

be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

2. Effective for all taxable periods beginning on or after January 1, 2023, all payments by a retail dealer of vapor products shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 45:932 (July 2019), amended LR 48:

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:974.5.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., September 26, 2022.

Public Hearing

A public hearing will be held on September 27, 2022 at 9 a.m. in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kevin J. Richard, CPA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Mandatory Electronic Filing and Payment of Tobacco Tax by Vapor Dealers

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

The proposed rule will not result in implementation costs or savings to state or local governmental units. The proposed rule amends the rule requiring electronic filing and payment of tobacco tax returns to include retail dealers of vapor products who are required to file tobacco returns.

Implementation of the proposed rule will not result in material additional costs or cost savings to governmental units. LDR is implementing electronic filing of these returns and reports through LDR's LaTAP as an ongoing enhancement of its collection efforts.II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no direct impact on annual state or local revenue collections.

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

LDR does not have the information necessary to determine the additional costs to comply with this change, but these costs are expected to be minimal, as online access and activity has largely become a business standard.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Kevin J. Richard, CPA
Secretary
2208#053

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Manufacturer's Net Invoiced Price (LAC 61.I.5103)

Under the authority of R.S. 47:841(D) and 1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61.I.5103 relative to the determination of manufacturer's net invoiced price.

The purpose of this regulation is to provide definitions relative to the calculation of manufacturer's net invoiced price and provide guidance regarding the inclusion and exclusion of certain items such as, trade discounts, cash discounts, federal excise tax, and shipping charges routinely reflected on invoices issued to tobacco dealers.

Title 61

REVENUE AND TAXATION

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

Chapter 51. Tobacco Tax

§5103. Manufacturer's Net Invoiced Price

A. Definitions

Cash Discounts—reduction to the total invoiced amount based upon a payment method or timing of payment such as

payment by electronic funds transfer, automatic withdrawal or full payment within a specified period.

Promotional Incentives—product provided to the Louisiana dealer and listed on the invoice at no cost

Trade Discounts—reduction in list price or unit price given by a manufacturer or other supplier. These discounts are listed in the product line item as either a percentage or specified amount and are reflected in the extended price of the product on the invoice.

B. The tobacco tax is imposed on the invoice price of cigars, smoking tobacco, smokeless tobacco, and other tobacco products. R.S. 47:842(6) defines invoice price as the manufacturer's net invoiced price as invoiced to the Louisiana tobacco dealer.

C. Manufacturer's net invoiced price is the product line item price charged to the dealer by the manufacturer, supplier, jobber or other person who sells the tobacco product to the dealer inclusive of any trade discount reflected in the line item price.

D. Federal excise and other taxes, shipping charges, and freight charges separately stated on an invoice are not considered part of the price of the taxable product and are excluded from the determination of manufacturer's net invoiced price.

E. Cash discounts shall not be considered when determining the manufacturer's net invoiced price.

F. R.S. 47:854(B) requires that any tobacco products given away at no cost must be taxed in the same manner as products sold, used, consumed, handled or distributed in this state. The tobacco tax due on promotional incentives listed on an invoice at no cost shall be determined as follows.

1. If the invoice reflects a purchase of the same product, then the tobacco excise tax should be calculated on the invoiced price charged on the invoice for the same product.

2. If the invoice does not show the purchase of the same product, then the tax is calculated on the manufacturer's list price for that product

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:841(D) and 1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 48:

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:974.5.

Provider Impact Statement

The proposed rule has no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., September 27, 2022

Public Hearing

A public hearing will be held on September 28, 2022 at 9 a.m. in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kevin J. Richard, CPA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Manufacturer's Net Invoiced Price

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

The proposed rule clarifies the term 'invoice price' as found in Louisiana Revised Statute 47:842(6) by providing definitions of discounts commonly allowed by manufacturers to customers and an explanation of how the discounts and other items are to be considered in determining the manufacturer's net invoiced price of cigars, smoking tobacco, smokeless tobacco, and other tobacco products other than cigarettes and vapor products for tobacco tax purposes.

The proposed rule will not result in implementation costs or savings to the state. Local governmental units are not affected by this proposal.

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

The proposed rule clarifies current Department procedures regarding the invoice price of tobacco products other than cigarettes and vapor products for the purpose of tax calculations. The proposed rule will not affect revenue collections.

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

LDR does not anticipate any additional costs to comply with this change. Any additional costs or economic benefits to affected persons are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule should not affect competition or employment.

Kevin J. Richard, CPA
Secretary
2208#054

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office