DIGEST

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Rosalind Jones HB No. 641

Abstract: Expands the definition of "dealer" to include persons who have certain substantial relationships and similarities with La. retailers or who engage in business in La. through the use of certain affiliated agents.

Present law provides various definitions of "dealer" with respect to sales and use tax law and defines "engaging in business in a taxing jurisdiction".

Proposed law retains present law but expands the definition of "engaging in business in the taxing jurisdiction" to include the solicitation of business through an independent contractor or any other representative pursuant to an agreement with a La. resident or business under which the resident or business, for a commission, referral fee, or other consideration of any kind, directly or indirectly refers potential customers, whether by link on an internet website or otherwise, to the seller.

Proposed law retains present law but expands the definition of "dealer" to include a person who (1) sells the same or substantially similar line of products as a La. retailer under the same or substantially similar business name, (2) the facilities or employees of the La. retailer are used to advertise or promote sales by the person to La. purchasers and to support the maintenance of a market in La., (3) solicits business and develops a market in La. through an agent or other representative through an agreement for a commission, referral fee or other consideration who engages in activities in La. that inure to the benefit of the person in the person's development or maintenance of a market for its goods or services in La., to the extent that those activities of the agent are sufficient to satisfy the nexus requirement of the U. S. Constitution, or (4) holds a substantial ownership interest, directly or through a subsidiary, in a retailer maintaining sales locations in La. or who is owned in whole or in substantial part by a retailer maintaining sales locations in La.

Proposed law requires persons who meet the definition of a dealer under proposed law to electronically file tax returns and remittances to the state and local taxing authorities.

Present law levies an additional 4% sales and use tax to be collected only by dealers who qualify as a dealer in this state solely by virtue of engaging in regular or systematic solicitation of a consumer market in La. by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio, or telephone media, including but not limited to television shopping channels, by mail, telegraphy, telephone, computer database, cable optic, microwave, or other communication system.

Proposed law specifies that present law regarding the levy and collection of the additional 4% sales tax shall not apply to persons who are defined as dealers pursuant to proposed law. Provisions of proposed law apply prospectively.

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

(Amends R.S. 47:301(4)(h) and 302(K)(5); Adds R.S. 47:301(m))