

2016 Regular Session

HOUSE BILL NO. 295

BY REPRESENTATIVE HILFERTY

TAX/INCOME-INDIV/RETURN: Provides for the sales and use tax payable on sales made from a remote dealer when the tax was not collected at the point of sale

1 AN ACT

2 To enact R.S. 47:306(F), relative to collection of state use taxes; to provide a method for the  
3 payment of use tax on certain transactions involving remote sellers; to provide with  
4 respect to the form for an individual income tax return; to provide with respect to the  
5 estimation, reporting, and payment of use tax liabilities; to provide for limitations  
6 and exclusions; to provide for rulemaking; to provide for effectiveness; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:306(F) is hereby enacted to read as follows:

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

11 \* \* \*

12 F. Payment of use tax; individual income tax form.

13 (1) Since 1934, the state has imposed a use tax to ensure that sales tax is paid  
14 on taxable purchases made by Louisiana taxpayers if the seller was not legally  
15 obligated to collect the sales tax due on the transaction. The use tax is intended to  
16 put Louisiana retailers on an equal footing with their out-of-state competitors who  
17 are not required to collect sales tax because they do not have a sufficient connection  
18 with Louisiana. The rate and base are the same for both sales and use taxes.

19 (2)(a) Beginning January 1, 2017, the Louisiana individual state income tax  
20 return shall include a series of checkoff boxes for a taxpayer to designate and attest

1 to their estimated amount of use tax liability based on their purchases of taxable  
2 goods and services during the tax year upon which no sales or use tax was paid at the  
3 time of purchase. Associated with each checkoff box shall be a range of dollar  
4 amounts representing amounts of purchases and an amount of corresponding use tax  
5 liability. There shall be various checkoff boxes, allowing the taxpayer the  
6 opportunity to estimate their use tax liability. The dollar value ranges and estimated  
7 use tax amounts shall be established by the secretary through the promulgation of  
8 administrative rules and regulations in accordance with the Administrative Procedure  
9 Act.

10 (b) Every taxpayer who uses, stores, or consumes tangible personal property  
11 or purchases a taxable service not in the conduct of a business, and who has not paid  
12 the sales or use tax imposed by this Chapter to the dealer, may either check the  
13 appropriate box attesting to their estimated amount of use tax liability, or may report  
14 their actual use tax liability. For taxable transactions occurring outside of the state  
15 upon which tax was paid to another jurisdiction, the credit for taxes paid allowed  
16 under R.S. 47:303(A)(3)(a) shall apply. The secretary shall direct computer software  
17 providers to require the taxpayer or the taxpayer's tax preparer to proactively check  
18 the box. Software providers shall not program an automatically checked attestation  
19 box.

20 (c) The provisions of this Subsection for the reporting and payment of use  
21 tax shall not apply to the payment of sales and use taxes on purchases by businesses  
22 or on purchases for which a dealer is required to collect sales and use tax pursuant  
23 to R.S. 47:304. For purposes of this Subparagraph, "dealer" shall have the meaning  
24 provided in R.S. 47:301(4).

25 (d) For purposes of this Subsection, "taxpayer" means a married couple  
26 filing a joint income tax return, or an individual filing an income tax return as either  
27 single, head of household, qualifying widow(er), or married filing separately.  
28 "Taxpayer" shall not include any person who, pursuant to R.S. 47:101, is not  
29 required to file a tax return.

1           (3) The provisions of this Subsection shall terminate and cease to be  
 2           effective upon the effective date of a federal law that requires remote or out-of-state  
 3           dealers to collect and remit Louisiana state sales and use tax on Internet, mail order,  
 4           or other remote sales into the state. For purposes of this Paragraph, the department  
 5           shall publish the effective date of the federal law in the Louisiana Register as a  
 6           potpourri notice.

7           Section 2. This Act shall become effective upon signature by the governor or, if not  
 8 signed by the governor, upon expiration of the time for bills to become law without signature  
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 295 Original

2016 Regular Session

Hilferty

**Abstract:** Requires the annual payment of use tax due on property and services bought from a remote seller who did not collect the tax due at the time of sale; further, requires that the individual income tax return form contain various checkoff boxes with corresponding amounts of estimated use tax to assist a taxpayer in designating and attesting to the amount of their use tax liability.

Present law imposes a total of 4% in state use tax on the use of certain tangible personal property and services.

Proposed law requires that beginning Jan. 1, 2017, the La. individual state income tax return include a series of checkoff boxes for a taxpayer to designate and attest to their estimated amount of use tax liability which may exist based on their purchases of taxable goods and services during the tax year upon which no sales or use tax was paid at the time of purchase.

Proposed law requires there to be a range of dollar amounts associated with each checkoff box, along with a corresponding amount of use tax liability. The ranges of dollar values and estimated use tax amounts shall be established by the secretary of the Dept. of Revenue through the promulgation of administrative rules in accordance with the APA.

Proposed law provides that a taxpayer may report and pay their use tax liability by either selecting a checkoff box and corresponding amount of use tax liability or they may report their actual use tax liability.

Proposed law excludes purchases by a business from the provisions of proposed law.

Present law requires dealers to collect sales and use tax on transactions involving taxable tangible personal property and services in La.

Proposed law excludes from proposed law any sales and use taxes due on sales by La. dealers who are required to collect sales and use tax at the time of sale pursuant to present law.

Proposed law terminates and ceases to be effective upon the effective date of a federal law which requires remote sellers to collect and remit La. sales and use taxes on internet, mail order, and other remote sales into the state.

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

(Adds R.S. 47:306(F))