

**Remote Sellers Information Bulletin
No. 18-002
November 27, 2018**

**Definition of Remote Seller and
Further Guidance to Remote Sellers**

Louisiana law defines remote sellers in various manners and imposes different requirements on those sellers depending on the level of revenues generated from sales for delivery within Louisiana. The purpose of this bulletin is to provide a general definition for those sellers as well as to provide further administrative guidance.

General Definition of Remote Seller

A remote seller means a seller who regularly sells for sale at retail, use, consumption, distribution, or for storage to be used for consumption or distribution any taxable tangible personal property, products transferred electronically, or services for delivery within Louisiana but does not have physical presence in Louisiana.

If a seller has physical presence in Louisiana, the seller is considered a dealer as defined by LA R.S. 47.301 and subject to state and local collection and remittance requirements.

Examples

Example 1: Company A sells tangible personal property for delivery to purchasers in Louisiana through only remote means including its Internet website and catalogs. Company A has no physical stores or salespersons in Louisiana.

Example 2: Company B sells tangible personal property for delivery to purchasers in Louisiana through only remote means including its Internet website and catalogs. Company B is an affiliate of Company C, but each company sells different lines of products. Company C has retail stores located in Louisiana. An online purchase from Company B cannot be returned in one of Company C's stores in Louisiana.

Example 3: Company D sells tangible personal property for delivery to purchasers in Louisiana through only remote means including its Internet website and catalogs. Company D is an affiliate of Company E. Both companies are 100% owned by the same parent company. Company E has retail stores located in Louisiana and sells the same line of products that Company D sells through remote means. The relationship between Company D and Company E is such

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that a purchase from one company may be returned to the other company for a refund.

Reporting Requirements for Remote Sellers

A remote seller with cumulative annual gross receipts in excess of \$50,000, including those gross receipts of its affiliates, per calendar year must comply with the dual reporting requirements of LA R.S. 47:309.1. For purposes of calculating annual gross receipts, the remote seller and its affiliates must include all receipts from retail sales of tangible personal property or taxable services where the property is delivered into Louisiana or the beneficial use of the service occurs in Louisiana. See LDR Revenue Information Bulletin 18-006 for more information.

Collection and Remittance Requirements for Remote Sellers

A remote seller with gross revenue for sales delivered into Louisiana in excess of \$100,000 from sales or separate transactions of 200 or more sold for delivery into Louisiana should voluntarily register with the Louisiana Department of Revenue (“LDR”) and collect and remit sales tax on its sales for delivery within Louisiana. Remote sellers must submit Form R-1031A, *Application to File Direct Marketer Sales Tax Return*, to LDR. Depending on the remote seller’s facts and circumstances, additional information may be requested following submission of the application.

Upon approval, the remote seller may begin collection of sales tax on its remote sales immediately. To remit the collected sales tax, the remote seller must file the monthly Form R-1031, *Direct Marketer Sales Tax Return*. Note that the Form R-1031 must be filed by paper and cannot be electronically filed at this time.

Timeline of Registration

To calculate the amount and quantity of sales, remote sellers should consider sales during the current calendar year and the immediately preceding calendar year. For example, if a remote seller sold \$120,000 of tangible personal property in 1,000 separate transactions for delivery into Louisiana during 2017, the remote seller should voluntarily collect and remit sales tax in 2018.

If the remote seller has not previously registered with LDR, the remote seller should submit the Form R-1031A within thirty days of surpassing either of the thresholds of LA R.S. 47:301(4)(m)(i).¹ Assuming the application is approved by LDR, the remote seller should commence collection of sales and use tax on sales for delivery into Louisiana no later than

¹ The two thresholds are (1) gross revenue for sales delivered into Louisiana in excess of \$100,000 from sales or (2) separate transactions of 200 or more sold for delivery into Louisiana.

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ninety days from the date the remote seller surpassed either of the thresholds of LA R.S. 47:301(4)(m)(i). If the application is not approved, the applicant should adhere to the instructions set forth in the notice from LDR.

Applicability of LA R.S. 47:309.1 Subsequent to Collection and Remittance

If the remote seller voluntarily collects and remits on its sales for delivery into Louisiana, the remote seller is relieved from the reporting requirements of LA R.S. 47:309.1 beginning on the date of collection. However, the portion of the calendar year preceding the date of collection remains subject to the reporting requirements discussed above.

Enforcement of Act 5

While this collection and remittance provision is voluntary, the Commission will enforce the collection and remittance requirements in accordance with Act 5 of the 2018 Second Extraordinary Session at a specified date in 2019. Remote sellers can expect at least thirty days' notice prior to the commencement of mandatory collection and remittance requirements, but should consider voluntarily collecting and remitting sales tax on remote sales in the interim. Notice will be issued as provided by LA R.S. 47:302(W)(6) following further work of the Commission and LDR. To evaluate the applicability of Act 5's amount and quantity of sales thresholds, remote sellers will need to consider both sales for delivery into Louisiana during 2018 and 2019.

Questions concerning this publication may be directed to sales.inquiries@la.gov.

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Chairman

Louisiana Sales and Use Tax Commission for Remote Sellers