

**Remote Sellers Information Bulletin No. 19-002
July XX, 2019**

**Guidance to Remote Sellers Following
Passage of Act 360 of 2019 Regular Session**

Act 360 of the 2019 Regular Session enacted several changes to statutes relative to the Louisiana Sales and Use Tax Commission for Remote Sellers (“Commission”), remote sellers, and the enforcement of registration and collection requirements of state and local sales and use tax. The purpose of this bulletin is to summarize those changes and provide further guidance.

Provisions Concerning the Commission, Remote Sellers, and Enforcement

The majority of changes relative to the Commission are clarifications of existing law. However, some new provisions were enacted.

1. Dealers as defined by LA R.S. 47:301(4)(m) shall continue to collect tax as authorized by LA R.S. 47:302(K) until the Commission enforces collection and remittance of state and local sales and use tax based on the applicable state and local rates and bases. The Commission must publish a notice of enforcement no later than 30 days prior to the effective date of enforcement.
2. The Commission was not authorized to make or require any expenditure until a “federal law” was enacted. “Federal law” was redefined to include “a decision by the United States Supreme Court” which “overrules the physical presence requirement for a remote seller to collect and remit state and local sales and use tax on remote sales for delivery into the state.”
3. The definition of “remote seller” was codified into law. “The term ‘remote seller’ means a seller who 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, and is not considered a dealer as defined by R.S. 47:301(4)(a) through (l). The term “non-remote seller” means a seller that is not a remote seller.”
4. The Commission shall remit taxes collected to the appropriate “state or local collectors” instead of the “taxing jurisdiction”. Upon the Commission’s distribution of taxes to local collectors, the “local collectors may retain the usual and customary percentage of collections in accordance with local ordinances or agreements.” The

taxes collected by remote sellers, whether remitted to the Commission or not, are “the property of the respective taxing authorities and deemed held in trust for taxing authorities”, whether in possession of the Commission or not.

5. “The Commission shall provide taxpayer information and associated taxpayer history maintained by the Commission to the state or local collector” upon request.
6. The Commission may utilize any provision of Chapter 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 (Revised Statutes 47:1501 through 1691) in the exercise of any power authorized to the Commission by statute. The Commission may take any action related to the collection of tax within its jurisdiction that the Secretary of the Department of Revenue is authorizes to take by Chapter 18. Any person aggrieved by any action shall have the same rights, including appeal or review, as provided by Chapter 18. Any consideration of a request for refund and any appeal of the Commission’s denial of a refund made to the Board of Tax Appeals shall occur in the same manner and be subject to the same deadlines as provided in Chapter 18.
7. Remote sellers must submit an application to the Commission within 30 days of surpassing either of the economic nexus thresholds¹ on a form prescribed by the Commission. Remote sellers must commence collection of state and local sales and use tax on sales for delivery into Louisiana (1) once notified the Commission has approved the application, and (2) no later than 60 days after surpassing either of the economic nexus thresholds.
8. The Commission must publish the date remote sellers are required to be registered with the Commission no later than 30 days prior to the effective date of the enforcement. However, the enforcement date cannot be later than July 1, 2020.
9. The Commission may enter into voluntary disclosure agreements with remote sellers as to state and local sales and use taxes.
10. The applicability date of Act 5 of the 2018 Second Extraordinary Session was amended to apply to all taxable periods beginning on or after July 1, 2019.

The provisions of Act 360 apply to taxable periods beginning on or after July 1, 2019.

¹ (A) Gross revenue for sales delivered into Louisiana in excess of \$100,000 from sales of tangible personal property, products transferred electronically, or services **OR** (B) sales for delivery into Louisiana of tangible personal property, products transferred electronically, or services occur in 200 or more separate transactions.

Guidance to Remote Sellers

As provided by Act 360, the Commission will issue notice of the enforcement date in which remote sellers must register with the Commission and commence collection of state and local sales and use tax based on the applicable state and local rates and bases. The Commission is continuing its work to develop the necessary guidance for remote sellers to collect the appropriate amount of sales tax in Louisiana. While subject to change, the Commission does not expect to enforce registration and collection prior to July 1, 2020.

However, the Commission encourages remote sellers to apply with the Department of Revenue (“Department”) and, upon approval of their application, to collect the combined 8.45% rate on remote sales. The Commission expects a simplified transfer of those applicants once the enforcement date has been established. Those remote sellers approved to collect by the Department (referred to commonly as “Direct Marketers” remitting the 8.45% tax collected via the Form R-1031, *Direct Marketer Sales Tax Return*) may not be required to separately register with the Commission once the Commission mandates collection.

Questions concerning this publication may be directed to

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Louisiana Sales and Use Tax Commission for Remote Sellers