

ACT No. 569

2016 Regular Session

HOUSE BILL NO. 1121

BY REPRESENTATIVE LEGER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

AN ACT

To amend and reenact R.S. 47:302(U) and 309.1, relative to sales and use taxes; to provide with respect to certain sales of tangible personal property and taxable services in Louisiana; to require that certain notifications be provided to purchasers of such property and services for purposes of collection of use taxes under certain circumstances; to require the filing of annual statements by certain remote retailers concerning their sales in Louisiana; to provide for definitions; to provide for the powers and duties of the secretary of the Department of Revenue; to authorize rulemaking; to authorize the subpoena of certain information; to provide with respect to implementation and enforcement; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:302(U) and 309.1 are hereby amended and reenacted to read as follows:

§302. Imposition of tax

* * *

U. Collection of consumer use tax. 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~~ retailer 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.

* * *

1 §309.1. ~~Dealers required to furnish list of purchasers~~ Sales in Louisiana of tangible
2 personal property and taxable services by a dealer or remote retailer; the
3 provision of lists, notices, and statements by a dealer or remote retailer

4 A. Any dealer selling property or services, the aggregate value per sale of
5 which exceeds two hundred fifty dollars, to residents of this state, where the property
6 is delivered into this state or the beneficial use of ~~such services~~ the service occurs
7 in this state, shall, upon request of the secretary, provide a list of such sales to the
8 secretary of the Department of Revenue. The list shall include the names and
9 addresses of the purchasers and the amount of the sale. The secretary shall pay to
10 any dealer furnishing a list under this Section, an amount equal to the reasonable cost
11 of reproducing the list.

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

14 (1) "Louisiana purchaser" or "purchaser" means a person who purchases
15 tangible personal property or taxable services in a transaction with a remote retailer
16 for property or a service that is delivered for use or benefit in Louisiana, and no
17 Louisiana sales and use tax was collected or paid on the transaction.

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

21 (a) Is not required by applicable law, ordinance, or regulation to register as
22 a dealer in Louisiana, and thus is not otherwise required to collect Louisiana sales
23 and use taxes.

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

28 (c) Does not collect and remit Louisiana sales and use tax with respect to
29 their retail sales in this state, including the tax imposed under R.S. 47:302(K).

30 (3) "Secretary" means the secretary of the Department of Revenue.

1 C. Notification of purchaser. (1) At the time of sale, the remote retailer
2 shall notify the Louisiana purchaser that the purchase is subject to Louisiana use tax
3 unless it is specifically exempt, and that there is no exemption specifically based on
4 the fact that a purchase is made over the internet, by catalog, or by other remote
5 means. Further, the sale notice shall include a statement that Louisiana law requires
6 that use tax liability be paid annually on the individual income tax return, or through
7 other means as may be required by administrative rule by the secretary in accordance
8 with the Administrative Procedure Act, hereinafter referred to as "administrative
9 rule".

10 (2) By January thirty-first of each year, a remote retailer shall send to each
11 Louisiana purchaser who has purchased property or services from the retailer in the
12 immediately preceding calendar year an annual notice containing the total amount
13 paid by the purchaser for purchases in that preceding calendar year, and other
14 information required by the secretary as established through administrative rule. If
15 available, the annual notice shall include a listing of the dates and amounts of
16 purchasers, and if known by the retailer, whether the property or service is exempt
17 from sales and use taxes. The annual notice shall clearly disclose the name of the
18 retailer and shall state that Louisiana use tax may be due on the purchases made from
19 the retailer and that Louisiana law requires the payment of an individual's use tax
20 liability on the individual income tax return or through other means as may be
21 required by administrative rule. The notification shall be sent by first class mail,
22 certified mail, or electronically at the purchaser's choice and shall not be included
23 with any other shipment or mailing from the retailer. Further, the exterior of the
24 envelope in which the notice is sent shall include the words "IMPORTANT TAX
25 DOCUMENT ENCLOSED".

26 D. Annual statement submitted by remote retailer. By March first of each
27 year a remote retailer who made retail sales of tangible personal property or taxable
28 services to Louisiana purchasers in the immediately preceding calendar year shall
29 file with the secretary an annual statement for each purchaser which includes the
30 total amount paid by the purchaser to that retailer in the immediately preceding

1 calendar year. Under no circumstances shall the statement contain detail as to
2 specific property or services purchased, but it shall include the total amount paid.
3 The statement shall be submitted on forms to be developed and provided by the
4 secretary. The secretary is authorized to require the electronic filing of statements
5 by a remote retailer who had sales in Louisiana in excess of one hundred thousand
6 dollars in the immediately preceding calendar year.

7 E. Powers and Duties of the secretary. In addition to the powers and duties
8 of the secretary established under Chapter 18 of Subtitle II of this Title, the secretary
9 may, by subpoena, compel witnesses and the production of documents for purposes
10 of enforcement of the requirements of this Section relative to the required notices
11 and annual statements concerning taxable transactions occurring in Louisiana which
12 involve a remote retailer. The secretary may also seek letters rogatory when
13 appropriate for the enforcement of this Section. If the retailer fails to respond to the
14 subpoena, the secretary may request that the subpoena be enforced on the order of
15 a court.

16 ~~B. Any dealer~~ F. Any dealer or remote retailer selling property or services
17 to residents of this state, where the property is delivered into this state or the
18 beneficial use of the service occurs in this state, is considered to have consented to
19 the jurisdiction of the courts of ~~this state~~ Louisiana and the Board of Tax Appeals for
20 the exclusive purpose of enforcing this Section. Notwithstanding any other provision
21 of law to the contrary, service of process upon dealers subject to this Section may be
22 made by service outside this state in the same manner provided for service within
23 this state with the same force and effect as though service had been made within this
24 state.

25 G. The secretary may establish specific procedures and requirements
26 concerning purchaser notifications and the filing of annual statements through rules
27 promulgated in accordance with the Administrative Procedure Act.

1 Section 2. This Act shall become effective on July 1, 2017.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____