### HOUSE COMMITTEE AMENDMENTS

2015 Regular Session

Amendments proposed by House Committee on Ways and Means to Original House Bill No. 555 by Representative Fannin

#### 1 AMENDMENT NO. 1

- On page 1, line 2, after "reenact" delete "R.S. 47:301(4)(h), and to enact R.S. 47:301(4)(m)"
  and insert "R.S. 47:302(U) and 305(E) and to enact R.S. 47:302(V)"
- 4 <u>AMENDMENT NO. 2</u>
- 5 On page 1, line 8, after "Section 1." delete the remainder of the line and insert the following:
- "R.S. 47:302(U) and 305(E) are hereby amended and reenacted and R.S. 47:302(V)
  is"
- 8 AMENDMENT NO. 3

9 On page 1, delete lines 10 through 19 in their entirety and on page 2, delete lines 1 through
10 12 in their entirety, and insert the following:

11 12

13

26 27

28

29

"§302. Imposition of tax

U. It is the duty of the secretary of the Department of Revenue to collect all taxes imposed pursuant to this Chapter and Chapters 2-A and 2-B of this Subtitle which may be due upon the sale by a remote seller <u>dealer</u> of tangible personal property or services in Louisiana. The secretary is authorized and directed to employ all means available to ensure the collection of the tax in an equitable, efficient, and effective manner.

20V. In addition to the definition of "dealer" as provided in R.S. 47:301(4), for21purposes of the consumer use tax, the term "dealer" includes every person who22manufactures or produces tangible personal property for sale at retail, for use, or23consumption, or distribution, or for storage to be used or consumed in a taxing24jurisdiction. "Dealer" is further defined to mean:25(1) Any person engaging in business in the taxing jurisdiction which shall

(1) Any person engaging in business in the taxing jurisdiction which shall include:

(a) Any of the following methods of transacting business:

(i) Maintaining directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place or location of business.

(ii) Having an agent, salesman, independent contractor, or solicitor operating
 within the taxing jurisdiction under the authority of or through an agreement with the
 person or its subsidiary irrespective of whether the place of business, agent,
 salesman, or solicitor is located in the taxing jurisdiction permanently or temporarily
 or whether the person or subsidiary is qualified to do business in the taxing
 jurisdiction.

(iii) Making deliveries of tangible personal property into the taxing
 jurisdiction other than by a common or contract carrier."

- 38 AMENDMENT NO. 4
- 39 On page 2, at the beginning of line 13, delete "(ii)" and insert "(b)"

# 1 AMENDMENT NO. 5

On page 2, line 17, after "website" delete the remainder of the line, delete lines 18 through
27 in their entirety, insert a comma "2" and insert the following:

4 "an in-person oral presentation, telemarketing, or otherwise to the seller. If the
5 cumulative gross receipts from sales of tangible personal property to customers in
6 this state who are referred to the person through such an agreement exceeds fifty
7 thousand dollars during the preceding twelve months, the presumption regarding the
8 status of that person as a dealer may be rebutted if the person can demonstrate, to the
9 satisfaction of the secretary, that he cannot reasonably be expected to have gross
10 receipts in excess of fifty thousand dollars for the succeeding twelve months."

- 11 AMENDMENT NO. 6
- 12 On page 2, at the beginning of line 28, delete " $(\underline{m})(\underline{i})$ " and insert " $(\underline{2})$ "
- 13 AMENDMENT NO. 7
- 14 On page 3, at the beginning of line 1, delete "(aa)" and insert "(a)"
- 15 AMENDMENT NO. 8
- 16 On page 3, at the beginning of line 5, delete "(bb)" and insert "(b)"
- 17 <u>AMENDMENT NO. 9</u>
- 18 On page 3, at the beginning of line 8, delete "(cc)" and insert "(c)"
- 19 <u>AMENDMENT NO. 10</u>
- 20 On page 3, delete lines 19 and 20 in their entirety and insert the following:
- 21 "(3) In addition to those persons established as dealers according to
   22 Paragraph (2) of this Subsection, the provisions of this Subsection shall be presumed
- 23 <u>by</u>"
  24 <u>AMENDMENT NO. 11</u>
- On page 3, line 25, delete "(bb) For purposes of this Subparagraph" and insert "For purposes
   of this Paragraph"
- 27 <u>AMENDMENT NO. 12</u>
- 28 On page 4, delete line 3 in its entirety, and insert the following:
- 29 "(4) A dealer, as defined in and for purposes of this Subsection, shall file"
- 30 AMENDMENT NO. 13
- On page 4, at the beginning of line 7, delete "(iv) The provisions of this Subparagraph" and
   insert "(5) The provisions of this Subsection"

# 33 AMENDMENT NO. 14

34 On page 4, between lines 12 and 13, insert the following:

# Page 2 of 3

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

"§305. Exclusions and exemptions from the tax

1

2

3

5

6

7

8

9

10

11

12 13

14

15

16 17

18

19

\*

\*

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

20

21 Section 2. The provisions of this Act shall apply to tax periods beginning on 22 and after July 1, 2015. If the United States Congress enacts legislation authorizing 23 states to require a remote seller to collect sales taxes on taxable transactions, such 24 legislation shall preempt the provisions of R.S. 47:302(V) and the Department of 25 Revenue shall have the authority to promulgate regulations under the Louisiana Administrative Procedure Act to carry out the provisions of the federal legislation. 26 27 The Department of Revenue shall begin to promulgate such rules within ninety days 28 of the effective date of the federal legislation."

- 29 AMENDMENT NO. 15
- 30 On page 4, at the beginning of line 13, change "Section 2." to "Section 3."