

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Lessors of Motor Vehicles — Electronic Filing Requirement (LAC 61:III.1511)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, and R.S. 47:1511, which allows the Department to make reasonable rules and regulations, the Secretary of Revenue hereby finds that immediate action is required to develop a means for the collection of sales tax data related specifically to motor vehicle leasing and renting transactions. Without the immediate implementation of the return filing system required by this rule, imminent peril to the public welfare will exist.

This emergency rule will require that renters and lessors of motor vehicles electronically submit sales tax returns to the Louisiana Department of Revenue on which their revenues from motor vehicle leasing and renting, deductions, and tax collections pertaining thereto, are distinguishable on the electronic returns from revenues, deductions, and tax collections related to other sales taxable transactions of the dealers.

R.S. 47:1520(A) authorizes the secretary to mandate electronic filing of tax returns and reports under certain circumstances, including when the report is required for dedicated fund distribution. R.S. 47:1520(A)(2) provides that the electronic filing requirement be implemented by administrative rule. R.S. 47:1520(B) contains penalty provisions for dealers' failure to comply.

Acts 2008 2nd Ex. Sess., No. 11 enacted R.S. 48:77(A) to dedicate percentages of the sales tax collections from motor vehicle leases and rentals to the Transportation Trust Fund beginning July 1, 2008. This information is not separately reported on the sales tax return and there is no space to add the lines to the current tax return. Mandated electronic filing for motor vehicle leasing and renting dealers was selected because it is the most cost-effective means to obtain the required sales tax data.

In order to acquire the needed data on a timely basis, the Department adopts the following emergency rule. This Emergency Rule shall be effective June 1, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final rule, whichever comes first.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 15. Electronic Filing and Payments

§1511. Lessors of Motor Vehicles—Electronic Filing Requirement

A. Definitions

Motor Vehicle—any self-propelled device used to transport people or property on the public highways.

B. R.S. 48:77 dedicates a percentage of the sales tax collections from the motor vehicle leases and rentals to the Transportation Trust Fund effective July 1, 2008.

C. Beginning with the July 2008 filing period, dealers who collect sales tax on motor vehicle leases and rentals are required to file their sales tax returns electronically with the Department of Revenue using the electronic format prescribed by the Department.

1. The electronic sales tax return will provide for the separate reporting of the sales tax collected on motor vehicle leases and rentals.

2. The electronic sales tax return will provide for separate reporting of exempt motor vehicle leases and rentals.

D. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of \$100 or five percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

1. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.

2. If the penalty exceeds \$25,000, it may be waived by the secretary only after approval by the Board of Tax Appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 48:77.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33: