

submit a copy of the Internal Revenue Service ruling establishing its exempt status under I.R.C. Sections 501 or 401(a) with its return and include with its return a statement that none of its income was subject to federal income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.501.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:485 (March 2004), amended LR 33:860 (May 2007).

§1147. Notice of Regulation, Requiring Records, Statements and Special Returns

A. Every corporation subject to the provisions of Part II.A of Chapter 1 shall, for the purpose of enabling the secretary to determine the correct amount of income subject to tax, keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income and the deductions, credits, and other information required to be shown in any return. Such books or records required by this Section shall be available at all times for inspection by the secretary, and shall be retained so long as the contents thereof may be material in the administration of the income tax law. The secretary may at any time require the taxpayer to submit statements of net worth as of the beginning and end of the taxable year.

AUTHORITY NOTE: Promulgated in accordance with R.S.47:287.601.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:485 (March 2004).

§1148. Corporation Returns

A. General Rules. Every corporation deriving income from Louisiana sources shall file a return on forms secured from the secretary or by electronically filing a return, unless expressly exempt from the tax. The first return and the last return of a corporation are returns for a full year and not for a fractional part of a year. A corporation does not go out of existence by virtue of being managed by a receiver or trustee who continues to operate it.

B. Liquidation. Upon liquidation or dissolution of a corporation there shall be attached to the final return a statement showing:

1. an outline of the plan under which the corporation was dissolved;
2. the date the dissolution was formally commenced;
3. the date the dissolution was completed;
4. the name and address of each shareholder at dissolution and the number and par value of the shares of stock held by each;

5. a description of assets conveyed to each shareholder, creditor, or other person, showing book value, fair market value, and location, as well as the name and address of each such person;

6. the consideration paid by each person for the assets received; and

7. whether the plan is intended to qualify under one of the sections of the *Internal Revenue Code* relating to nonrecognition in whole or in part of gain by a shareholder, and, if so, the section involved.

C. Receivers. Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or business of corporations, must file returns for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property within the meaning of R.S. 47:287.612 whether he is engaged in carrying on the business for which the corporation was organized or only in marshaling, selling, and disposing of its assets for purposes of liquidation. However, a receiver in charge of only part of the property of a corporation, as, for example, a receiver in mortgage foreclosure proceedings involving merely a small portion of its property, need not file a return.

D. Change in Ownership

1. Except as otherwise provided herein, when a change in ownership results in no change to the accounting period but results in the income of the taxpayer being reported on two separate federal returns, the taxpayer may either file one return for the entire accounting period or file two short period returns. If two short period returns are filed the due date of both returns is the due date of the accounting period year-end return.

2. Except as otherwise provided herein, when a change in ownership results in a change to the accounting period, the filing of two short period returns is required. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. If information concerning the federal income deduction is not available, an amended return will be required for this period once the information is known. The due date of the last short period return is the due date of the new accounting period year-end return.

3. When a one-day return is required under federal law, that one-day is a separate accounting period for Louisiana reporting purposes. A separate return is required for that one day. This will usually result in the filing of three short period returns. The due date of the first short period return is the fifteenth day of the fourth month following the last day of the calendar month in which the change in ownership occurred. The due date of the one-day return is the fifteenth day of the fourth month following the last day

of the calendar month in which the one day falls. The due date of the last short period return is the due date of the new accounting period year-end return.

4. All short period tax is computed under the provisions of R.S. 47:287.444.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.441, R.S. 47:287.444, R.S.47:287.601, R.S. 47:287.612, R.S. 47:287.614, R.S. 47:287.623, R.S. 47:287.651, R.S. 47:287.732, R.S. 47:287.785 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:485 (March 2004), amended LR 30:2860 (December 2004).

§1168. Notice of Fiduciary Relationship

A. Notice. As soon as the secretary receives notice that a person is acting in a fiduciary capacity, such fiduciary must, except as otherwise specifically provided, assume the powers, rights, duties, and privileges of the taxpayer with respect to the income tax imposed by Part II.A of Chapter 1. If the person is acting as a fiduciary for a transferee or other person subject to the liability specified in R.S. 47:287.682, such fiduciary is required to assume the powers, rights, duties, and privileges of the transferee or other person under that section. The amount of the tax or liability is ordinarily not collectible from the personal estate of the fiduciary, but is collectible from the estate of the taxpayer or from the estate of the transferee or other person subject to the liability specified in R.S. 47:287.682. (See however R.S. 47:1673). The "notice to the secretary" provided for in R.S. 47:287.683 shall be a written notice signed by the fiduciary and filed with the secretary. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and if so, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary in respect of the payment of any tax from the estate of the taxpayer. Any such written notice which has previously been filed with the secretary shall be considered as sufficient notice. Unless there is already on file with the secretary satisfactory evidence of the authority of the fiduciary to act for such person in a fiduciary capacity, such evidence must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as such satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the secretary written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary.

B. Effect of Failure to Give Notice. If the notice of the fiduciary capacity described in Subsection A above is not filed with the secretary before the sending of notice of assessment by registered mail to the last known address of the taxpayer, or the last known address of the transferee or other person subject to liability, no notice of the deficiency will be sent to the fiduciary. In such a case the sending of the notice to the last known address of the taxpayer, transferee, or other person, as the case may be, will be a sufficient compliance with the requirements of the income tax law, even though such taxpayer, transferee, or other person is deceased, or is under a legal disability, or in the case of a corporation, has terminated its existence. Under such circumstances if no petition is filed with the Board of Tax Appeals within 60 days after the mailing of the notice to the taxpayer, transferee, or other person, the assessment becomes final upon the expiration of such 60-day period and demand for payment will be made.

C. Definition. The term *fiduciary* means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

D. Limitation. This regulation shall not be taken to abridge in any way the powers and duties of fiduciaries provided for in other sections of the income tax law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.683.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:109 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:486 (March 2004).

§1175. Definition of Separate Corporation Basis

A. Louisiana Revised Statute 47:287.733 provides that corporations that are included with affiliates in a consolidated federal income tax return must file their Louisiana corporation income tax on a separate corporation basis. For Louisiana income tax purposes, filing a return on a separate corporation basis means filing a return as if the affiliate either elects not to be part of the consolidated group or is not included in a federal consolidated return.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.733, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 32:260 (February 2006).

§1189. Situs of Stock Canceled or Redeemed in Liquidation

A. General Rule. R.S. 47:287.747 provides that the situs of stock canceled or redeemed in the liquidation of a corporation, whether domestic or foreign, shall be in Louisiana in the same ratio that property located in Louisiana, and received by a shareholder, bears to the total property received in the liquidation. *Property* as used in R.S. 47:287.747 means all the assets of the liquidating corporation without regard to liabilities. For the purpose of