

DECLARATION OF EMERGENCY

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 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., and specifically the emergency provisions of R.S. 49:953(B), the Department of Revenue, Policy Services Division, hereby issues the following Emergency Rule to amend LAC 61:III.1525 to mandate the electronic filing of the applications for reduced oil or gas severance tax rates, Forms O-2 and G-2.

Beginning with the filing of the July 2011 production month application due September 25, 2011, the Gas Severance Tax Form G-2, Application for Certification of Incapable Wells Oil, and the Oil Severance Tax 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. This Emergency Rule, effective January 28, 2011, shall remain in effect for a period of 120 days or until this Rule takes effect through the normal promulgation process, whichever comes first.

This Emergency Rule is necessary to allow the secretary to provide needed information to taxpayers, producers, purchasers, or duly authorized representatives regarding the mandatory electronic filing requirements for applications for reduced oil or gas severance tax rates. A delay in adopting this Rule could have an adverse impact on persons applying for reduced oil or gas severance tax rates.

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(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, the R-9001 Application for Certification of Incapable Wells, Form G-2, and R-9020 O-2 Application for Certification of Stripper/Incapable Wells, Form O-2, 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), R.S. 47:640(A)(2), R.S. 47:633(7)(b), 47:633(c)(i)(aa), R.S. 47:633(9)(b), and R.S. 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 36:1 (January 2011), LR 37:

Cynthia Bridges
Secretary