

SENATE BILL NO. 329

BY SENATOR ADLEY

1 AN ACT

2 To enact R.S. 47:337.101, relative to the Uniform Local Sales Tax Code; to provide for
3 procedures to determine whether a law, rule, regulation, policy, or interpretation of
4 local sales and use tax law, ordinance, rules, or regulations violates the requirement
5 of uniformity of interpretation; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:337.101 is hereby enacted to read as follows:

8 **§337.101. Procedures to seek uniformity of interpretation of common or local**
9 **sales tax law**

10 **A.(1) Any taxpayer who has reason to believe that a collector is**
11 **attempting or will attempt to collect a sales or use tax, or any penalty or**
12 **interest, or any collector who has reason to believe that a taxpayer is attempting**
13 **or will attempt to resist such collection, under a rule, regulation, policy, or**
14 **interpretation of sales and use tax law, ordinance, rules, or regulations, the**
15 **interpretation of which violates the requirement of uniformity of interpretation**
16 **provided for in R.S. 47:337.2(A) and (D), 337.4(C), 337.87(A), and 337.91, may**
17 **proceed as provided for in this Section. "Rule, regulation, policy, or**
18 **interpretation of sales and use tax law, ordinance, rules, or regulations" means**
19 **any provision of "common sales tax law" as defined in R.S. 47:337.2(C)(1)(b)**
20 **or a provision of law that is applicable to only local taxing authorities, any**
21 **ordinance pertaining to sales and use tax, or any rule or regulation issued**
22 **pursuant to R.S. 47:337.2(C) or Part H of this Chapter.**

23 **(2) Such taxpayer or collector may proceed to seek uniformity of**
24 **interpretation of a rule, regulation, policy or interpretation of sales and use tax**

1 laws, ordinances, rules, or regulations in accordance with any remedy available
2 under applicable law, including the following procedures:

3 (a) A rule to seek uniformity of interpretation of common sales tax law
4 or local sales tax law in any court of competent jurisdiction.

5 (b) A declaratory judgment to seek uniformity of interpretation of
6 common sales tax law or local sales tax law in any court of competent
7 jurisdiction.

8 (c) The arbitration proceeding to seek uniformity of interpretation of
9 common sales tax law or local sales tax law in accordance with Subsection (B)
10 of this Section.

11 B.(1) Such taxpayer or collector may submit a written request to seek
12 uniformity of interpretation of a common sales tax law or local sales tax law by
13 initiating the arbitration proceeding provided for in this Section. The written
14 request shall be submitted to the collector whom it is alleged is attempting or
15 will attempt to collect a sales or use tax, or any penalty or interest, or to the
16 taxpayer whom it is alleged is attempting or will attempt to resist such
17 collection, under a law, ordinance, rule, regulation, policy, or interpretation that
18 violates the requirement for uniformity in this Chapter.

19 (2) The party to whom the request for arbitration is made shall have ten
20 days after receipt of such request in which to notify the requesting party in
21 writing of the acceptance or rejection of the request for arbitration. Any request
22 for arbitration not accepted within the ten day time period shall be deemed
23 rejected, unless such party is granted an extension of time to respond.

24 (3) Timely acceptance of the request for arbitration shall suspend the
25 running of any prescription or other time limit or requirement to act in any
26 provision of law or ordinance until the arbitration panel provided for in this
27 Section has issued a final written decision, including but not limited to the time
28 to respond to any remedy provided for in R.S. 47:337.45; a rule to cease
29 business in R.S. 47:337.33; a payment under protest in R.S. 47:337.63; or
30 auditing, examining or subpoena authority in R.S. 47:337.41, 337.42, and

1 **337.43.**

2 **C.(1)(a) Upon receipt of the notification of the accepted request for**
3 **arbitration, the requesting party shall provide written notification to the**
4 **secretary of the Department of Revenue of the pending arbitration proceeding.**

5 **(b) Acceptance of the request for arbitration shall require the taxpayer**
6 **and the collector to each select one arbitrator from the registry of arbitrators**
7 **provided for in Subparagraph (d) of this Paragraph within ten days of receipt**
8 **of the notification of the accepted request for arbitration. The two arbitrators**
9 **selected shall then jointly agree on a third arbitrator to complete a panel of**
10 **three. The arbitrators shall then select one of the three as a Chief Arbitrator.**

11 **(c) In the event a taxpayer or a collector fails or refuses to comply with**
12 **the arbitration procedure within the time periods provided for in this**
13 **Subsection, plus any additional time as may be granted upon request by such**
14 **party, the other party may appoint an arbitrator on behalf of such failing or**
15 **refusing party.**

16 **(d)(i) Arbitrators for the panel shall be selected from the registry of**
17 **arbitrators compiled in accordance with this Subsection.**

18 **(ii) The Board of Directors of the Louisiana Association of Tax**
19 **Administrators shall annually appoint not less than ten arbitrators to the**
20 **registry, each of whom shall be board certified tax administrators. In the event**
21 **there are less than ten certified tax administrators available for such**
22 **appointment, the Board of Directors may select any local sales tax**
23 **administrator with at least five years experience in sales and use tax, provided**
24 **such local sales tax administrator is not a party to the arbitration proceeding.**

25 **(iii) The Business and Industry Committee of the Louisiana Association**
26 **of Tax Administrators, the Louisiana Association of Business and Industry, and**
27 **the Louisiana Society of CPAs jointly shall appoint not less than ten arbitrators**
28 **to the registry, each of whom shall possess at least five years of experience in the**
29 **area of sales and use tax.**

30 **(2)(a) After his selection, the Chief Arbitrator shall provide a written**

1 request to the taxpayer and the collector for the submission of a detailed
2 statement of fact or law in support of their positions and such other documents
3 as the parties deem necessary, which are to be provided to each member of the
4 panel and to the other party within thirty days of the date of the request.

5 (b) The Chief Arbitrator shall then designate a time and place for a
6 hearing, unless a hearing is specifically waived in writing by both parties.

7 (c) All records, documentation, testimony, and other submissions related
8 to the arbitration proceeding shall be subject to the provisions of R.S. 47:1508
9 et seq.

10 (3)(a)(i) After due consideration of the statements and documents
11 provided to the panel, and any additional submissions required by the panel,
12 and argument and evidence submitted at the hearing, the panel shall issue a
13 written decision.

14 (ii) Decisions of the panel relating to common sales tax law shall require
15 consultation with the Department of Revenue prior to the rendering or issuance
16 of the decision.

17 (b) The decision shall be the opinion of at least a majority of the panel;
18 provided that any dissenting panel member may submit reasons for dissent
19 from the majority. The decision shall be rendered within thirty days of the
20 conclusion of the hearing, or within thirty days of timely receipt of the
21 statements and documents in the absence of a hearing.

22 (4) The parties to the arbitration proceeding provided for in this Section
23 shall share equally in the cost of such proceeding, provided that each party shall
24 bear its own respective costs of providing the necessary documentation,
25 witnesses, travel, or other costs and expenses of the arbitration proceeding.

26 (5)(a) The hearing and any decision of the panel shall be limited to the
27 issue of whether the rule, regulation, policy, or interpretation of sales and use
28 tax law, ordinance, rules, or regulations violates the requirement of uniformity
29 of interpretation because it is contrary to common sales tax law as defined in
30 R.S. 47:337.2(C)(1)(b) or applicable jurisprudence concerning such law, or any

1 rule or regulation concerning such common sales tax law issued pursuant to
 2 R.S. 47:337.2(C), or is contrary to a provision of law that is applicable to only
 3 local taxing authorities or any rule or regulation issued pursuant to Part H of
 4 this Chapter concerning a provision of law or ordinance that is applicable to
 5 only local taxing authorities, or contrary to jurisprudence concerning such law
 6 or such ordinance or a similar ordinance.

7 (b) The decision of the panel shall be in writing and shall state the
 8 following:

9 (i) Whether or not there exists a uniform interpretation.

10 (ii) What is the uniform interpretation, if any.

11 (iii) Whether or not there has been a violation of uniformity.

12 (iv) The legal and factual reasons upon which the decision regarding
 13 uniformity is based.

14 (c) A copy of the decision shall be sent to the taxpayer, the collector, the
 15 board, and the secretary.

16 (d) The decision of the panel shall be binding on the parties.

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

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____