, 305.21, 305.22, and 305.72(D) through (F),
23 and to repeal Part V of Chapter 3 of Title 40, comprised of R.S. 40:582.1
24 through 582.7, R.S. 47:9, 301(4)(m) and (n), (16)(h) and (p), 301.1(B)(2)(e)
25 and (f) and (F), 301.2, 302(F)"

26 AMENDMENT NO. 2

27 On page 1, line 17, delete "305.14" and insert "305.15"

28 AMENDMENT NO. 3

29 On page 1, line 17, delete "305.36"

30 AMENDMENT NO. 4

31 On page 1, line 19, delete "305.56 through 305.65," and insert "305.56 through 305.61,
32 305.63 through 305.65,"

33 AMENDMENT NO. 5

34 On page 2, line 1, after "305.80," delete "306(A)(3), (6)," and insert "306(A)(6)"

35 AMENDMENT NO. 6

36 On page 2, line 16, after "rebates;" insert the following:

37 "to provide for the levy of sales and use taxes on certain digital products and
38 services; to provide for the rates of such taxes; to provide for definitions; to
39 provide relative to exclusions and exemptions from sales and use taxes; to
40 provide relative to administration of sales and use taxes; to provide relative
41 to tax collection and enforcement; to provide for liability for collection and

1 payment of certain sales and use taxes; to provide for record keeping and
 2 reporting; to provide for sourcing; to provide for certain limitations and
 3 requirements;"

4 AMENDMENT NO. 7

5 On page 3, delete lines 17 through 27, and insert the following:

6 "Section 4. R.S. 47:301(3),(4)(introductory paragraph), (4)(a)
 7 through (e) and (h) through (k), (5) through (10), (12) through (16), (18),
 8 (19), and (23) through (31), 301.1(A) (introductory paragraph), (B)(2)(b)
 9 through (d), (C)(2)(b), (D), and (E), 302(A), (B), (D), (K)(1) and (2), (U),
 10 (V)(1)(introductory paragraph), (a) and (b)(introductory paragraph),
 11 303(A)(2) and (3)(a), (B)(introductory paragraph), (1)(introductory
 12 paragraph) and (b)(introductory paragraph), (3)(b)(ii) and (4), (D)(1), (E),
 13 (F), and (G), 303.1(A), (B)(1)(introductory paragraph) and (c), (2)(b), and
 14 (5), 304(A) and (B), 305(A), (B), (C), (D)(1) and (E) through (I), 305.2
 15 through 305.4, 305.6 through 305.8, 305.10(A) and (C) through (F), 305.13,
 16 305.14(A)(1)(a) and (5), 305.20(A), (C) and (D), 305.38, 305.39, 305.50(B)
 17 through (F), 305.72(C), 305.73(B) through (F), 305.75, 306(A)(3)(a),
 18 306.5(A)(1) and (2)(c) and (B), 307(A) through (C), 309(A)(1), 309.1(B)(1)
 19 and (2)(b) and (D), 310(A), 312, 314, 315(A) and (B)(1), 318(A), 321(A),
 20 (B), and (C), 321.1(A), (B) and (C), 322, 331(A) through (C), 332,
 21 337.2(C)(2) and (4)(a) and (b)(i)(aa)(II) and (bb)(II), 337.3(A), 337.4(B)(6),
 22 (7), and (8), 337.6(B), 337.8(B), 337.13(A), 340.1(A)(3) and (5),
 23 463.8(B)(1)(b) and (3), and 6001(A) are amended and reenacted and R.S.
 24 47:301(4)(l) and (32) through (35), 301.3, 301.4, 301.5, 301.6 and 301.7,
 25 305(J), 305.5, 305.12, 305.21, 305.22, and 305.72(D) through (F) are hereby
 26 enacted to read as follows:"

27 AMENDMENT NO. 8

28 On page 4, line 6, after "property" and before "without" insert "or digital products"

29 AMENDMENT NO. 9

30 On page 4, line 9, after "for" delete "installation,"and insert "the installation of tangible
 31 personal property and digital products,"

32 AMENDMENT NO. 10

33 On page 4, line 11, after "personal property" insert "or digital product"

34 AMENDMENT NO. 11

35 On page 4, at the end of line 11, after "less." insert "Cost price shall not include the amount
 36 charged for labor or services rendered in installing, applying, remodeling, or repairing
 37 property sold if such cost is separately billed to the customer at the time of installation."

38 AMENDMENT NO. 12

39 On page 11, line 28, after "personal property" insert "or digital products"

40 AMENDMENT NO. 13

41 On page 12, delete line 3 and insert the following:

42 "(a) Every person who imports, or causes to be imported, tangible
 43 personal property or digital products from any other state, foreign country,

1 or other taxing jurisdiction for sale at retail, for use, or consumption, or
 2 distribution, or for storage to be used or consumed in a taxing jurisdiction.

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

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

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

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

28 (e) Any person who is the lessee or rentee of tangible personal
 29 property or digital products and who pays to the owner of ~~such~~ the property
 30 or digital products a consideration for the use or possession of such property
 31 without acquiring title thereto.

32 * * *

33 (h) Any person engaging in business in the taxing jurisdiction.
 34 "Engaging in business in the taxing jurisdiction" means and includes any of
 35 the following methods of transacting business: maintaining directly,
 36 indirectly, or through a subsidiary, an office, distribution house, sales house,
 37 warehouse, or other place of business or by having an agent, salesman, or
 38 solicitor operating within the taxing jurisdiction under the authority of the
 39 seller or its subsidiary irrespective of whether ~~such~~ the place of business,
 40 agent, salesman, or solicitor is located in such taxing jurisdiction
 41 permanently or temporarily or whether ~~such~~ the seller or subsidiary is
 42 qualified to do business in ~~such~~ the taxing jurisdiction, or any person who
 43 makes deliveries of tangible personal property or digital products into the
 44 taxing jurisdiction other than by a common or contract carrier."

45 AMENDMENT NO. 14

46 On page 13, delete line 15 in its entirety and insert the following:

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

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AMENDMENT NO. 15

On page 14, line 21, after "property" and before "and" insert "or digital products"

AMENDMENT NO. 16

On page 14, line 22, after "property" and before the period "." insert "or digital products"

AMENDMENT NO. 17

On page 14, at the beginning of line 25, delete "such" and insert "that"

AMENDMENT NO. 18

On page 14, line 27, delete "such" and insert "that"

AMENDMENT NO. 19

On page 19, delete line 23 in its entirety and insert the following:

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

AMENDMENT NO. 20

On page 19, at the beginning of line 24, change "(10)(a)(i)" to "(10)(a)(~~i~~)"

AMENDMENT NO. 21

On page 19, line 26, after "consumer" and before "or" insert ", end user,"

AMENDMENT NO. 22

On page 19, line 27, after "property" insert "or a digital product"

AMENDMENT NO. 23

On page 20, line 1, after "transactions" delete "as" and insert "that"

AMENDMENT NO. 24

On page 20, between lines 22 and 23, insert the following:

"(b) The term "sale at retail" does not include consuming any digital product in producing for sale a new product or taxable service, where the digital product becomes an ingredient or component of the new product or taxable service. A digital code becomes an ingredient or component of a new product or taxable service if the digital product, through the use of the digital code, becomes an ingredient or component of the new product or taxable service."

AMENDMENT NO. 25

On page 32, delete lines 9 through 20 and insert asterisks "* * *"

AMENDMENT NO. 26

1 On page 32 , between lines 25 and 26, insert the following:

2 "(12)(a) "Sale" means any transfer of title or possession, or both,
3 exchange, barter, conditional or otherwise, in any manner or by any means
4 whatsoever, of tangible personal property or digital products, for a
5 consideration, and includes the fabrication of tangible personal property for
6 consumers who furnish, either directly or indirectly, the materials used in
7 fabrication work, and the furnishing, preparing or serving, for a
8 consideration, of any tangible personal property, consumed on the premises
9 of the person furnishing, preparing or serving ~~such~~ the tangible personal
10 property. A transaction whereby the possession of property is transferred but
11 the seller retains title as security for the payment of the price shall be deemed
12 a sale.

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

17 (c) With respect to digital services, "sale" means the first act within
18 this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise
19 receives the benefit of the service.

20 * * *

21 AMENDMENT NO. 27

22 On page 32, line 27, after "property" delete "is" and insert "or digital products are"

23 AMENDMENT NO. 28

24 On page 33, delete lines 6 and 7, insert the following:

25 "shall not be included; ~~nor Sales price shall the sales price not~~ include the
26 amount charged for labor or services rendered in installing, applying,
27 remodeling, or repairing property sold if that charge is separately billed to the
28 customer at the time of the sale."

29 AMENDMENT NO. 29

30 On page 41, delete lines 23 through 29 and on page 42 delete lines 1 through 8

31 AMENDMENT NO. 30

32 On page 42, delete line 9 and insert the following:

33 "(15) "Storage" means and includes any keeping or retention in the
34 taxing jurisdiction of tangible personal property or digital products for use
35 or consumption within the taxing jurisdiction or for any purpose other than
36 for sale at retail in the regular course of business."
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38 AMENDMENT NO. 31

39 On page 50, line 23, change "(18)(a)(~~ii~~)" to "(18)(a)(i)"

40 AMENDMENT NO. 32

41 On page 50, line 25, after "property" and before "incident" insert "or digital products"

42 AMENDMENT NO. 33

1 On page 50, line 26, after "retail of" and before "in the regular course" delete "that property"
2 and insert "those items of property or products"

3 AMENDMENT NO. 34

4 On page 50, line 27, after "business" insert a period "." and the following:

5 "(ii) The term "use" for purposes of sales and use tax imposed on
6 digital products applies to the first act within this state by which the taxpayer,
7 as a consumer, views, accesses, downloads, possesses, stores, opens,
8 manipulates or otherwise enjoys, uses, or receives the benefits of the digital
9 product, prewritten computer access service, or information service. Use
10 includes access and use of digital products, prewritten computer access
11 services, and information services that remain in the possession of the dealer
12 or in the possession of a third party on behalf of the dealer."

13 AMENDMENT NO. 35

14 On page 53, line 10, after "property" insert "or digital products"

15 AMENDMENT NO. 36

16 On page 57, between lines 2 and 3, insert the following:

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

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

25 (b) Any political subdivision on tangible personal property or digital
26 products used, consumed, distributed, or stored for use or consumption in
27 ~~such~~ the political subdivision if the sale of ~~such~~ the property or the products
28 would have been exempted or excluded from sales tax at the time ~~such~~ the
29 property or digital products became subject to the taxing jurisdiction of the
30 political subdivision."

31 AMENDMENT NO. 37

32 On page 63, line 14, after "includes" and before "transmission" delete "such" and insert "the"

33 AMENDMENT NO. 38

34 On page 63, line 16, after "whether" and before "service" delete "such" and insert "the"

35 AMENDMENT NO. 39

36 On page 65, between lines 10 and 11, insert the following:

37 "(31) "Accommodations intermediary" means a person other than the
38 owner, operator, or manager of a room, suite, hotel, condominium,
39 townhouse, rental house, or other accommodation.

40 (32) "Furnishing" means providing, brokering, coordinating, making
41 available for, or otherwise arranging for the sale or use of a taxable service
42 provided for in this Chapter.

1 (33)(a) "Digital product" means digital audiovisual works, digital
2 audio works, digital books, digital codes, digital applications and games,
3 digital periodicals and discussion forums, and any other otherwise taxable
4 tangible personal property transferred electronically, whether digitally
5 delivered, streamed, or accessed and whether purchased singly, by
6 subscription, or in any other manner, including maintenance, updates, and
7 support.

8 (b) For the purposes of this Paragraph, the term:

9 (i) "Digital audiovisual works" means a series of related images that,
10 when shown in succession, impart an impression of motion, together with
11 accompanying sounds. "Digital audiovisual works" includes, but is not
12 limited to, motion pictures, musical, videos, news, and entertainment
13 programs, and live events.

14 (ii) "Digital audio works" means works that result from the fixation
15 of a series of musical, spoken, or other sounds that are transferred
16 electronically, including prerecorded or live songs, music, readings of books
17 or other written materials, speeches, ringtones, or other sound recording.

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

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

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

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

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

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

40 (ii) Telecommunications services and ancillary services as those
41 terms are defined in Items (27)(b) and (x) of this Section.

42 (iii) Internet access service charges.

43 (iv) The representation of a professional service, as described in
44 Subparagraph (16)(d) of this Section, in an electronic form, such as an
45 electronic copy of an engineering report prepared by an engineer that
46 primarily involves the application of human effort, and the human effort
47 originated after the customer requested the service.

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

6 (vi) Cable television services, direct-to-home satellite services, video
 7 programming services, or satellite digital audio radio services.

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

10 (e) For purposes of taxes imposed under this Chapter and Chapters
 11 2-A and 2-B of this Subtitle, whenever the words "property" or "personal
 12 property" are used, those terms shall be construed to include any digital
 13 product unless any of the following circumstances apply.

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

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

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

21 (34)(a) "Transferred electronically" means any product obtained by
 22 the purchaser by means other than tangible storage media, regardless of
 23 whether the seller grants permanent or less than permanent use and
 24 regardless of whether the transaction is conditioned upon contingent
 25 payment. It is not necessary that a copy of the product be physically
 26 transferred to the purchaser. So long as the purchaser may access the
 27 product, it shall be considered to have been transferred electronically to the
 28 purchaser.

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

31 (35)(a) "End user" means any purchaser other than a purchaser who receives
 32 by contract a digital product for further commercial broadcast, rebroadcast,
 33 transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition
 34 of the product, in whole or in part, to others. A person that purchases digital products for the
 35 purpose of giving away such products or codes will not be considered to have engaged in the
 36 distribution or redistribution of such products or codes and will be treated as an end user;

37 (b) If a purchaser of a digital product does not receive the contractual
 38 right to further redistribute, after the digital code is redeemed, the underlying
 39 product to which the digital code relates, then the purchaser of the digital
 40 code is an end user. If the purchaser of the digital code receives the
 41 contractual right to further redistribute, after the digital code is redeemed, the
 42 underlying product to which the digital code relates, then the purchaser of the
 43 digital code is not an end user. A purchaser of a digital code who has the
 44 contractual right to further redistribute the digital code is an end user if that
 45 purchaser does not have the right to further redistribute, after the digital code
 46 is redeemed, the underlying product to which the digital code relates."

1 On page 67, delete lines 25 through 29, and on page 68, delete lines 1 through 26, and insert
2 the following:

3 "(1) The rental or furnishing of sleeping rooms, cottages, cabins,
4 rooms, suites, condominiums, townhouses, rental houses, or other
5 accommodations by hotels, apartment hotels, lodging houses, tourist camps,
6 tourist courts, property management companies, accommodations
7 intermediaries, or any other provider or seller of accommodations to transient
8 guests. The sales price shall include service, facilitator, processing, delivery,
9 and other similar fees and charges associated with the processing of a
10 transaction, even if such fee or charge is separately stated.

11 (2) The furnishing of admissions which shall include sales of tickets,
12 and fees or other charges, for admissions to places of amusement,
13 recreational events, entertainment, exhibitions, displays, and athletic
14 entertainment, and charges made for participation in games and amusement
15 activities. This service shall include the furnishing, for dues, fees, or other
16 consideration, of the privilege of access to clubs, including buyer's clubs, or
17 the privilege of having access to or the use of amusement, entertainment,
18 athletic, or recreational facilities. This service shall also include
19 coin-operated amusement devices, including, but not limited to, massage
20 chairs, video games, pinball games, table games such as billiards and air
21 hockey, and redemption games such as the claw and skeet ball that may
22 award prizes of tangible personal property. The sales price shall include any
23 service, facility, processing, delivery, facilitator, and other similar fees and
24 charges, even if such fee or charge is separately stated.

25 (3) Parking, storing, or keeping of motor vehicles, including, but not
26 limited to valet services, the use of parking spaces, parking lots, and parking
27 structures, and charges for street parking at metered spaces.

28 (4) Printing and copying services, including but not limited to
29 printing or overprinting, lithographic, multilith, blue printing, photostating,
30 or other similar services of reproducing written or graphic matter, and
31 copying, photocopying, reproducing, duplicating, and other similar services
32 including those services provided in coin-operated, self-service form.

33 (5) Laundry, cleaning, pressing, alterations, repair, and dyeing
34 services, including but not limited to, the cleaning and renovation of clothing,
35 furs, linens, furniture, carpets, and rugs, and the furnishing of storage space
36 for clothing, furs, and rugs. The service shall be taxable at the location where
37 the laundered, cleaned, pressed, or dyed article is returned to the customer.

38 (6) The furnishing of cold storage space, except that which is
39 furnished pursuant to a bailment arrangement, and the furnishing of the
40 service of preparing tangible personal property for cold storage where the
41 service is incidental to the operation of storage facilities.

42 (7)(a) Repairs and maintenance of tangible personal property. Repairs
43 and maintenance include, but are not limited to, the repair and servicing of
44 automobiles, vehicles, boats and vessels, electrical and mechanical
45 appliances and equipment, farm machinery and implements, motors, tires,
46 batteries, engineering instruments, medical and surgical instruments,
47 machinery, mechanical tools, shop equipment, furniture, rugs, flooring,
48 watches, clocks, jewelry, refrigerators, phones, televisions, radios, shoes,
49 including shoe shining, and office appliances and equipment. This includes
50 service calls and trip or travel charges.

51 (b) For purposes of this Paragraph, "tangible personal property"
52 includes machinery, appliances, and equipment which have been declared
53 immovable by declaration under the provisions of Civil Code Article 467 and

1 things which have been separated from land, buildings, or other constructions
 2 permanently attached to the ground or their component parts as defined in
 3 Civil Code Article 466.

4 (8) Telecommunications services for compensation, in accordance
 5 with the provisions of R.S. 47:301.1.

6 (9) The providing of prewritten computer software access services.
 7 For purposes of this Paragraph, prewritten computer software access services
 8 means charges made to customers for the right to access and use prewritten
 9 computer software, where possession of the software is maintained by the
 10 seller or third party regardless of whether the charge for the services is on a
 11 per use, per user, per license, subscription, or some other basis.

12 (10)(a) The providing of information services. For purposes of this
 13 Paragraph, information services means electronic data retrieval or research;
 14 and collecting, compiling, analyzing, or furnishing of information of any
 15 kind, including, but not limited to, general or specialized news, other current
 16 information or financial information, by printed, mimeographed, electronic,
 17 or electrical transmission, or by utilizing wires, cable, radio waves,
 18 microwaves, satellites, fiber optics, or any other method now in existence or
 19 which may be devised; this includes delivering or providing access to
 20 information through databases or subscriptions. Information services
 21 include, but are not limited to:

22 (i) Furnishing newsletters; tax guides; research publications;
 23 financial, investment, circulation, credit, stock market, or bond rating reports;
 24 mailing lists; abstracts of title; news clipping services; wire services;
 25 scouting reports; surveys; bad check lists; and broadcast rating services.

26 (ii) Subscriptions to genealogical, financial, or similar databases.

27 (iii) Global positioning system services including driving directions
 28 and sports, news, and similar information provided through satellite audio
 29 programming services.

30 (b) Information services shall not include any of the following:

31 (i) Information sold to a newspaper or a radio or television station
 32 licensed by the Federal Communications Commission, if the information is
 33 gathered or purchased for direct use in newspapers or radio or television
 34 broadcasts.

35 (ii) Charges to a person by a financial institution for account balance
 36 information; or information gathered or compiled on behalf of a particular
 37 client, if the information is of a proprietary nature to that client and may not
 38 be sold to others by the person who compiled the information, except for a
 39 subsequent sale of the information by the client for whom the information
 40 was gathered or compiled.

41 (iii) Internet access service or information services that are provided
 42 in conjunction with and merely incidental to the provision of Internet access
 43 service when provided for a single charge.

44 (iv) Data processing, including but not limited to check or payment
 45 processing services."

46 AMENDMENT NO. 41

47 On page 74, between lines 21 and 22, insert the following:

1 "§301.6. Digital products

2 For purposes of the taxes imposed in this Chapter and Chapters 2-A
3 and 2-B of this Subtitle, the department shall not consider a person's
4 ownership of, or rights in digital products residing on servers located in this
5 state in determining whether the person has substantial nexus with this state.
6 For purposes of this Section, "substantial nexus" means the requisite
7 connection that a person has with a state to allow the state to subject the
8 person to the state's taxing authority, consistent with the commerce clause of
9 the United States Constitution."

10 AMENDMENT NO. 42

11 On page 74, delete line 23 and insert the following:

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

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

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

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

30 (1) At the rate of two percent per centum (2%) of the gross proceeds
31 derived from the lease or rental of tangible personal property, or a digital
32 product as defined in this Chapter, where the lease or rental of the property
33 or product is an established business, or part of an established business, or
34 the same is incidental or germane to the said business.

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

39 * * *

40 AMENDMENT NO. 43

41 On page 75, between lines 16 and 17, insert the following:

42 "K. An additional tax shall be levied as follows:

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

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

5 * * *

6 U. Collection of consumer use tax. It is the duty of the secretary of
7 the Department of Revenue to collect all taxes imposed pursuant to this
8 Chapter and Chapters 2-A and 2-B of this Subtitle which may be due upon
9 the sale by a remote retailer of tangible personal property, digital products,
10 or services in Louisiana. The secretary is authorized and directed to employ
11 all means available to ensure the collection of the tax in an equitable,
12 efficient, and effective manner.

13 V.(1) In addition to the definition of "dealer" as provided in R.S.
14 47:301(4) for purposes of the consumer use tax, the term "dealer" includes
15 every person who manufactures or produces tangible personal property or
16 digital products for sale at retail, for use or consumption, or distribution, or
17 for storage to be used or consumed in a taxing jurisdiction. "Dealer" is
18 further defined to mean:

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

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

35 * * *"

36 AMENDMENT NO. 44

37 On page 75, between lines 17 and 18, insert the following:

38 "A. Collection from dealer.

39 * * *

40
41
42 (2) On all tangible personal property or digital products imported, or
43 caused to be imported, from other states or foreign countries, and used by
44 him, the "dealer", as hereinafter defined, shall pay the tax imposed by this
45 Chapter on all articles of tangible personal property or digital products ~~so~~
46 imported and used, the same as if ~~the said~~ those articles and digital products
47 had been sold at retail for use or consumption in this state. For the purposes
48 of this Chapter, the use, or consumption, or distribution, or storage to be used
49 or consumed in this state of tangible personal property or digital products,
50 shall each be equivalent to a sale at retail, and the tax shall thereupon
51 immediately levy and be collected in the manner provided herein, provided
52 there shall be no duplication of the tax ~~in any event~~.
53

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

20 AMENDMENT NO. 45

21 On page 78, between lines 28 and 29, insert the following:

22 "G. Direct Payment Numbers. Notwithstanding any provision of law
 23 to the contrary, a Louisiana taxpayer who obtains a DP Number as provided
 24 in R.S. 47:303.1 shall remit sales and use taxes due on purchases and rentals
 25 of tangible personal property, digital products, and taxable services directly
 26 to the state and local taxing bodies to whom the sales and use taxes are due,
 27 and shall not be liable to remit the tax to the vendor or lessor of the tangible
 28 personal property, digital products, and taxable services, as provided in R.S.
 29 47:303.1."

30 AMENDMENT NO. 46

31 On page 79, delete lines 2 and 3 and insert the following:

32 "A. Notwithstanding any other law to the contrary except for the
 33 provisions of R.S. 47:303(B) and (E), the state and local sales and use tax
 34 due on the purchase, importation, or lease of tangible personal property,
 35 digital products, or taxable services by taxpayers who have obtained a Direct
 36 Payment Number, hereinafter referred to as a "DP Number," shall be
 37 remitted directly to the state and appropriate political subdivision by such
 38 taxpayer, as provided in this Section. The vendor or lessor of tangible
 39 personal property, digital products, or taxable services shall not be
 40 responsible for collecting sales and use tax on such sales or leases, and shall
 41 not be liable for such tax as provided in R.S. 47:304(C), upon presentation
 42 to him of a valid DP Number by such purchaser or lessee, provided that the
 43 vendor or lessor notes the DP Number on the untaxed contract or invoice
 44 submitted to such purchaser and lessee.

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

49 * * *

50 (c) The taxpayer has an annual average of five million dollars of
 51 taxable purchases or leases of tangible personal property, digital products,
 52 and taxable services, or any combination of these for three calendar years

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

3 (2) * * *

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

20 AMENDMENT NO. 47

21 On page 79, between lines 23 and 24, insert the following:

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

26 AMENDMENT NO. 48

27 On page 86, line 25, after "property" and before "imported" insert "or digital products"

28 AMENDMENT NO. 49

29 On page 86, line 28, after "property" and before "into" insert "or digital products"

30 AMENDMENT NO. 50

31 On page 87, delete line 5 and insert the following:

32 "of tangible person property ~~after it has~~ or digital products after they have
 33 come to rest in this state and ~~has~~ have become a"

34 AMENDMENT NO. 51

35 On page 90, between lines 2 and 3 insert the following:

36 "K.(1) Sales and use tax levied by any taxing authority shall not
 37 apply to sales for the purposes of lease or rental of tangible personal
 38 property or digital products in an arms-length transaction.

39 (2) To qualify for this exemption, sales must be made in strict
 40 compliance with rules and regulations. Any dealer making a sale for lease
 41 or rental that is not in strict compliance with the regulations shall himself
 42 be liable for the tax.

43 (3) Sales of motor vehicles, trailers, and semitrailers for lease or
 44 rental shall comply with the requirements set forth in R.S. 47:305.36."

1 AMENDMENT NO. 52

2 On page 90, line 16, delete "authorized to prescribe drugs" and insert "with prescriptive
3 authority"

4 AMENDMENT NO. 53

5 On page 90, line 25, after "consumed by" delete "patients" and insert "individuals"

6 AMENDMENT NO. 54

7 On page 91, line 16, change "a patient" to "an individual"

8 AMENDMENT NO. 55

9 On page 92, line 4, after "property" and before "if" insert "or digital product"

10 AMENDMENT NO. 56

11 On page 99, delete line 24, and insert the following:

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

19 AMENDMENT NO. 57

20 On page 103, delete line 8 and insert "imposed by the state or a political subdivision
21 whose boundaries are coterminous with the state:"

22 AMENDMENT NO. 58

23 On page 103, line 14 and delete "any taxing authority:" and insert "imposed by the state
24 or a political subdivision whose boundaries are coterminous with the state:"

25 AMENDMENT NO. 59

26 On page 107, line 21, after "property" and before "for" delete "purchase" and insert
27 "purchased"

28 AMENDMENT NO. 60

29 On page 107, delete line 23 and insert the following:

30 "A. There shall be no sales or use tax due upon the sale at retail or use of
31 tangible personal property, or digital products including diesel fuel, purchased
32 within or imported into Louisiana for first use exclusively beyond the territorial
33 limits of Louisiana as specifically provided hereinafter in this Section.

34 * * *

35 C. If the first use of tangible personal property or digital product
36 purchased within or imported into Louisiana occurs offshore beyond the
37 territorial limits of any state, the exemption provided herein shall apply
38 only if:

39 (1) The purchaser or importer has determined the location of the
40 first use of the tangible personal property or digital product at the time of
41 its purchase and has notified the vendor of that location; or

1 (2) The purchaser or importer has not determined the intended
2 offshore location of first use at the time of purchase or importation, but
3 has obtained from the secretary of the Department of Revenue an
4 "offshore registration number" authorizing him to claim the exemption
5 under the conditions provided in this Paragraph:

6 (a) Said offshore registration number shall be issued only if the
7 purchaser or importer has shown, to the satisfaction of the secretary, that
8 records, reports, and business practices are sufficient to permit verification
9 that tangible personal property or digital products purchased or imported
10 tax-free under this Subsection ~~is~~ are, in fact, being purchased or imported
11 for use offshore beyond the territorial limits of any state. In cases of
12 purchases of fungible goods, including vessel fuel and lubricants, the
13 required records shall include purchase invoices, vessel logs, fuel usage
14 records, fuel transfer records and other reports and records that will enable
15 the secretary to determine the amount of fungible goods consumed within
16 Louisiana so as to be subject to the sales and use tax, and the amount of
17 fungible goods delivered to or consumed at offshore locations beyond the
18 territorial limits of the state, so as not to be subject to the sales and use
19 tax. For the purpose of the Section, the term "fungible goods" means
20 goods of which any unit is unidentifiable and is, from its nature or by
21 mercantile custom, treated as the equivalent of any other unit and shall
22 include crude petroleum and its refined products.

23 (b) The offshore registration number issued by the secretary under
24 this Subsection may be revoked by the secretary at any time if the
25 purchaser or importer fails to meet the conditions set herein, or if the
26 secretary finds that the purchaser or importer is consistently using the
27 certificate to purchase or import tax-free tangible personal property or
28 digital products for first use in state.

29 (c) If the offshore registration number is revoked, all tangible
30 personal property purchased or imported tax-free under this Paragraph and
31 in the possession of the purchaser or importer within this state shall be
32 deemed taxable unless otherwise exempt under the provisions of
33 Paragraph (1) of this Subsection. If the provisions of Paragraph (1) of this
34 Subsection are not complied with, any subsequent purchase or import of
35 tangible personal property or digital products will be taxable, whether for
36 instate or offshore use, until the certificate and offshore number are
37 reissued.

38 (d) Whenever there is a conflict between a purchaser or importer
39 and the secretary as to whether an offshore registration number shall be
40 issued, reissued, or revoked, it shall be the responsibility of the purchaser
41 or importer to show that he meets the conditions and requirements set
42 herein for having and retaining said certificate and offshore registration
43 number.

44 (3) Except for purchases or importation of tangible personal
45 property or digital products in accordance with Paragraphs (1) and (2) of
46 this Subsection, any purchase or importation of property is taxable at the
47 time of purchase or import unless otherwise exempt.

48 D. If tangible personal property or digital products purchased or
49 imported tax-free under the provisions of this Section ~~is~~ are subsequently
50 used for any taxable purpose within the state, use tax shall be paid by the
51 purchaser or importer as of the time of its use in this state. Storage of
52 ~~property~~ tangible personal property or digital products purchased or
53 imported tax-free under this Section which ~~is~~ are ultimately used in
54 another state will be considered a "subsequent use for a taxable purpose".

1 E. If tangible personal property or digital products purchased
 2 within or imported into the state tax-free under the provisions of this
 3 Section ~~is~~ are later returned to Louisiana for use for a taxable purpose, the
 4 ~~property~~ tangible personal property or digital products shall be subject to
 5 the Louisiana use tax as of the time it is brought into the state, subject to
 6 the credit provided in R.S. 47:303(A)."
 7

8 AMENDMENT NO. 61

9 On page 110, between lines 10 and 11, insert the following:

10 "§305.14. Exemptions; nonprofit organizations; nature of exemption;
 11 limitations; qualifications; newspapers; determination of tax exempt status

12 A.(1)(a) The sales and use taxes imposed by taxing authorities
 13 shall not apply to sales of tangible personal property or digital products at,
 14 or admission charges for, outside gate admissions to, or parking fees
 15 associated with, events sponsored by domestic, civic, educational,
 16 historical, charitable, fraternal, or religious organizations, which are
 17 nonprofit, when the entire proceeds, except for necessary expenses such as
 18 fees paid for guest speakers, chair and table rentals, and food and beverage
 19 utility related items connected therewith, are used for educational,
 20 charitable, religious, or historical restoration purposes, including the
 21 furtherance of the civic, educational, historical, charitable, fraternal, or
 22 religious purpose of the organization. In addition, newspapers published in
 23 this state by religious organizations shall also be exempt from such taxes,
 24 provided that the price paid for the newspaper or a subscription to the
 25 newspaper does not exceed the cost to publish such newspaper.

26 * * *

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

34 AMENDMENT NO. 62

35 On page 112, between lines 5 and 6, insert the following:

36 "§305.21 Exemptions; digital products

37 The sales and use tax imposed by taxing authorities shall not apply
 38 to any digital product available free of charge for the use of enjoyment of
 39 others. For purposes of this Section, "free of charge" means that the
 40 recipient of the digital product is not required to provide anything of
 41 significant value in exchange for the product. A transfer is not free of
 42 charge if the digital product is bundled or combined with other products of
 43 services subject to sales or use tax regardless of whether such items are
 44 separately stated and invoiced.

45 §305.22 Exemptions; business use of software and digital products

46 A. The sales and use tax imposed by taxing authorities shall not
 47 apply to computer software or prewritten computer software access
 48 services, information services and digital products when all of the
 49 following conditions are met:

1 (1) It is purchased or licensed exclusively for commercial
2 purposes.

3 (2) It is used by the business directly in the production of goods or
4 services for sale to its customers.

5 (3) The goods or services produced and sold by the business are
6 subject to sales and use tax.

7 B. Computer software or computer software access services not
8 directly involved in the production of goods or services for the customers
9 of the business are not subject to this exemption.

10 C. The use tax imposed by taxing authorities shall not apply to the
11 use of digital products that are created solely for the business needs of the
12 person who created the digital product and is not the type of digital
13 product that is offered for sale.

14 D. Computer software or software as a service purchased or
15 licensed solely for commercial purposes in an enterprise computer system,
16 including operating programs or application software for the exclusive use
17 of the enterprise software system, that is housed or maintained by the
18 purchaser or on a cloud server, whether hosted by the purchaser, the
19 software vendor, or a third party shall be exempt from the sales and use
20 tax imposed by taxing authorities.

21 E. Digital products used by licensed healthcare facilities and
22 providers for storing or transmitting healthcare information or for the
23 diagnosis or treatment of a medical condition shall be exempt from sales
24 and use tax imposed by taxing authorities.

25 F. Digital products, prewritten computer software access services,
26 and information services purchased and used by an FDIC insured financial
27 institution for storing, transmitting, processing or analyzing customer and
28 account information, facilitating transactions, account processes,
29 investment processes, lending processes, security, and compliance shall be
30 exempt from sales and use tax imposed by taxing authorities. This
31 exemption shall also apply to an FDIC insured financial institution's
32 holding company, subsidiaries, or affiliates, and to a service corporation
33 wholly-owned by one or more FDIC insured financial institutions.

34 * * *

35 §305.38. Exemptions; sheltered workshop or supported employment
36 provider for persons with intellectual disabilities

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

45 AMENDMENT NO. 63

46 On page 118, between lines 16 and 17, insert the following:

47 "§306. Returns and payment of tax; penalty for absorption

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A. * * *

(3)(a) For the purpose of compensating the dealer in accounting for and remitting the tax levied by this Chapter, each dealer shall be allowed one and five hundredths percent of the amount of tax due and accounted for and remitted to the secretary in the form of a deduction in submitting his report and paying the amount due by him, provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder. The aggregate state compensation for a dealer who operates one or more business locations within Louisiana shall not exceed ~~one thousand five hundred~~ five hundred dollars per calendar month. This compensation shall be allowed only if the payment of the dealer is timely paid and the return is timely filed. Notwithstanding any other provision of law, the calculation of this deduction shall be based only on the taxes levied pursuant to R.S. 47:302, 321, 331, and R.S. 51:1286. There shall be no compensation for the taxes accounted for and remitted pursuant to R.S. 47:321.1 or any other sales tax levied by the state.

* * *

AMENDMENT NO. 64

On page 118, between lines 17 and 18, and insert the following:

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

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

* * *

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

AMENDMENT NO. 65

On page 119, between lines 24 and 25, insert the following:

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

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

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

10 C. In the case of the lease or rental of tangible personal property
11 or digital products, if the consideration given or reported by the dealer
12 does not, in the judgment of the collector, represent the true or actual
13 consideration, then the collector is authorized to ascertain in any manner
14 feasible the true or actual consideration and assess and collect the tax
15 thereon together with any interest and penalties that may have accrued.
16 The assessment ~~so made~~ shall be considered prima facie correct and the
17 burden shall be on the dealer to show the contrary.

18 * * *

19 §309. Dealers required to keep records

20 A.(1) Every dealer required to make a report and pay any tax under
21 this Chapter shall keep and preserve suitable records of the sales,
22 purchases, or leases taxable ~~under~~ pursuant to this Chapter, and ~~such~~ other
23 books of accounts as may be necessary to determine the amount of tax due
24 hereunder, and other information as may be required by the secretary; and
25 each dealer shall secure, maintain and keep until the taxes to which they
26 relate have prescribed, a complete record of tangible personal property or
27 digital products received, used, sold at retail, distributed, or stored, leased
28 or rented, within this state by the said dealer, together with invoices, bills
29 of lading, and other pertinent records and papers as may be required by the
30 secretary for the reasonable administration of this Chapter, and a complete
31 record of all sales or purchases of services taxable ~~under~~ pursuant to this
32 Chapter until the taxes to which they relate have prescribed.

33 * * *

34 §309.1. Sales in Louisiana of tangible personal property, digital products,
35 and taxable services by a dealer or remote retailer; the provision of lists,
36 notices, and statements by a dealer or remote retailer

37 * * *

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

41 (1) "Louisiana purchaser" or "purchaser" means a person who
42 purchases tangible personal property, digital products, or taxable services
43 in a transaction with a remote retailer for property or a service that is
44 delivered for use or benefit in Louisiana, and no Louisiana sales and use
45 tax was collected or paid on the transaction.

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

50 * * *

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

6 * * *

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

22 * * *

23
 24 §310. Wholesalers and jobbers required to keep records

25 A. All wholesale dealers and jobbers in this state shall keep a
 26 record of all sales of tangible personal property or digital products made
 27 in this state whether such sales be for cash or on terms of credit. These
 28 records shall contain and include the name and address of the purchaser,
 29 the date of the purchase, the article purchased and the price at which the
 30 article is sold to the purchaser. These records shall be kept until the taxes
 31 to which they relate have prescribed and shall be open to the inspection of
 32 the secretary at all reasonable hours.

33 * * *

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

36 A. The failure of any dealer to pay the tax and any interest,
 37 penalties, or costs due ~~under~~ pursuant to the provisions of this Chapter on
 38 any tangible personal property or digital products imported from outside
 39 the state for use, consumption, distribution or storage to be used in this
 40 state, or imported for the purpose of leasing or renting the same, shall
 41 make the tax, interest, penalties, or costs ipso facto delinquent. This
 42 failure shall moreover be a sufficient ground for the attachment of the
 43 personal property imported wherever it may be found, whether the
 44 delinquent taxpayer is a resident or nonresident, and whether the property
 45 is in the possession of the delinquent taxpayer or in the possession of other
 46 persons.

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

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

Failure to pay any tax due as provided in this Chapter shall ipso facto, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent, and the collector has the authority, on motion in a court of competent jurisdiction, to take a rule on the dealer, to show cause in not less than two or more than ten days, exclusive of holidays, why the dealer should not be ordered to cease from further pursuit of business as a dealer. This rule may be tried out of term and in chambers, and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the state, prohibiting the dealer from ~~the~~ further pursuit of ~~said~~ business until ~~such time as~~ he has paid the delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law. For ~~the purpose~~ purposes of the enforcement of this Chapter and the collection of the tax levied hereunder, it is presumed that all tangible personal property or digital products imported or held in this state by any dealer are to be sold at retail, used or consumed, or stored for use or consumption in this state, or leased or rented within this state, and are subject to the tax herein levied; this presumption shall be prima facie only, and subject to proof furnished to the collector.

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

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

43 B.(1) Whenever the unpaid balance of an account due to the
44 dealer for the purchase of tangible personal property, digital products, or
45 the sale of services subject to sales taxation has been found to be bad in
46 accordance with Section 166 of the United States Internal Revenue Code
47 and has actually been charged off for federal income tax purposes, the
48 dealer shall be entitled to reimbursement of the amount of tax previously
49 paid by the dealer on such amounts.

50 * * *

51 AMENDMENT NO. 66

52 On page 120, line 7, after "47:302(A)" and before "and" insert "321.1(A),"

1 AMENDMENT NO. 67

2 On page 120, delete line 8, and insert the following:

3 "~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-B of this Subtitle ~~H of this~~
4 ~~Title~~, there is hereby levied"5 AMENDMENT NO. 68

6 On page 120, delete lines 11 and 12, and insert the following:

7 "personal property or digital product, as defined in Chapter 2 of this Subtitle ~~H of this~~
8 ~~Title~~. The levy of ~~said~~ this tax shall be as follows:"9 AMENDMENT NO. 6910 On page 120, line 14, after "property" and before "when" insert "or digital product"11 AMENDMENT NO. 7012 On page 120, line 19, after "property" and before "~~except~~" insert "or digital product"13 AMENDMENT NO. 71

14 On page 120, delete line 23, and insert the following:

15 "B. In addition to the tax levied by R.S. 47:302(B), 321.1(B), and
16 331(B) and collected ~~under~~ pursuant to the provisions of ~~Chapter 2 of~~
17 ~~Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950~~ Chapters
18 2 and 2-B of this Subtitle, there is hereby levied a tax upon the lease or
19 rental within this state of each item or article of tangible personal property
20 or digital product, as defined ~~by said~~ in Chapter 2 of this Subtitle ~~H of~~
21 ~~Title 47 of the Louisiana Revised Statutes of 1950~~; the levy of the tax to
22 be as follows:23 (1) At the rate of one percent of the gross proceeds derived from
24 the lease or rental of tangible personal property or digital product, as
25 defined in Chapter 2 of this subtitle of 1950, where the lease or rental of
26 ~~such~~ the property or digital product, is in an established business, or part
27 of an established business, or the same is incidental or germane to the
28 business.29 (2) At the rate of one percent of the monthly lease or rental price
30 paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or
31 rentee to the owner of the tangible personal property or digital product."32 AMENDMENT NO. 72

33 On page 121, delete line 6, and insert the following:

34 "collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-B
35 of this Subtitle, there is hereby levied an"36 AMENDMENT NO. 7337 On page 121, line 9, after "property" and before "as defined" insert "or digital product"38 AMENDMENT NO. 7439 On page 121, line 12, after "property" and before "when" insert "or digital product"

1 AMENDMENT NO. 75

2 On page 121, line 16, after "property" insert "or digital product"

3 AMENDMENT NO. 76

4 On page 121, delete line 20, and insert the following:

5 "collected ~~under~~ pursuant to the provisions of ~~Chapter~~ Chapters 2 and 2-B
6 of this Subtitle, there is hereby levied a"

7 AMENDMENT NO. 77

8 On page 121, line 22, after "property" and before "," insert " or digital product"

9 AMENDMENT NO. 78

10 On page 121, line 25, after "property" and before "," insert " or digital product"

11 AMENDMENT NO. 79

12 On page 121, line 26, after "property" insert "or digital product"

13 AMENDMENT NO. 80

14 On page 122, line 3, after "property" insert "or digital product"

15 AMENDMENT NO. 81

16 On page 122, delete lines 22 through 24, and insert the following:

17 "A. In addition to the tax levied by R.S. 47:302(A) ~~and 321(A)~~ ₂
18 321(A), and 321.1(A) and collected under the provisions of ~~Chapter 2 of~~
19 Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950 Chapters
20 2 and 2-A of this Subtitle, there is hereby levied an additional tax upon the
21 sale at retail, the"

22 AMENDMENT NO. 82

23 On page 122, line 26 after "property" insert "or digital product"

24 AMENDMENT NO. 83

25 On page 122, delete lines 27 and 28 and insert the following:

26 "this Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950; the
27 levy of ~~said~~ the tax ~~to~~ shall be as follow:"

28 AMENDMENT NO. 84

29 On page 123, line 2, after "property" and before "when" insert "or digital product"

30 AMENDMENT NO. 85

31 On page 123, line 6, after "property" and before "when" insert "or digital product"

32 AMENDMENT NO. 86

33 On page 123, delete lines 9 through 14 and insert the following:

1 "B. In addition to the tax levied by R.S. 47:302(B) and ~~321(B)~~ ,
2 ~~321(B), and 321.1(B)~~ and collected ~~under the provisions of Chapter 2 of~~
3 ~~Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950~~ pursuant
4 to the provisions of Chapters 2 and 2A of this Subtitle, there is hereby
5 levied a tax upon the lease or rental within this state of each item or article
6 of tangible personal property or digital product, as defined by said Chapter
7 ~~2 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950~~; the
8 ~~levy of said tax to be as follows in Chapter 2 of this Subtitle.~~ The levy of
9 the tax shall be as follows:"

10 AMENDMENT NO. 87

11 On page 123, line 16, after "property" and before the comma, insert "or digital product"

12 AMENDMENT NO. 88

13 On page 123, line 18, after "property" and before "is" insert "or digital product"

14 AMENDMENT NO. 89

15 On page 123, line 22, after "property" and before the period "." insert "or digital product"

16 AMENDMENT NO. 90

17 On page 126, between lines 11 and 12, insert the following:

18 "§337.3. Imposition of political subdivision tax

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

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

27 * * *

28 AMENDMENT NO. 91

29 On page 132, between lines 25 and 26, insert the following:

30 "§340.1. Marketplace facilitators; collection and remittance of state and
31 local sales and use tax

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

35 * * *

36 (3) "Marketplace" means any physical or electronic platform or forum,
37 owned, operated, or otherwise controlled by the marketplace facilitator through
38 which a marketplace seller may sell or offer for sale tangible personal property,
39 digital products, or sales of services for delivery into Louisiana.

40 * * *

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

1 * * *

2 AMENDMENT NO. 92

3 On page 135, line 13, after "(n)" delete "and (31)," and insert ", (16)(h) and (p),"

4 AMENDMENT NO. 93

5 On page 135, at the end of line 14, change "305.14" to "305.15"

6 AMENDMENT NO. 94

7 On page 135, line 15, delete "305.36,"

8 AMENDMENT NO. 95

9 On page 135, line 17, delete "through 305.65," and insert "through 305.61, 305.63
10 through 305.65,"

11 AMENDMENT NO. 96

12 On page 135, line 18, after "305.80," delete "306(A)(3), (6)," and insert "306(A)(6)"