

NOTICE OF INTENT

Department of Revenue Policy Services Division

Absorption of the Sales Tax by Sellers of Taxable Goods and Services (LAC 61:I.4351)

Under the authority of R.S. 47:306, R.S. 47:337.2, R.S. 47:337.18, and R.S. 47:1511 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 amend LAC 61:I.4351 relative to the absorption of sales and use tax by selling dealers.

This proposal amends LAC 61:I.4351, which describes the procedures for filing sales tax returns and remitting the tax collected from customers. LAC 61:I.4351.A.6 references R.S. 47:304(F) and LAC 61:I.4311.C regarding the penalty for absorption of the sales tax by a selling dealer. Prior to July 1, 2001, R.S. 47:304(F) prohibited a vendor from advertising or holding out to the public in any way that he would absorb all or any portion of the tax collectable from customers. Act 245 of the 2001 Regular Legislative Session amended R.S. 47:304(F) to allow dealers to absorb the sales tax under certain conditions. Act 73 of the 2003 Regular Session enacted R.S. 47:337.17(F), which imposed similar conditions for the absorption of local sales and use taxes. This proposal amends LAC 61:I.4351.A.6 to concur with the provisions in these statutes that allow for absorbing the tax.

Title 61

REVENUE AND TAXATION

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

Chapter 43. Sales and Use Tax

§4351. Returns and Payment of Tax, Penalty for

Absorption of the Tax

A. - A.5. ...

6. Except as provided in R.S. 47:304(F)(1), R.S. 47:337.17(F)(1), and LAC 61:I.4311.C,

dealers or sellers must separately list the sales tax from the price paid by the purchaser. Otherwise, the absorption of the tax by any retailer, wholesaler, manufacturer, or other supplier shall be punished in accordance with R.S. 47:304(F)(3) and R.S. 47:337.17(F)(3).

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 22:852 (September 1996), amended by the Department of Revenue, Sales Tax Division, LR 23:1530 (November 1997), amended by the Department of Revenue, Policy Services Division, LR 31:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature the following Family Impact Statement is submitted to be published with the notice of intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees.

1. The Effect on the Stability of the Family. Implementation of these proposed amendments will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of Their Children. Implementation of these proposed amendments will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed amendments will have no effect on the functioning of the family.

4. The effect on Family Earnings and Family Budget. Implementation of these proposed amendments will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of

these proposed amendments will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. Implementation of these proposed amendments will have no effect on the ability of the family or a local government to perform this function.

Interested persons may submit data, views, or arguments, in writing to Raymond E. 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 4:30 p.m., Monday, March 28, 2005. A public hearing will be held on Tuesday, March 29, 2005, at 10 a.m. at the Department of Revenue Headquarters Building, 617 North Third Street, Baton Rouge, LA.

Raymond E. Tangney
Senior Policy Consultant

**FISCAL AND ECONOMIC IMPACT
STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Absorption of the Sales Tax
by
Sellers of Taxable Goods and Services**

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

There would be no implementation costs or savings to state or local authorities because of this proposal.

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

There would be no effect on revenue collections of state or local governmental units as a result of this proposed amendment.

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

This proposed rule would have no effect on dealers' costs or revenues. The proposed amendments describe the conditions under which dealers can voluntarily absorb the sales tax due from their customers on sales of goods and services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment would ensure equal competition among dealers because it clarifies those conditions that must be satisfied before sellers can absorb the tax. This proposed amendment would have no effect on employment.

Cynthia Bridges
Secretary
0502#030

H. Gordon Monk
Staff Director
Legislative Fiscal Office