NOTICE OF INTENT

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 and 47:1520 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.1525 to mandate electronic filing to persons severing oil or gas from the soil or water of the state.

R.S. 47:1520(A)(1)(b) authorizes the secretary to require electronic filing from persons severing oil or gas from the soil or water of the state that are required to file reports under R.S. 47:635(A)(2). Paragraph (A)(2) requires that the electronic filing requirements be implemented by administrative rule in accordance with the Administrative Procedure Act. R.S. 47:1520(B) provides for penalties if the taxpayer fails to comply with the electronic filing requirement.

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. 47:635(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 of the business conducted by the severer during the month on forms approved by the department.

B. Effective with the July 2010 filing period, reporting severers of oil or gas, from the soil or water, shall be required to file tax returns electronically with the Department of Revenue using the electronic format prescribed by the department.

C. Failure to comply with this electronic filing requirement will result in the assessment of a penalty of $100 or 5 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 electronic filing of a tax return or report would create an undue hardship, proven by the taxpayer, the secretary may exempt the taxpayer from filing the return or report electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 47:635(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:

Family Impact Statement

This proposed adoption of LAC 61:III.1525 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

Public Comments

Interested persons may submit data, views, or arguments, in writing to Raymond Tangney, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by April 28, 2010. A public hearing will be held on April 29, 2010 at 8:00 a.m. in the River Room on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: LAC 61:III.1525

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

This proposed rule requires dealers who remit oil and gas severance taxes to electronically submit their tax returns to the Louisiana Department of Revenue beginning with the July, 2010, production month, which are to be filed by September 27, 2010. Electronic filing of these returns is necessary to facilitate proper identification and dedication of tax revenues from these sources. Since the electronic filing applications already exist, the department's implementation costs should be minimal and will be absorbed within the department's existing budget allocation. Ongoing system maintenance costs will be offset by a corresponding reduction in tax return printing, postage, and paper processing costs.

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

This proposed rule, which requires dealers to electronically submit oil and gas severance tax returns, will have no impact on the revenue collections of state or local governmental units.

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

The costs for businesses that will be required to electronically file returns should be negligible because 47 percent of gas severance tax filers and 45 percent of oil severance tax filers already file electronically. In addition, severance taxpayers typically own a computer with Internet access, which are necessary to submit the electronic returns as required by this proposed rule. In addition, regional offices of the Department of Revenue offer kiosks and on-site customer support to assist in electronic filing. The electronic filing of returns should also benefit taxpayers by eliminating paper return preparation and mailing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
1003#008

Robert E. Hosse
Staff Director
Legislative Fiscal Office