

RULE

Department of Revenue Policy Services Division

Manufactured and Mobile Home Settlement Fund Administration (LAC 61:I.4314)

Under the authority of Act 1212 of the 2001 Regular Legislative Session 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 enacted LAC 61:I.4313 to establish procedures for the administration of the Manufactured and Mobile Home Settlement Fund.

This rule is necessary to allow the Department of Revenue to carry out the requirements of Act 1212 of the 2001 Regular Legislative Session, which was enacted to resolve certain suits against the state related to the state sales and use taxes assessed on the purchase of certain manufactured and mobile homes. This Act requires the secretary to promulgate rules and regulations to process claims against the state regarding state sales tax paid on the purchase of manufactured and mobile homes. This rule supplements the Declarations of Emergency regarding the Manufactured and Mobile Home Settlement Fund that were effective September 1, 2001, September 10, 2001, and October 20, 2001.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4313. Administration of Claims Against the Manufactured and Mobile Home Settlement Fund as Required by Act 1212 of the 2001 Regular Legislative Session

A. Payment of Avants Judgment

1. The Secretary of Revenue will direct the Office of Motor Vehicles to issue a payment for the judgment rendered on February 5, 2001, in the matter of "Shirley M. Avants and Jim W. Miley v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana; and Elmer Litchfield, Sheriff of East Baton Rouge Parish," No. 434,575 (19th Judicial District Court Mar. 12, 1997) in the amount of \$5,167,194 plus interest from the date of the judgment. This payment will be made out of the state funds currently held in escrow by the Office of Motor Vehicles pursuant to the October 22, 1999 order issued in the Avants lawsuit.

2. Those individuals specifically listed as plaintiffs in the Shirley M. Avants lawsuit referenced in §4313.A.1 are not eligible to file a claim against the state regarding the Manufactured and Mobile Homes Settlement Fund described in §4313.B.

B. Source of Funds in the Manufactured and Mobile Homes Settlement Fund. After the payment described in §4313.A is made and an order is issued releasing the remainder of the state funds from escrow, the State Treasurer will transfer all remaining state tax monies held in escrow to the Manufactured and Mobile Homes Settlement Fund, hereinafter referred to as "the Fund."

C. Administration of the Fund with Regard to the Stevens, Rossi, and Miley Suits

1. The Department of Revenue will obtain a list of all persons who were plaintiffs on or before July 1, 2001, in the following three suits:

a. Nancy C. Stevens and Edward Istre, Jr. v. Brett Crawford, Secretary, Department of Revenue, State of Louisiana, No. 466,122 (19th Judicial District Court Nov. 2, 1999);

b. Darla M. Rossi, et al v. Cynthia Bridges, Secretary, Department of Revenue, State of Louisiana, No. 478,526 (19th Judicial District Court Nov. 29, 2000); and

c. Jim W. Miley, Individually, and on behalf of all others similarly situated v. John Neely Kennedy, Secretary, Department of Revenue and Taxation, State of Louisiana, No. 4695 (La. Board of Tax Appeals Apr. 15, 1997).

2. Any plaintiff referred to in §4313.C.1 must provide his legal representative with documentation that identifies the transaction upon which his claim is based. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale. The plaintiff's representative must present this documentation to the Department of Revenue by December 31, 2001.

3. The information provided by the plaintiffs in §4313.C.2 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

4. After the state tax monies held in escrow are transferred to the Fund, the Secretary of the Department of Revenue will authorize payment from the Fund for the state sales or use tax paid to those plaintiffs described in §4313.C.1.a-c, but only in instances where the amount of state sales or use tax paid has been verified.

5. If it cannot be determined that a plaintiff described in §4313.C.1.a-c has paid state sales or use tax on the purchase of a manufactured or mobile home, or if the amount cannot be verified, the amount claimed by that plaintiff will be denied.

6. Plaintiffs in the suits listed in §4313.C.1.a-c are not eligible to file a claim against the state regarding the Manufactured and Mobile Home Settlement Fund.

D. Administration of the Manufactured and Mobile Home Fund with Respect to All Others

1. The Secretary of the Department of Revenue will obtain from the Department of Public Safety, Office of Motor Vehicles, a list of all persons who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001.

2. The Department of Revenue will mail a notice to each person described in §4313.D.1. The notice will inform persons who are not a party to the lawsuits referenced in §4313.A.1 or §4313.C.1.a-c of their right to file a claim against the state for state sales or use tax paid on manufactured and mobile home purchases and will include a Manufactured and Mobile Homes Settlement Claim Form that must be filed with the claim against the state. The Manufactured and Mobile Homes Settlement Claim Forms will also be available at the Louisiana Board of Tax Appeals, at any office of the Department of Revenue, and on the Department of Revenue's website at www.rev.state.la.us.

3. The Department of Revenue will collect the Manufactured and Mobile Homes Settlement Claim Forms on behalf of the Board of Tax Appeals. Taxpayers who purchased a manufactured or mobile home after December 31, 1997, and before July 1, 2001, must return the completed claim form to the Department of Revenue on or before December 31, 2001. The forms may be delivered to any Department of Revenue office or mailed to the Louisiana Department of Revenue, Manufactured and Mobile Homes Settlement Claims, P.O. Box 15409, Baton Rouge, LA 70895-5409. Forms that are postmarked on or before December 31, 2001, will be deemed received by December 31, 2001.

4. Claimants must include documentation that identifies the transaction upon which their claim is based with the Manufactured and Mobile Homes Settlement Claim Form. Examples of such documentation include the VIN number of the manufactured or mobile home purchased by the plaintiff, a copy of the plaintiff's registration issued by the Office of Motor Vehicles upon the original purchase of the manufactured or mobile home, or a copy of the bill of sale.

5. The information provided by the claimants in §4313.D.4 will be used to locate the sales transactions in the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid on those transactions.

6. If a claim is filed with incomplete documentation to identify the transaction, the secretary will notify the claimant that the claim is unacceptable. The secretary may allow additional time for the claimant to provide adequate documentation. However, all documentation must be provided no later than February 28, 2002, or the claim will be denied.

7. After the December 31, 2001 deadline to file a Manufactured and Mobile Homes Settlement Claim Form has passed, the Department of Revenue will review the forms in conjunction with the Office of Motor Vehicle's records to determine the amount of state sales or use tax actually paid by each claimant. Thereafter, the department will forward the claim forms along with its findings to the Board of Tax Appeals for a ruling.

8. After the Board of Tax Appeals rules on all claims, the Secretary of the Department of Revenue will authorize payment from the Fund of all claims approved by the Board of Tax Appeals in accordance with Paragraphs B and C of Section 4 of Act 1212 of the 2001 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in Accordance with Acts 2001, No. 1212 and R.S. 47:301.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001).

Cynthia Bridges
Secretary

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