

directly to the Department and appropriate local tax collector using the form and method specified by the collectors.

E. Threshold Adjustments. Beginning July 1, 2030, and every five years thereafter, the threshold of \$20,000 shall be adjusted based upon the Consumer Price Index United States and redetermined by the methodology established in R.S. 47:305.23. Notice of the adjusted threshold shall be published by the department in a Revenue Information Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 52:358 (March 2026).

Chapter 49. Tax Collection

§4901. Alternative Remedies for the Collection of Taxes

A. R.S. 47:1561.1 provides an alternative means of enforcing collection of income taxes withheld from wages of employees and sales and use taxes collected from customers, should a corporation fail to file returns or fail to remit such taxes, by holding certain officers or directors of the corporation personally responsible. Three criteria must be met before a corporate officer or director can be held personally liable:

1. the corporation must have failed to remit the collected taxes;
2. the officer or director must have direct control over or supervision of such taxes or must be charged with the responsibility for filing returns and remitting the taxes; and
3. the officer or director must have willfully failed to remit or account for such taxes.

B. Failure to Remit by Corporation

1. A corporation must have actually withheld income taxes from the wages of its employees or must have actually collected sales or use taxes from customers or consumers and failed to account for or remit these taxes to the secretary before a claim can be made against an officer or director. Officers or directors cannot be held personally responsible for sales and use tax amounts determined by audit to be due but not actually collected by the corporation.

2. Taxes Actually Withheld or Collected

a. If a corporation pays net wages to its employees, it will be deemed to have withheld any income taxes required to be withheld.

b. If a corporation pays wages in property other than money, it will be deemed to have withheld income taxes on such payment.

c. Where a corporation makes sales on credit or on open account and the sales tax is shown on the invoice, some

payment on the invoice must be received before the tax will be deemed to have been collected.

i. Any payment on open account will be applied to the oldest invoice first, unless otherwise indicated.

ii. Any partial payment on an invoice will be applied to the sales tax first, unless otherwise indicated.

3. Reasonable efforts must be made to collect the designated taxes from the corporation before proceeding against an officer or director. It will be assumed that collection from the corporation cannot be made if the corporation has filed bankruptcy, has discontinued business and has no unencumbered assets, or has been liquidated.

4. Payments made by a corporation on its tax account will be applied toward any non-trust fund taxes first, unless the taxpayer designates in writing how a particular payment is to be applied at the time the payment is made, or the facts and circumstances indicate otherwise. For example, if a corporation owes, for a particular period, both sales taxes which have been collected and use taxes on purchases, any partial payment will be applied first to the use taxes owed by the corporation.

C. Responsible Officers or Directors

1. Definition. A responsible officer or director is one who has the duty to perform or the power to direct the act of collecting, accounting for, and paying over trust fund monies. He or she must be an officer or director of the corporation which failed to remit the taxes and must have sufficient control over funds to direct disbursement of such funds.

2. Designation of Responsible Officer or Director. The law provides that a corporation by resolution of the board of directors may designate an officer or director having direct control or supervision of withheld or collected taxes or charged with the responsibility of filing returns and remitting such taxes, and such resolution shall be filed with the Secretary of State. If such a designation has been filed, the named officer or director shall be considered responsible. If no designation has been filed, all acts and circumstances must be considered. No one factor will determine whether the officer or director is responsible. In all cases, there will be at least one corporate officer with the responsibility for collection and payment of taxes. Some factors to be considered are:

a. what the individual's duties were as outlined by the corporate bylaws;

b. whether the individual had the authority to sign company checks;

c. whether the individual signed the tax returns of the company;

d. whether the individual paid or directed payment to creditors other than the state of Louisiana;

e. whether the individual was a principal stockholder;

f. whether the individual hired and discharged employees;

g. whether the individual controlled the financial affairs of the company in general; or

h. whether an officer or director was designated as responsible for filing returns and remitting taxes even though no resolution was filed with the Secretary of State. An officer or director to whom such responsibility has been delegated cannot avoid his responsibility by delegating it to a subordinate employee.

3. Multiple Responsible Persons. There may be instances when more than one officer or director has responsibility for taxes. If such a determination is made, the secretary may assess all responsible officers and directors and may proceed to recover the entire amount from any one officer or director or partial payments from any combination thereof. The total amount of tax collected must not exceed the corporation's total liability. For example, if the corporation pays the liability after an assessment is made against a responsible officer, a corresponding credit should be given to that officer.

D. Willfulness

1. The term *willful* means intentional, deliberate, voluntary, and knowing, as distinguished from accidental. Willfulness is construed to be the attitude of a person who, having free will or choice, either intentionally disregards the law or is plainly indifferent to the requirements of the law. Willfulness includes a "reckless disregard for obvious or known risks" or a "failure to investigate or correct mismanagement."

2. If an officer or director permits withheld or collected taxes to be used to pay operating expenses of the business, whether by direction or tacit approval, he has willfully failed to account for or remit such taxes.

3. The determination of willfulness does not require a finding of bad motives, such as intent to defraud.

E. Alternative Remedies for Collection of Taxes. Any of the methods of collection provided by R.S. 47:1561 may be used to collect taxes from responsible officers or directors.

F. Prescription and Waivers. The prescription period of the tax in question will also apply to any assessment under R.S. 47:1561.1. A waiver of prescription executed by the corporation will not be valid for assessments against officers or directors. Separate waivers must be obtained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1561.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 15:274 (April 1989).

§4903. Timely Filing When the Due Date Falls on Saturday, Sunday, or Legal Holiday

A. Unless otherwise specifically provided, when the due date of any report or return prescribed under the laws administered by the Department of Revenue and Taxation, falls on a Saturday, Sunday, or a legal holiday, the report or return shall be considered timely if it is filed on the next business day.

B. Definitions. For the purposes of this Section, the following term is defined.

Legal Holiday—any legal holiday observed by the state of Louisiana or the United States Post Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:188, 26:453, 45:1179, 47:1511, and 47:2425.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1594 (December 1993).

§4905. Signature Alternatives; Electronic Filings

A. As authorized by R.S. 47:1520, the following alternate methods for signing, subscribing, or verifying tax returns, statements, or other documents filed by electronic means are allowed and shall have the same validity and consequence as the actual signature and/or written declaration.

B. The following alternatives are allowed in lieu of submitting a written signature/declaration for tax returns transmitted electronically via any computer, telephone, or internet by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secured for a period of three years from December 31 of the year in which the taxes were due;

2. the taxpayer's signature on a trading partner agreement with the department;

3. a Personal Identification Number (PIN); or

4. an electronic signature as specified in a filing agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 22:35 (January 1996), amended by the Department of Revenue, Office of the Secretary, LR 23:1167 (September 1997), LR 25:2443 (December 1999), LR 27:1017 (July 2001).

§4906. Signature Alternatives for Preparers

A. Income tax return preparers may sign original returns and amended returns by means of a rubber stamp, mechanical device, or computer software program. These alternative methods of signing must include either a facsimile of the individual preparer's signature or the individual preparer's printed name. Income tax return preparers