

NOTICE OF INTENT

Department of Revenue Policy Services Division

Electronic Filing Requirements for Oil or Gas Severance Tax (LAC 61:III.1525)

Under the authority of R.S. 47:1511, which authorizes the Secretary of Department of Revenue to prescribe rules and regulations to carry out the purposes of Title 47 of the Louisiana Revised Statutes of 1950 and the purposes of any other statutes or provisions included under the secretary's authority, and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.1525 to mandate electronic filing of the applications for certification of wells for reduced oil or gas severance tax rates.

The proposed Rule provides information relative to the electronic filing mandate. Specifically, the Rule provides that, beginning with the filing of the July 2011 production month application due September 25, 2011, the secretary of revenue will require the gas severance tax application for certification of incapable wells, Form G-2, and the oil severance tax application for certification of stripper/incapable wells, Form O-2, to be electronically filed with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1525. Severance Tax—Oil or Gas

A. R.S. 47:1520(A)(1)(b) authorizes the secretary of revenue to require electronic filing of tax returns or reports by persons severing oil or gas from the soil or water from the state that are required to file reports under R.S. 47:635(A)(2) or 640(A)(2).

B. R.S. 47:635(A)(2) requires every person severing oil or gas from the soil or water of the state to submit, on or before the twenty-fifth day of the second month following the month to which the tax is applicable, a statement on forms approved by the department, of the business conducted by the severer during the month, showing the gross quantity of oil or gas severed or produced, the names of the owners at the time of severance, the portion owned by each, the location and place(s) where the oil or gas was produced or severed from the soil or water and any other reasonable and

necessary information pertaining thereto that the secretary may require.

C. R.S. 47:640(A)(2) requires purchasers and other persons dealing in oil or gas severed from the soil or water in Louisiana to submit, on or before the twenty-fifth day of the second month following the month to which the tax is applicable, to the Department of Revenue a monthly statement on forms approved by the department, showing the names and addresses of all persons from whom they have purchased oil or gas during that month, together with the total quantity of, and gross price paid for the oil or gas, and, at the time the report is made, pay the amount of tax deducted or withheld, or that may be due.

D. Effective with the July 2010 filing period, severers of oil or gas that are required to file reports under R.S. 47:635(A)(2) and 640(A)(2) shall be required to file the tax returns or report electronically with the Department of Revenue using the electronic format prescribed by the department.

E. R.S. 47:633(7)(b) and 633(7)(c)(i)(aa) provide reduced severance tax rates on oil produced from wells that have been certified by the Department of Revenue as "incapable wells" and "stripper wells" on or before the twenty-fifth day of the second month following the month of production.

F. R.S. 47:633(9)(b) and 633(9)(c) provide reduced severance tax rates on gas produced from wells that have been determined by the secretary of revenue to be "incapable oil wells" and "incapable gas wells".

G. Beginning with the July 2011 production month application that is due September 25, 2011, Form G-2, Application for Certification of Incapable Wells, and Form O-2, Application for Certification of Stripper/Incapable Wells, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. If the due date falls on a weekend or holiday, the application and electronic filing thereof is due on the next business day.

H. Failure to comply with these electronic filing requirements 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.

3. If the taxpayer can prove electronic filing of a tax return, report, or application for certification would create an undue hardship, the secretary may exempt the taxpayer from filing the return, report, or application electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, 47:635(A)(2), 47:640(A)(2), 47:633(7)(b), 47:633(7)(c)(i)(aa), 47:633(9)(b), and 47:633(9)(c).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1271 (June 2010), amended by the Department of Revenue, Policy Services Division, LR 37:

Family Impact Statement

This proposed amendment to LAC 61:III.1525 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed amending of this Rule will have negligible impact on small businesses.

Public Comments

Interested persons may submit data, views, or arguments, in writing, to Annie L. Gunn, Attorney, Policy Services Division, P. O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by April 27, 2011.

Public Hearing

A public hearing will be held on April 28, 2011 at 9:00 a.m. in the River Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

proposed rule will help the Department expedite the proper distribution of certain dedicated funds.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs for businesses that will be required to electronically file applications for certification of stripper or incapable wells should be negligible since severance taxpayers are already required to file oil and gas severance tax returns electronically. In order to file severance forms electronically, taxpayers are assumed to already own a computer with Internet access, which is also necessary to submit the electronic applications as required by this proposed rule. In addition, regional offices of the Department of Revenue offer kiosks and on-site customer support to assist in electronic filing. The electronic filing of applications for certification should also benefit taxpayers by eliminating paper return preparation and mailing.

The proposed rule also specifies the exact reporting components required by the department. These components are the same as are currently being reported and are not expected to impose a larger burden on the reporting business.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
1103#010

Gregg V. Albrecht
Chief Economist
Legislative Fiscal Office

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Electronic Filing Requirements for Oil or Gas Severance Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule requires dealers who remit oil and gas severance taxes to electronically submit applications for certification of stripper or incapable wells to the Louisiana Department of Revenue beginning with the July, 2011, production month, which are to be filed by September 25, 2011. Electronic filing of these returns is necessary to facilitate proper identification and dedication of oil and gas severance tax revenues. Since applications already exist for the electronic filing of these reports, the department's implementation costs should be minimal and will be absorbed within the department's existing budget allocation. Ongoing system maintenance costs will be offset by a corresponding reduction in printing, postage, and paper processing costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule, which requires dealers to electronically submit applications for certification of stripper or incapable wells, will have no impact on the revenue collections of state or local governmental units. This