

NOTICE OF INTENT

Department of Revenue Policy Services Division

Mandatory Electronic Filing of Tobacco Tax Returns and Payment of Tax (LAC 61.III.1533 and 1534)

Under the authority of R.S. 13:5077, 47:1511, 47:1519, and 47:1520, and in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to adopt LAC 61.III.1533 and 1534, to provide mandatory electronic filing and payment requirements for the Tobacco Tax Return and reports.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) authorizes the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.* The purpose of this regulation is to mandate electronic filing of all Tobacco Tax Returns and reports and electronic payment of all tobacco tax.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1533. Tobacco Tax – Electronic Filing Requirements

A. For tax periods beginning on or after October 1, 2019, every dealer that files a Louisiana Tobacco Tax Return shall be required to file the return and all reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Dealers may not send paper versions of any returns or reports required to be filed.

C. 1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 13:5077, 47:1511, and 47:1520.

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

§1534. Tobacco Tax - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of tobacco tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after October 1, 2019, all payments by a tobacco dealer 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. For the purposes of this Rule, specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 through 1602.

E. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, taxpayers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns and reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the return or report required by the Department of Revenue are set forth in LAC 61.III.1533.

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

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 Impact Statement

The proposed rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

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., May 29, 2019.

Public Hearing

A public hearing will be held on May 30, 2019 at 9:30 a.m. in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kimberly Lewis Robinson
Secretary of Revenue

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Kimberly Lewis Robinson
Secretary of Revenue

Fiscal and Economic Impact Statement For Administrative Rules

Person preparing
statement:

Cindy Pugh

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Return Address:

617 North Third Street
Baton Rouge, LA 70802

Department:

Revenue

Office:

Policy Services Division

Rule Title:

LAC 61.III.1533 and 1534

Date Rule

Takes Effect:

July 20, 2019

Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

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

This proposal adopts rules that require electronic filing of the Tobacco Tax returns and reports and electronic funds transfer of all Tobacco Tax payments. This proposal also provides for the assessment and waiver of penalties for non-compliance.

Implementation of this proposal will not result in material additional costs or cost savings to governmental units. LDR is implementing electronic filing of Tobacco Tax returns and reports through LDR's LaTAP as an ongoing enhancement of its collection efforts. Accounting for non-compliance penalties will not result in material additional costs.

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

This proposal may increase revenues from penalties by an indeterminable amount. A modest and temporary increase in revenue from penalties is possible as the proposed rule is implemented, although LDR cannot predict non-compliant behavior. For informational purposes, on returns that are currently required to be filed electronically, LDR collected approximately \$20,000 in FY16, \$7,000 in FY17 and \$1,000 in FY18.

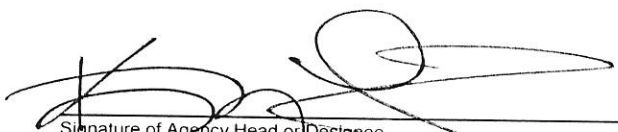
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

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.

A total of less than 200 taxpayers statewide are affected by this proposed rule, and the majority of these taxpayers already remit the tax by electronic funds transfer. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. LDR cannot estimate the additional penalty amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

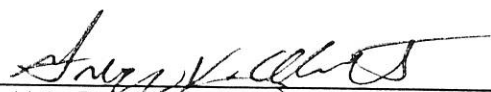
This proposal is not expected to have any significant effect on competition or employment.



Signature of Agency Head or Designee
Kimberly Lewis Robinson, Secretary

Typed Name and Title of Agency Head or Designee
4/8/19

Date of Signature



Legislative Fiscal Officer Designee
Greg Albrecht, Chief Economist

Typed Name of Legislative Fiscal Officer Designee
4/9/19

Date of Signature