

## **RULE**

### **Department of Revenue Policy Services Division**

Tim Barfield  
Secretary

1412#108

#### **Remittance of Tax Under Protest, Suits, or Petitions to Recover (LAC 61:I.4907)**

Under the authority of R.S. 47:1576 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4907.

The primary purpose of this regulation is to amend LAC 61:I.4907 relative to changes resulting from Act 198 of the 2014 Regular Session of the Louisiana Legislature and to more accurately align the regulation with the provisions of R.S. 47:1576.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered By the Secretary of Revenue**

#### **Chapter 49. Tax Collection**

#### **§4907. Remittance of Tax under Protest, Suits or Petitions to Recover**

A. Except as provided in R.S. 47:1576(A)(1)(b), any taxpayer protesting the payment of any amount found due by the secretary or the enforcement of any provision of the tax laws in relation thereto, shall remit to the Department of Revenue the amount due, including tax, interest and penalties. At such time, the taxpayer must give notice of its intention to either: file suit in district court; or file a petition at the Board of Tax Appeals for the recovery of such tax. Accordingly, amounts remitted to the department must be deemed at the time remitted as a payment under protest by including notice of intention to either: file suit in district court; or file a petition at the Board of Tax Appeals for recovery of such tax.

1. Overpayments of income tax designated on the prior year's return as an amount of overpayment to be credited to the next year's return cannot be designated as payment under protest.

2. Pending claims for refund cannot be designated as payment under protest.

B. The taxpayer has 30 days from the date of notice to the Department of Revenue of the intention to file suit or petition for recovery of tax paid under protest to file a suit or petition for the recovery of such tax. However, in instances when the payment of tax under protest is required before the amount of tax due is determinable, the taxpayer has 30 days from the due date of the return or the extended due date of the return to file suit or petition for recovery of the taxes paid under protest.

C. There shall be no penalty for underpayment of estimated tax with regard to amounts paid under protest and such amounts paid under protest shall not be due until the due date of the return without regard to extensions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1576.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Division, LR 22:1230 (December 1996), amended by the Department of Revenue, Policy Services Division, LR 40:0000 (December 2014).