

RULE
Department of Public Safety and Corrections
Board of Pardons
and
Committee on Parole

Committee Procedures (LAC 22:XI.504)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons and Parole has amended its rules in LAC 22:XI.504. The amendment to §504 allows for parole to be rescinded prior to release under certain situation. This Rule is hereby adopted on the day of promulgation.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§504. General Procedures

A. Minutes. The committee's minutes of public hearings shall include the following information as applicable:

1. name and Department of Corrections (DOC) number of the offender;
2. name of counsel representing the offender (an offender docketed for a public hearing may be represented by counsel);
3. the vote of each member; and
4. the decision of the committee.

B. Votes

1. The vote of each panel member shall be recorded by name and date on the vote sheet.
2. Only those members present shall vote; voting by proxy is prohibited.
3. No vote shall be taken while the panel is in executive session.
4. The panel shall not rescind the original vote without conducting a new hearing, except as provided in §505.L, §513.A.1-3, and §711.
5. The original vote sheet shall remain in the inmate's DOC file and a copy shall be attached to the minutes and maintained in a separate locked file in the committee office.

C. Accuracy of Vote. The chairperson of the panel shall ensure that support staff reviews case records subsequent to voting to assure the accuracy of all documents.

D. Continuance/Recess. A majority vote is required to continue or recess a meeting or hearing. Generally, the matter will be rescheduled for the next month, but may be rescheduled for an earlier date if deemed appropriate by the panel (see §514, Voting/Votes Required).

E. Executive Session. A panel may go into executive session to discuss each offender's case prior to a decision pursuant to the provisions of R.S. 42:6, 42:6.1 and 15:574.12. No vote shall be taken while the panel is in executive session.

F. Observance of Proceedings. The committee may extend invitations to individuals to observe committee proceedings.

G. Testimony. The committee may direct questions to and/or request statements from anyone appearing before the committee.

H. Children Under 12. It is generally inappropriate for children under the age of 12 years, except when the child is a victim and chooses to appear, to be present during any public meeting or hearing of the committee.

I. Space and Security. The number of people supporting or opposing the granting of parole, including victims and/or family members of victims will be limited only by space and security considerations.

J. Meeting/Hearing Schedule. The chairman shall be responsible for schedules of business meetings and public hearings.

1. Such schedules may be changed, only upon prior notice, provided that such changes are made in a timely manner in order to notify all concerned.

2. Such meetings may be rescheduled without notice due to inclement weather, or any other emergency or unforeseen situation.

K. Upon notification by the secretary of the Department of Public Safety and Corrections that an offender has violated the terms of work release granted under §311 or has engaged in misconduct prior to the inmate's release, the committee may rescind its decision to grant parole. In such cases, the inmate shall promptly receive another parole hearing.

1. The board may choose to automatically rescind and change the decision for granting of parole under the below conditions:

- a. subject received a disciplinary report that the board was unaware of at the time of the hearing;
- b. time calculation adjustments, causing the subject to become ineligible for parole or pushing his parole eligibility dates past the allowed grant time frame;
- c. refusing to comply with post and/or prior to release conditions set forth by the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:44 (January 2015), amended LR 46:42 (January 2020).

Sheryl M. Ranatza
Board Chair

2001#065

RULE

Department of Revenue
Policy Services Division

Election of Pass-Through Entities
(LAC 61:I.1001)

Under the authority of Act 442 of the 2019 Regular Session of the Louisiana Legislature, which authorizes S corporations, and other pass-through entities, to elect to be taxed as C corporations for Louisiana income tax purposes in accordance with LA R.S. 47:287.732(B), 287.732.2, 293, 297.14, 1506, 1517, and 1675 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.1001 to provide procedure for making such election, the documents which must be

submitted by an electing entity and the procedure for terminating the election. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 10. Income: Pass-Through Entities

§1001. Election of Pass-Through Entities

A. Act 442 of the 2019 Regular Session of the Louisiana Legislature, allows S corporations, and other entities taxed as partnerships for federal income tax purposes, to make an election to be taxed in the same manner as if the entity was required to file a tax return with the Internal Revenue Service as a C corporation.

1. The income of entities that make the election under LA R.S. 47:287.732.2 shall be taxed at the following rates:

- a. two percent upon the first \$25,000 of Louisiana taxable income;
- b. four percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. six percent upon the amount of Louisiana taxable income above \$100,000.

B. Requirements to Make the Election

1. Shareholders, members or partners holding more than one-half of the ownership interest in the entity based upon capital account balances on the day the election is made shall approve the election.

2. The entity shall provide the Department of Revenue at the time of making the election either:

- a. a resolution signed by secretary of the corporation or equivalent officer or manager verifying that more than one-half of the ownership interest in the entity based upon capital account balances approved the election, or
- b. other written proof that more than one-half the ownership interest in the entity approved the election.

3. An entity shall make the election on Form R-6980, *Tax Election for Pass-Through Entities* and the form shall be submitted to the Department of Revenue by email to Section732.2election@la.gov.

a. The following documentation shall be attached to Form R-6980:

- i. a list of all owners, their addresses and their tax identification numbers as of the last day of the taxable year to which the election is effective;
- ii. federal returns for the entity for the preceding three taxable years if applicable, including form K-1s and pass-through or disregarded entity forms such as Schedules C, E, and F;
- iii. a copy of the federal S corporation election form, if applicable;
- iv. formation documents of the entity such as the Articles of Incorporation, Partnership Agreement or Operating Agreement which specifically set forth how profits, losses and other tax items are distributed to the owners;
- v. a list of all unused Louisiana net operating losses, tax credit balances and other tax items earned at the entity level prior to the election; and

vi. any audit reports issued by certified public accountants for the preceding three taxable years, if applicable.

4. Any entity who files a composite partnership return pursuant to LA R.S. 47:201.1 is prohibited from making the election.

5. Elections are timely if made: at any time during the preceding taxable year of the year in which the election is first effective; at any time during the taxable year in which the election is first effective or on or before the 15th day of the fourth month after the close of the taxable year in which the election is first effective.

a. The department will begin accepting elections on February 1, 2020 for taxable years beginning on or after January 1, 2019.

b. The secretary has the discretion to treat an election made after the fifteenth day of the fourth month after the close of the taxable year in which the election is first effective as timely if reasonable circumstances exist for the entity's failure to make a timely election.

i. The secretary shall consider whether to treat applications filed after the fifteenth day of the fourth month after the close of the taxable year as filed timely on a case-by-case basis.

ii. Reasonable circumstances may include, but are not limited to, death or serious illness of owners, death or serious illness of the entity's tax preparer, or federally declared natural disasters or emergencies.

iii. A determination that the entity and its owners will pay less total tax under the election shall not be a reasonable circumstance to consider a late election timely.

c. An election, once made, is effective for the entire taxable year for which it was made as well as all subsequent taxable years until the election is terminated.

C. Filing Tax Returns after Election

1. Each entity making the election shall file Louisiana Form CIFT-620, *Corporation Income Tax and Franchise Tax Return*, for the applicable taxable year for which the election was made and all taxable years thereafter unless the election is terminated.

2. Each entity making the election and filing the Louisiana Form CIFT-620 with all supporting documentation as required by the Department shall be required to file the return electronically in accordance with LAC 61:III.1505. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

3. The following documents shall be attached to the Louisiana Form CIFT-620 when filed:

a. A *pro forma* Federal Form 1120 completed as if the entity had filed as a C corporation for federal income tax purposes including all necessary federal schedules to compute the amount of federal tax that would have been due;

b. Schedule K-1s as actually issued to the owners of the entity for the taxable year as well as Form R-6981, *Statement of Owner's Share of Entity Level Tax Items*, reflecting any income that remains taxable to the entity's owners in Louisiana after the election such as dividends and interest; and

c. Form R-6982, *Schedule of Tax Paid if Paid by Owner*, calculating how much tax would have been due if the entity had passed the income through to its owners and the tax had been paid at the owner level.

4. Resident individual taxpayers with an ownership interest in an entity making this election shall make a modification on Schedule E of their Louisiana Form IT-540, *Louisiana Resident Income Tax Return*, in accordance with LA R.S. 47:297.14. A non-resident or part-year resident shall make the modification on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, *Louisiana Nonresident and Part-Year Resident Income Tax Return*.

a. The modification shall be made for all income or loss of the entity that was included by the individual owners in the calculation of federal adjusted gross income but which is being taxed at the entity level for Louisiana income tax purposes after the election is made.

b. The modification shall not be made for any income or loss that remains taxable for Louisiana individual income tax purposes to the entity's owners such as interest income and dividend income.

c. For calculation purposes, individual income taxpayers with an ownership interest in an entity making the election shall submit a *pro forma* Federal Form 1040 that excludes any income, deductions or other tax items that were included in the calculation of Louisiana net income on the entity's Louisiana Form CIFT-620.

5. Net Operating Losses

a. Louisiana net operating losses recognized in taxable years prior to the election that have previously been passed through to the owners are tax items of the owners and any such losses are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana net operating losses for any taxable year to which the election applies are tax items of the entity and any such losses shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

6. Tax Credits Granted to Pass-Through Entities

a. Louisiana tax credits earned in taxable years prior to the election that have previously passed through to the owners are tax items of the owners and any such credits are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana tax credits earned for any taxable years to which the election applies are tax items of the entity and any such credits shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

D. Termination of the Election. Entities who make the election pursuant to LA R.S. 47:287.732.2, may apply to the secretary of the Department of Revenue to terminate the election. Any such termination request requires the written approval of more than one-half the of the ownership interest based upon capital account balances on the date the request is submitted.

1. The secretary may terminate the election if the entity shows a material change in circumstances.

a. A significant change in federal law may be considered a material change in circumstances.

b. A tax increase resulting from the decision to make the election, in and of itself, shall not be considered a material change in circumstances.

2. The entity shall request to terminate the election by submitting a private letter request to the Policy Services Division of the Department of Revenue in accordance with LAC 61:III.101.(C)(2)(a).

a. The entity must provide the Department either:

(i) A resolution signed by secretary of the corporation or equivalent officer or manager verifying that more than one-half the ownership interest in the entity based upon capital account balances approved the election, or

(ii) Other written proof that more than one-half the ownership interest in the entity based upon capital account balances approved the request for termination.

3. Once the entity has filed a Louisiana income tax return for a taxable year for which the election has been made or a subsequent taxable year, the secretary shall not grant a termination of the election to apply to such taxable year for which a return has already been filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47: 47:287.732(B), 287.732.2, 293, 297.14, 1511, and 1675.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:43 (January 2020).

Kimberly Lewis Robinson
Secretary

2001#021

RULE

Department of Revenue Sales and Use Tax Commission for Remote Sellers

Mandatory Electronic Filing of Remote Sellers Tax Returns and Payment of Related Sales and Use Tax (LAC 61:III.1537 and 1538)

Under the authority of R.S. 47:1519, 47:1520, and 47:340, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Sales and Use Tax Commission For Remote Sellers has adopted LAC 61:III.1537 and 1538 to provide mandatory electronic filing and payment requirements for the remote sellers tax return.

R.S. 47:340(F) gives the Sales and Use Tax Commission the same collection powers enjoyed by the secretary of the Department of Revenue under chapter 18, subtitle II of Title 47; which includes those provided by R.S. 47:1519(B)(1) and R.S. 47:1520(A)(2). The purpose of this regulation is to mandate electronic filing of all remote seller tax returns and electronic payment of all related sales and use tax. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1537. Remote Seller Tax Return—Electronic Filing Requirements

A. For tax periods beginning on or after July 1, 2020, every remote seller shall be required to file the remote sellers tax return electronically with the Sales and Use Tax