

DECLARATION OF EMERGENCY
Department of Revenue
Policy Services Division

Collection of In-State Tax Liabilities by Debt Collection Agencies
or the Attorney General's Office
(LAC 61:I.4913)

The Louisiana Department of Revenue is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to adopt this emergency rule to authorize the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of in-state tax liabilities.

This Declaration of Emergency is necessary to clarify the intent and effective period of LAC 61:I.4913, as published in the February 2002 issue of the *Louisiana Register*. R.S. 47:1516.1 authorizes the secretary to enter into contracts with debt collection agencies or the Attorney General's Office for the collection of certain in-state tax liabilities. This rule is being adopted under the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), in order to immediately issue a request for proposal to award a contract for the collection of in-state tax liabilities. The in-state debt collection contract Request For Proposal will be advertised in the official journal of the state and in one or more newspapers for at least 10 days before the last day that proposals will be accepted. The deadline for inquiries shall be no less than four weeks after the issuance of the Request For Proposal and the due date for submission of the proposals shall be no less than three weeks after the deadline for inquiries. The secretary will select a committee to evaluate the proposals and make a recommendation and applicants will be notified of the selection in a timely manner.

This Emergency Rule shall be effective May 20, 2002 and remain in effect for a period of 120 days or until a final rule is adopted, whichever occurs first.

Title 61

REVENUE AND TAXATION

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

Chapter 49. Tax Collection

§4913. Collection of In-State Tax Liabilities by Debt Collection Agencies or the Attorney General's Office

A. Definitions

For purposes of this rule, the following terms shall have the meaning ascribed to them:

Attorney General—the attorney general of the state of Louisiana.

Collection Contractor—the attorney general or one or more private persons, companies, associations, or corporations who provide debt collection services inside the state.

B. 1. The secretary is authorized to enter into contracts with collection contractors to facilitate the collection of taxes, interest, penalties, and fees due the department after an obligation has become collectible by distraint and sale.

2. The secretary may only enter into a collection contract after notice by regular mail has been transmitted to the taxpayer at the address given in the last report filed by the taxpayer, or to any address obtainable from any private entity that will provide such address free of charge or from any federal, state, or local government entity, including but not limited to the United States Postal Service or from United States Postal Service certified software.

3. The taxpayer will be informed of the following:

a. That the obligation is a final judgment;

b. All the actions the secretary is authorized to take in order to collect the debt; and

c. That if the debt is not paid within 60 days of the date of the notice, a collection fee not to exceed 25 percent of the total liability will be charged to the account.

4. The taxpayer must pay the full amount of any additional charge for the collection of any taxes, interest, penalties, or fees. If an account is referred to a collection contractor, the additional charge will be paid to the collection contractor.

C. The secretary will consider the following criteria in selecting collection contractors:

1. Fees charged;
2. Organizational structure;
3. Experience with government accounts;
4. Computer capabilities including the ability to generate reports and formatting;
5. Collection methodology;
6. Financial stability; and,
7. Personnel resources.

D. Prior to entering into any contract, the secretary will require a performance bond, cash, or securities from the collection contractor in an amount not to exceed \$100,000.00.

E. Once the collection contract is entered into, the secretary will provide information to the collection contractors concerning the accounts of individual taxpayers only to the extent necessary for the collection contractor to fulfill his contractual obligation.

a. The information furnished by the secretary will be considered confidential and privileged by the collection contractor and members of his staff, as provided by R.S. 47:1508.

b. Collection contractors may not take any action that exceeds the authority of the secretary and must follow the Fair Debt Collection Practices Act.

F. With the approval of the secretary, the collection contractor may file suit, at his expense, in the name of the secretary in the courts of this state for the purpose of collecting the tax debt.

G. 1. Nothing contained in this rule shall be construed to affect in any manner any rights and remedies available to the taxpayer.

2. This rule does not apply to a spouse who qualifies for liability relief under the innocent spouse provisions of R.S. 47:101(B)(7).

H. The attorney general will have a right of first refusal for all accounts selected to be sent to a collection contractor.

1. A list of accounts selected will be compiled by the secretary and forwarded to the attorney general for the exercise of his right of first refusal.

2. The right of first refusal shall be exercised within 30 days of the date of mailing or electronic transmission of the list.

3. If the attorney general fails to exercise his right of first refusal within 30 days or refuses to accept an account, the secretary may send the account to any collection contractor meeting the requirements of Subsection C.

4. When the attorney general accepts an account for collection, the collection fee may not exceed 15 percent of the total liability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1516.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Office of the Secretary, LR 28:___

Cynthia Bridges
Secretary