

taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1333 (September 2021).

§2123. Good Cause Exception to Presumption of Willful Disregard

A. For purposes of the penalty for willful disregard provided in R.S. 47:1604.1(D)(1), willful disregard is presumed when a taxpayer fails to timely pay tax that has been collected or withheld from others unless good cause is shown.

B. Examples of good cause for failing to timely pay taxes collected or withheld from others, include:

1. The delinquency was directly attributable to a significant disaster or emergency declared by the President or the governor.

2. The delinquency was directly attributable to an extraordinary circumstance beyond the taxpayer's control such as, but not limited to, the following:

a. An actual or threatened event, other than a presidential or gubernatorial declared disaster or emergency, such as fire or casualty; and

b. An action against the taxpayer's tax preparer or legal representative for acts constituting fraud, theft, embezzlement, fraudulent conversion, or misappropriation of the taxpayer's property.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1335 (September 2021).

§2125. Request for Abatement of Presumed Penalty

A. A request for abatement of penalty under this section shall be limited to the following instances:

1. A penalty is assessed pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) and the taxpayer is requesting abatement based on the exception set forth in R.S. 47:1604.1(A)(2)(b); or

2. A penalty is assessed pursuant to a presumption of willful disregard in accordance with R.S. 47:1604.1(E)(3) and the taxpayer is requesting abatement on the basis that good cause exists for the failure to timely pay collected or withheld taxes.

B. This section does not apply to any penalty assessed pursuant to R.S. 47:1604.1(A)(1).

C. Taxpayers requesting an abatement of penalty based on the exception set forth in R.S. 47:1604.1(A)(2)(b) or R.S. 47:1604.1(E)(3) shall comply with the following procedures:

1. a request for abatement shall be in writing, on a form prescribed by the secretary and shall:

a. contain a clear explanation detailing the basis for reasonable cause and good faith, or good cause;

b. be signed and dated by the taxpayer or an authorized representative with personal knowledge of the facts;

c. be accompanied by documentation supporting the basis for the request; and

d. be submitted to the Department of Revenue prior to the date that the assessment of the penalty pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) or R.S.

47:1604.1(E)(3) becomes final in accordance with R.S. 47:1565(B).

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1334 (September 2021).

Kimberly J. Lewis
Secretary

2109#061

RULE

**Department of Revenue
Policy Services Division**

**Claim for Refund Requirements
(LAC 61.I.4909)**

Under the authority of R.S. 47:1511, 47:1621(I), and 47:1623(A), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, have amended LAC 61.I.4909, to require taxpayers to provide certain documentation and information in support of a claim for refund or credit.

R.S. 47:1621(I) authorizes the secretary to promulgate rules to administer and enforce refunds authorized by 47:1621. R.S. 47:1623(A) authorizes the secretary to prescribe the manner of filing claims for refund or credit. The purpose of this regulation is to provide guidance regarding the information and documentation required to be provided in support of a claim for refund or credit and when that information and documentation must be submitted. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Administrative and Miscellaneous Provisions

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:

a. submitted on claims for refund/credit forms provided by the secretary; or

b. written in a format substantially the same as that provided by the secretary; or

c. submitted by timely filing an amended return.

2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:

a. contain a clear statement detailing the reason for the claim;

b. indicate the appropriate tax and tax amount by tax period; and

c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An *appropriate office, division, or representative of the Department of Revenue* means:

i. a regional service center or regional audit office;

- ii. the appropriate division located at the department's headquarters in Baton Rouge;
- iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
- iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
- v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;
- vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

3. Information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, shall be attached to and submitted with the taxpayer's claim for refund or credit.

4. Information or documentation required by statute or regulation to be maintained by the taxpayer in regard to a tax levied or credit granted pursuant to Title 47 of the Revised Statutes or any other tax, fee, charge, exclusion, exemption, credit or rebate administered by the secretary shall be provided within thirty days of written request by the secretary.

B. Claims for refund shall be approved or denied by the secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623 and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 26:95 (January 2000); amended by the Department of Revenue, Policy Service Division, LR 47:1334 (September 2021).

Kimberly J. Lewis
Secretary

2109#062

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9)

Under the authority of R.S. 56:411, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Wildlife and Fisheries Commission has modified rules and regulations related to Aquaculture and Domesticated Aquatic Organisms. The changes reorganize the existing chapter to be more concise and accurately reflect the current organization in the Louisiana Department of Wildlife and Fisheries. The changes add four groups to the approved Domesticated Aquatic Organism list and remove some that are no longer under LDWF jurisdiction. Legally permitted aquaculture facilities will be able to produce rainbow trout, freshwater prawns and aquarium livestock species including

guppy guppies, species of bristlenose catfish and species of African rift lake cichlids. This will allow the development of additional aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture

§900. Domesticated Aquatic Organisms (DAO)

A. Definitions

Aquarium Livestock—all animals that are primarily raised for ornamental use in aquariums. The list of approved aquarium livestock species can be found in LAC 76:VII.915.A

Aquarium Livestock Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Broodstock—reproductively mature adults held for specific purpose of providing offspring (gametes, larvae, set spat, or later life history stages).

Culture—all activities associated with the rearing and nurturing of approved DAO species and life stages.

Culture System—an approved system designed such that all water containing, or that at any time might contain, DAO species and life stages, is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries (LDWF) or an authorized employee of the department.

Disposal—processing, selling, or purposely removing DAO species from the culture system using departmental approved techniques for each DAO species.

Domesticated Aquatic Organisms (DAO)—all aquaculturally raised species which includes freshwater gamefish, all species of saltwater fish, all endangered or threatened species as well as all nonnative fish as defined by R.S. 56:8 and R.S. 56:411.

Fisheries Permit Manager—Biologist or other staff assigned the duties to manage and issue fisheries related permits.

Freshwater Prawn—any life stages of the shrimp of the species *Marcobrachium rosenbergii*.

Freshwater Prawn Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Live Holding System—an approved indoor temporary holding or display system that at any time may contain DAO species (adult fish, juvenile fish, fry or fish eggs) designed such that all water is filtered, screened and/or sterilized prior to release in such manner as the department deems adequate to prevent any possibility of escape.

Permittee—individual that possesses any type of valid Louisiana permit under this Chapter. A permittee can only be a natural person. A permittee may represent himself, a business, corporation or organization. The permittee is