

Louisiana Remote Seller Tax Reporting Bill Falls Short of Supermajority in House

By

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A Louisiana bill to impose use tax notice and reporting requirements fell short of the two-thirds majority vote necessary to pass the House of Representatives May 23.

HB 1121 , introduced by Speaker Pro Tem Walt Leger III (D) on April 5, would have required dealers and retailers with sales of tangible personal property or taxable services exceeding \$50,000 annually to notify purchasers of their use tax obligation and to furnish the secretary of revenue with reports of their sales to Louisiana customers.

Lawmakers voted 66 to 27 to pass the bill. Rep. Julie Stokes (R) told Tax Analysts that she believes the bill will be reintroduced in the next few days and that she is confident it will pass at that time.

On March 14 Gov. John Bel Edwards (D) signed legislation (HB 30, Act 22 ) that establishes nexus for dealers that use affiliate arrangements to solicit business through an independent contractor or representative, including Internet sales. Edwards's signing of HB 30 prompted Amazon.com to end its relationships with advertising affiliates in the state to avoid the new sales tax obligation. (Prior coverage )

Matthew Mantle of Jones Walker LLP said HB 1121 would have cast an even wider net than HB 30 by requiring notice and reporting requirements for the remote sellers and vendors that did not meet the requirements of a dealer in HB 30, but had purposefully availed themselves in any way of the benefits of an economic market in Louisiana, had minimum contacts with the state, and had at least \$50,000 in annual sales into the state.

Use tax notice and reporting laws are gaining traction as states struggle to tax online transactions without violating the U.S. Supreme Court's decision in *Quill Corp v. North Dakota*, which says a company must have a physical presence in a state before it can be required to collect and remit sales tax.

States have been sidestepping the *Quill* decision by implementing notice and reporting requirements, which allow the states to go after residents for use tax obligations. The U.S. Tenth Circuit Court of Appeals recently held in *Direct Mktg. Ass'n v. Brohl*  that Colorado's notice and reporting requirements do not violate *Quill*, nor do they run afoul of the dormant commerce clause. (Prior coverage )