

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Electronic Filing Requirements—Dedicated Funds Distribution (LAC 61:III.1513-1523)

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.1513, 1515, 1517, 1519, 1521, and 1523 to mandate electronic filing for certain taxes that are dedicated and require distribution to specific state and local funds.

R.S. 47:1520(A)(1)(d) authorizes the secretary to require electronic filing if a report is required for dedicated fund distribution. 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. Electronic Filing and Payments— Dedicated Funds Distribution

#### §1513. Automobile Rental Tax Return, Form R-1329—Electronic Filing Requirement

A. R.S. 47:551 imposes a state tax of 2 1/2 percent and a local tax of 1/2 of 1 percent on the gross proceeds from automobile rental contracts.

B. The Department of Revenue is required to collect the 3 percent automobile rental tax and to provide the 1/2 percent local tax collection amount for distribution to the local tax authorities.

C. Effective with the July 2009 filing period, dealers who collect the automobile rental tax will be required to file the automobile rental tax return, form R-1329, electronically with the Department of Revenue using the electronic format prescribed by the department.

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and 47:551.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### §1515. Tax Increment Financing District Sales Tax Returns, Form R-1029—Electronic Filing Requirement

A. R.S. 33:9038.34 authorizes certain local governmental subdivisions or entities to issue revenue bonds payable from revenues generated by economic development projects with a pledge and dedication of the sales tax increments to be

used as a guaranty of any shortfall, or at the option of the local governmental subdivision or tax recipient entity, payable directly from an irrevocable pledge and dedication of up to the full amount of sales tax increments, in an amount to be determined by the local governmental subdivision or tax recipient entity, to finance or refinance all or any part of an economic development project as described in R.S. 33:9038.31 et seq.

B. Effective with the July 2009 filing period, dealers located in a tax increment financing district where the state sales tax increment is dedicated to finance or refinance an economic development project as authorized by R.S. 47:9038.34 or a joint venture or cooperative endeavor for a public purpose as authorized by R.S. 33:9038.35 will be required to file the Sales Tax return, Form R-1029, 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and R.S. 33:9038.34.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### §1517. Hotel and Motel Sales Tax Return, Form R- 1029DS—Electronic Filing Requirement

A. Acts 1966, No. 556; Acts 1991, No. 624; Acts 1992, No. 1099; Acts 1993, No. 640; Acts 1995, No. 1191 authorize the Louisiana Stadium and Exposition District to collect a tax of 4 percent of the gross proceeds from hotel and motel room rentals in the parishes of Orleans and Jefferson as defined in R.S. 47:301(8). Acts 1978, No. 305; Acts 1980, No. 99; Acts 1987, No. 390; Acts 2002 1st Ex. Sess., No. 72 authorize the New Orleans Exhibition Hall Authority to collect a tax of 3 percent on the gross proceeds from hotel and motel room rentals in Orleans parish as defined in R.S. 47:301(8).

B. The Department of Revenue is required to collect the 4 percent room occupancy tax and distribute it to the Louisiana Stadium and Exposition District. The Department of Revenue is also required to collect the 3 percent room occupancy tax and distribute it to the New Orleans Exhibition Hall Authority.

C. Effective with the July 2009 filing period, dealers who collect the Louisiana Stadium and Exposition District room occupancy tax or the New Orleans Exhibition Hall Authority room occupancy tax will be required to file the Hotel and Motel Sales Tax return, Form R-1029DS, electronically with the Department of Revenue using the electronic format prescribed by the department.

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and Acts 1966, No. 556; Acts 1991, No. 624; Acts 1992, No. 1099; Acts 1993, No. 640; Acts 1995, No. 1191.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### **§1519. New Orleans Exhibition Hall Authority**

##### **Additional Room Occupancy Tax and Food and Beverage Tax Return, Form R-1325—Electronic Filing Requirement**

A. Acts 1978, No. 305; Acts 1980, No. 99; Acts 1987, No. 390; Acts 2002 1st Ex. Sess., No. 72 authorize the New Orleans Exhibition Hall Authority to collect an additional tax of varying rates, depending on the capacity of the establishment, on hotel and motel room rentals in Orleans parish as defined in R.S. 47:301(8). Acts 1987, No. 390 authorizes the New Orleans Exhibition Hall Authority to collect a tax of varying rates, depending on the gross sales of food and beverages of the establishment during the preceding calendar year, on the sales of food and beverages sold or served in Orleans parish or at any airport or air transportation facility owned by the City of New Orleans.

B. The Department of Revenue is required to collect the additional room occupancy tax and the food and beverage tax and distribute it to the New Orleans Exhibition Hall Authority.

C. Effective with the July 2009 filing period, dealers who collect the New Orleans Exhibition Hall Authority additional room occupancy tax or the food and beverage tax will be required to file the New Orleans Exhibition Hall Authority Additional Hotel Room Occupancy Tax and Food and Beverage Tax return, Form R-1325, electronically with the Department of Revenue using the electronic format prescribed by the department.

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and Acts 1978, No. 305; Acts 1980, No. 99; Acts 1987, No. 390; Acts 2002 1st Ex. Sess., No. 72.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### **§1521. Louisiana State and Parish and Municipalities Beer Tax Return, Form R-5621—Electronic Filing Requirement**

A. R.S. 26:492 authorizes parishes and municipalities to impose a tax on beverages of low alcoholic content of not more than \$1.50 per standard barrel of 31 gallons.

B. The Department of Revenue is required to collect the parish and municipalities beer tax and distribute it to the local tax authorities.

C. Effective with the July 2009 filing period, dealers who collect the parish and municipalities beer tax will be required to file the Louisiana State and Parish and Municipalities Beer Tax return, Form R-5621, electronically with the Department of Revenue using the electronic format prescribed by the department.

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, and R.S. 26:492.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### **§1523. Hotel/Motel Sales Tax Return, Form R-1029H/M—Electronic Filing Requirement**

A. R.S. 47:302, 321, 331 and R.S. 51:1286, collectively, impose a 4 percent tax on the gross receipts from hotel and motel room rentals.

B. The Department of Revenue is required to collect the sales tax on hotel and motel room rentals and distribute it to various funds as indicated by R.S. 47:302.2 et seq., R.S. 47:322.1 et seq. and R.S. 47:332.1 et seq.

C. Effective with the July 2009 filing period, dealers who collect the state sales tax on hotel and motel room rentals will be required to file the Hotel/Motel Sales Tax return, Form R-1029H/M electronically with the Department of Revenue using the electronic format prescribed by the department.

D. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1520, R.S. 47:302.2 et seq., R.S. 47:322.1 et seq. and R.S. 47:332.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 35:

#### **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. Implementation of this proposed Rule will have no 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.

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 May 26, 2009. A public hearing will be held on May 27, 2009 at 10 a.m. in the Magnolia 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: Electronic Filing Requirements  
Dedicated Funds Distribution**

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

This proposed rule requires dealers who remit certain taxes to electronically submit their tax returns to the Louisiana Department of Revenue beginning with the July, 2009, filing period. The taxes affected by the rule include:

- Automobile Rental Tax
- Louisiana General Sales and Use Tax Generated in a Tax Increment Financing District
- Louisiana Stadium and Exposition District Room Rental Tax
- New Orleans Exhibition Hall Authority Room Occupancy Tax
- New Orleans Exhibition Hall Authority Additional Room Occupancy Tax
- New Orleans Exhibition Hall Authority Food and Beverage Tax
- Parish and Municipality Beer Tax
- State Sales Tax on Hotel and Motel Rooms

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 certain 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 20 percent of the taxpayers already file electronically, and the newly mandated taxpayers typically own a computer and have Internet access, which is all that is required 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. This

practice 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  
0904#046

Robert E. Hosse  
Staff Director  
Legislative Fiscal Office