

CHAPTER 2-D. UNIFORM LOCAL SALES TAX CODE

PART A. GENERAL PROVISIONS

§337.1. Short title

This Chapter shall be known as and may be cited as the "Uniform Local Sales Tax Code".

§337.2. Intent; application and interpretation of Chapter

A. (1) The intention of the legislature in enacting the provisions of this Chapter is as follows:

(a) To exercise the authority provided to it in Article VI, Section 29 of the Constitution of Louisiana and recognized by a long line of jurisprudence to define and limit the scope of all state and local sales and use taxes, including all of the definitions and limitations in the statutes generally applicable to such taxes.

(b) To benefit both taxpayers and local tax collectors by promoting uniformity to the extent possible in the assessment, collection, administration, and enforcement of the sales and use taxes imposed by taxing authorities and, by compiling them, making them readily available in one place in the revised statutes.

(c) To provide, in addition to existing judicial remedies, for an impartial, economical, and expeditious forum where a taxpayer may choose to resolve disputes arising under sales and use taxes imposed by local taxing authorities before the Board of Tax Appeals, an independent quasi judicial agency within the Department of State Civil Service; and to provide a uniform remedy for taxpayers appealing assessments or denials or inaction on a refund claim, all for the purpose of promoting uniformity and consistency in the interpretation and application of law governing such taxes.

(2) Nothing in this Chapter is intended to increase or decrease the amount or type of taxes imposed by local taxing authorities, nor is it intended to repeal any taxes, exemptions, exclusions, credits, rebates, or refunds existing on July 1, 2003, including those taxes ratified by Article VI, Section 31 of the Constitution of Louisiana.

B. (1) Notwithstanding any other provision of law or local ordinance to the contrary, and except as provided for in Paragraph (3) of this Subsection, the provisions of this Chapter shall apply in the assessment, collection, administration, and enforcement of the sales and use tax of any political subdivision.

(2) In particular, the provisions of this Chapter shall apply notwithstanding any contrary provisions in Title 33 of the Louisiana Revised Statutes of 1950 providing with respect to the sales and use tax of a particular political subdivision.

(3) Other provisions of law or local ordinance shall control and be applicable only with respect to the following:

- (a) The rate of the sales and use tax.
- (b) The effective date of such tax.
- (c) The term of the tax.
- (d) The purpose for which the proceeds of the tax shall be used.
- (e) Vendor's compensation.
- (f) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to such state law.
- (g) Exclusions and exemptions in the local ordinance which were adopted prior to July 1, 2003, pursuant to state law authorizing such adoption, but not allowed as an exclusion or exemption from state sales and use tax.
- (h) Exclusions and exemptions in the local ordinance adopted pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

C. Notwithstanding any other law to the contrary, in order to insure taxpayers of uniformity of tax collection, the regulations applicable to the sales and use tax of the tax authorities provided for in this Chapter shall be the following:

(1) For purposes of this Section, the following terms shall have the following definitions:

- (a) "Board" means the board of directors of the Louisiana Association of Tax Administrators.
- (b) "Common sales tax law" means a provision of law relative to the sales and use tax law of the state which is applicable to the state and to local taxing authorities and which is intended to have the same meaning and application as provided for in R.S. 47:337.2(D). The term "common sales tax law" shall mean and include the provisions of Part F of this Chapter.
- (c) "Regulation" means a rule or regulation as those terms are defined in the Administrative Procedure Act.
- (d) "Regulatory action" means the adoption, amendment, or repeal of a regulation.

(2) Until January 1, 2004, any collector may file a written request with the secretary for amendment in the manner provided for in Paragraph (4) of this Subsection of any regulation of the Department of Revenue in effect on July 1, 2003, concerning a common sales tax law. If no request for an amendment of a particular regulation has been received by the secretary by January 1, 2004, then that regulation shall be applicable to all local tax authorities. If the regulation is amended, then that regulation as amended shall be applicable to both the state and to local taxing authorities notwithstanding any prior construction of such law.

(3) If no regulation concerning a common sales tax law has been adopted by the secretary, any collector may file a written request with the secretary for the adoption of such regulation in the manner provided for in Paragraph (4) of this Subsection.

(4)(a) No regulatory action of the Department of Revenue concerning a common sales tax law shall be applicable to local tax authorities unless such regulatory action is proposed and adopted in accordance with the provisions of this Paragraph. The procedure provided for in this Paragraph shall be specifically applicable to the following regulatory actions:

(i) Regulations in effect on July 1, 2003, for which a written request for an amendment has been received as provided for in Paragraph (2) of this Subsection.

(ii) Written requests by a collector for the adoption of a regulation as provided for in Paragraph (3) of this Subsection.

(iii) Adoption, amendment, or repeal of regulations proposed after July 1, 2003, by the secretary.

(b)(i) Any regulatory action concerning the regulations provided for in this Section shall be the same as is provided for in the Administrative Procedure Act, except as follows:

(aa)(I) Before the secretary gives any notice of an intended regulatory action or submits a proposal to public review as required by R.S. 49:953(A) or (B), the secretary shall make a written request to the board for their input.

(II) The secretary shall also make the same request of the board when a request has been received for an amendment of a regulation as provided for in Paragraph (2) of this Subsection or for the adoption of a regulation as provided for in Paragraph (3) of this Subsection.

(bb)(I) Upon receipt of the secretary's request, the board may make a written request that the secretary convene a meeting at which she will receive the board's input and, if the board has requested such a meeting, it may appoint two representatives to attend the meeting. The meeting shall be held within fifteen days of such request, unless another time is agreed to by the board, at a time and location chosen by the secretary.

(II) In the same manner, the secretary shall provide for the receipt of input from a representative of any collector who has made a written request for the amendment of a regulation as provided for in Paragraph (2) of this Subsection or for the adoption of a regulation as provided for in Paragraph (3) of this Subsection. In that case, if the collector also requests a meeting, the secretary shall convene such a meeting to receive such input from the collector within fifteen days of the request, unless another time is agreed to by the collector, at a time and place of the secretary's choosing; however, if more than two collectors have made a request for such a meeting, they shall select not more than two representatives to participate in such meeting on their behalf.

(ii) Only after the procedure provided for in this Subparagraph has been followed may the secretary proceed to adopt, amend, or repeal the regulation in accordance with the

Administrative Procedure Act. Oversight of such regulatory action shall be with the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means.

(iii) After the regulation is finally adopted, amended, or repealed pursuant to the Administrative Procedure Act, any taxpayer or collector may file an action in any court of competent jurisdiction seeking a declaratory judgment to declare such regulatory action contrary to or inconsistent with the statute.

(iv) The regulatory action shall be effective for local taxing authorities in the same manner and at the same time it becomes effective for the state.

(5) The provisions of Part H of this Chapter shall be the applicable procedure for the adoption of uniform regulations for provisions of law relative to sales and use tax law or its administration that is applicable only to local taxing authorities.

D. However, in the interest of making the assessment, collection, administration, and enforcement of state and local sales tax uniform, it is the intention of the legislature that both the provisions of this Chapter and the provisions of local ordinances which are similar to provisions in Chapters 2, 2-A, 2-B, and 18 of this Subtitle shall be interpreted by the Board of Tax Appeals and the courts of this state to have the same meaning and application as the provisions in those Chapters.

PART B. LEVY OF TAXES

§337.3. Imposition of political subdivision tax

A. A taxing authority may continue to levy sales and use taxes under authority provided for such political subdivisions by the statutes or Constitution of Louisiana.

B. (1) Notwithstanding any other provision of law to the contrary, and in addition to any other authority to levy a sales and use tax, any political subdivision levying or authorized to levy any sales and use tax pursuant to voter approval is hereby authorized to renew or continue such sales and use tax, provided that the question of the renewal or continuation of such tax has been submitted to the qualified electors of the political subdivision at an election to be conducted in accordance with the election laws of the state of Louisiana and a majority of those voting in the election have voted in favor of the renewal or continuation of the tax.

(2)(a) In accordance with the provisions of Article VI, Section 29(B) of the Constitution of Louisiana, any such renewal or continuation of a sales and use tax as provided for in this Subsection is hereby authorized to exceed the limitation set forth in Article VI, Section 29(A) of the Constitution of Louisiana and shall be in addition to any limit set forth in any other statute.

(b) The authority granted in this Subsection shall not limit in any respect any taxing authority granted by any other provisions of law.

(3) The proceeds derived from any such renewal or continuation of a sales and use tax shall be used solely for the purpose or purposes set forth in the renewal or continuation proposition approved by the voters of the political subdivision.

§337.4. Levy of sales and use taxes

A. Any political subdivision which is authorized by the constitution and laws of the state of Louisiana to levy and impose a sales and use tax which proposition is approved by a majority of those voting at an election called for the purpose after July 1, 2003, shall impose, levy, administer, and collect such tax by local ordinance in the manner required by this Chapter.

B. The local ordinance shall contain the following:

(1) The rate of such sales and use tax.

(2) The effective date of such tax.

(3) The term of the tax.

(4) The purpose for which the proceeds of the tax shall be used.

(5) Vendor's compensation.

(6) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to state law.

(7) Exclusions and exemptions adopted pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

(8) Penalty, interest, or attorney fees due on the sales and use tax. The amount of such penalty, interest, and attorney fees shall be limited as provided by law, including relevant jurisprudence, until such statute or jurisprudence is changed.

C. Any local ordinance adopted by a political subdivision levying the tax after July 1, 2003, shall incorporate by reference thereto the provisions of the Uniform Local Sales Tax Code. The incorporation of the provisions of the Uniform Local Sales Tax Code or other laws shall apply to such provisions as existed at the time of the adoption of the local ordinance and to such provisions as they may be thereafter amended.

D. Any political subdivision which has levied a local sales and use tax prior to July 1, 2003, shall collect and administer the tax in accordance with the provisions of this Chapter on that date without effect on the proposition imposing the tax and without the necessity of imposing, levying, or enacting the local ordinance again. However, the political subdivisions levying the tax before such date also may incorporate the code into such ordinances by reference.

§337.5. Local sales and use taxes effective date

No political subdivision shall impose or increase a sale and use tax unless that tax or increase has an effective date of the first of January, the first of April, the first of July, or the first of October, and the secretary and the Uniform Electronic Local Return and Remittance Advisory Committee have been notified in advance as provided for in R.S. 47:337.23. Except for the notice to the secretary and the advisory committee, the provisions of this Section shall not apply to the renewal of an existing sales tax.

PART II. LEVY AND COLLECTION OF TAXES

SUBPART A. GENERAL PROVISIONS

§337.5.1. Levy of parish tax; sales tax in parish of state capitol

A. A vote of a majority of all the members of police juries shall be required to levy any parish tax, or to make any appropriation. In levying parish taxes, the police juries shall levy a uniform per centum on every species of property, trade, or profession, on which the state assesses a tax.

B. The governing body of the parish in which the State Capitol is situated shall be and is hereby empowered and authorized to levy and collect a tax of two percent on gross sales within said parish, but outside of any incorporated municipality therein. Said tax shall be imposed by ordinance of the governing authority, adopted after a public hearing thereon, and shall be levied upon the sale at retail, the use, the lease, or rental, the consumption, the distribution and storage for use or consumption of tangible personal property, upon the leasing or renting of tangible personal property upon sales of services in the parish, and upon the furnishing, repairing or serving articles of tangible personal property, all as presently or hereafter defined in R.S. 47:301 through 317. Said tax shall be in addition to all other taxes, and shall be collected by said parish in accordance with the provisions contained in the ordinance imposing the tax, and said parish is further authorized and empowered to provide for the collection thereof and to employ such means as may be necessary in connection therewith. In order to provide uniformity in the sales and use tax in said parish, the governing authority of the city of Baker is authorized to levy and collect as in the case of the governing body of the parish a similar tax pursuant to and in accordance with the provisions of this section.

C. Nothing in this section shall be construed so as to prevent police juries in the river parishes from levying a special tax on land for construction and support of levees.

PART C. DEFINITIONS, EXCLUSIONS, EXEMPTIONS, AND OTHER PROHIBITIONS

§337.6. Definitions

A. The following words, terms, and phrases used in this Chapter shall have the meaning ascribed to them in this Subsection, unless the context clearly indicates a different meaning:

(1) "Local ordinance", for purposes of this Chapter, shall include both ordinances and resolutions pursuant to which a political subdivision levies a sales and use tax and otherwise provides with respect thereto.

(2) "Political subdivision" means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to levy and collect a sales and use tax.

(3) "Secretary" or "secretary of revenue" means the secretary of the Department of Revenue for the state of Louisiana.

B. The words, terms, and phrases used in this Chapter shall have the same meaning ascribed to them as provided for in R.S. 47:301, unless the context clearly indicates a different meaning, except to the extent expressly limited in that Section.

§337.7. Exemptions generally

No exemption from sales and use tax enacted or granted after July 1, 2003, shall be applicable to any sales and use tax levied by any political subdivision unless such exemption is enacted as an amendment to this Chapter, except as provided by R.S. 47:337.8(B).

§337.8. Prohibited exemptions; specific application required

A. After any sales tax revenue bonds of any local governmental subdivision, as defined in Article VI, Section 44(1) of the Louisiana Constitution, or any school board have been authorized, no sales tax exemptions created after the authorization of those bonds shall apply to the sales and use tax dedicated as security for said bonds.

B.(1) No exemption from state sales and use tax enacted or granted after July 1, 2003, shall be applicable to the sales and use tax imposed by local taxing authorities unless the exemption expressly states within its statutory language that it applies to sales and use taxes imposed by local taxing authorities.

(2) Any exemption enacted after July 1, 2003, that expressly states within its statutory language that it applies to sales and use taxes imposed by local taxing authorities shall be effective as provided in the Act, and shall be added to this Chapter by the Law Institute pursuant to R.S. 47:337.87.

C. No suspension of the sales and use taxes of the state or a political subdivision whose boundaries are coterminous with those of the state, or a suspension of an exemption, exclusion, or other provision related to such taxes, shall be effective against the sales and use tax of political subdivisions unless the suspension instrument expressly applies to such taxes.

§337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other exemptions applicable

A. Except as provided for in this Chapter, the Uniform Local Sales Tax Code, the sales and use tax exemptions in Chapters 2, 2-A, and 2-B of this Title as set forth in the provisions of law cited in the following Subsections of this Section, and no other, shall apply to the sales and use taxes of political subdivisions. The use of the "key words" following the statutory citations in this Section are illustrative only, and they are intended to aid in clarity and ease of finding the law, and they are not intended to expand, contract, or otherwise modify or change the intent of the cited provisions of law.

B. R.S. 47:302(D), "key words": advertising services rendered by an advertising business.

C. (1) R.S. 47:305(A)(1), "key words": direct sales of livestock, poultry, and other farm products.

(2) R.S. 47:305(A)(3), "key words": the sale of agricultural commodities as a raw product.

(3) R.S. 47:305(A)(4), "key words": the purchase of feed and feed additives.

(4) R.S. 47:305(B), "key words": farm products used by farmers.

(5) R.S. 47:305(C), "key words": returned motor vehicles.

(6) R.S. 47:305(D)(1)(a), "key words": gasoline.

(7) R.S. 47:305(D)(1)(b), "key words": steam.

(8) R.S. 47:305(D)(1)(c), "key words": water.

(9) R.S. 47:305(D)(1)(d), "key words": electric power or energy and fuel.

(10) Repealed by Acts 2007, No. 480, §2.

(11) R.S. 47:305(D)(1)(f), "key words": farm fertilizer and containers.

(12) R.S. 47:305(D)(1)(g), "key words": natural gas.

(13) R.S. 47:305(D)(1)(h), "key words": boiler fuel except refinery gas.

(14) R.S. 47:305(D)(1)(i), "key words": demonstrators.

(15) R.S. 47:305(D)(1)(t), "key words": devices utilized or prescribed by dentists.

(16) R.S. 47:305(D)(2), "key words": sales of meals.

(17) R.S. 47:305(D)(4)(b), "key words": the procurement and administration of cancer and related chemotherapy prescription drugs used exclusively by the patient in his medical treatment.

(18) R.S. 47:305(D)(5)(a), "key words": the sale of prescription drugs under the pharmaceutical vendor program for Title XIX of the Social Security Act as administered by the Department of Health and Human Resources of the state of Louisiana.

(19) R.S. 47:305(D)(5)(a), "key words": Beginning January 1, 1999, for the sale of prescription drugs under Title XXI of the Social Security Act as administered by such department; retroactivity.

(20) R.S. 47:305(D)(5)(b), "key words": the administration of prescription drugs used exclusively by the patient in the medical treatment of various diseases or injuries.

(21) R.S. 47:305(D)(6), "key words": exemptions from the state sales and use tax provided in R.S. 47:305 in existence as of the effective date of Act 205 of 1978, except as otherwise specifically provided in R.S. 47:305(D); the requirement concerning specifically providing in the title and body of any Act subsequent to the effective date of that Act that it is applicable to a political subdivision in order for such Act to be effective.

(22) R.S. 47:305(E), "key words": articles of tangible personal property imported into a taxing jurisdiction, or produced or manufactured in a taxing jurisdiction, for export, and for bona fide interstate commerce; the intention of any local ordinance and this Chapter that a tax be levied on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in the taxing jurisdiction, of tangible personal property after it has come to rest in the taxing jurisdiction and has become a part of the mass of property in the taxing jurisdiction.

(23) R.S. 47:305(F), "key words": broadcasters or exhibit rights.

(24) R.S. 47:305(G), "key words": home renal dialysis machines.

(25) R.S. 47:305(H), "key words": demonstrators.

(26) R.S. 47:305(I), "key words": drilling rigs and component parts.

D. (1) R.S. 47:305.1, "key words": property which becomes component parts of ships, vessels, or barges and for materials and supplies purchased for vessels operating exclusively in foreign or interstate coastwise commerce.

(2) R.S. 47:305.3, "key words": seeds used in planting crops.

(3) R.S. 47:305.6, "key words:" Little Theater tickets.

(4) R.S. 47:305.7, "key words": tickets to musical performances of nonprofit musical organizations.

(5) R.S. 47:305.8, "key words": pesticides used for agricultural purposes.

(6) R.S. 47:305.9, "key words": motion picture film rental.

- (7) R.S. 47:305.10, "key words": property purchased for first use outside the state.
- (8) R.S. 47:305.11, "key words": contracts prior to and within ninety days of tax levy.
- (9) R.S. 47:305.13, "key words": admissions to entertainments furnished by certain domestic nonprofit corporations.
- (10) R.S. 47:305.14, "key words": nonprofit organizations and certain newspapers.
- (11) R.S. 47:305.15, "key words:" sales or purchases by blind persons.
- (12) R.S. 47:305.16, "key words": cable television installation and repair.
- (13) R.S. 47:305.17, "key words": income from coin-operated washing and drying machines in a commercial laundromat.
- (14) R.S. 47:305.19, "key words": leased vessels used in the production of minerals.
- (15) Repealed by Acts 2005, No. 413, §1, eff. July 11, 2005.
- (16) R.S. 47:305.28, "key words": gasohol.
- (17) R.S. 47:305.38, "key words": sheltered workshops for persons with intellectual disabilities.
- (18) R.S. 47:305.41, "key words": Ducks Unlimited and Bass Life.
- (19) R.S. 47:305.43, "key words": nonprofit organizations dedicated to the conservation of fish or migratory waterfowl.
- (20) R.S. 47:305.44, "key words": raw materials used in the printing process.
- (21) R.S. 47:305.45, "key words": per diem or car hire on freight cars, piggy-back cars, and rolling stock.
- (22) R.S. 47:305.46, "key words": purchases with United States Department of Agriculture Food Stamp Coupons; purchases made under the Women, Infants, and Children's Program.
- (23) R.S. 47:305.47, "key words": pharmaceutical samples distributed without charge.
- (24) R.S. 47:305.49, "key words": catalog distribution.
- (25) R.S. 47:305.50, "key words": vehicles used in interstate commerce; rail rolling stock sold or leased in this state; railroad ties.
- (26) R.S. 47:305.51, "key words": utilities used by steelworks and blast furnaces.

(27)(a) R.S. 47:305.53, "key words": sickle cell disease organizations.

(b) R.S. 47:305.59, "key words": charitable residential construction.

(28) R.S. 47:305.60, "keywords": certain water conservation equipment; Sparta Groundwater Conservation District.

(29) R.S. 47:305.61, "keywords": certain water conservation equipment; Sparta Groundwater Conservation District.

(30) Repealed by Acts 2010, No. 1015, §2.

(31) R.S. 47:305.68, "keywords": Fore!Kids Foundation.

(32) R.S. 47:305.70, "keywords": certain construction materials sold to the "Make It Right Foundation".

(33) R.S. 47:305.71, "keywords": certain construction materials sold to the "St. Bernard Project, Inc."

E.(1) Except as provided in Paragraph (2) of this Subsection, political subdivisions are prohibited from levying a sales or use tax or any other tax on diesel fuel.

(2) Political subdivisions which have continuously, uniformly, and without interruption, legally levied and collected a sales or use tax or any other excise tax on diesel fuel since January 1, 1975, are authorized to continue the levy and collection of such tax provided the conditions of Paragraph (3) are satisfied.

(3) No political subdivision may enforce the levy or collection of a sales or use tax or any other excise tax on diesel fuel unless and until such political subdivision obtains a final and non-appealable declaratory judgement from a court of competent jurisdiction declaring that the provisions of Paragraph (2) have been satisfied.

(4) No political subdivision or its agents shall have the authority to audit the records of a business located outside the boundaries of that parish in order to levy or collect a sales or use tax or any other tax on diesel fuel.

F. Notwithstanding any provision of law to the contrary, prescription drugs purchased through or pursuant to a Medicare Part B and D plan shall be exempt from the sales and use taxes imposed by any local governmental subdivision, school board, or other political subdivision whose boundaries are not coterminous with the state.

§337.10. Optional exclusions and exemptions

A. As provided for in R.S. 47:305(D)(5)(c), for the time after July 1, 1999, a taxing authority may by ordinance or resolution provide for the following:

(1) An exemption for the sale of prescription drugs used in the treatment of various diseases or injuries, or an exemption for the procurement and administration of chemotherapy drugs, if such drugs are used exclusively by the patient in his medical treatment if administered exclusively to the patient by a physician, nurse, or other health care professional in a physician's office where patients are not regularly kept as bed patients for twenty-four hours or more.

(2) An amnesty for any person who may have been responsible to impose, collect, and/or remit the tax previously imposed on the transactions provided for in Paragraph (1) this Subsection prior to the time such exemption and/or amnesty is granted according to such reasonable terms and conditions as the respective taxing authorities may adopt.

B. As provided for in R.S. 47:305.25(B) and (C):

(1) In the parish of West Carroll, the parish school board may exempt the farm equipment as provided in R.S. 47:305.25(A) from additional sales and use taxes after approval by a majority of the qualified electors of the parish and the police jury may exempt the equipment as provided in that Section from all sales and use taxes which it is presently levying and collecting and shall exempt such equipment from any additional sales and use tax or taxes which it may hereafter levy and collect.

(2) Except as provided in Paragraph (1) of this Subsection:

(a) A city or parish school board may by resolution adopted by the board provide an exemption for farm equipment as defined in R.S. 47:305.25(A).

(b) The governing authority of a municipality may by resolution or ordinance provide an exemption for farm equipment as defined in R.S. 47:305.25(A) from all of its sales and use taxes.

(c) The governing authority of a parish may by resolution or ordinance provide an exemption for farm equipment as defined in R.S. 47:305.25(A) from all of its sales and use taxes and all sales and use taxes of political subdivisions levied solely within the territory of the parish, except municipal and school board taxes.

C. As provided for in R.S. 47:305.30, notwithstanding the provisions of any other law to the contrary, the governing authority of any political subdivision in the parish of Plaquemines may exclude and exempt from any sales and use tax levied by such governing authority any item excluded and exempted from the sales and use taxes imposed by the state of Louisiana under Chapter 2 and Chapter 2-A of Subtitle II of this Title. It is expressly provided that the provisions of this Subsection shall also be applicable to any sales and use taxes being imposed by such governing authority as of July 6, 1981; provided, that no bonds or other obligations payable from the proceeds of such taxes have been issued and are outstanding.

D. As provided for in R.S. 47:305.37(B) with regard to diesel fuel, propane, or other liquefied petroleum gases used or consumed for farm purposes, in Rapides Parish:

(1) The parish school board may by resolution adopted by the board provide an exemption from its sales and use tax as is provided for state sales tax in R.S. 47:305.37(A).

(2) The governing authority of a municipality may by resolution or ordinance provide an exemption as is provided for state sales tax in R.S. 47:305.37(A) from its sales and use tax and all sales and use taxes of political subdivisions levied solely within the territory of the municipality, except school board taxes.

(3) The governing authority of a parish may by resolution or ordinance provide an exemption as is provided for state sales tax in R.S. 47:305.37(A) from its sales and use tax and all sales and use taxes of political subdivisions levied within the territory of the parish and all sales taxes levied both within and without the municipality, except school board taxes.

E. As provided for in R.S. 47:305.52, a political subdivision may, by ordinance, provide for a sales and use tax exemption within the entire area of the political subdivision for sales of custom computer software.

F. As provided for in R.S. 47:301(14)(g)(i)(bb), any political subdivision, other than a tax authority in East Feliciana Parish to which the exclusion already applies, may apply the exclusion as defined in R.S. 47:301(14)(g)(i)(bb) to sales or use taxes levied by any such political subdivision, so that a charge for the furnishing of repairs to tangible personal property shall be excluded from sales of services, as defined in R.S. 47:301(14)(g)(i), when the repaired property is (1) delivered to a common carrier or to the United States Post Office for transportation outside the state, or (2) delivered outside the state by use of the repair dealer's own vehicle or by use of an independent trucker. However, as to aircraft, delivery may be by the best available means. Offshore areas shall not be considered another state for the purpose of this Subsection and R.S. 47:301(14)(g)(i).

G. As provided for in R.S. 47:301(16)(i)(vi), taxing authorities are hereby authorized to provide an exemption from any local sales and use tax liability to any taxpayers holding a Federal Communications Commission license issued pursuant to 47 CFR Part 73 which have purchased any of the digital television conversion equipment and/or digital radio conversion equipment listed in R.S. 47:301(16)(i)(i) and (i)(ii). Local taxing authorities are further authorized to provide a credit against any tax liability for the amount of local sales tax paid by taxpayers holding Federal Communications Commission licenses issued pursuant to 47 CFR Part 73 on any equipment listed in Item (i) or (ii) of 47:301(16)(i) purchased subsequent to January 1, 1999, but prior to June 25, 2002.

H.(1) Political subdivisions are prohibited from levying a sales and use tax on telecommunication services as defined in Chapter 2 of Subtitle II of this Title not in effect on July 1, 1990.

(2) The provisions of this Paragraph shall not be construed to prohibit the levy or collection of any franchise, excise, gross receipts, or similar tax or assessment by any political subdivision of the state as defined in Article VI, Section 44(2) of the Constitution of Louisiana.

I. (1) A political subdivision may provide for a sales and use tax exclusion as provided for in R.S. 47:301(3)(i), (13)(k), or (28), or any combination of these or all of them, for the sales, cost, or lease and rental price of manufacturing machinery and equipment, either effective upon adoption or enactment or phased in over a period of time, or effective for a certain period of time or duration, all as set forth in the instrument, resolution, vote, or other affirmative action providing the exclusion.

(2) Pursuant to the authority provided for in Paragraph (1) of this Subsection, a political subdivision may provide an exclusion from its tax for any class or classes of manufacturers, including a glass container manufacturer with a NAICS Code of 327213.

(3)(a) Pursuant to the authority provided for in Paragraph (1) of this Subsection, a political subdivision may provide an exclusion from its tax for any other machinery, equipment, supplies, materials, or services used or consumed in the business of farming.

(b) The authority provided to political subdivisions in this Paragraph shall be in addition to the authority provided to political subdivisions in Paragraph (1) of this Subsection to exclude from their tax machinery and equipment that is eligible for depreciation for federal income tax purposes and that is used as an integral part of the production, processing, and storing of food and fiber or of timber by an individual or entity which is assigned by the Louisiana Workforce Commission a North American Industrial Classification System code within the agricultural, forestry, fishing, and hunting Sector 11, all as defined in and provided for in R.S. 47:301(3)(i)(ii), and the authorization in Subsections B, C, and D of this Section for certain political subdivisions to exempt that portion of the sales price of farm machinery and equipment provided for in R.S. 47:305.25(A) in excess of fifty thousand dollars, or any other exclusion or exemption that may be provided by law.

J. A political subdivision may by ordinance or resolution provide that sales and use tax imposed by the political subdivision shall not apply to parts or services used in the fabrication, modification, or repair of rail rolling stock.

K. (1) Except as provided in Paragraph (2) of this Subsection, the following medications shall be exempt from the sales and use tax of any political subdivision in Caddo Parish:

(a) Vaso-endothelial growth factor, known as VEGF inhibitors, including but not limited to Visudyne and Macugen.

(b) Complex biologics such as monoclonal antibodies, including but not limited to Infliximab.

(2) The provisions of Paragraph (1) of this Subsection shall not apply to sales and use taxes levied by the parish governing authority, the school board, or the sheriff of any such parish until after July 1, 2006.

L. A political subdivision located in St. Charles Parish may by ordinance or resolution provide that sales and use tax imposed by the political subdivision shall not apply to the same purchases, at the same time, according to the same definitions and procedures, under the same conditions,

and exempting the same amount of sales price or cost price of tangible personal property as provided for in Act No. 244 of the 2007 Regular Session of the Legislature or in any other act enacted in that session or in any other session which provides for annual sales tax holidays.

M. A political subdivision may by ordinance or resolution provide that sales and use tax imposed by the political subdivision shall not apply to storm shutter devices as defined in R.S. 47:301(10)(ee).

N. As provided for in R.S. 47:305.20(G)(2), the governing authority of any parish, school board, municipality, or other local taxing authority may, by ordinance or resolution grant the exemption provided for in R.S. 47:305.20. In addition, such taxing authority may authorize refunds of any tax paid prior to the effective date of such ordinance or resolution on transactions exempted by that Section.

O. As provided for in R.S. 47:305.64, political subdivisions, including municipalities and parishes, may elect to provide for a sales and use tax exemption for the amount paid by qualifying radiation therapy treatment centers for the purchase, lease, or repair of capital equipment and the purchase, lease, or repair of software used to operate capital equipment.

§337.10.1. Sales tax holidays; local sales tax exemptions; St. John the Baptist Parish

A. (1) Notwithstanding any other provision of law to the contrary, the governing authority of St. John the Baptist Parish and of any political subdivision within the parish may establish, by ordinance or resolution, annual sales tax holidays, during which time the political subdivision may exempt, from the sales and use tax levied by any such political subdivision, purchases of tangible personal property within the political subdivision.

(2) Any annual sales tax holiday established pursuant to the provisions of this Section shall be held only at the same time and for the same duration as an annual state sales tax holiday established by the state of Louisiana pursuant to Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 or any other applicable provision of law providing for an annual state sales tax holiday.

B. The governing authority of a political subdivision shall exempt, during an annual sales tax holiday established pursuant to the provisions of this Section, only the same purchases of tangible personal property that are eligible for an exemption from the sales and use tax levied by the state of Louisiana during an annual state sales tax holiday, and any such exemption provided by a political subdivision shall be in the same amount of the sales price or cost price as an exemption provided for during an annual state sales tax holiday.

§337.11. Other provisions applicable to local sales and use tax

In addition to the provisions of law applicable to the sales and use taxes of local taxing authorities as provided for in this Chapter, the following provisions outside this Chapter, and no others, shall be applicable to the sales and use taxes of local taxing authorities. The use of the "key words" following the statutory citations in this Subsection are illustrative only, and they are

intended to aid in clarity and ease of finding the law, and they are not intended to expand, contract, or otherwise modify or change the intent of the cited provisions of law.

- (1) R.S. 4:168, "key words": horse racing.
- (2) R.S. 4:227, "key words": offtrack wagering facilities.
- (3) R.S. 17:3389, "key words": tax rebates for university research and development parks.
- (4) R.S. 33:4169, "key words": the construction and operation by private companies with contracts for the construction of sewerage or wastewater treatment facilities.
- (5) R.S. 38:2212.4, "key words": the acquisition of materials, supplies, vehicles, or equipment made by certain public trusts.
- (6) R.S. 39:467 and 468, "key words": certain publicly owned facilities.
- (7) [Blank]*
- (8) R.S. 47:6001, "key words": antique airplanes and certain other aircraft.
- (9) R.S. 47:9052, "key words": lottery tickets.
- (10) R.S. 51:1301 et. seq., "key words": tax refunds under the Louisiana Tax Free Shopping Program.
- (11) R.S. 51:1787, "key words": tax rebates provided for in the Enterprise Zone program.
- (12) R.S. 33:2718.3 and R.S. 40:582 through 582.7, "key words": tax refund for restoration, renovation, or rehabilitation of existing structure or for building or causing to be built new houses and associated improvements in an approved housing development.
- (13) R.S. 47:315.3, "key words": tax refund for tax paid by or under the provisions of Medicare.
- (14) R.S. 47:315.4, "key words": tax credit for the amount of ad valorem taxes paid on property upon which the taxpayer is entitled to a homestead exemption.

§337.11.1. Local sales and use tax; prescription drugs and pharmacist services; requirements

A. Upon the sale of prescription drugs and pharmacist services, a pharmacy or pharmacist shall be responsible for collecting any sales and use tax levied by a local political subdivision of this state and for remitting the amount of such tax to the levying authority. It shall be the responsibility of the health insurance issuer to reimburse the pharmacy or pharmacist the amount of such tax in certain cases in which health insurance coverage for prescription drugs and pharmacist services exists, depending on the terms and conditions of the insured's agreement

with its member or insured. All contracts executed by a health insurance issuer after January 1, 2009, which includes health insurance coverage for prescription drugs and pharmacist services shall clearly define the responsibility of the health insurance issuer or the health insurance issuer's member or insured for the payment of local taxes on the sale of prescription drugs and pharmacist services. Upon receipt of an electronic transaction from a pharmacy indicating the sale of a prescription drug or the rendering of the pharmacist services and specifying the amount of any sales and use tax, a health insurance issuer or its agent shall advise the pharmacy electronically of the applicable sales and use tax to be reimbursed to the pharmacy.

B. For purposes of this Section, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) "Health insurance coverage" means benefits consisting of prescription drugs, other products and supplies, and pharmacist services provided directly, through insurance or reimbursement, or otherwise and including items and services paid for as prescription drugs, other products and supplies, and pharmacist services under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract offered by a health insurance issuer.

(2) "Health insurance issuer" means any entity that offers health insurance coverage through a policy, contract, or certificate of insurance subject to state law that regulates the business of insurance. A health insurance issuer shall include but not be limited to a health maintenance organization as defined and licensed pursuant to Part XII of Chapter 2 of Title 22 of the Louisiana Revised Statutes of 1950, unless preempted as an employee benefit plan by the Employee Retirement Income Security Act of 1974.

(3) "Pharmacist services" means the filling and dispensing of prescription drugs or providing products and supplies, drug therapy, and other patient care services provided by a licensed pharmacist with the intent of achieving outcomes related to the cure, prevention, or management of a disease, elimination or reduction of a patient's symptoms, or arresting or slowing of a disease process.

§337.11.2. Acadiana Cultural and Entertainment Special District; optional exemption

A. The Legislature of the State of Louisiana hereby finds that motion picture production generated by Louisiana Motion Picture Investor Tax Credits has been a benefit for the state. The 2011 Louisiana Entertainment Economic Impact Analysis estimates that over the course of the three years covered in the study motion picture productions will have spent approximately one billion five hundred ten million dollars in Louisiana. To date, the typical production is spending eighty percent of its budget in the state - and even blockbuster size films with budgets in excess of twenty million dollars spend fifty percent, and these percentages have steadily increased. From 2008 to 2010, productions averaged ninety-two per year. However, the legislature also finds that, unfortunately, the productions, and therefore their spin-off economic benefits, have tended to be focused in certain regions of the state. Many areas have received far less movie-making activity than others. Therefore, it is the determination and intention of the legislature in

enacting this Section to provide another tax incentive tool to induce the location of movie picture production in some of those heretofore neglected areas.

B. There is hereby created the Acadiana Cultural and Entertainment Special District composed of all the parishes with the following populations according to the latest federal decennial census:

- (1) Any parish with a population between 50,000 and 52,250.
- (2) Any parish with a population between 56,000 and 90,000.
- (3) Any parish with a population between 200,000 and 230,000.

C. Any taxing authority within any parish in the ACES District may provide for an exemption from their sales and use tax for the sales, purchases, or leases and rentals by a motion picture production company for a specific state-certified production by that company, all as set forth in the instrument, resolution, vote, or other affirmative action providing the exemption. A separate action providing an exemption shall be necessary for each state-certified production granted the exemption.

D. For purposes of this Section, the following words and terms shall have the following meanings:

- (1) "ACES District" means the Acadiana Cultural and Entertainment Special District.
- (2) "Motion picture production company" shall have the same meaning as provided for in R.S. 47:6007(B)(6).
- (3) "State-certified production" means a production approved for Louisiana motion picture investor tax credits by the office of entertainment industry development in the Department of Economic Development.

E. The exemption provided for in this Section shall not be granted on any tax in effect on the date of the grant which secures bonds if the grant will affect or impair the security of such bonds.

§337.11.3. Imposition of tax; prohibition

No municipal governing or parish governing authority shall impose, levy or collect any income tax upon any nonresidents of the municipality or parish levying such tax.

PART D. COLLECTIONS

§337.12. Prohibition on levy or collection of tax on property or services performed outside territorial limits; prohibition regarding property stored for use outside the political subdivision

A. No taxing authority shall levy or collect any sales tax on the sale of any goods or personal tangible property delivered or services performed outside the taxing jurisdiction.

B. This Section shall apply to every political subdivision in the state of Louisiana, whether levying and collecting such tax under authority of general or special laws of the state or under powers granted in their charters or under any other authority or grant of the power to levy and collect sales or other taxes. No provision in this Section shall be construed as infringing upon or limiting in any manner the right of political subdivisions to levy and collect in conformity with this Section any use tax heretofore or hereafter authorized.

C.(1) No taxing authority shall levy or collect any use tax on the storage of property which has been documented for use outside the taxing jurisdiction of the taxing authority although the property may be stored within its taxing jurisdiction if the owners of such property which is to be stored for exclusive use outside the taxing jurisdiction have acquired a tax exemption certificate from the taxing authority's collector.

(2) When a vendor is presented with a copy of a tax exemption certification from a vendee, the vendor shall be relieved from liability for the collection of use tax on such property.

(3) If the property is removed from storage and is used within the taxing jurisdiction where it has been stored, the property shall be subject to taxation.

§337.13. Collection of sales and use taxes by political subdivisions

A. Any sales and use tax levied by taxing authorities located within a single parish may be collected by a single tax collector for that parish.

B. In each parish, every taxing authority that levies a sales and use tax in that parish may contract and make such agreement between and among themselves with respect to the joint collection, enforcement, and administration of the sales and use taxes as may be deemed proper by their respective governing authorities. Such agreement, when concluded, shall be in writing and shall include a statement of the financial obligations of each of the parties to the agreement and may provide for the joint use of funds, facilities, personnel, or any combination thereof deemed necessary to accomplish the purposes of the agreement. No provision of such agreement shall have the effect of providing for a donation, in whole or in part, of the public funds or services of one of the parties for the benefit of the other. Such agreement may also provide for the collection, enforcement, and administration of taxes other than sales and use taxes which are levied by taxing authorities.

C.(1) Taxing authorities which levy sales and use taxes in a parish are hereby authorized to create a joint sales and use tax commission as an independent agency and instrumentality to collect, enforce, and administer the sales and use tax levied by all of the taxing authorities in that parish. The commission shall include two members appointed by each governing authority of each taxing authority which has collections equal to or greater than twenty percent of the total sales and use tax collections in the parish; however, at no time shall there be fewer than three members serving on the commission. If any parish has only one taxing authority which has

collections equal to or greater than twenty percent of the total collections in the parish, one representative shall be appointed from the next largest authority to serve on the commission in addition to the two members appointed from the one authority with twenty percent of the collections or more. The expenses of the commission shall be paid by the taxing authorities appointing members to the commission on a proportional basis computed from the annual tax collections.

(2) If any employee of a taxing authority that levies a sales and use tax becomes an employee of the commission, that employee may remain a member of the retirement system of which he had been a member prior to the enactment of this Section and shall retain his rights to the same employee benefits that he had been entitled to and participating in prior to the enactment of this Section.

(3) The commission shall be a body corporate under such corporate name and style as shall be provided for in such agreement. It shall have the power to sue and be sued and shall continue in existence for so long as the parties to the agreement may specify and shall have such powers and duties with respect to the operation and management of the commission as may be provided for in the agreement creating the commission.

D. The commission and any taxing authority not represented on the commission may enter into an agreement providing for the collection, enforcement, and administration of any sales and use taxes authorized by said taxing authority. The commission may charge other taxing authorities a collection fee based on a percentage of collections.

E. The commission may, at its option, contract and make agreements with other local political subdivisions to collect taxes other than sales and use taxes.

F. The commission may establish a sales tax advisory committee, consisting of members representing each taxing jurisdiction for which the commission collects taxes. The advisory committee may make such investigations and recommendations as it deems appropriate to promote the proper administration of the commission.

G. This Section shall not be construed to prohibit the contracting between and among parishes for the collection, enforcement, and administration of sales and use taxes; nor shall it be construed to prohibit the state from collecting sales and use taxes or to prohibit the state from collecting sales and use taxes levied by a taxing authority at the request of the political subdivision as provided in R.S. 47:337.26.

§337.13.1. Power to employ counsel; attorney fees

A. (1) The local collector is authorized to employ private counsel to assist in the collection of any taxes, penalties, or interest due under this Subtitle, or to represent him in any dispute, contest, or other controversy involving the determination of sales and use tax due, or in any other proceeding under this Subtitle. The attorney fees and legal expenses incurred by the local collector for the employment of private counsel shall be reimbursed to him by the local taxing

authorities and recoverable as a deduction from current collections, unless such attorney fees and legal expenses are recoverable as a reimbursement from the taxpayer.

(2) If any taxes, penalties, or interest due and final under this Subtitle are referred to an attorney at law for a collection action, an additional charge for attorney fees, in the amount of ten percent of the taxes, penalties, and interest due, except with respect to amounts timely paid under protest with a return that is not delinquent, or paid under protest to a vendor in accordance with law, shall be paid by the taxpayer to the local collector; provided, however, that the amount paid for attorney fees shall be subject to the discretion of the court or Board of Tax Appeals as to reasonableness.

(3) A taxpayer shall not be subject to the payment of attorney fees unless the local collector is the prevailing party entitled to reimbursement of attorney fees and costs as provided for in Subsection B of this Section.

B. (1) Except as otherwise provided for in Paragraph (A)(3) of this Section, the prevailing party in a dispute, contest, or other controversy involving the determination of sales and use tax due shall be entitled to reimbursement of attorney fees and costs, not to exceed ten percent of the taxes, penalties, and interest at issue, unless the position of the non-prevailing party is substantially justified. The prevailing party is defined as the party which has substantially prevailed with respect to the amount in controversy or substantially prevailed with respect to the most significant issue or set of issues presented. A position is substantially justified if it has a reasonable basis in law and fact. The reimbursement amount for attorney fees and costs shall be subject to the discretion of the court or Board of Tax Appeals as to reasonableness.

(2) The provisions of this Subsection shall not apply to amounts timely paid under protest by the taxpayer with a return that is not delinquent, or paid under protest to a vendor in accordance with law, as provided for in Subsection A of this Section.

(3) A local collector, which is a non-prevailing party in a dispute, contest, or other controversy involving the determination of sales and use tax due shall be reimbursed by the local taxing authorities for attorney fees and costs incurred by the tax collector and recoverable as a deduction from current collections.

(4) The provisions of this Subsection shall apply only to matters referred to private counsel by the local collector.

C. A local collector may waive the attorney fee award as provided for in this Section. A waiver of attorney fees by a local collector shall be considered timely if the notice of the waiver is mailed to a taxpayer by certified mail, return receipt requested, within thirty days of the service of process, or if it is waived in the collector's initial answer to a petition filed with the Board of Tax Appeals. If a local collector timely waives its attorney fee award, a taxpayer may not recover attorney fees as provided for in Subsection B of this Section.

§337.14. Central collection commission

A. In accordance with the provisions of Article VII, Section 3 of the Constitution of Louisiana, the sales and use taxes levied by taxing authorities within a parish shall be collected by a central

collection commission in those parishes where a single collector of sales and use taxes has not been established by July 1, 1992.

B.(1) The parish central collection commission shall consist of one representative from each political subdivision within the parish which levies a sales and use tax.

(2) Except when authorized by the unanimous agreement of all taxing authorities within the parish levying a sales and use tax, only those taxing authorities levying a sales and use tax shall be authorized to participate on any commission established for the collection of such taxes.

(3) The expenses of the central collection commission shall be paid monthly by the taxing authorities levying a sales and use tax on a proportional basis; however, the cost of collection shall in no case exceed one and one-half percent of the tax collected for each political subdivision, unless otherwise authorized by the unanimous agreement of all taxing authorities within the parish levying a sales and use tax.

(4) The sales and use taxes collected by the central collection commission shall be remitted to the taxing authorities levying a sales and use tax no later than ten days after receipt of the taxes by the central collection commission.

(5) The central collection commission shall be a body corporate and have the power to sue and be sued. Any decision of the commission shall be made by a majority vote of the members of the commission.

(6) The provisions of this Section shall not apply in those parishes which have a single collector or a centralized collection arrangement for the collection of sales and use taxes levied by all taxing authorities within the parish as of July 1, 1992.

C. (1) Notwithstanding any other provision of this Section to the contrary, the central collection commission of the parish of Sabine shall be composed of nine members selected as follows:

(a) Each municipality in the parish which levies a sales tax shall select a representative.

(b) The parish school board shall select two representatives.

(c) The parish police jury shall select two representatives.

(d) One at-large member shall be selected to the commission jointly by the police jury and the school board.

(2) The expenses of the central collection commission of the parish of Sabine shall be paid monthly by the taxing authorities levying a sales and use tax on a proportional basis. The cost of collection shall be determined and authorized by an agreement approved by a majority vote of the central collection commission.

D. Notwithstanding any other provision of this Section to the contrary, the decisions of the central collection commission of the parish of Washington shall be determined by majority vote of the commission; however, each taxing authority levying a sales and use tax within the parish shall have a vote weighted by the proportion that its sales and use tax collections bear to the total sales and use tax collections by all taxing authorities in the entire parish for the year preceding July 1, 1992.

E. Notwithstanding any other provision of this Section to the contrary, the central collection commission of the parish of St. Landry shall be composed of nine members selected as follows:

- (1) The parish school board shall select two representatives.
- (2) The solid waste commission shall select two representatives.
- (3) The city of Opelousas shall select two representatives.
- (4) The city of Eunice shall select one representative.
- (5) Two at-large members shall be selected to the commission by the St. Landry Parish Municipal Association.

§337.15. Collection

A. Collection from dealer. (1) The tax imposed under the local ordinance shall be collectible from all persons, as herein defined, engaged as dealers, as herein defined.

(2) On all tangible personal property imported, or caused to be imported, from other taxing jurisdictions, states or foreign countries, and used by him, the "dealer", as herein defined, shall pay the tax imposed by the local ordinance on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in the taxing jurisdiction. For the purposes of the local ordinance, the use, or consumption, or distribution, or storage to be used or consumed in the taxing jurisdiction of tangible personal property shall each be equivalent to a sale at retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(3)(a) A credit against the use tax imposed by the local ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another taxing jurisdiction, whether in this state or in another state. The credit provided herein shall be granted only in the case where the taxing authority to which a similar tax has been paid grants a similar credit as provided herein, provided that members of the armed forces who are citizens of this state and whose orders or enlistment contracts stipulate a period of active duty of two years or more and who purchase automobiles outside of the state of Louisiana while on such tour of active duty shall be granted such credit in connection with the purchase of such automobiles whether or not the state to which such tax thereon has been paid grants a similar credit as herein provided.

(b) The amount of the credit shall be calculated as provided in R.S. 47:337.86. In no event shall the credit be greater than the tax imposed in the other taxing jurisdiction upon the particular tangible personal property which is subject to the tax imposed by local ordinances.

B. Collection of tax on vehicles.

(1) The tax imposed by the local ordinance on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semitrailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax may be collected as provided in R.S. 47:303(B).

(2) However, the provision contained in R.S. 47:301(10)(c)(ii)(bb) which excludes isolated or occasional sales from the definition of a sale at retail shall not apply to the sale of vehicles which are the subject of this Subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to tax by local ordinance.

C. Auctioneers. All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in the taxing jurisdiction. Such auctioneers, or the company which they represent, shall be responsible for the collection of all local taxes on articles sold by them and shall report and remit to the collector as provided in the local ordinance.

D. Collection of tax on motorboats and vessels. The secretary of the Louisiana Department of Wildlife and Fisheries shall not register or issue a certificate of registration on any new boat or vessel purchased in this state until satisfactory proof has been presented to him that all sales taxes provided by the local ordinance have been paid; nor shall he register or issue a certificate of registration on any boat or vessel brought into this state until satisfactory proof has been presented to him that all use taxes required by the local ordinance have been paid.

E. Collection of tax on off-road vehicles. The vehicle commissioner shall not issue a title or a certificate of registration on any off-road vehicle purchased in this state or brought into this state from another state until satisfactory proof has been presented to him that all sales taxes required by the local ordinance have been paid. The purchaser of an off-road vehicle from a seller who is not registered with the Department of Public Safety and Corrections shall pay the sales tax at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of R.S. 47:303(B). However, for purposes of issuance of an off-road decal for any off-road or all-terrain vehicle purchased on or before December 31, 2013, the vehicle commissioner shall provide a decal to a taxpayer who provides proof of payment of sales and use tax and a certificate of origin.

F. Collection of tax on membership in health and physical fitness clubs. The sales tax due under the provisions of the local ordinance on contracts for membership in a health and physical fitness club shall be assessed and shall be due and payable on a monthly basis computed on the amount paid each month less any actual or imputed interest or collection fees or unpaid reserve amounts not received by the health and fitness club.

G. Direct Payment Numbers. Notwithstanding any provision of law to the contrary, a Louisiana taxpayer who obtains a DP Number as provided in R.S. 47:303.1 shall remit sales and use taxes

due on purchases and rentals of tangible personal property and taxable services directly to the state and local taxing authorities to whom the sales and use taxes are due, and shall not be liable to remit the tax to the vendor or lessor of the tangible personal property and taxable services, as provided in R.S. 47:303.1.

H. In the event a taxpayer has average taxable purchases, leases, or services less than the amount prescribed by R.S. 47:303.1(B)(1)(c), and both the taxpayer and the collector for the taxing authorities desire to establish a direct pay authorization, the taxing authorities by local ordinance or the collector by rule, may establish such policies and procedures necessary to implement the authorization. Said local ordinance or rule shall in no way interfere or otherwise render ineffective all other provisions of R.S. 47:303.1 as they relate to the state sales and use tax.

I. For the time period July 1, 1998 to July 1, 2000, the contractor's direct pay number provision as found in R.S. 47:338.29(B) shall be applicable.

§337.16. Authority to collect local sales and use taxes

A. The secretary of the Department of Revenue is hereby authorized to contract with all the governing authorities of any taxing authority, at the request of the subdivisions, to collect and enforce the collection of any sales and use tax, and related penalty, interest, or other charge, levied by the taxing authorities. In order to collect and enforce any such tax, the secretary is vested with all the power and authority conferred by this Title.

B. The contract between the Department of Revenue and such taxing authorities shall be executed by the secretary of the Department of Revenue and the proper official or officials of the governing authorities of the taxing authorities. The contract shall provide the manner, the charges and costs of collection, if any, to be paid by the taxing authorities, and such other terms and conditions necessary to effectuate the contract.

§337.16.1. Agreements for collection by collector of revenue of taxes due the city of New Orleans

The collector of revenue of the state of Louisiana and the commission council of the city of New Orleans are authorized and empowered at their discretion to enter into an agreement whereby the collector of revenue shall collect any or all taxes and additions thereto due to the city of New Orleans whether current or delinquent under any ordinances now existing or hereafter adopted which impose: (1) taxes on sales and leases of tangible personal property and sales of services similar to the state taxes imposed in Chapter 2 of this Subtitle¹; (2) occupational license taxes similar to the state taxes imposed in Chapter 3 of this Subtitle²; and (3) taxes on the sale or consumption of beverages which are taxed under R.S.26:342.

§337.16.2. Contents of agreement for collection of taxes; termination date

The agreement entered into pursuant to R.S. 47:337.16.1 shall provide an effective date and may contain a termination date and any other provisions that the parties deem necessary to carry out the purposes of R.S. 47:337.16 through 337.16.6. If the agreement does not contain a

termination date either party may terminate it by giving six months' notice in writing to the other party, or it may be terminated at any time by the mutual consent of both parties. Nothing in this Section shall be construed so as to prohibit the parties from extending the agreement from time to time if they so desire.

§337.16.3. Enforcement of payment of taxes

In the event such agreement is entered into, pursuant to R.S. 47:337.16.1, the collector of revenue is authorized to enforce payment of such taxes in the same manner that he is authorized to enforce the payment of state taxes under the provisions of Chapter 18 of this Subtitle.

§337.16.4. Charge for collection; remitting amounts collected

In the event such agreement is entered into, pursuant to R.S. 47:337.16.1, the collector of revenue shall make no charge for the collection of such taxes. He shall remit monthly to the treasurer of the city of New Orleans all amounts collected by him under authority of R.S. 47:337.16 through 337.16.6 not later than the tenth day of the month following their collection.

§337.16.5. Collector to be furnished copies of ordinances and regulations

In the event such agreement is reached, pursuant to R.S. 47:337.16.1, it shall provide that the mayor of the city of New Orleans shall furnish to the collector of revenue at a time specified in the agreement a certified copy of each of the ordinances to be enforced by the collector together with certified copies of all rules and regulations promulgated thereunder. Copies of all subsequent ordinances and regulations, or amendments, shall be furnished to the collector by the mayor within five days after adoption.

§337.16.6. Collector to be furnished list of taxpayers; records made available

In the event such agreement is reached, pursuant to R.S. 47:337.16.1, it shall provide that the commissioner of finance of the city of New Orleans shall transmit to the collector of revenue at a time specified in the agreement a current list of taxpayers under each ordinance to be enforced by the collector. All records of the city relating to taxes due under the ordinances to be enforced by the collector of revenue shall be preserved and made available to the collector upon his request.

§337.17. Treatment of tax by dealer

A.(1) The tax levied by local ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of tax on motor vehicles in R.S. 47:337.15(B) and the collection of tax on property leased or rented for use offshore in R.S. 47:301(4)(d)(ii). The dealer shall collect the sales tax on off-road vehicles and remit them directly to the Department of Public Safety and Corrections upon application for certificate of title and registration as required for the registration and licensing of other vehicles under the provisions of Subsection B of this Section. The dealer shall collect the sales taxes on off-road vehicles from out-of-state residents who purchase off-road vehicles in this state and remit the sales taxes due directly to the collector.

(2) The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services, and payable at the time of sale.

(3) The taxing authority may be joined as a party in any action or proceeding brought by the dealer to collect the tax.

(4) Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale, as imposed by the local ordinance, then in addition to all other rights, obligations, and remedies provided, such tax shall be payable by the purchaser directly to the taxing authority, and it shall be the duty of this purchaser to file a return thereof with the collector and pay the tax imposed thereon to the collector on the first day of the month after such sale was made or rendered, to be transmitted on or before the twentieth day of such month.

B. Every dealer located outside the taxing jurisdiction making sales of tangible personal property for distribution, storage, use, or other consumption, in the taxing jurisdiction, shall at the time of making sales collect the tax imposed by the local ordinance from the purchaser.

C. Dealers shall, as far as practicable, add the amount of the tax imposed under the local ordinance in conformity with the schedule or schedules to be prescribed by the secretary of the Department of Revenue pursuant to authority conferred herein, to the sale price or charge, which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who neglects, fails, or refuses to collect the tax herein provided shall be liable for and pay the tax himself.

D. Where the tax collected for any period is in excess of the tax rate provided by the local ordinance, the total local tax collected must be paid over to the collector less the compensation to be allowed the dealer as provided by the local ordinance. This provision shall be construed with other provisions of the local ordinance and given effect so as to result in the payment to the collector of the total local tax collected if in excess of the tax rate provided.

E. Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall, in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars, or imprisoned for not more than three months, or both.

F.(1) No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax unless:

(a) The dealer includes in the advertisement that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer.

(b) The dealer furnishes the purchaser with written evidence that the dealer will be liable for and pay any tax the purchaser was relieved from paying under this Paragraph himself.

(2) If a dealer advertises that any portion of the tax not paid by the purchaser will be remitted on his behalf by the dealer, the purchaser shall not be liable for the payment of that portion of the tax.

(3) Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars or more than two hundred fifty dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double.

G. The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

H. The use of tokens is forbidden. The collector shall rely upon regulations promulgated by the secretary of the Department of Revenue that prescribe the method and the schedule of the amounts to be collected from the purchasers, lessees, or consumers in respect to any receipt upon which a tax is imposed. The amount of tax to be collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided.

I. The sums of money collected by the dealer for payment of sales and use taxes imposed by the taxing authority shall be and remain the property of the taxing authority and deemed held in trust for the taxing authority.

§337.18. Returns and payment of tax; penalty for absorption

A. General provisions. (1)(a) Except as hereafter provided, the taxes levied by the local ordinance shall be due and shall be payable monthly on the first day of the month. For the purpose of ascertaining the amount of tax payable, all dealers shall transmit, on or before the twentieth day of the month following the month in which this tax becomes effective, to the collector, upon forms prescribed, prepared, and furnished by him, except as provided in R.S. 47:337.22 and 337.23, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payments for services, as the case may be, arising from all taxable transactions during the preceding calendar month. Thereafter, like returns shall be prepared and transmitted to the collector by all dealers on or before the twentieth day of each month for the preceding calendar month. These returns shall show any further information the collector may require to enable him to correctly compute and collect the tax levied. Every dealer, at the time of making the return required hereunder, shall compute and remit to the collector the required tax due for the preceding calendar month, and failure to so remit such tax shall cause said tax to become delinquent.

(b)(i) However, whenever the taxes due hereunder from a dealer average less than thirty dollars per month, the taxes hereunder shall be due and payable quarterly on the first day of the month, and the return required from the dealer for the quarter shall be filed on or before the twentieth day of the first month of the next succeeding quarter. The collector shall provide by regulation for the period and method of determining, under this proviso, the average taxes due from a dealer. Any dealer who is required to file his sales tax return on a quarterly basis, as provided above, may file his returns and pay the tax on a monthly basis after first having received written

approval from the collector to do so. Application to file monthly must be furnished to the collector in writing and will set forth complete justification for the shorter reporting period.

(ii) When any person or other entity with annual taxable gross receipts from sales of property or services of one hundred fifty thousand dollars or less makes no taxable sales of tangible personal property or services for three calendar months in a parish in which he does not have a business location, such taxpayer shall not be required to file thereafter either monthly or quarterly returns with any political subdivision in the parish until he has more than one such sale in the parish during a three-month period. In lieu of such returns, the taxpayer may send a letter to the collector for the parish on or before the twentieth of the month following the sale, describing the sale, the buyer, and the price, and remitting the tax due.

(c) Whenever the taxes due to a collector are from the state acting as a dealer through any department, agency, board, commission, or other state entity, the taxes shall be due and payable annually, and the return shall be filed and tax paid on or before the twentieth day of the month following the end of the state's fiscal year. However, if the accumulated sales taxes due hereunder to the state or any single tax collector equal or exceed five hundred dollars by the last day of any calendar month prior to the close of the state's fiscal year, the taxes shall be due and payable and the return shall be filed and the tax paid on or before the twentieth day of the calendar month following the calendar month during which the five hundred dollar threshold is exceeded.

(2)(a) Gross proceeds from rentals or leases shall be reported and the tax shall be paid with respect thereto, in accordance with rules and regulations for reporting as established by the collector following the month in which the payment for the lease or rental is actually collected by lessor.

(b) Notwithstanding any other provisions of law to the contrary, lessors of property to be used offshore as provided for in R.S. 47:301(4)(d)(ii) shall not be required to collect or otherwise pay rental taxes on the gross proceeds from such leases and rentals.

(3) For the purpose of compensating the dealer in accounting for and remitting the tax levied by the local ordinance, each dealer shall be allowed compensation at the rate specified in the local ordinance in the form of a deduction in submitting his report and paying the amount due by him, provided the amount due was not delinquent at the time of payment. The amount of any credit claimed for taxes already paid to a wholesaler, as authorized by Subsection B of this Section, shall not be deducted in computing the compensation allowed the dealer.

(4) The collector, for good cause, may extend, for not to exceed thirty days, the time for making any returns required under the provisions of this Chapter.

(5) For the purpose of collecting and remitting to the taxing authority the tax imposed by the local ordinance, the dealer is hereby declared to be the agent of the taxing authority.

(6) In making their returns to the collector, dealers who have paid advance sales tax on purchases of tangible personal property for resale during periods when the collection of such tax

was required by law shall deduct from the total tax collected by them upon the retail sale of the commodity the amount of tax paid by them to manufacturers, wholesalers, jobbers and suppliers during the period reported, provided tax paid invoices evidencing the payment are retained by the dealer claiming the refund or credit. If the amount so paid during any reporting period amounts to more than the tax collected by him for the period reported, the excess so paid shall be allowed as refund or credit against the tax collected by the dealer during the succeeding period or periods.

B. Collection by wholesalers. (1) Parishes, municipalities, school boards and other tax authorities which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers, suppliers, or any other taxpayer to collect such sales taxes in advance from dealers to whom they sell for the purposes of resale.

(2), (3) Repealed by Acts 2007, No. 393, §3, eff. Jan. 1, 2009.

(4) Absorption of said tax as defined in this Section by any retailer, wholesaler, manufacturer or other supplier shall constitute a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars or by imprisonment in the parish jail for not more than two years.

C. Registration by nonresident prime contractor. (1) Prior to commencing work on any construction contract which in the aggregate exceeds three thousand dollars, any nonresident prime contractor, as defined in R.S. 47:9(A)(2), shall:

(a) Register the contract with the Department of Revenue in accordance with the provisions of R.S. 47:9(A)(1) and obtain a certificate in a form to be determined by the secretary, which certificate shall identify the construction project registered and recite the total amount of the contract.

(b) File with the department a surety bond or a blanket surety bond for all contracts, sufficient to cover all taxes due on the contract or contracts, in accordance with the provisions of R.S. 47:9(B)(1).

(c) Register the contract with the collector of sales and use taxes of the parish in which the contract is to be performed. The collector shall issue a certificate in a form determined by the secretary, following the requirements in Subparagraph (a) of this Paragraph, certifying that all requirements for surety bonds established by R.S. 47:306(D) applicable to the location of the project have been met.

(2)(a) No state entity, including but not limited to the office of the state fire marshal, or local governing authority charged with the responsibility of issuing any permit, license, or certificate necessary for the lawful commencement of any construction contract subject to the provisions of this Subsection, shall issue such permit, license, or certificate until sufficient proof of possession of the certificates obtained as provided in this Subsection for that project is shown by the applicant.

(b) Any person failing to execute any bond herein provided before beginning the performance of any contract shall be denied the right to perform such contract until he complies with such requirements. The secretary of the Department of Revenue shall have the right to enjoin the performance of the contract until a satisfactory bond is executed and filed, and the secretary may also impose a penalty for commencing of two hundred dollars or two percent of the construction contract, whichever is greater.

(3) Within thirty days of the completion and acceptance of the contract project, the prime contractor shall submit to the Department of Revenue, on a form provided or approved by the department, a complete and accurate accounting of all state sales and use taxes which became due as a result of the contract. In the event that there are additional local taxes due, the contractor shall submit a copy of the accounting and the additional tax due to the taxing authority.

(4) The secretary of the Department of Revenue shall promulgate such rules and regulations and may have printed such forms as are necessary to effectuate the provisions of this Subsection.

(5) Nothing herein shall be construed so as to affect the licensing requirements of R.S. 47:341 et seq.

D. Payment of tax by a licensed vehicle dealer. Notwithstanding any other provision of law to the contrary, including the provisions of Subsection A of this Section, every vehicle dealer licensed pursuant to Title 32 of the Louisiana Revised Statutes of 1950 who sells a vehicle at retail shall remit all taxes collected pursuant to R.S. 47:303(B) no later than forty days from the date of sale. The secretary, for good cause shown, may extend the time for remitting the taxes for these licensed vehicle dealers for a period not to exceed ninety days.

§337.19. Withholding of state funds; assessment and collection standards

A. The secretary of the Department of Revenue, after consultation with representatives of the Louisiana Municipal Association, the Louisiana Police Jury Association, the Louisiana School Boards Association, and the Louisiana Association of Tax Administrators, is hereby authorized and directed to promulgate rules, pursuant to the enforcement of R.S. 47:306(D). Such rules shall also apply to R.S. 47:337.18(C). The municipal and parish permitting agencies of each parish as specified in R.S. 47:306(D)(2)(a) and R.S. 47:337.18(C)(2)(a) shall comply with rules authorized by this Subsection within six months of the effective date of such rules.

B. The secretary of the Department of Revenue shall evaluate and monitor parish and municipal permitting agencies to determine that each such agency is in compliance with the rules so promulgated. Upon a determination that a parish or municipal permitting agency has failed to comply with the rules provided for in this Section, the secretary shall notify the state treasurer of such determination.

C. Notwithstanding any other provision of law, the rules authorized by Subsection A of this Section may provide that the state treasurer may be directed to withhold any state funds administered by the treasurer's office and due to any local government whose permitting

agencies have failed to comply with the rules authorized by this Section as determined by the secretary of the Department of Revenue. Prior to issuing such an order, the local governing body shall be given the opportunity for a hearing before the appropriate legislative committee that exercises legislative oversight over the department.

D. All rules promulgated by the secretary under this Section shall comply with all the provisions of the Administrative Procedure Act.

§337.20. Collection from interstate and foreign transportation dealers

A. Persons, as defined in this Chapter, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft, or other means, may, at their option under rules and regulations prescribed by the secretary of revenue, register as dealers and pay the taxes on the sale or use of tangible personal property imposed by the local ordinances on the basis of the formula hereinafter provided.

B.(1) Such persons, when properly registered as dealers, may make purchases in this state or import property into this state without payment of the sales or use taxes imposed at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the secretary of revenue. Thereafter, on or before the twentieth day of the month following the purchase or importation, the dealer shall transmit to the collector, on forms secured by him, returns showing gross purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the taxing authority. The amount of such purchases and importations shall be multiplied by a fraction, the numerator of which is the taxing jurisdictions' mileage operated by the taxpayer and the denominator of which is the total mileage, to obtain the taxable amount of tax basis. This amount shall be multiplied by the tax rate to disclose the tax due. Each such dealer, at the time of making the return required hereunder, shall remit to the collector the tax due for the preceding calendar month as shown on the return.

(2) The provisions of this Subsection shall be given the same interpretation as similar provisions of law in Chapter 2 of this Subtitle on July 1, 2003, until such laws are amended or provisions of this Chapter are amended to provide with respect thereto.

§337.20.1. Collection from certain interstate and foreign transportation dealers

A.(1) Persons, as defined in this Chapter, engaged in the business of transporting passengers or property for hire in interstate or foreign commerce, whether by railroad, railway, automobile, motor truck, boat, ship, aircraft, or other means, and who, as a part of such business, transport passengers or property between points in Louisiana and points offshore outside the territorial limits of any state, may, at their option under rules and regulations prescribed by the secretary of revenue, register as dealers and pay the taxes on the sale or use of tangible personal property imposed by the local ordinances on the basis of the formula hereinafter provided.

(2) Such persons, when properly registered as dealers, may make purchases in this state or import property into this state without payment of the sales or use taxes imposed at the time of purchase or importation, provided such purchases or importations are made in strict compliance with the rules and regulations of the secretary of revenue. Thereafter, on or before the twentieth day of the month following the purchase or importation, the dealer shall transmit to the collector, on forms secured by him, returns showing gross taxable purchases and importations of tangible personal property, the cost price of which has not previously been included in a return to the taxing authority. The amount of such purchases and importations shall be multiplied by a fraction the numerator of which is the taxing jurisdiction's mileage operated by the taxpayer and the denominator of which is the total mileage operated by the taxpayer, to obtain the taxable amount of tax basis. This taxable amount of tax basis shall be multiplied by the tax rate to disclose the tax due.

(3) Each such dealer, at the time of making the return required hereunder, shall remit to the collector the tax due for the preceding calendar month as shown on the return.

B. For the purpose of calculating the fraction set forth in Subsection A of this Section:

(1) A unit of transportation measurement other than mileage may be used if appropriate based on industry custom and type of transportation.

(2) Notwithstanding anything to the contrary, "taxing jurisdiction's mileage" shall not include mileage in the taxing jurisdiction that is a segment of or a part of a stream of trade, traffic, transportation, or movement of passengers or property between a point in the state of Louisiana and a point offshore beyond the territorial limits of any state.

C. The provisions of this Section shall be interpreted consistently with similar provisions of law in Chapter 2 of this Subtitle, until provisions of this Chapter are amended to provide with respect thereto.

§337.21. Termination or transfer of business

A. If any dealer liable for any tax, interest, or penalty levied hereunder sells his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such time as the former owner shall produce a receipt from the collector showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods fails to withhold purchase money as above provided, he shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assigns.

B. In the case of a dealer who has quit a business, and who subsequently opens another similar business under the same ownership, whether that ownership is individual, partnership,

corporation, or other, that dealer shall be liable for any tax, interest, or penalty owed by the original business.

§337.22. Sales and use tax returns

A. The local collector shall furnish to all dealers, or make available to them, all necessary forms for filing returns, and instructions to insure full tax collection from dealers and an accounting for the taxes due; but failure of any dealer to secure these forms shall not relieve the dealer from the payment of the tax at the time in the manner provided by law.

B. Until the time provided for in Subsection C of this Section, the local collector shall be responsible for the design, preparation, and printing of the return.

C.(1) In addition to the authority granted to the Uniform Electronic Local Return and Remittance Advisory Committee as provided for in R.S. 47:337.23, the committee shall also design a standard, uniform, paper return to be used by the collectors of the sales and use tax of political subdivisions. It shall also include a space requiring that the state tax identification number be provided by the taxpayer.

(2)(a) Except as provided for in Subparagraph (b) of this Paragraph, such return shall be utilized by all collectors beginning January first of the year following the year in which the uniform electronic local return and remittance system provided for in R.S. 47:337.23 becomes operative.

(b) Notwithstanding Subparagraph (a) of this Paragraph, a collector may deplete the inventory of the returns which is on hand before the date provided in that Subparagraph before he shall be required to use the returns provided for in this Paragraph.

D. Notwithstanding the provisions of this Section, the electronic return to be used with the uniform electronic local return and remittance system provided for in R.S. 47:337.23 shall be prepared in the manner provided for in that Section.

§337.23. Uniform electronic local return and remittance system; official record of tax rates, and exemptions; filing and remittance of local sales and use taxes; penalties for violations

A.(1) The legislature recognizes both the need to make Louisiana a better environment in which to do business and the complexities of the existing sales and use tax system. It is the intention of this Section to provide taxpayers with a simple, efficient, and cost-effective means of transmitting accurate sales and use tax returns and remittances to political subdivisions of the state from a central site in the quickest manner possible.

(2) Notwithstanding any other law to the contrary, beginning on the date provided for in Subsection H of this Section, but no later than January 1, 2005, a taxpayer may file a sales and use tax return of a taxing authority and remit any tax, interest, penalty, or other charge due by means of the uniform electronic local return and remittance system provided for in this Section

unless insufficient funds are appropriated to fund the system as provided for in Subsection J of this Section.

B.(1) The system by which such taxpayers file electronically and pay their taxes and by which the information provided for in Subsection I is to be posted on the internet shall be established, managed, and supervised by the secretary of the Department of Revenue. The Uniform Electronic Local Return and Remittance Advisory Committee shall provide advice and may make enforceable recommendations to the secretary for his consideration with regard to the design, implementation, and operation of the system in the manner provided for by this Section. The advisory committee is hereby created within the Department of Revenue and shall be composed of the following members:

(a) The secretary of the Department of Revenue or his designee.

(b) A representative of a local governmental subdivision who shall be appointed by the governor from a list of three names, one provided to him by the Louisiana Municipal Association, one by the Police Jury Association of Louisiana, and one by the Louisiana School Board Association. The member shall serve at the pleasure of the governor. He shall serve as chair of the advisory committee.

(c) A member appointed by the governor from a list of three names provided to him by the Louisiana Society of Certified Public Accountants, to serve at the pleasure of the governor.

(d) The head of a collector's office, appointed by the governor from a list of three names provided to him by the board of directors of the Louisiana Association of Tax Administrators, to serve at the pleasure of the governor.

(e) A representative of a business which is required to file sales and use tax returns for multiple collectors in the state, who shall be appointed by the governor from a list of three names provided to him jointly by the Louisiana Retail Dealers Association and the Louisiana Association of Business and Industry. The member shall serve at the pleasure of the governor.

(2) Each appointment by the governor shall be submitted to the Senate for confirmation. All vacancies shall be filled in the same manner that is provided for the original member.

(3) The members of the advisory committee shall serve without additional compensation except for their reasonable and necessary expenses related to the performance of their duties as members of the committee, and then only in such amounts as is provided by law for state employees.

(4) Meetings shall be called by the chair at a time and place to be selected by the chair, or at a time and place provided for upon the written request of three members. Four members of the advisory committee shall be considered a quorum and the committee may make official recommendations and take other official action upon the affirmative vote of four members.

(5)(a) If at any time the advisory committee believes the secretary has taken action contrary to the advice or recommendation of the committee, it may make a written request to the secretary specifying the advice or recommendation, the action which the committee believes the secretary has taken, and asking him to provide written reasons for such action. The secretary shall provide a written answer to the chairman of the committee within fifteen days or such longer time as the committee shall allow.

(b) If, after receiving and considering the written answer of the secretary, the committee believes it unsatisfactory, the committee may make a written request to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means specifying the recommendation and asking the committees to make it an enforceable recommendation.

(c)(i) The request of the advisory committee shall be considered as a proposed rule or regulation of the Department of Revenue and shall be subjected to the same oversight procedure as is set forth in the Administrative Procedure Act for such rules and regulations, except for the need for publication.

(ii) Notwithstanding any other law to the contrary, if the oversight procedure under the Administrative Procedure Act results in approval of the advisory committee's request to make its recommendation an enforceable recommendation, then the advisory committee's recommendation shall be followed by the secretary.

C. The uniform electronic local return and remittance system and the posting of the information required by Subsection I of this Section shall be established, managed, and supervised by the secretary with the advice of the advisory committee and the system shall include the following:

(1)(a) The system shall allow the taxpayer to file a sales and use tax return that is uniform for each taxing authority except for the following:

(i) The rate of the taxing authority's tax.

(ii) The vendor's compensation allowed.

(iii) Optional exclusions or exemptions allowed by state sales and use tax law, adopted by the local ordinance pursuant to such state law.

(iv) Exclusions and exemptions in the local ordinance which were adopted prior to July 1, 2003, pursuant to state law authorizing such adoption, but not allowed as an exclusion or exemption from state sales and use tax.

(v) Exclusions and exemptions adopted by local ordinance pursuant to legislation enacted under Article VI, Section 29(D)(1) of the Constitution of Louisiana, but not allowed as an exclusion or exemption from state sales and use tax.

(vi) Penalty, interest, or attorney fees due on the sales and use tax. The amount of such penalty, interest, and attorney fees, shall be limited as provided by law, including relevant jurisprudence, until such statute or jurisprudence is changed.

(b) The filing and remittance shall be done at no charge to the taxpayer by the state, the collector, or any taxing authority levying a tax.

(2) A web page through which a secured electronic local sales and use tax return may be filed, which return shall be established by the Department of Revenue.

(3) A system to allow for the remittance of any tax, penalty, interest, or other amounts due.

(4) A system for the transmission and retrieval of the appropriate collector's data and funds to him.

D. (1) Each collector shall provide to the secretary and the advisory committee within ninety days of its written request, or such other time as may be allowed by the advisory committee, the information necessary to design and implement the system provided for in this Section. Each collector shall follow the data validation procedures established by the advisory committee. If the collector fails or refuses to timely provide such information, the secretary and the advisory committee shall design and implement the system from the best information available to them.

(2) Each collector shall provide written notification to the secretary and the advisory committee by certified mail, return receipt requested, of any change in the information provided to it pursuant to Subparagraph (C)(1)(a) thirty days prior to such changes becoming effective, or such other shorter time as may be allowed by the advisory committee. Each collector shall follow the data validation procedures established by the advisory committee.

E. A taxpayer may rely on the information on the uniform electronic local return and remittance system and such reliance shall be an absolute defense against any claim for a taxing authority's sales and use tax.

F. (1) It shall be the duty of the state through the Department of Revenue, with the advice of the advisory committee, to design, implement, and operate the system required by this Section and to provide the staff and equipment necessary to receive and transmit to the collectors the electronic returns and funds.

(2)(a) It shall be the duty of the collector of each parish to provide and make available the appropriate staff, equipment, and information necessary for the receipt and transmission of electronic returns and funds. The Department of Revenue shall not be responsible for any loss of revenue attributable to the failure of a collector to comply with the provisions of this Paragraph.

(b) The advisory committee may determine alternate distribution methods and the appropriate fees to be charged for such methods when a collector fails to comply with the provisions of this Paragraph. The amount of the fee shall not exceed the cost of the alternate distribution method.

G. (1) It is the intention of this Section only to provide to taxpayers a simple, efficient, and cost-effective means of transmitting accurate tax returns and taxes to taxing authorities of the state from a central site in the quickest manner possible. This Section shall not be construed to grant to the advisory committee or the Department of Revenue any authority to collect or administer such taxes. In addition, any funds transmitted through the system as provided for in this Section shall be considered the funds of the taxing authorities to be distributed by the collector in the manner provided by local ordinances and shall not in any way be considered state funds.

(2) The advisory committee shall provide a method for all questions related to the application and interpretation of the sales and use tax law of a particular taxing authority received by the committee or the Department of Revenue to be forwarded to the appropriate collector for response.

H. (1) The uniform electronic local return and remittance system provided in this Section shall become operative on a date that the advisory committee determines such system is ready, but no later than January 1, 2005.

(2) However, the system shall not become operative until all of the following occurs:

(a) Notice is provided to each collector of the date upon which the system is to be operative and the date of the public meeting provided for in Subparagraph (2)(b).

(b) After the notice is provided as required by Subparagraph (2)(a), but in no case less than thirty days before the date the system becomes operative, the advisory committee shall hold a public hearing to receive comments on the system.

I. (1)(a) In addition to the uniform electronic local return and remittance system provided for in this Section, a link shall be created on the Department of Revenue's web site to a web page where the following information provided by the collectors shall be posted:

(i) A list of tax rates.

(ii) A list of the optional exemptions enacted by a tax authority as provided for in R.S. 47:337.10.

(b) The secretary and the advisory committee shall be notified of any changes in such information as provided for in Subsection D of this Section. Each collector shall follow the data validation procedures established by the advisory committee.

(2) The tax rates and optional exemptions posted on the web page as provided for in this Section shall be considered an official record of such tax rates and optional exemptions and any court, whether requested to do so or not, shall take judicial notice thereof. A taxpayer may rely on the optional exemptions and tax rates posted on the web page and such reliance shall be an absolute defense against any claim for a taxing authority's sales and use tax.

J. If the secretary of the Department of Revenue and the commissioner of administration certify to the advisory committee that there was not a separate line item in the general appropriations bill appropriating funds to the Department of Revenue for the design, implementation, and operation of the system provided for in this Section for the fiscal year, or that insufficient funds were appropriated in such line item, then such electronic filing and remittance shall not be available to taxpayers from the first of the month following such certification and the secretary may take such steps as he deems necessary to prevent access to the system until the secretary and the commissioner certify that such funds have been appropriated in a separate line item.

K. (1) Beginning January 1, 2015, the collector for each taxing authority may require the electronic filing and remittance of local sales and use tax by any taxpayer required to electronically file or electronically remit state sales and use tax by the Department of Revenue. If the local collector for a taxing authority chooses the option of requiring the electronic filing and remittance of local sales and use tax returns in accordance with the provisions of this Subsection, then all taxpayers required to collect and remit sales or use tax on taxable events occurring within the jurisdiction of the taxing authority who are required by the Department of Revenue to electronically file and remit such taxes shall file all applicable sales and use tax returns and remittances through the electronic filing options available for such purposes; however, in cases where the taxpayer can show cause that the electronic filing of a return and remittance would create an undue hardship on the taxpayer, the collector for the taxing authority may exempt the taxpayer from the requirements of this Subsection.

(2) Failure of a taxpayer to comply with the electronic filing requirements set forth in this Subsection shall result in the collector for the taxing authority assessing a penalty of one hundred dollars or five percent of the tax owed on the return, whichever is greater; however, the total penalty per return shall not exceed five thousand dollars. The local collector for the taxing authority may waive remittance and payment of the penalty in whole or in part if the local collector determines that the failure to comply by the taxpayer was reasonable and was attributable, not to any negligence on the part of the taxpayer, but for a cause which is submitted to the local collector in writing.

PART F. GENERAL ADMINISTRATIVE ENFORCEMENT

§337.24. Miscellaneous administrative provisions

The following shall continue to be applicable to local sales tax collection and administration:

- (1) Authority provided to the secretary and the city of New Orleans pursuant to R.S. 47:337.16.1 et seq.
- (2) The provisions concerning obtaining a judgment requiring the tax collector of the parish or incorporated town or city to proceed forthwith to collect taxes as provided for in R.S. 33:2842.
- (3) The provisions of R.S. 47:1508 and 1508.1 as they may apply to collectors and taxing authorities.

§337.25. Authority of collectors to sue

Each collector of each taxing authority of this state, who is charged by law with the duty of collecting a tax, shall be the proper party to bring suits in his official capacity for the collection of such taxes.

§337.26. Contracts for purposes relating to collection of sales and use taxes

A. Within the limits provided for in Article VII, Section 3(B) of the Constitution of Louisiana, the governing authority of any taxing authority may contract with the sheriff, the Louisiana Department of Revenue, any political subdivision of this state, or any other agency, whether public or private, for the examination or investigation of the place of business, if any; the tangible personal property; and the books, records, papers, vouchers, accounts, and documents of any taxpayer for the purposes of enforcement and collection of any tax imposed by that taxing authority.

B. Within the limits provided for in Article VII, Section 3(B) of the Constitution of Louisiana, for the purpose of auditing for compliance with local sales and use tax ordinances, any taxing authority or other entity which collects local sales and use taxes may enter into a contract with a private auditing firm and, when so authorized by such contract, such firm may examine or investigate the place of business, if any; the tangible personal property; and the books, records, papers, vouchers, accounts, and documents of any taxpayer. The rate of compensation shall be on an hourly basis, plus reasonable expenses. In addition, all such contracts shall be approved by the majority of the affected taxing authorities.

C.(1) Any private agency or auditing firm hired for the purposes of this Section and any employee, contractor, or other agent of such private agency or auditing firm shall be governed by the provisions of R.S. 47:1508 et seq.

(2)(a) Audit leads provided by the private agency or auditing firm shall be subject to the taxpayer confidentiality requirements of R.S. 47:1508 et seq. Once confidential information has been disclosed by the taxpayer to the private agency or auditing firm, audit leads by such private agency or auditing firm to other local collectors are strictly prohibited under the taxpayer confidentiality requirements of R.S. 47:1508 et seq; however, the taxpayer may voluntarily waive confidentiality requirements in writing, authorizing the examination or audit to be expanded to include additional tax collectors.

(b) Information provided by the private agency or auditing firm to the local collector may be shared by the local collector with other collectors which maintain written reciprocal exchange agreements in accordance with R.S. 47:1508(B)(5).

(3) Notwithstanding any provision of this Section to the contrary, a private agency or auditing firm shall limit its activities to auditing the books and records of the taxpayer and shall not perform any assessment or collection functions, except as otherwise expressly permitted by law.

(4) A lead auditor of a private agency or auditing firm performing an examination or audit function shall possess or have attained any of the following:

- (a) An active certified public accountant license.
- (b) A bachelor's degree with a minimum of eighteen hours of accounting.
- (c) An active certified tax examiner's certificate issued by the Louisiana Association of Tax Administrators.
- (d) A minimum of six years' experience in the field of state or local sales and use tax.

D.(1) Prior to initiating an examination or audit of a taxpayer, the local collector shall provide notice of the intent to audit which shall be sent by certified mail to the taxpayer at the taxpayer's last known address. Such notice shall:

- (a) Reasonably describe the nature of the audit.
- (b) Identify the name, office, address, and office telephone number of the firm or individual who will initiate the audit.
- (c)(i) Advise the taxpayer of the right to review and copy the audit contract if the audit will be conducted by a private auditing firm.
- (ii) If the audit is conducted by a private auditing firm, the notice shall also advise the taxpayer whether the payment of compensation to the private auditing firm is contingent upon the actual collection of tax or in any other way dependent on the outcome of the audit.
- (d) Summarize the remedies available to the taxpayer if the taxpayer should choose to contest the audit findings.
- (e) Describe the interest, penalties, and costs, including audit costs, for which the taxpayer may be liable if taxes are determined to be due.

(2) During the course of the audit, the taxpayer shall be notified of the name, office address, and office telephone number of each auditor assigned to the audit. Private auditing firms shall provide any taxpayer subject to an audit with access to an original or a copy of the audit contract specifying the terms under which the audit firm was engaged, which may be reviewed and copied by the taxpayer.

(3)(a) Upon completion of the audit or examination, all original information obtained by the private agency or auditing firm from the taxpayer in connection with the audit or examination, whether written or in electronic form, shall be returned to the taxpayer, and the private agency or auditing firm shall not retain any copies of such information. All taxpayer related information derived, compiled, or generated by the private agency or auditing firm in any form whatsoever, including audit schedules, working papers, and copies of information received from the taxpayer,

shall be delivered to the tax collector, except to the extent such information may be retained by certified public accountants in accordance with the Louisiana Accountancy Act.

(b) No provision of this Section shall prohibit a private agency or auditing firm from retaining books and records of a taxpayer until the termination of any legal proceedings related to the audit or examination.

(c) The tax collector and the private agency or auditing firm may enter into a written agreement in accordance with this Subparagraph, authorizing such private agency or auditing firm to act as agent for the storage and safekeeping of documents otherwise required to be maintained by the tax collector. Such documents shall be maintained in accordance with R.S. 47:1508 et seq.

E. If the cost of a sales tax compliance audit is to be borne by the taxpayer, pursuant to R.S. 47:337.75, the cost to the taxpayer shall not exceed thirty percent of the amount of the additional taxes determined to be due as the result of the audit.

F. Each contract entered into pursuant to this Section may be subject to review and oversight by the legislative auditor pursuant to R.S. 13:5529. Contracts entered into after July 1, 2010 shall contain a statement by the local collector and private agency or auditing firm certifying that the terms and conditions of the contract are in compliance with the requirements of the provisions of this Section. Any contract that does not satisfy the requirements of this Section may be declared null and void by a court of competent jurisdiction.

G. The private agency or auditing firm hired for the purposes of this Section, including any employee, contractor, or other agent of such private agency or auditing firm conducting such examination or audit, shall be subject to the Code of Governmental Ethics as set forth in R.S. 42:1101 et seq.

§337.27. Venue

An action to enforce the collection of as sales or use tax, including any applicable interest, penalties, or other charges, levied by a taxing authority may be brought in the parish in which the taxing authority is situated, or in the Board of Tax Appeals as provided by law.

§337.28. Collector's authority to determine the tax in certain cases

A. In the event any dealer fails to make a report and pay the tax as provided in this Chapter or in case the dealer makes a grossly incorrect report or a report that is false or fraudulent, the collector shall make an estimate of the retail sales of such dealer for the taxable period, of the gross proceeds from rentals or leases of tangible personal property by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the taxing jurisdiction, and of the gross amounts paid or charged for services taxable; and it shall be the duty of the collector to assess and collect the tax together with any interest and penalty that may have accrued thereon, which assessment shall be considered prima facie correct and the burden to show the contrary shall rest upon the dealer.

B. In the event the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost, then the collector shall ascertain in any manner feasible the true cost price and shall assess and collect the tax, together with any interest and penalties that may have accrued, on the basis of the true cost as assessed by him. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

C. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgment of the collector, represent the true or actual consideration, then the collector is authorized to ascertain in any manner feasible the true or actual consideration and assess and collect the tax thereon together with any interest and penalties that may have accrued. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

D. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the collector may add to the assessment the cost of such examination, together with any penalties accruing thereon.

§337.28.1. Arbitrary assessments prohibited

A. Notwithstanding any provision of this Chapter to the contrary, the collector shall be prohibited from issuing an arbitrary assessment. For purposes of this Chapter, the term "arbitrary assessment" shall mean an estimated assessment issued by the local collector which does not comply with R.S. 47:337.28, 337.48(A), or 337.53. However, no provision of this Chapter shall prevent the collector from determining correct tax as provided for in R.S. 47:337.35. An assessment shall not be considered an "arbitrary assessment" if the taxpayer does not provide records as required by R.S. 47:337.29 and/or R.S. 47:337.36. The taxpayer shall bear the burden of proving that the assessment was not in compliance with the law.

B. If the assessment by the collector is determined by a court of competent jurisdiction or the Board of Tax Appeals to be an arbitrary assessment, the assessment shall neither interrupt nor suspend prescription, and the dealer shall be reimbursed by the collector for reasonable costs of litigation. The amount of costs recoverable under this Section shall not exceed ten percent of the taxes, interest, and penalty that were arbitrarily assessed, which amount shall be subject to the discretion of the court, or the Board of Tax Appeals, as to reasonableness.

C. No assessment shall be made under this Chapter for the purpose of depriving a taxpayer of his constitutional right to a three-year prescriptive period for the assessment of tax in accordance with Article VII, Section 16 of the Constitution of Louisiana.

§337.29. Dealers required to keep records

A.(1) Every dealer required to make a report and pay any tax under this Chapter shall keep and preserve suitable records of the sales, purchases, or leases taxable pursuant to this Chapter, and such other books of accounts as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the collector; and each dealer shall secure, maintain

and keep until the taxes to which they relate have prescribed, a complete record of tangible personal property received, used, sold at retail, distributed, or stored, leased or rented, within the taxing jurisdiction by the said dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the collector for the reasonable administration of the tax, and a complete record of all sales or purchases of services taxable as provided in this Chapter until the taxes to which they relate have prescribed.

(2) These records shall be open for inspection to the collector at all reasonable hours.

(3) The collector is authorized to require all dealers who take deductions on their sales tax returns for total sales under the minimum taxable bracket prescribed pursuant to R.S. 47:304 to support their deductions by keeping written or printed detailed records of said sales in addition to their usual books and accounts.

B. Any dealer subject to the provisions of this Chapter who violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than sixty days, or both, for any such offense.

§337.30. Wholesalers and jobbers required to keep records

A. All wholesale dealers and jobbers in the taxing jurisdiction shall keep a record of all sales of tangible personal property made in the taxing jurisdiction whether such sales be for cash or on terms of credit. These records shall contain and include the name and address of the purchaser, the date of the purchase, the article purchased and the price at which the article is sold to the purchaser. These records shall be kept until the taxes to which they relate have prescribed and shall be open to the inspection of the collector at all reasonable hours.

B. Whoever violates the provisions of this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than ten days nor more than thirty days, or both, for the first offense. For the second or each subsequent offense, the penalty shall be double.

§337.31. Collector's authority to examine records of transportation companies

The collector is specifically authorized to examine at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in the taxing jurisdiction, whether they conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers are importing or are otherwise shipping articles of tangible personal property subject to the tax levied by the local ordinance. When any such transportation company refuses to permit the examination of its records, as provided in this Section, the collector may proceed by rule against it, in term time or in vacation, in any court of competent jurisdiction in the parish where such refusals occurred, to show cause why the collector should not be permitted to examine its books, records or other documents. This rule may be tried in open court or in chambers, and in case the rule is made absolute, the same shall be considered a judgment of the court, and every violation thereof shall be considered as a contempt of court and punished according to law.

§337.32. Failure to pay tax on imported tangible personal property; grounds for attachment

A. The failure of any dealer to pay the tax and any interest, penalties, or costs due on any tangible personal property imported from outside the taxing jurisdiction for use, consumption, distribution or storage to be used in the taxing jurisdiction, or imported for the purpose of leasing or renting the same, shall make the tax, interest, penalties, or costs ipso facto delinquent. This failure shall moreover be a sufficient ground for the attachment of the personal property imported wherever it may be found, whether the delinquent taxpayer is a resident or nonresident, and whether the property is in the possession of the delinquent taxpayer or in the possession of other persons.

B. It is the intention of this law to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by the local ordinance, together with interest, penalties and costs, and authority to attach is hereby specifically granted to the collector. The procedure prescribed by law in attachment proceedings shall be followed except that no bond shall be required of the taxing authority.

§337.33. Failure to pay tax; rule to cease business

A. (1) On motion in a court of competent jurisdiction, the collector may take a rule on a taxpayer, to show cause in not less than two or more than ten days, exclusive of holidays, why the taxpayer should not be ordered to cease from further pursuit of his business for failure to pay to the taxing authority amounts collected from others by his business as sales and use tax, along with any interest, penalty, and costs related to such tax. Such rule may be taken only for amounts due as a result of assessments or judgments which have become final and nonappealable.

(2) This rule may be tried out of term and in chambers, and shall always be tried by preference.

(3)(a) If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the taxing authority, and the court shall enjoin and prohibit the taxpayer from the further pursuit of his business until such time as he has paid the delinquent tax, interest, penalties, and all costs or has entered into an agreement with the collector to do so.

(b) If the collector files a subsequent motion with the court alleging a violation of the injunction, the court shall hold a hearing in not less than two days or more than ten days, exclusive of holidays, to determine whether such violation has occurred. Upon a showing by the collector that there has been a violation of the injunction, the court shall consider the violation to be a contempt of the court and shall punish the violator in accordance with law, and every violation of the injunction shall be considered as a contempt of court.

(4) Whenever the pleadings filed on behalf of the collector shall be accompanied by an affidavit of the collector or of one of his assistants or representatives or of the attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in the pleadings shall be accepted as prima facie true and as constituting a prima facie

case, and the burden of proof to establish anything to the contrary shall rest wholly on the taxpayer.

(5) The collection procedure provided for in this Subsection shall be in addition to any other collection procedure provided by law. When issuing an order pursuant to this Subsection, the Board of Tax Appeals or any court of competent jurisdiction, upon proper showing, may also render a money judgment against the taxpayer and in favor of the collector in the amount of any final and non-appealable assessment, together with all penalties, interest, attorney fees and costs due.

B. Failure to pay any tax due as provided in the local ordinance shall, without demand or putting in default, cause the tax, interest, penalties, and costs to become immediately delinquent and the collector has the authority, on motion in a court of competent jurisdiction, to take a rule on such person, to show cause in not less than two or more than ten days, exclusive of holidays, why such person should not be ordered to cease from further pursuit of business. This rule may be tried out of term and in chambers and shall always be tried by preference. If the rule is made absolute, the order rendered thereon shall be considered a judgment in favor of the taxing authority, prohibiting the person from the further pursuit of said business until he has paid the delinquent tax, interest, penalties, and costs, and every violation of the injunction shall be considered as a contempt of court and punished according to law.

C. For the purpose of the enforcement of the local ordinance and the collection of the tax levied therein, it is presumed that all tangible personal property imported or held in the taxing jurisdiction by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in the taxing jurisdiction, or leased or rented within the taxing jurisdiction, and is subject to the tax herein levied. This presumption shall be prima facie only, and subject to proof furnished to the collector.

D. The provisions of this Section shall not apply if the person has entered into an installment agreement for the payment of delinquent taxes with the collector and is in compliance with the terms of the agreement.

§337.34. Sales returned to dealer; credit or refund of tax

A. Whenever tangible personal property sold is returned to the dealer by the purchaser or consumer or in the event the amount paid or charged for services is refunded or credited to the purchaser or consumer after the tax imposed by the local ordinance has been collected, or charged to the account of the purchaser, consumer, or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the collector; and in case the tax has not been remitted by the dealer to the collector, the dealer may deduct the same in submitting his return. Upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by the signed statement, which period shall not be longer than ninety days, the collector shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for the tax collected. This memorandum shall be accepted by the collector at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of the local ordinance. In cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the collector that the tax paid was not due.

B.(1) Whenever the unpaid balance of an account due to the dealer for the purchase of tangible personal property or the sale of services subject to sales taxation has been found to be bad in accordance with Section 166 of the United States Internal Revenue Code and has actually been charged off for federal income tax purposes, the dealer shall be entitled to reimbursement of the amount of tax previously paid by the dealer on such amounts.

(2) The prescription on such refund or credit shall begin to run from the date of signature on the federal income tax return charging off such debt.

(3) Whenever the balance of an account that had been determined to be worthless and sales tax refunded is recovered at a later date, the payment shall be reported as a new sale in the month recovered for sales tax purposes. The credit or refund shall be granted whenever the Louisiana Department of Revenue has found the dealer to be entitled to reimbursement in accordance with the provisions of Paragraph (B)(1) of this Section.

§337.35. Collector's duty to determine correct tax

A. As soon as practicable after each return or report is filed under any of the provisions of this Chapter, the collector shall cause it to be examined and may make such further audit or investigation as he may deem necessary for the purpose of determining the correct amount of tax.

B. The taxpayer and the collector or his designee may enter into a binding agreement to use a sampling procedure as a basis for projecting audit findings, which may result in either an underpayment or overpayment of tax.

C.(1) Before using a sampling procedure to project the findings of an audit and establish a tax liability, the collector or his designee shall notify the taxpayer in writing of the sampling procedure he intends to use, including but not limited to how the tax will be computed, the population to be sampled, and the type of tax for which the tax liability will be established.

(2) The sampling procedure used shall produce a sample which shall reflect as nearly as possible the normal conditions under which the business was operated during the period to which the audit applies. If either the taxpayer or the collector can demonstrate that a transaction in a sample for a particular time period is not representative of the taxpayer's business operations during that time period, the transaction shall be eliminated from the sample and shall be separately determined in the audit.

(3) If the taxpayer demonstrates that any sampling procedure used by the collector was not developed or applied in accordance with generally recognized sampling techniques, that portion of the audit established by a projection based upon the development or application of the disputed sampling procedure shall be replaced by a projection based upon a new sample that conforms to generally recognized sampling techniques.

(4) Generally recognized sampling techniques and standards set forth by the American Institute of Certified Public Accountants shall be used as guidance in developing audit sampling techniques for purposes of this Section.

§337.36. Power to examine records and premises of taxpayer

For the purpose of administering the provisions of the local ordinance and this Chapter, the collector, whenever he deems it expedient, may make or cause to be made by any of his authorized assistants, an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer. Every taxpayer and every director, officer, agent, or employee of every taxpayer, shall exhibit to the collector or to any of his authorized assistants, the place of business, the tangible personal property and all of the books, records, papers, vouchers, accounts, and documents of the taxpayer and to facilitate any such examination or investigation so far as it may be in his or their power so to do.

§337.37. Retention of records by taxpayers

Notwithstanding any other provision of this Chapter, any document or record which a taxpayer is required to maintain in regard to a tax levied pursuant to the local ordinance, shall be retained by the taxpayer until the tax to which they relate have prescribed.

§337.38. Power to request records in machine-sensible format

If a taxpayer retains records required to be maintained in regard to a tax levied pursuant to this Chapter in machine-sensible and hard-copy formats, the taxpayer shall make the records available to the collector or his designee in the machine-sensible format used by the taxpayer upon request of the collector or his designee.

§337.39. Power to examine the records of third parties

For the purpose of administering the provisions of this Chapter, the collector whenever he deems it expedient may make or cause to be made by any of his authorized assistants, an examination of the books, records, papers, vouchers, accounts and documents of any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, bank, syndicate, or other group or combination, in so far as said books, records, papers, vouchers, accounts, and documents relate to, bear on, associate with, identify, clarify, or disclose, the liability of any person or group made liable for the tax, penalty, and interest imposed by the local ordinance or assist in the enforcement or collection of any such liability. Every individual, director, officer, agent, or employee of such individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, bank, syndicate or other group or combination shall exhibit to the collector or to any of his authorized assistants, the pertinent books, records, papers, vouchers, accounts, and documents and to facilitate any such examination and investigation so far as it may be in his or their power so to do.

§337.40. Power to conduct hearings

The collector or any of his authorized assistants may conduct hearings, administer oaths to, and examine under oath, any taxpayer, and the directors, officers, agents, and employees of any

taxpayer, and any other witnesses, relative to the business of such taxpayer in respect to any matter incident to the administration of the local ordinance and this Part.

§337.41. Power to subpoena witnesses; fees

The collector or any of his authorized assistants may by subpoena compel the attendance of witnesses and production of any books, records, papers, vouchers, or accounts of any taxpayer or any person who the collector has reason to believe has information pertinent to any matter under investigation by the collector at any hearing held pursuant to the provisions of this Part. The fees of witnesses required to attend any such hearing shall be the same as those allowed to witnesses appearing in the district courts. These fees shall be paid in the manner provided for the payment of other expenses incident to the administration of the local ordinance and this Chapter.

§337.42. Notice to attend hearings; how given

The notice or subpoena requiring a person to attend a hearing authorized by this Chapter, to be examined, or to answer any questions or to produce any books, records, papers, vouchers, accounts, or documents shall be given by the collector or any of his authorized assistants, either through personal service on the person and endorsement of such service on the reverse of a copy of such notice, or by sending a notice by registered or certified mail to the last known address of such person. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it was addressed.

§337.43. Procedure to compel witnesses to attend and to testify at hearing

If a person subpoenaed to attend any hearing under this Part refuses to appear, be examined, or answer any questions, or produce any books, records, papers, vouchers, accounts, or documents, pertinent to the matter of inquiry, when subpoenaed so to do by the collector, or any of his authorized assistants, the collector or such assistant, in term time or vacation, may apply to any district court, upon proof by affidavit of such refusal, to make an order returnable in not less than two nor more than ten days, directing such person to show cause before the court why he should not obey the demand of the subpoena. Upon the return of such order, the court before whom the matter comes shall examine the person under oath, and the person shall be given an opportunity to be heard, and if the court determines that he has refused, without legal excuse, to obey the command of the subpoena, or to be examined, or to answer any question, or to produce any books, papers, vouchers, records, accounts, or documents, pertinent to the matter of inquiry, which he was by subpoena commanded to answer or produce, the court may order such person to comply forthwith with such subpoena or order, or to submit to such examination or to answer any such question, and any failure to obey such order of the court may be punished by the court as a contempt of the court.

§337.44. Rule to show cause and examination of judgment debtor

A. Whenever the collector finds that any person has failed to file or refuses to file any return required by any provision of this Chapter, the collector may institute against that person:

(1) A rule to show cause why the return should not be filed, and

(2) A rule to examine a judgment debtor, as provided for in Articles 2452 through 2456, Louisiana Code of Civil Procedure where the tax due has been duly and finally assessed as otherwise provided.

B. The proceedings outlined herein shall be consistent with Article 2592 of Louisiana Code of Civil Procedure.

§337.45. Alternative remedies for the collection of taxes

A. In addition to following any of the special remedies provided in this Chapter, the collector may, in his discretion, proceed to enforce the collection of any taxes due under the local ordinance by means of any of the following alternative remedies or procedures:

(1) Assessment and distraint, as provided in R.S. 47:337.48 through 337.60.

(2) Summary court proceeding, as provided in R.S. 47:337.61.

(3) Ordinary suit under the provisions of the general laws regulating actions for the enforcement of obligations.

(4) Demand in reconvention, or third-party demand, in any court of competent jurisdiction or before the Board of Tax Appeals concerning collection of local taxes due, including any related interest, penalties, costs, and attorney fees due under applicable law.

B. (1) The collector may choose which of these procedures he will pursue in each case, and the counter-remedies and delays to which the taxpayer will be entitled will be only those which are not inconsistent with the proceeding initiated by the collector, provided that in every case the taxpayer shall be entitled to proceed under R.S. 47:337.63, except in the following circumstances:

(a) After he has filed a petition with the Board of Tax Appeals for a redetermination of the assessment.

(b) When an assessment for the tax in question has become final.

(c) After the deadline to file an answer or defenses, after he has appeared or he has filed any responsive pleading or defenses in any proceeding or suit involving the same tax obligation pending against him.

(d) When an incidental demand for the same tax obligation is pending against him in a suit by the collector concerning collection of the same tax obligation.

(2) The fact that the collector has initiated proceedings under the assessment and distraint procedure will not preclude him from thereafter proceeding by summary or ordinary court proceedings for the enforcement of the same tax obligation.

§337.46. Special authority to enforce collection of taxes collected or withheld; personal liability of certain officers and directors

A. Notwithstanding any other provision of law to the contrary, if any corporation, limited liability company, or limited partnership fails to file returns or to remit the sales and use taxes collected from purchasers or consumers under the local ordinance and this Chapter, the collector is authorized, as an alternative means of enforcing collection, to hold those officers or directors, or those managers or members as defined in R.S. 12:1301(A)(12) and (13), having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes and who willfully fail to remit or account for such taxes collected, personally liable for the total amount of such taxes collected, and not accounted for or not remitted, together with any interest, penalties, and fees accruing thereon. Collection of the total amount due may be made from any one or any combination of such officers or directors, or managers or members as defined in R.S. 12:1301(A)(12) and (13), who willfully fail to remit or account for such taxes collected, by use of any of the alternative remedies for the collection of taxes as provided in R.S. 47:337.45.

B. A corporation, limited liability company, or limited partnership by resolution of the board of directors or members may designate an officer or director, or a manager or member as defined in R.S. 12:1301(A)(12) and (13) having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes, and such resolution shall be filed with the secretary of state.

§337.47. Special authority to recover rebates

A. Rebates previously granted to a taxpayer, but later disallowed, may be recovered by the collector through any collection remedy authorized by R.S. 47:337.45 and initiated within the latter of any of the following:

- (1) Two years from December thirty-first of the year in which the rebate or refundable tax credit was paid.
- (2) Three years from December thirty-first of the year in which the taxes for the filing period were due.
- (3) The time period for which prescription has been extended, as provided by R.S. 47:337.67.

B. The only interest which may be assessed and collected on recovered rebates is interest at a rate three percentage points above the rate provided in Civil Code Article 2924(B)(1), which shall be computed beginning on the date one year after the date of issuance of the rebate to the date payment is received by the collector.

C. The provisions of this Section are in addition to and shall not limit the authority of the collector to assess or to collect under any other provision of law.

§337.48. Determination and notice of tax due

A. (1) If a taxpayer fails to make and file any return or report required by the provisions of the local ordinance and this Chapter, the collector shall determine the tax, penalty, and interest due by estimate or otherwise. Having determined the amount of tax, penalty, and interest due, the collector shall send by mail a notice to the taxpayer at the address given in the last report filed by him pursuant to the provisions of this Chapter, or to any address that may be obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the U.S. Postal Service or from U.S. Postal

Service certified software, setting out his determination and informing the person of his purpose to assess the amount so determined against him after fifteen calendar days from the date of the notice.

(2) Notwithstanding any other provision of law to the contrary, a notice issued pursuant to Paragraph (1) of this Subsection to a taxpayer or dealer who fails to make and file any required report or return shall not be appealable to the Board of Tax Appeals for redetermination of the notice of tax due issued pursuant to this Section when the notice is solely for the periods and is in the amount stated on the notice transmitted to such taxpayer or dealer pursuant to Paragraph (1) of this Subsection. Nothing in this Paragraph shall prohibit any taxpayer or dealer from proceeding to file suit pursuant to R.S. 47:337.63 or 337.64, or any other applicable law.

B. If a return or report made and filed does not correctly compute the liability of the taxpayer, the collector shall cause an audit, investigation, or examination, as provided for by R.S. 47:337.35, to be made to determine the tax, penalty, and interest due. Having determined the amount of tax, penalty, and interest due, the collector shall send by mail a notice to the taxpayer at the address given in the last report filed by him pursuant to the provisions of this Chapter, or to any address that may be obtainable from the U.S. Postal Service or from U.S. Postal Service certified software, setting out his determination and informing the person of his purpose to assess the amount so determined against him after thirty calendar days from the date of the notice.

§337.49. Protest to collector's determination of tax due

The taxpayer, within fifteen calendar days from the date of the notice provided in R.S. 47:337.48(A) or within thirty calendar days from the date of the notice provided in R.S. 47:337.48(B), may protest thereto. This protest must be in writing and should fully disclose the reasons, together with facts and figures in substantiation thereof, for objecting to the collector's determination. The collector shall consider the protest, and shall grant a hearing thereon, before making a final determination of tax, penalty, and interest due.

§337.50. Assessment of tax, interest, and penalties

A. At the expiration of fifteen calendar days from the date of the collector's notice provided in R.S. 47:337.48(A), or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty, and interest that he determines to be due under the provisions of the local ordinance and this Chapter. The assessment shall be evidenced by a writing in any form suitable to the collector, which sets forth the name of the taxpayer, the amount determined to be due, the kind of tax, and the taxable period for which it is due. This writing shall be retained as a part of the collector's official records. The assessment may confirm or modify the collector's originally proposed assessment.

B. At the expiration of thirty calendar days from the date of the collector's notice provided in R.S. 47:337.48(B), or at the expiration of such time as may be necessary for the collector to consider any protest filed to such notice, the collector shall proceed to assess the tax, penalty, and interest that he determines to be due under the provisions of the local ordinance and this Chapter. The assessment shall be evidenced by a writing in any form suitable to the collector,

which sets forth the name of the taxpayer, the amount determined to be due, the kind of tax, and the taxable period for which it is due. This writing shall be retained as a part of the collector's official records. The assessment may confirm or modify the collector's originally proposed assessment.

§337.51. Notice of assessment and right to appeal

A. (1) Having assessed the amount determined to be due, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. This notice shall inform the taxpayer of the assessment and that he has thirty calendar days from the date of the notice to do any of the following:

- (a) Pay the amount of the assessment.
- (b) Appeal to the Board of Tax Appeals for redetermination of the assessment.
- (c) Pay under protest in accordance with R.S. 47:337.63, and then either file suit or file a petition with the Board of Tax Appeals, all as provided for in that Section.

(2) If no report has been timely filed, the collector shall send a notice by certified mail to the taxpayer against whom the assessment is imposed at any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. This notice shall inform the taxpayer of the assessment and that he has thirty calendar days from the date of the notice to do either of the following:

- (a) Pay the amount of the assessment.
- (b) Pay under protest in accordance with R.S. 47:337.63 and then either file suit or file a petition with the Board of Tax Appeals, all as provided for in that Section.

(3) If the taxpayer has not paid under protest in accordance with the provisions of R.S. 47:337.63, or pursued an alternative remedy in accordance with R.S. 47:337.64, or filed an appeal with the Board of Tax Appeals within the thirty-day period provided for in Paragraph (1) of this Subsection, the assessment shall be final and shall be collectible by distraint and sale as provided in this Part. If an appeal for a redetermination of the assessment has been timely and properly filed, the assessment shall not be collectible by distraint and sale until such time as the assessment has been redetermined or affirmed by the Board of Tax Appeals or the court which last reviews the matter.

B. If any dealer disputes any findings or assessment of the collector, he may, within thirty days of the receipt of notice of the assessment or finding, do any of the following:

(1)(a) File an appeal from the decision of the collector directed to the Board of Tax Appeals.

(b) Pay under protest in accordance with R.S. 47:337.63, and either file suit as provided for in that Section, or file a petition with the Board of Tax Appeals, as provided in that Section.

(2) This Section shall afford a legal remedy and right of action in the Board of Tax Appeals, or in any state, city, or federal court having jurisdiction of the parties and subject matter for a full and complete adjudication of any and all questions arising in the enforcement of the local ordinance and this Chapter as to the legality of any tax accrued or accruing or the method of enforcement thereof. If an appeal for a redetermination of the assessment has been timely and properly filed with the Board of Tax Appeals pursuant to Subparagraph (1)(a) of this Subsection, the assessment shall not be collectible by distraint and sale until the assessment has been redetermined or affirmed by the Board of Tax Appeals or the court which last reviews the matter.

(3) A notice of tax due issued pursuant to the provisions of R.S. 47:337.48 shall not constitute a finding for purposes of this Subsection.

(4) A collector may send to a dealer by regular mail a letter addressed in the same manner as provided in Subsection A of this Section to advise the dealer that the failure to collect certified or registered mail sent by the collector may result in the loss of appeal rights concerning the uncollected notice of assessment. If the collector mails this letter on the same date as the collector mails a notice of assessment, any notice of assessment returned to the collector because a dealer failed to collect it following attempted delivery by the United States Postal Service shall be deemed to have been received by the dealer for the purposes of this Subsection on the date that the United States Postal Service record indicates that the United States Postal Service first attempted to deliver the notice of assessment to the dealer. A certificate of mailing or other proof of mailing from the United States Postal Service shall establish that this letter was transmitted by regular mail.

C. (1) No assessment made by the collector shall be final if it is determined that the assessment was based on an error of fact or of law. An "error of fact" for this purpose means facts material to the assessment assumed by the collector at the time of the assessment to be true but which subsequently are determined by the collector to be false. "Error of law" for this purpose means that in making the assessment the collector applied the law contrary to the construction followed by the collector in making other assessments.

(2) The determination of an error of fact or of law under this Subsection shall be solely that of the collector, and no action against the collector with respect to the determination shall be brought in any court, including the Board of Tax Appeals, and no court shall have jurisdiction of any such action, it being the intent of this Subsection only to permit the collector to correct manifest errors of fact or in the application of the law made by the collector in making the assessment; however, all reductions of assessments based on such errors, except estimated assessments made due to the failure of the taxpayer to file a proper tax return, must be approved and signed by the collector. Estimated assessments made due to the failure of the taxpayer to file a proper tax return may be corrected by the acceptance of the proper tax return and must be approved by the collector or his designee.

§337.52. Waiver of restrictions and delays

The taxpayer shall at any time have the right, by a signed notice in writing filed with the collector, to waive the restrictions and delays prescribed in R.S. 47:337.48 through 337.51 which

must ordinarily be observed before an assessment may become final. When such a waiver is executed, the assessment is final when made and is immediately collectible by distraint and sale.

§337.53. Assessment and notice when tax is in jeopardy

A. If the collector finds that a taxpayer designs quickly to depart from the taxing jurisdiction, or to remove therefrom any property subject to any tax or to any lien for a tax, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, he may immediately make a determination, from any available information or by estimate or otherwise, of the amount of tax, penalty, and interest such taxpayer is liable to pay. Having made such determination, the collector shall immediately assess said amount, and by a writing to be retained as part of his official records, indicate such assessment has been made, and without any notice, proceed to distraint, in the manner as hereinafter provided, any property belonging to the taxpayer. This type of assessment may be made whenever a tax becomes due under the provisions of this Chapter, regardless of whether it is then payable or not.

B. As soon as is feasible after such assessment, and not later than two calendar days thereafter, the collector shall send by certified mail a notice to the taxpayer against whom the assessment lies, at the address given in the last report filed by said taxpayer, or to any such address as may be obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software. Such notice shall inform the taxpayer of the assessment, its basis, and jeopardous nature; make demand for immediate payment thereof; and give notice that any property distrained or to be distrained will be subject to sale as provided in this Chapter to satisfy the assessment.

C. The taxpayer against whom the assessment lies can stay distraint of his property, or sale of his property already distrained, as the case may be, only by the immediate payment of the assessment or by posting with the collector a surety bond for twice the amount of such assessment, or of a lower amount acceptable to the collector, with such sureties as the collector deems necessary. The taxpayer shall have sixty calendar days from the date of payment, or the date of posting bond, to appeal to the Board of Tax Appeals for a redetermination of the assessment. During this period, the collector shall hold any payment made in an escrow account. If the taxpayer does not appeal, the collector shall immediately credit such payment to tax collections or proceed to collect from sureties, if any were given. In the event of an appeal, such payment or demand for payment from sureties given shall be held in abeyance pending the redetermination or affirmation of the assessment by the Board of Tax Appeals or the court which last reviews the matter. Final payment, or collection from sureties, will be for the amount of the affirmed or redetermined assessment.

§337.54. Assessment and claims in bankruptcy and receivership

Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding, or the appointment of a receiver for any taxpayer in a receivership proceeding, before any court of this state or of the United States, the collector may immediately make a determination from any available information or by estimate or otherwise, of the amount of tax, penalty and interest the taxpayer is liable to pay and immediately assess this amount, and by a writing to be retained as a part of his official records indicate that such assessment has been made. Such assessment may be made whenever a tax becomes due under the provisions of this Chapter, regardless of whether it is then payable or not. Claims for such assessments, and additional interest and attorney fees

thereon, shall be presented for adjudication in accordance with law to the court before which the bankruptcy or receivership proceeding is pending despite the pendency of delays before assessment provided in R.S. 47:337.48 through 337.51, or the pendency of an appeal to the collector, the Board of Tax Appeals, or the courts for a redetermination. However, no petition for the redetermination of an assessment shall be filed with the collector, the Board of Tax Appeals, or the courts after an adjudication of bankruptcy or the appointment of a receiver, unless the petition is accompanied by a certified copy of an order of the court before which the bankruptcy or receivership proceedings is pending, authorizing the trustee or receiver to prosecute such appeal.

§337.55. Assessment of tax shown on face of taxpayer's returns

A. Whenever a taxpayer files returns and computes the amount of any tax due, such tax together with any penalty and interest due or accruing thereon, whether computed or not, shall be considered assessed and shall be entered by the collector as an assessment in his official records without the necessity of observing the delays or giving the notice ordinarily required prior to assessment.

B. If the taxpayer fails to accompany his return filed with a proper payment, as required by this Chapter, the collector shall immediately send a notice by mail to such person, addressed to the address appearing on the return or to any available address, informing him of the amount due, or the balance of the amount due if a partial payment has been made, and demanding payment of such amount within ten calendar days from the date of the notice. If payment has not been received at the expiration of such time, the assessment shall be collectible by distraint and sale as is hereinafter provided.

C. Nothing in this Section shall be construed as denying the right of the taxpayer to pay the assessment under protest or to claim a refund of the assessment after payment, all in a manner as is hereinafter set out in this Chapter.

§337.56. Collection by distraint and sale authorized

When any taxpayer fails to pay any tax, penalty, and interest assessed, the collector may proceed to enforce the collection thereof by distraint and sale.

§337.57. Distraint defined

A. The words "distraint" or "distrain" as used in this Chapter shall be construed to mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, of any property or rights to property of the taxpayer including goods, chattels, effects, stocks, securities, bank accounts, evidences of debt, wages, real estate and other forms of property, by the collector or his authorized assistants, for the purpose of satisfying any assessment of tax, penalty or interest due.

B. Property exempt from seizure as provided by law is exempt from distraint and sale herein.

§337.58. Distraint procedure

Whenever the collector or his authorized assistants shall distraint any property of a taxpayer, he shall cause to be made a list of the property or effects distrained, a copy of which signed by the collector or his authorized assistants shall be sent by certified mail or registered mail to the taxpayer at his last known residence or business address, or served on the taxpayer in person. This list shall be accompanied with a note of the sum demanded and a notice of the time and place where the property will be sold. Thereafter, the collector shall cause a notice to be published in the official journal of the parish wherein the distraint is made, specifying the property distrained, and the time and place of sale. The sale shall be held not less than fifteen calendar days from the date of the notice mailed or served on the taxpayer or the date of publication in the official journal, whichever is later. The collector may postpone such sale from time to time, if he deems it advisable, but not for a time to exceed thirty calendar days in all. If the sale is continued to a new date, it shall be readvertised.

§337.59. Surrender of property subject to distraint

Any person subject to distraint, or upon whom a levy has been served, shall, upon demand by the collector or his authorized assistants making such levy, surrender such property, or rights to property of which he is in possession, or which he subsequently comes into possession, until such time as the levy is recalled, subject to distraint, to the collector or his authorized assistant, unless such property or right is, at the time of demand, subject to an attachment or execution under any judicial process. Any such person failing or refusing to surrender any such property or rights shall be liable to the taxing authority in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalties, and interest and other costs and charges which are due.

§337.60. Sale of distrained property

A. After notifying all reasonably ascertainable interested third parties, the collector or his authorized assistants shall sell at public auction for cash to the highest bidder so much of the property distrained by him as may be sufficient to satisfy the tax, penalties, interest, and costs due. The property shall not be sold if the price to the highest bidder is less than two-thirds of the appraised value. In that case, the collector shall readvertise the sale of the property in the same manner as the original sale, and the same delays must elapse. At the second offering, the property shall be sold for cash at whatever price it will bring. He shall give to the purchaser a certificate of sale which will be prima facie evidence of the right of the collector to make the sale, and conclusive evidence of the regularity of his proceedings in making the sale, and which will transfer to the purchaser merchantable title in and to the property sold.

B. The purchaser shall be liable for nothing beyond the purchase price. He shall pay the full purchase price to the collector despite the existence of any mortgage, lien, or privilege on the property inferior in rank to that of the taxing authorities.

C. The collector shall give the purchaser a release from the security interest, mortgage, lien, or privilege of the taxing authorities and from all inferior security interests, mortgages, liens, and privileges, and shall direct the recorder of mortgages or proper filing officer to cancel their inscriptions insofar as they affect the property sold, and no further. All writings affecting the

property which were recorded prior to distraint of the property shall not be affected by the sale of the property by the collector pursuant to this Chapter.

D. The collector shall pay or cause to be paid the inferior security interests, mortgages, liens, and privileges, after payment of the costs and the amount due the taxing authorities. When the sum remaining after payment of the cost and the amount due the taxing authorities is insufficient to pay such inferior claims in full, the collector shall deposit the remainder with the court and proceed by contradictory motion against the inferior creditors to have their claims referred to in the proceeds of the sale.

§337.61. Collection by summary court proceeding authorized

In addition to any other procedure provided in this Chapter or elsewhere in the laws of this state, and for the purpose of facilitating and expediting the determination and trial of all claims for taxes, penalties, interest, attorney fees, or other costs and charges arising, there is hereby provided a summary proceeding for the hearing and determination of all claims by or on behalf of the taxing authority, or by or on behalf of the collector, for taxes and for the penalties, interest, attorney fees, costs or other charges due thereon, by preference in all courts, all as follows:

(1) All such proceedings, whether original or by intervention or third opposition or otherwise, brought by or on behalf of the taxing authority, or by or on behalf of the collector, for the determination or collection of any tax, interest, penalty, attorney fees, costs or other charge claimed to be due shall be summary and shall always be tried or heard by preference, in all courts, original and appellate, whether in or out of term time, and either in open court or chambers, at such time as may be fixed by the court, which shall be not less than two nor more than ten days after notice to the defendant or opposing party.

(2) All defenses, whether by exception or to the merits, made or intended to be made to any such claim, must be presented at one time and filed in the court of original jurisdiction prior to the time fixed for the hearing, and no court shall consider any defense unless so presented and filed. This provision shall be construed to deny to any court the right to extend the time for pleading defenses, and no continuance shall be granted by any court to any defendant except for legal grounds set forth in the Louisiana Code of Civil Procedure.

(3) That all matters involving any such claim shall be decided within forty-eight hours after submission, whether in term time or in vacation, and whether in the court of first instance or in an appellate court, and all judgments sustaining any such claim shall be rendered and signed the same day, and shall become final and executory on the fifth calendar day after rendition. No new trial, rehearing or devolutive appeal shall be allowed. Suspensive appeals may be granted, but must be perfected within five calendar days from the rendition of the judgment by giving of bond, with good and solvent security, in a sum double that of the total amount of the judgment, including costs. Such appeals, whether to a court of appeal or to the supreme court, shall be made returnable in not more than fifteen calendar days from the rendition of the judgment.

(4) Whenever the pleadings filed on behalf of the taxing authority, or on behalf of the collector, shall be accompanied by an affidavit of the collector or of one of his assistants or representatives

or of the counsel or attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in said pleadings shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the defendant or opposing party.

§337.62. Injunctions prohibited

No court of this state shall issue any process whatsoever to restrain the collection of any tax, penalty, interest, or other charge imposed.

§337.63. Remittance of tax under protest; suits to recover

A. (1)(a) Any taxpayer protesting the payment of any amount found due by the collector or the enforcement of any provision of law in relation thereto shall remit to the collector the amount due and at that time shall give notice of intention to file suit for the recovery of such tax or shall remit to the collector the amount due, and at that time give notice of intention to file a petition with the Board of Tax Appeals, as provided in this Section.

(b) In the case of sales or use taxes that are required to be collected and remitted by a selling dealer as provided for in R.S. 47:337.17, the purchaser, in order to avail himself of the alternative remedy provided by this Section, shall remit protested sales or use tax to the selling dealer, and shall retain copies of documentation evidencing the amount of the sales or use tax paid to the dealer on the transactions. On or before the twentieth day of the month following the month of the transactions on which the selling dealer charged the tax, the purchaser shall inform the collector by certified mail or other reasonable means of the dates and amounts of the protested taxes that were charged by the selling dealer, and shall give notice of the purchaser's intention to file suit for recovery of the tax or to file a petition for recovery of the tax with the Board of Tax Appeals, as provided by law.

(2) Upon receipt of this notice, the amount remitted to the collector or the amount of protested taxes that have been paid to the selling dealer shall be placed in an escrow account and held by the collector or his duly authorized representative for a period of thirty days. If suit is filed for recovery of the tax or a petition is filed with the Board of Tax Appeals for recovery of the tax, within the thirty-day period, the funds in the escrow account shall be further held pending the outcome of the suit or petition with the Board of Tax Appeals or appeal therefrom.

(3) To the extent the taxpayer prevails, the collector shall refund the amount to the claimant, with interest at the rate established pursuant to R.S. 47:337.80, except as provided in Subsection F of this Section.

B. (1) This Section shall afford a legal remedy and right of action in the Board of Tax Appeals as provided in this Section, or in any state court having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of the sales and use tax of a taxing authority as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such action, service of process upon the collector shall be sufficient service, and he shall be the sole necessary and proper party defendant in any such suit. (2) If the collector files suit against a taxpayer in district court pursuant to R.S. 47:337.45(A)(3), and the taxpayer timely pays under protest, the district court shall retain exclusive jurisdiction to adjudicate the matter to final judgment.

C. This Section shall be construed to provide a legal remedy in the state courts in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or the Constitution of Louisiana.

D. Upon request of a taxpayer and upon proper showing by such taxpayer that the principle of law involved in an additional assessment is already pending before the courts for judicial determination or before the Board of Tax Appeals, the taxpayer, upon agreement to abide by the decision of the courts, the Board of Tax Appeals, or by a final judgment of a court upon a timely appeal of a decision of the Board of Tax Appeals, may remit the additional assessment under protest, but need not file an additional suit or petition. In such cases, the tax so paid under protest shall be placed in an escrow account and held by the collector until the question of law involved has been determined by the courts, the Board of Tax Appeals, or by a final judgment of a court upon a timely appeal of a decision of the Board of Tax Appeals, and shall then be disposed of as therein provided.

E. When the collector has pursued collection of taxes pursuant to any remedy provided for in R.S. 47:337.45(A)(2) or (3) and the taxpayer has made a timely payment under protest concerning the same tax obligation, and if the collector has deposited the monies into an interest-bearing account in accordance with this Section, the interest to be paid on the tax obligation to the party or parties adjudged to be entitled to the interest shall be that interest actually earned and received by the collector on the payment.

§337.64. Alternative remedy for dealers

A. Any taxpayer who has received a notice of assessment for sales and use taxes from any collector or taxing authority and whose remedy is to make a payment under protest may in lieu thereof comply with the alternative provisions of this Section, rather than making a payment under protest.

B. (1) If the taxpayer files suit in any state court of competent jurisdiction, or a petition with the Board of Tax Appeals, contesting the assessment within the time provided by law and satisfies the alternative remedies provided for in Subsection C of this Section, no collection action shall be taken in connection with the assessment of taxes, interest, and penalties, which are the subject of the taxpayer's suit; however, the collector shall be permitted to file a reconventional demand against the taxpayer in such suit.

(2) If a valid petition contesting an assessment is timely filed with the Board of Tax Appeals pursuant to Paragraph (1) of this Subsection, the Board of Tax Appeals shall exercise the authority provided for in Subsection C of this Section in the same manner as a district court.

C. (1)(a) The taxpayer may file with the court a rule to set bond or other security, which shall be set for hearing within thirty days of the filing of the rule to set bond or other security and shall attach to the petition evidence of the taxpayer's ability to post bond or other security.

(b) The term "other security" as set forth in this Section shall include but not be limited to a pledge, collateral assignment, lien, mortgage, factoring of accounts receivable, or other encumbrance of assets.

(2) The court may either order the posting of commercial bond or other security in an amount

determined by the court not to be less than the amount of unpaid taxes, interest, and penalties demanded in the assessment or may order the taxpayer to make a payment under protest pursuant to the provisions of state law and this Chapter in the amount of such unpaid taxes, interest, and penalties. The court may order that a portion of the unpaid taxes, interest, and penalties be paid under protest and the balance secured by the posting of a bond or other security as provided herein.

(3) The posting of such bond or other security or the payment under protest shall be made no later than thirty days after the mailing of the notice of the decision of the court authorizing the posting of bond or other security or requiring that a payment under protest be made.

(4) If the taxpayer timely files the suit referred to herein, no collection action shall be taken in connection with the assessment of taxes, interest, and penalties, which are the subject of the taxpayer's suit, unless the taxpayer fails to post bond or other security or make the payment under protest required by the court; however, the collector shall be permitted to file a reconventional demand against the taxpayer in such suit.

(5) To the extent not inconsistent with this Section, the nature and amount of the bond or security and the procedures for posting bond or providing other security shall be consistent with the provisions for providing security in connection with a suspensive appeal under the Code of Civil Procedure.

§337.65. Tax obligation to constitute a lien, privilege and mortgage

Except as is specifically provided in the laws regulating building and loan associations, any tax, penalty, interest, attorney fees, or other costs due shall operate as a lien, privilege and mortgage on all of the property of the tax debtor, both movable and immovable, which said lien, privilege and mortgage shall be enforceable in any court of competent jurisdiction in an action, at law, or may be enforced as otherwise provided by this Chapter. The collector may cause notice of such lien, privilege and mortgage to be recorded at any time after the tax becomes due, whether assessed or not, and regardless of whether or not then payable, in the mortgage records of any parish wherein the collector has reason to believe the tax debtor owns property. The lien, privilege and mortgage created by this Section shall affect third parties only from the date of recordation and shall take their respective ranks by virtue of recordation.

§337.66. Cancellation of lien, privilege, and mortgage

A. In any case where the tax, penalty, or interest secured by a recorded lien, privilege, and mortgage have been paid, the collector or his authorized assistants or attorneys may authorize the cancellation thereof.

B. In other cases, the collector may authorize the cancellation or release of a lien, privilege, or mortgage subject to the following terms and conditions:

(1) The collector, upon application of a taxpayer, may authorize the cancellation of any lien, privilege, or mortgage or other encumbrance recorded by virtue of this Chapter, provided the taxpayer furnishes a surety bond in favor of the collector executed by a surety company duly qualified to do business in this state in an amount of not less than one and one-half times the amount of the obligation due, including penalties, interest, and other costs incurred.

(2) The collector may authorize the release of any real property from the effect and operation of any lien, privilege, mortgage, or other encumbrance, recorded by virtue of this Chapter, provided that the collector is satisfied that the remaining real property belonging to the tax debtor and

upon which said lien, privilege, and mortgage bears, is valued at not less than the amount of the remaining tax obligation, including all penalties, interest and other costs incurred, and the amount of all prior liens upon such property. In determining the value of the remaining property, due consideration shall be given to prior ranking encumbrances, if any exist on said property.

(3) The collector may issue a certificate of release of any part of the property subject to any lien, privilege, mortgage, or other encumbrance recorded by virtue of this Chapter, if there is paid over to the collector in part satisfaction of liability an amount determined by the collector, which shall not be less than the value of the interest of the taxing authorities in the part to be so released.

§337.67. Suspension and interruption of prescription

A. Sales and use taxes levied by any political subdivision shall prescribe as of three years from the thirty-first day of December of the year in which such taxes became due.

B. The prescriptive period running against any such sales and use tax shall be interrupted by any of the following:

(1) The action of the collector in assessing the amounts of such taxes in the manner provided by law.

(2) The filing of a summary proceeding in court.

(3) The filing of any pleading, either by the collector or the taxpayer, with the Board of Tax Appeals or with any state or federal court.

(4) The filing of a false or fraudulent return.

(5) The failure to file a return, with the intent to defraud.

C. The running of such prescriptive period may also be suspended as follows:

(1) By means of a written agreement between the taxpayer and the collector made prior to the lapse of such period.

(2) With respect to bankruptcy, for any period from the time the taxpayer files for bankruptcy until six months after the bankruptcy case is closed.

(3) By the filing of a claim for refund as to the period for which a refund is requested, which shall suspend prescription for the same period for the collector to determine whether the taxpayer owes any other liability for the same type of tax under the provisions of R.S. 47:337.78.

D. (1) The failure to file any return required to be filed by this Chapter shall interrupt the running of prescription, and prescription shall not commence to run again until the subsequent filing of such return. Once prescription commences to run, the tax, interest, and penalty, or other charge

which is reported on such return shall prescribe in three years after the thirty-first day of December of the year of the filing of the return.

(2) However, if a taxpayer who does not file a tax return required to be filed by this Chapter later becomes responsible for the filing of such return due to a decision of the Board of Tax Appeals which has become final, or due to a final court decision which renders a transaction or other activity as taxable, and the laws, regulations, or jurisprudence of this state previously classified that transaction or other activity as nontaxable, this provision shall not apply and prescription shall run as if the taxpayer had timely filed the return.

(3) The interruption of the running of prescription due to the failure to file a return reporting a tax shall not apply to any tax periods for which the collector and the taxpayer have entered into a valid and enforceable voluntary disclosure agreement.

(4) The provisions of the Subsection shall apply only to use tax returns when the amount due exceeds five hundred dollars for the tax levied.

§337.68. Prescription of assessments as judgments

Any tax, penalty, interest, or other charges duly assessed under this Chapter, being the equivalent of a judgment, shall not be subject to the running of any prescription other than such prescription as would run against a judgment in favor of the state of Louisiana in accordance with the constitution and laws of this state; and the recordation of such assessment shall have the same effect as the recordation of a judgment.

§337.69. Interest on unpaid taxes

A. When any taxpayer fails to pay a tax, or any portion thereof, on or before the day where it is required to be paid under the provisions of this Chapter, interest shall be added to the amount of tax due. Such interest shall be computed from the due date until the tax is paid. The interest shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due and can be enforced in a separate action or in the same action for collection of the tax and shall not be waived or remitted.

B. Notwithstanding any provision of this Section or of this Chapter, the interest on any amount of tax outstanding on a specific date shall be computed at the rate applicable on such date.

C. (1) In any case where the collector pursues any remedy for collection of tax pursuant to R.S. 47:337.45, including the issuance of an assessment, the period of prescription for a refund or credit for the same tax periods and types of tax shall be suspended. However, the suspension of prescription provided for in this Subsection applies only in the following circumstances:

(a) When an assessment has been issued and the taxpayer has submitted a refund claim that is received by the collector prior to the assessment becoming final.

(b) When a summary proceeding has been filed and the taxpayer has timely pleaded the claim for refund as an offset or credit in the summary proceeding.

(c) When an ordinary suit has been filed and the taxpayer has filed a timely reconventional demand for the refund or credit in the suit.

(2) If the refund claim would have been prescribed but for this Subsection, the amount of the claim found to be due shall be credited or offset against the underpaid tax found to be due.

(3) Prescription shall not be suspended by the provisions of Paragraph (1) of this Subsection if any of the following occur:

(a) An assessment has become final and nonappealable.

(b) A judgment of the Board of Tax Appeals concerning the collection remedy referenced in Paragraph (1) of this Subsection has become final.

(c) A final judgment has been rendered by a district court in a related summary or ordinary proceeding.

§337.70. Penalty for failure to make timely return

A.(1) When any taxpayer fails to make and file any return required to be made under the provisions of this Chapter before the time that the return becomes delinquent or when any taxpayer fails to timely remit to the collector the total amount of tax that is due on a return which he has filed, there shall be imposed, in addition to any other penalties provided, a specific penalty to be added to the tax.

(2) In the case of the filing of a return without remittance of the full amount due, the specific penalty imposed by this Paragraph for each thirty-day period shall be calculated only on the additional amount due from the taxpayer after the deduction of payments timely submitted, or submitted during any preceding thirty-day period. The penalty provided by this Paragraph shall not be imposed for any thirty-day period for which a penalty for failure to file a tax return or for filing after the return becomes delinquent is assessed.

(3) The penalties provided for in this Subsection shall not be imposed for more than five thirty-day periods in total for each tax return required to be filed.

B. The penalties provided for by this Section shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

C. (1) Notwithstanding any other provision of the law to the contrary, any exemption granted to a taxpayer under a tax incentive contract except a contract granted pursuant to Article VII, Section 21(F) of the Constitution of Louisiana shall be suspended if at any time during the contract there is a final, nonappealable judgment against the taxpayer for nonpayment of taxes.

(2) The collector shall send a notice by certified mail to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity which will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from the United States Postal Service certified software informing him of the following:

(a) That there is a final, nonappealable judgment against him for nonpayment of taxes.

(b) That he has thirty days from the date of the notice to pay the tax, penalty, and interest due or the exemptions granted under the tax incentive contract will be suspended.

(c) That the suspension will continue until the tax, penalty, and interest due under the final, nonappealable judgment are paid in full.

(3) The provisions of this Section shall not apply if the taxpayer has paid the amount due under protest in accordance with R.S. 47:337.63 or has entered into an installment agreement with the department for the payment of the amount due and is in compliance with the terms of the agreement.

(4) For the purposes of this Subsection, during the period of suspension, the exemptions granted under the tax incentive contract are inoperable and of no effect.

§337.71. Waiver of penalty for delinquent filing or delinquent payment

If the failure to make any return at the time such return becomes due or the filing of a return without remittance of the full amount due is attributable not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the collector, the

collector may remit or waive payment of the whole or any part of the specific penalty provided for such failure.

§337.72. Penalty for false or fraudulent return

When the taxpayer files a return that is false or fraudulent or grossly incorrect and the circumstances indicate that the taxpayer had intent to defraud the taxing authority of any tax due under the local ordinance and this Chapter, there shall be imposed, in addition to any other penalties provided, a specific penalty on the tax found to be due. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

§337.73. Negligence penalty

If any taxpayer fails to make any return required by this Chapter or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided, a specific penalty. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

§337.74. Insufficient funds check in payment of taxes; penalty

In the event a check used to make payment of a tax, interest, penalty, or other charges due is returned unpaid by the bank on which it is drawn for any reason related to the account on which the check is written, such shall constitute a failure to pay the tax, interest, penalty, or other charges due and a specific penalty shall be imposed on the taxpayer in addition to all other penalties provided by law; however, upon sufficient proof being furnished to the collector by the bank that the bank was at fault for the nonpayment of the check, the collector shall waive the penalty provided for in this Section. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax, interest, penalty, or other charges that is due in payment of which the check was given and may be enforced in a separate action or in any action instituted for the collection of the tax, interest, penalty, or other charges. After receipt of three insufficient fund checks during any two-year period, the collector may require payment of the taxes, interest, penalties, or other charges due by the taxpayer to be paid by certified check, money order, or cash.

§337.75. Examination and hearing costs

A. If any taxpayer fails to make any return required by this Chapter, or makes a grossly incorrect report, or a false or fraudulent report, and the collector, in performance of his duty to ascertain the amount of tax due, makes an examination of books, records, or documents, or an audit thereof, or conducts a hearing, or subpoenas witnesses, then there may be added to the amount of tax found to be due, a specific penalty, in addition to any other penalty provided, in an amount as itemized by the collector to compensate for all costs incurred in making such examination or

audit, or in holding such hearing, or in subpoenaing and compensating witnesses. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

B. For the purposes of this Section, the following terms shall have the following meanings:

(1) "Grossly incorrect report" means any report filed where there is a substantial understatement of tax for any taxable period. The understatement is substantial if it exceeds the greater of:

(a) Ten percent of the tax required to be shown on the return for the taxable period, or

(b) Ten thousand dollars.

(2) "False or fraudulent report" means any report filed with the intent to evade taxes, or a willful attempt to defraud or evade taxes that are due.

C. Notwithstanding any other provision of law to the contrary, no penalty shall be imposed under this Section with respect to any portion of an underpayment when a taxpayer has made a grossly incorrect report if the taxpayer shows that there was a reasonable cause for the underpayment of such portion and that the taxpayer acted in good faith with respect to such portion.

D. Notwithstanding the provisions of this Section, in the event the examination or audit was conducted by a private auditing firm the limitations provided in R.S. 47:337.26 shall apply.

E. The amount of specific penalty due pursuant to this Section shall be the same as is provided by law on July 1, 2003, until such laws are amended or provisions of this Chapter are amended to provide with respect thereto.

§337.76. Distraint cost penalty

Whenever the collector uses the distraint procedure to enforce the collection of any tax, there shall be imposed with respect to the tax for the collection of which the distraint procedure is used, a specific penalty of ten dollars to compensate for the costs of the distraint procedure. This specific penalty shall be in addition to any penalty assessed as provided by law and shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and may be enforced either in a separate action or in the same action for the collection of the tax.

§337.77. Refunds of overpayments authorized

A. For the purpose of this Section, "overpayment" means a payment of tax, penalty or interest when none was due; the excess of the amount of tax, penalty or interest paid over the amount due; or the payment of a penalty that is later waived or remitted by the collector, provided that the power of the collector to refund overpayments shall be as prescribed and limited in this Section.

B. The collector shall make a refund of each overpayment where it is determined that:

- (1) The tax was overpaid because of an error on the part of the taxpayer in mathematical computation on the face of the return or on any of the supporting documents.
- (2) The tax was overpaid because of a construction of the law on the part of the taxpayer contrary to the collector's construction of the law at the time of payment.
- (3) The overpayment was the result of an error, omission, or a mistake of fact of consequence to the determination of the tax liability, whether on the part of the taxpayer or the collector.
- (4) The overpayment resulted from a change made by the collector in an assessment, notice, or billing issued under the provisions of this Chapter.
- (5) The overpayment resulted from a subsequent determination that the taxpayer was entitled to pay a tax at a reduced tax rate.
- (6) The overpayment was the result of a payment that exceeded either the amount shown on the face of the return or voucher, or which would have been shown on the face of the return or voucher if a return or voucher were required.

C. Notwithstanding the provisions of Subsection B of this Section, where it is determined that there is clear and convincing evidence that an overpayment has been made, the collector shall make a refund, subject to conditions or limitations provided by this Chapter.

D. (1) Such refunds shall be made out of any current collections of the particular tax which was overpaid.

(2) If a taxpayer has overpaid a particular tax for more than one taxable year and seeks a refund of the total amount, the collector may issue the refund incrementally. The number of increments shall not exceed the total number of years the tax was overpaid.

E. The collector may recover any refunded amount determined not to be an overpayment through any collection remedy authorized by R.S. 47: 337.45 within two years from December thirty-first of the year in which the refund was paid. Any refunded amount determined not to be an overpayment shall bear interest at the rate provided for in this Chapter, which shall be computed from the date the refund was issued to the date payment is received by the collector.

F. This Section shall not be construed to authorize any refund of tax overpaid through a mistake of law arising from the misinterpretation by the collector of the provisions of any law or of any rules and regulations. In the event a taxpayer believes that the collector has misinterpreted the law or rules and regulations contrary therewith, his remedy is by payment under protest and suit to recover or petition to the Board of Tax Appeals, as provided by law.

G. A claim for a refund or credit in a properly addressed envelope with sufficient postage delivered by the United States Postal Service is deemed filed by the taxpayer and received by the

collector on the date postmarked by the United States Postal Service. Additionally, a claim for refund or credit is deemed filed by the taxpayer and received by the collector through any means provided for by any regulation promulgated pursuant to R.S. 47:337.97 through 337.100.

§337.78. Crediting or offset of overpayments against other obligations

Before refunding any overpayment, the collector may first determine whether the taxpayer who made the overpayment owes any other liability under any ordinance administered by him. If such be the case, the collector may credit the overpayment against such liability and notify the taxpayer of the action taken.

§337.79. Prescription of refunds or credits

A. After three years from the thirty-first day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever is the later, no refund or credit for an overpayment shall be made unless a claim for credit or refund has been received by the collector from the taxpayer claiming such credit or refund before the expiration of said three-year or one-year period. The maximum amount, which shall be refunded or credited, shall be the amount paid within said three-year or one-year period. The collector shall prescribe the manner of filing claims for refund or credit.

B. Provided that in any case where a taxpayer and the collector have consented in writing to an extension of the period during which an assessment of tax may be made, the period of prescription for refunding or crediting overpayments as provided in this Section shall be extended in accordance with the terms of the agreement between the taxpayer and the collector.

§337.80. Interest on refunds or credits

A. Each collector shall compute on all refunds or credits and allow interest as part of the refund or credit as follows:

(1) From date of payment of the taxes, but prior to submission by the taxpayer of a claim for refund, interest shall be computed at a rate of not less than two percent per annum.

(2) From date of submission by the taxpayer of a claim for refund, or from payment under protest, or from the date that the taxpayer gave the political subdivision notice of the taxpayer's intention to file suit for the recovery of any taxes paid, interest shall be at the average prime or reference rate as computed by the commissioner of financial institutions pursuant to R.S. 13:4202(B), per year, but without the addition of one percentage point to the average prime or reference rate and without regard to the limitations contained in R.S. 13:4202(B).

(3) The interest rate provided for in Paragraph (2) of this Subsection shall not be applicable for a sixty-day period from the date the taxpayer makes a claim for refund, if a refund is the result of the taxpayer's administrative error; however, the interest for this sixty-day period shall be computed under the provisions of Paragraph (1) of this Section.

B. No interest on refunds or credits shall be allowed if it is determined that a person has deliberately overpaid a tax in order to derive the benefit of the interest allowed by this Section. Payments of interest authorized by this Section shall be made from funds derived from current collections of the tax to be refunded or credited.

C. As of the date a person files a petition for relief under the uniform bankruptcy laws of the United States as provided in Title 11 USC 101 et seq., no interest shall be allowed to accrue as a part of any refund or credit which relates to a pre-petition tax period.

§337.81. Appeals from the collector's disallowance of refund claim

A. (1) If the collector fails to act on a properly filed claim for refund or credit within one year from the date received by him or if the collector denies the claim in whole or in part, the taxpayer claiming such refund or credit may within thirty days of the notice of disallowance of the claim request a hearing with the collector for redetermination. The collector shall render a decision within thirty days of the request by the taxpayer.

(2) The taxpayer may appeal a denial of a claim for refund to the Board of Tax Appeals, as provided by law. No appeal may be filed before the expiration of one year from the date of filing such claim unless the collector renders a decision thereon within that time, nor after the expiration of ninety days from the date of mailing by certified or registered mail by the collector to the taxpayer of a notice of the disallowance of the part of the claim to which such appeal relates, nor after the expiration of one hundred eighty days from the end of the expiration of the one year in which the collector failed to act.

B. (1) A notice of disallowance, if issued, shall inform the taxpayer that he has ninety days from the date of the certified or registered mailing of that notice to appeal to the Board of Tax Appeals and that any consideration, reconsideration, or action by the collector with respect to the claim following the mailing of a notice by certified or registered mail of disallowance shall not operate to extend the period within which an appeal may be taken.

(2) The failure to transmit this notice does not extend the separate and distinct prescriptive period that runs following one year of inaction by the collector.

C. In answering any such appeal, the collector is authorized to assert a demand for any tax and additions thereto that he may deem is due for the period involved in the claim for refund or credit, and the Board of Tax Appeals shall have jurisdiction to determine the correct amount of tax for the period in controversy, and to render judgment ordering the refund or crediting of any overpayment or ordering the payment of any additional tax, interest, penalty, attorney fees, and other amounts found to be due.

§337.81.1. Board of Tax Appeals; finding of overpayment upon appeal from assessment

If the Board of Tax Appeals, pursuant to a hearing of an appeal from an assessment of the collector in accordance with the provisions of R.S. 47:337.51, 337.53, or 337.54, finds that there is no tax due and further finds that the taxpayer has made a refundable overpayment of the tax for the period for which the collector asserted the claim for additional tax, the Board of Tax Appeals shall have jurisdiction to determine the amount of the overpayment, and to order that the amount of overpayment be refunded or credited to the taxpayer; however, the Board of Tax Appeals shall not order a refund or credit unless, as part of its decision, it determines that either the petition of appeal in which the refund or credit was requested was filed within the period set

out in R.S. 47:337.79, or that a claim for the refund or credit had been filed with the collector within that period.

§337.82. Criminal penalty for failing to account for local tax monies

Any person required under the local ordinance and this Chapter to collect, account for, or pay over any tax, penalty, or interest who willfully fails to collect or truthfully account for or pay over such tax, penalty, or interest shall in addition to other penalties provided by law, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

§337.83. Criminal penalty for evasion of tax

Any person who willfully fails to file any return or report required to be filed by the provisions of this Chapter, or who willfully files or causes to be filed, with the collector, any false or fraudulent return, report or statement, or who willfully aids or abets another in the filing with the collector of any false or fraudulent return, report or statement, with the intent to defraud the taxing authority or evade the payment of any tax, fee, penalty or interest, or any part thereof, shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

§337.84. Running of time limitations for criminal offenses

No person shall be prosecuted, tried or punished for a criminal offense under this Chapter unless the prosecution is instituted within a period of four years after the offense has been committed.

§337.85. Payment of taxes by receivers, referees, trustees or liquidators

A. All receivers, referees, trustees, or other officers appointed by any court, both state and federal, to administer or conduct any business in this state, or liquidators, whether judicial or extrajudicial, shall be subject to all local taxes applicable to such business the same as if such business were conducted by an individual or corporation, and before deducting or paying any salaries, fees or compensation to themselves or to any employees or agents, they shall pay all taxes owed by the said individual, partnership, association or corporation for whom they act to the taxing authority.

B. Such receivers, referees, trustees, or liquidators, upon assuming their official duties, shall immediately ascertain from the proper authority the amount of taxes owed by said individual, partnership, association or corporation, whose estate they are administering, and in the event of their failure to so ascertain or pay all such taxes, shall be personally responsible for the unpaid taxes.

C. If the assets of any partnership, association, or corporation are disposed of through liquidation by the officers or directors thereof without clearance from the collector of all unpaid taxes first being obtained, such officers or directors who disposed of such assets shall be

personally liable, in solido, for the full amount of such taxes and any penalty and interest due thereon.

§337.86. Credit for taxes paid

A. (1) A credit against the sales and use tax imposed by any taxing authority of the state shall be granted to a taxpayer who paid monies, whether or not paid in error, absent bad faith, based upon a similar tax, levy, or assessment upon the same tangible personal property in a taxing jurisdiction of this state or another state. The credit granted herein shall be applicable only when a similar taxing authority is seeking to impose and collect a similar tax, levy, or assessment from a taxpayer upon the same tangible personal property for which the taxpayer has paid a similar tax, levy, or assessment to a similar taxing authority.

(2) A taxing authority shall give credit against the use taxes due on the importation of a vehicle for taxes paid in another state where the vehicle was previously purchased and titled, regardless of the authority's similarity to jurisdictions in the other state to which the sales or use taxes were paid. With respect to vehicles, the credit shall be calculated by multiplying the rate of the sales or use tax paid in the other state by the cost price that is subject to the authority's use tax at the time of the importation of the vehicle. The credits provided by this Section and R.S. 47:303 shall be applied together against the state and local taxes due on the use of a motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semitrailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax, so that the applicant for title or registration in Louisiana of a vehicle that the applicant previously purchased and titled in another state is allowed credit against the state and local use taxes imposed in Louisiana for the full rate of sales or use tax paid in the other state.

B. (1) The credit provided herein for monies paid to a taxing authority of another state shall be granted only in the case where such authority of another state to which monies have been paid grants a similar credit.

(2) The credits granted by this provision shall not exceed the amount of money paid to the taxing authority of this state or another state.

C. (1) The proof of payment to a taxing authority shall be made in accordance with the rules adopted by the secretary of the Department of Revenue under R.S. 47:303(A). Except as provided in Paragraph (2) of this Subsection, in no event shall the credit be greater than the tax imposed by the taxing authority upon the particular tangible personal property that is subject of the sales and use tax.

(2) The credit granted for taxes in any taxing jurisdiction of a parish in which no local sales and use tax is levied and imposed shall be the amount of taxes that would have been collected by the taxing authority at the tax rate imputed to that taxing authority. The imputed tax rate shall be the lowest tax levied and imposed by a similar taxing authority in this state as determined by the Department of Revenue.

D. For purposes of this Section, "taxpayer" shall mean the final consumer who has paid the applicable local tax directly to the collector or the vendor or seller who has collected the tax from the final consumer and remitted the tax to the taxing authority. In no instance shall a vendor or seller be denied a credit for taxes paid in error to a political subdivision.

E. (1) Notwithstanding any other law to the contrary, no person shall be taxed with respect to a particular event more than once, provided that the person collecting and remitting taxes can produce to the collector documentary evidence to show a good faith effort to recover taxes paid to the incorrect taxing authority. Such documentary evidence shall consist of the following:

(a) A formal request for refund by certified mail which includes all evidence supporting such claim to the taxing authority paid in error.

(b) A second request for refund by certified mail if no response was received within sixty days of the first refund request.

(c) Either the response approving or denying the first or second refund request, whichever may be applicable, or an affidavit from the person stating that no response was received within sixty days of the second refund request.

(d) Notwithstanding any provision of law to the contrary, any taxpayer who receives an assessment and who has complied with any applicable provisions of Subparagraphs (a) through (c) of this Paragraph, may within thirty calendar days of the date of notice, take any action specified in R.S. 47:337.51(A)(1).

(2)(a) The collector shall not impose penalties or interest on taxes erroneously paid or remitted to another taxing authority unless the erroneous payment or remittance was the result of gross negligence or due to intentional conduct of bad faith on the part of the dealer that collected and remitted the taxes or on the part of the taxpayer that paid the taxes. In instances where a legitimate disagreement exists as to which taxing authority is owed, the involved taxing authorities shall resolve the dispute among themselves through any legal means provided by law, including the filing of a rule or petition against the other taxing authority in the manner provided for in R.S. 47:337.101.

(b) For the purposes of this Section, a "similar taxing authority" means a political subdivision having and performing the same governmental functions as the political subdivision seeking to impose the sales or use tax.

PART G. POST-SESSION UPDATE PROCEDURE

§337.87. Post-session update procedure

A. The purpose of this code is to benefit both taxpayers and local tax collectors by promoting uniformity in the assessment, collection, administration, and enforcement of state and local sales and use tax and by compiling them, and making them readily available in one place in the revised statutes.

B. (1) Therefore, beginning with the 2003 Regular Session of the Legislature, it is the intention of the legislature that all or a portion of any Act enacted in any regular or in any extraordinary session which has the effect of amending or enacting any provision of Title 33, Title 47, or other title of the Louisiana Revised Statutes of 1950, which Act is relative to, or which Act affects, the assessment, collection, administration, and enforcement of the sales tax of any taxing authority which is not a state-wide political subdivision, and any penalties, interest, and other charges due which are related to such tax, shall be included within the Uniform Local Sales Tax Code provided for in this Chapter.

(2) To that end, after considering any opinions as provided for in Subsection C of this Section, the Louisiana State Law Institute shall place into such code all or a portion of any such Acts enacted in such sessions which have the effect of amending or enacting any provision of Title 33, this Title, or other title of the Louisiana Revised Statutes of 1950 relative to, or which affect, those matters. In particular, it is the intention of the legislature that any Act extending the time period for which a sales and/or use tax exemption, exclusion, or other tax benefit is applicable shall be placed into such code.

C. (1) Prior to the placement of all or a portion of an Act into this code, the institute shall provide to the following organizations for their review the Acts or portions of Acts which it intends to place within the code:

(a) The Louisiana Society of Certified Public Accountants.

(b) The Tax Section of the Louisiana Bar Association.

(c) The Louisiana Association of Tax Administrators.

(2) Such organizations may reply, in writing, to the institute with any opinion concerning such placement that they believe is warranted within the time specified by the institute.

PART H. UNIFORM LOCAL SALES TAX ADMINISTRATIVE PROCEDURE ACT

§337.91. Purpose; form of citation

A. The provisions of this Part shall be the applicable procedure for the adoption of uniform regulations for provisions of law relative to sales and use tax law or its administration that is applicable only to local taxing authorities and which is not a "common sales tax law" as defined in R.S. 47:337.2.

B. This Part shall be known as the Uniform Local Sales Tax Administrative Procedure Act and may be cited as such.

§337.92. Definitions

As used in this Part:

(1) "Board" means the board of directors of the Louisiana Association of Tax Administrators as defined in R.S. 47:337.2 which is required to develop rules and regulations pursuant to Chapter 2-D of the Uniform Local Sales Tax Code.

(2) "Party" means each person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(3) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the board.

(4) "Rule" or "regulation" means each statement, guide, or requirement for conduct or action of local taxing authorities concerning provisions of sales and use tax law or its administration that is applicable only to such authorities and which is not a "common sales tax law" as defined in R.S. 47:337.2, exclusive of those regulating only the internal management of such authorities, which has general applicability and the effect of implementing or interpreting such substantive law or policy, or which prescribes the procedure or practice requirements of such authorities. A rule may be of general applicability provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders.

(5) "Rulemaking" means the process employed by the board for the adoption, amendment, or repeal of a rule or regulation. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a collector's decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same rule within this definition or constitute specific adoption thereof by the board so as to be required to be adopted in accordance with this Part.

§337.93. Public information; adoption of rules; availability of rules and orders

The board shall make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the board in the discharge of its functions and publish an index of such rules, preambles, responses to comments, submissions, statements, and interpretations on a regular basis.

§337.94. Procedure for adoption of rules

A. Prior to the adoption, amendment, or repeal of any rule, the board shall:

(1)(a) Give notice of its intended action and a copy of the proposed rules at least ninety days prior to taking action on the rule. The notice shall include all of the following:

(i) The name of the person within the board who has the responsibility for responding to inquiries about the intended action.

(ii) The time when, the place where, and the manner in which interested persons may present their views thereon.

(iii) A statement that the intended action complies with the statutory law administered by the board, including a citation of the enabling legislation.

(b)(i) The notice shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least one hundred days prior to the date the board will take action on the rule.

(ii) Upon publication of the notice, copies of the full text of the proposed rule shall be available from the board upon written request.

(c) Notice of the intent to adopt, amend, or repeal any rule shall be mailed to all persons who have made timely request of the board for such notice, which notice and statements shall be mailed at the earliest possible date, and in no case later than ten days after the date when the proposed rule change is submitted to the Louisiana Register.

(d) For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of such issue.

(2) Afford all interested persons at least thirty days from the date of the publication of the notice of intent to submit data, views, comments, or arguments. In the case of substantive rules, opportunity for oral presentation or argument shall be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons or by an association having not less than twenty-five members, or by a committee of either house of the legislature to which the proposed rule change has been referred under the provisions of R.S. 47:337.99.

(3)(a) Make available to all interested persons copies of any rule intended for adoption, amendment, or repeal from the time the notice of its intended action is published in the Louisiana Register. Any hearing pursuant to the provisions of Paragraph (2) shall be held no earlier than thirty-five days and no later than forty days after the publication of the Louisiana Register in which the notice of the intended action appears. The board shall fully consider all comments and submissions respecting the proposed rule.

(b) The board shall issue a response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the comments and submissions to the respective oversight committees. In addition to the response to comments, the board may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions. Such preamble and response to comments and submissions shall be furnished to the respective legislative oversight subcommittees at least five days prior to the day the legislative oversight subcommittee hearing is to be held on the proposed rule, and shall be made available to

interested persons no later than one day following their submission to the appropriate legislative oversight subcommittee. If no legislative oversight hearing is to be held, the board shall issue a response to comments and submissions and preamble, if any, to any person who presented comments or submissions on the rule and to any requesting person not later than fifteen days prior to the time of publication of the final rule.

(c) The board shall, upon request, make available to interested persons the report submitted pursuant to R.S. 47:337.99(C) and (D) no later than one working day following the submittal of such report to the legislative oversight subcommittees.

B. Only the board may initiate or rescind the adoption, amendment or repeal of a rule. Any interested person may petition the board requesting the adoption, amendment or repeal of a rule. Within one hundred twenty days after submission of a petition, a written response shall be sent to such petitioner.

§337.95. Filing; taking effect of rules

A. No rule shall be valid unless adopted in substantial compliance with these provisions.

B. (1)(a) The board shall file a certified copy of its rules with the Office of the State Register. No rule shall be effective, nor may it be enforced, unless it has been properly filed with the Office of the State Register.

(b) No rule shall be effective, nor may it be enforced, unless prior to its adoption a report relative to the proposed rule change is submitted to the oversight committees and to the presiding officers of the respective houses as provided in R.S. 47:337.99. The inadvertent failure to mail notice and statements to persons making request for such mail notice, as provided in R.S. 47:337.94, shall not invalidate any rule adopted hereunder.

(2) A proceeding in a court of competent jurisdiction to contest any rule on the grounds of noncompliance with the procedures for adoption must be commenced within two years from the date upon which the rule became effective.

C. Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register, said publication to be subsequent to the act of adoption, unless a later date is required by statute or specified in the rule.

§337.96. Uniform Local Sales Tax Administrative Code and Louisiana Register; publication; index

A. The Office of the State Register shall compile, index, and publish all effective rules adopted by the board in the publication to be known as the Uniform Local Sales Tax Administrative Code. The Uniform Local Sales Tax Administrative Code shall be supplemented or revised as often as necessary and at least once every two years. These incorporations or revisions shall be in accordance with the provisions of Chapter 13-A of Title 49 of the Louisiana Revised Statutes of 1950, R.S. 49:981 et seq.

B. The Office of the State Register shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Uniform Local Sales Tax Administrative Code.

§337.97. Judicial review of validity or applicability of rules

The validity or applicability of a rule may be determined in an action for declaratory judgment in a court of competent jurisdiction. The board shall be made a party to the action. The court shall declare the rule invalid or inapplicable if it finds that it violates constitutional provisions or exceeds the statutory authority of the board or was adopted without substantial compliance with required rulemaking procedures.

§337.98. Appeals

An aggrieved party may obtain a review of any final judgment of the district court by appeal to the appropriate circuit court of appeal. The appeal shall be taken as in other civil cases.

§337.99. Review of board rules

A. It is the declared purpose of this Section to provide a procedure whereby the legislature may review the exercise of rule-making authority delegated to the board.

B. Prior to the adoption, amendment, or repeal of any rule the board shall submit a report relative to such proposed rule change to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs and to the presiding officers of the House of Representatives and the Senate as provided in this Section. The report shall be submitted on the same day the notice of the intended action is submitted to the Louisiana Register for publication. The report shall be submitted to the committees at the committees' offices in the state capitol by certified mail with return receipt requested. The return receipt shall be proof of receipt of the report by the committees.

C. The report, as provided for in Subsection B of this Section, shall contain:

- (1) A copy of the rule as it is proposed for adoption, amendment, or repeal.
- (2) A statement of the proposed action, that is, whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.
- (3) The specific citation of the enabling legislation purporting to authorize the adoption, amendment, or repeal of the rule.
- (4) A statement of the circumstances which require adoption, amendment, or repeal of the rule.

D.(1)(a) The chair of the appropriate committees to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption,

amendment, or repeal. Any such hearing shall be conducted after any hearing is conducted by the board pursuant to R.S. 47:337.94.

(b) The board shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include:

(i) A summary of all testimony at any hearing conducted pursuant to R.S. 47:337.94.

(ii) A summary of all comments received by the board, a copy of the board's response to the summarized comments, and a statement of any tentative or proposed action of the board resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in Subsection B of this Section was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(2)(a) Except as provided in Paragraph (H)(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by Subparagraph (1)(b) of this Subsection is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the appropriate committees and shall consist of at least a majority of the membership of the appropriate committees, at the discretion of the chair of the appropriate committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

(3) At such hearings, the oversight subcommittees shall:

(a) Determine whether the rule change is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof, including a determination that the rule change is applicable only to local taxing authorities and is not a "common sales tax law" as defined in R.S. 47:337.2(C)(1)(b).

(b) Determine whether the rule change is in conformity and not contrary to all applicable provisions of law and of the Constitution of Louisiana.

(c) Determine the advisability or relative merit of the rule change.

(d) Determine whether the rule change is acceptable or unacceptable to the oversight subcommittee.

E.(1)(a) Each such determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

(b) No later than three weeks before the deadline for legislative oversight action, the chair of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule. If no objection is received within ten days of the chair's request, the chair shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule, a majority of ballots returned to the chair at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in Paragraph (D)(2) of this Section.

(2) Failure of a subcommittee to conduct a hearing or to make a determination regarding any rule proposed for adoption, amendment, or repeal shall not affect the validity of a rule otherwise adopted in compliance with these provisions.

F.(1) If either the House or Senate oversight subcommittee determines that a proposed rule change is unacceptable, the respective subcommittee shall provide a written report which contains the following:

(a) A copy of the proposed rule.

(b) A summary of the determinations made by the subcommittee in accordance with Subsections D and E of this Section.

(2) The written report shall be delivered to the board and the Louisiana Register no later than four days after the committee makes its determination.

G. If a proposed rule change is determined to be unacceptable by an oversight committee, the board shall not propose a rule change that is the same or substantially similar to such disapproved proposed rule change within four months after issuance of a written report by the subcommittee as provided in Subsection F of this Section nor more than once during the interim between regular sessions of the legislature.

H.(1) If both the House and Senate oversight subcommittees fail to find a proposed rule change unacceptable as provided herein, the proposed rule change may be adopted by the board in the identical form proposed by the board or with technical changes or with changes suggested by the subcommittee, provided at least ninety days and no more than twelve months have elapsed since notice of intent was published in the Louisiana Register.

(2)(a) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by R.S. 47:337.94. Whenever the board seeks to substantively change a proposed rule after notice of intent has been published in the Louisiana Register pursuant to R.S. 47:337.94, the board shall hold a public hearing on the

substantive changes preceded by an announcement of the hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the Louisiana Register to all persons who have made request of the board for such notice.

(b) Any hearing by the board pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the Louisiana Register. The board hearing shall conform to R.S. 47:337.94, and a report on the hearing shall be made to the oversight committees in accordance with Subparagraph (D)(1)(b) of this Section. The board shall make available to interested persons a copy of such report no later than one working day following the submittal of such report to the oversight committees. Any determination as to the rule by the oversight committee shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the board.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the board in accordance with Paragraph (1) of this Subsection.

I. The Louisiana Register shall publish a copy of the written report of an oversight subcommittee or if unduly cumbersome, expensive, or otherwise inexpedient, a notice stating the general subject matter of the omitted report and stating how a copy thereof may be obtained.

J. Each year, thirty days prior to the beginning of the regular session of the legislature, the board shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain a statement of the action taken by the board with respect to adoption, amendment, or repeal of each rule proposed for adoption, amendment, or repeal.

K. After submission of the report to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the board.

L. No later than the second legislative day of the regular session of the legislature, a committee to which proposed rule changes are submitted may submit a report to the legislature. This report shall contain a summary of all action taken by the committee or the oversight subcommittee with respect to board rules during the preceding twelve months. The report shall also contain any recommendations of the committee for statutory changes concerning the Uniform Local Sales Tax Administrative Code.

M. The appropriate committee may, at any time, exercise the powers granted to an oversight subcommittee under the provisions of this Section.

§337.100. Legislative veto, amendment, or suspension of rules and regulations

In addition to the procedures provided in R.S. 47:337.99 for review of the exercise of the rulemaking authority the legislature, by concurrent resolution, may suspend, amend, or repeal any rule or regulation or body of rules or regulations, adopted by the board. The Louisiana Register shall publish a brief summary of any concurrent resolution adopted by the legislature

pursuant to this Section. Such summary shall be published not later than forty-five days after signing of such resolution by the presiding officers of the legislature.

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

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

(2) Such taxpayer or collector may proceed to seek uniformity of interpretation of a rule, regulation, policy or interpretation of sales and use tax laws, ordinances, rules, or regulations in accordance with any remedy available under applicable law, including the following procedures:

(a) A rule to seek uniformity of interpretation of common sales tax law or local sales tax law in any court of competent jurisdiction, or in the Board of Tax Appeals.

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