NOTICE OF INTENT

Department of Revenue
Policy Services Division

Electronic Funds Transfer
(LAC 61:I.4910)

Under the authority of R.S. 47:1511 and 47:1519 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.4910 to implement changes to the electronic funds transfer requirement threshold enacted by Acts 2003, No. 112.

Act 112 amended R.S. 47:1519 to reduce the electronic funds transfer payment requirement threshold for tax payments incrementally from $20,000 to $15,000 beginning January 1, 2004; from $15,000 to $10,000 beginning January 1, 2006; and from $10,000 to $5,000 beginning January 1, 2008, and provide that electronic fund transfers delivered after the payment's due date will be considered timely if the transfer was initiated on the due date.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Electronic Funds Transfer Requirements

1. For taxable periods beginning on or after January 1, 2004, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than $15,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than $15,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments during the previous 12-month period averaged more than $15,000 per month for all tax returns filed.

2. For taxable periods beginning on or after January 1, 2006, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than $10,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than $10,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments during the previous 12-month period averaged more than $10,000 per month for all tax returns filed.

3. For taxable periods beginning on or after January 1, 2008, taxpayers are required to remit their tax payments by electronic funds transfer under any of the following circumstances:

a. the payments made in connection with the filing of any business tax return or report averaged, during the prior 12-month period, more than $5,000 per reporting period; or

b. any business tax return or report is filed more frequently than monthly and the average total payments during the prior 12-month period were more than $5,000 per month; or

c. any company who files withholding tax returns and payments on behalf of other taxpayers and payments during the previous 12-month period averaged more than $5,000 per month for all tax returns filed.

4. Any taxpayer may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. After requesting to electronically transfer tax payments, the taxpayer must continue to do so for a period of at least 12 months.

B. ...

C. Taxes Required to be Electronically Transferred. Tax payments required to be electronically transferred may include corporation income and franchise taxes including declaration payments; income tax withholding; sales and use taxes; severance taxes; excise taxes; and any other tax or fee administered or collected by the Department of Revenue except for individual income tax. A separate transfer shall be made for each return.

D. - D.3. ...

E. Failure to Timely Transfer Electronically

1. Remittances transmitted electronically are considered timely paid if the payment transaction's confirmation time and date stamp is on or before the due date. However, if the payment is not timely paid, the date of receipt by the secretary will govern for purposes of determining the amount of any late payment penalties.

2. Failure to make payment or remittance in immediately available funds in a timely manner, or failure to provide such evidence of payment or remittance in a timely manner, shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law for delinquent or deficient tax, fee or obligation payments. If payment is timely made in other than immediately available funds, penalty, interest, and loss of applicable discount shall be added to the amount due from the due date of the tax, fee or obligation payment to the date that funds from the tax, fee, or obligation payment subsequently becomes available to the state.

3. When the statutory filing deadline, without regard to extensions, falls on a Saturday, Sunday, or Federal Reserve holiday, the payments must be electronically transferred by the next business day.

4. 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 and this Rule, 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.

5. Tax return must be filed.

a. A tax return or report must be filed separately from the electronic transmission of the remittance.

b. Exception. Payments remitted by electronic funds transfer for income tax withholding will be accepted in lieu of a withholding tax return, Form L-1, and a separate return is not required to be filed.

c. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

6. In situations involving extenuating circumstances as set forth in writing by the taxpayer and deemed reasonable by the secretary of the Department of Revenue, the secretary may grant an exception to the requirement to transmit funds electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:1032 (August 1993), repromulgated LR 19:1340 (October 1993), amended LR 20:672 (June 1994), LR 23:448 (April 1997), amended by the Department of Revenue, Office of the Secretary, LR 25:2442 (December 1999), LR 28:866 (April 2002), amended by the Department of Revenue, Policy Services Division, LR 29:

Interested persons may submit data, views, or arguments, in writing to Linda Denney, Senior Policy Consultant, Policy Services Division, Department of Revenue, 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., Wednesday, October 29, 2003. A public hearing will be held on Thursday, October 30, 2003 at 10 a.m. in the River Room, 17 North 3rd Street, Baton Rouge, LA 70802-5428.

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 this proposed Rule 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 this proposed Rule 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 this proposed Rule will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of this proposed Rule 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 this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Funds Transfer

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

These proposed amendments should result in reduced agency processing costs. Tax payments made by electronic funds transfer save the Department the manual payment processing costs estimated to be 34 cents per payment. Based on our data, as the threshold is lowered, the additional number of payments that would be made by electronic funds transfer and the cost savings are estimated to be as follows:

Fiscal Year	Total Number of Additional Electronic Payments	Estimated Savings
FY04	31,112	$10,578
FY05	62,224	$21,200
FY06	117,761	$40,038
FY07	173,298	$58,921
FY08	293,040	$99,633

The additional number of payments were calculated based on the effective dates of the lowered thresholds, which fall in the middle of fiscal years. The first full year of implementation is FY09. In that year a total of 412,783 additional payments will be transferred electronically that would have been processed manually. This will result in an estimated savings of $140,346 per year. It should be noted that the cost savings are employee man-hour savings and not actual agency dollar savings. The reduced paper payment processing will allow employees to complete other processing tasks more timely.

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

These proposed amendments will result in additional interest earnings on monies on deposit overnight. Payments received by electronic funds transfer are available to the state three to four days sooner than paper deposited checks. The state earns 1.25 percent annual interest on monies on deposit overnight. Based on the Department's tax payment data, the additional interest earnings from incrementally lowering the threshold from $20,000 to $5,000 would be as follows:

Fiscal Year	Total Amount of Additional Electronic Payments	Interest Earned
FY04	$38,056,522	$3,910
FY05	$76,113,045	$7,820
FY06	$124,038,349	$12,744
FY07	$171,963,653	$17,667
FY08	$232,638,913	$23,901

These amounts were computed based on the lowered threshold effective dates, which occur in the middle of fiscal years. The first full year of implementation is FY09. In that year an estimated $293 million in payments will be received three days earlier resulting in approximately $30,134 in additional interest earnings.

The proposed amendments also provide that electronic fund transfers received in the bank after the payment's due date will be considered timely if the transfer was initiated on the due date, which could result in a one-day delay in availability of the funds and the loss of interest earnings for one day. Currently, payments of $1.1 billion are electronically transferred. It is not known how much of these payments may be received one day later or the amount of the lost interest earnings.

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

Taxpayers that make payments less than $20,000 and more than $5,000 will be affected by these proposed amendments. The cost to these affected taxpayers should be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These proposed amendments should not effect competition or employment.

Cynthia Bridges
Secretary
0309#031

H. Gordon Monk
Staff Director
Legislative Fiscal Office