

State of Louisiana  
Department of Revenue

JOHN BEL EDWARDS  
Governor



KIMBERLY LEWIS ROBINSON  
Secretary

June 4, 2019

**Via E-mail/R.R.R. to:**

[apa.h-wm@legis.la.gov](mailto:apa.h-wm@legis.la.gov)

The Honorable Neil Abramson, Chairman  
House Committee on Ways & Means  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

[apa.s-r&f@legis.la.gov](mailto:apa.s-r&f@legis.la.gov)

The Honorable Jean-Paul J. Morrell, Chairman  
Senate Committee on Revenue & Fiscal Affairs  
P.O. Box 94183  
Baton Rouge, Louisiana 70804

**RE: Proposed Regulation LAC 61:III.1533 and 1534**

Chairman Abramson and Chairman Morrell:

On April 10, 2019, a copy of the **Notice of Intent** issued by the Department of Revenue ("Department") for promulgation of the proposed regulations, LAC 61:III.1533, *Tobacco Tax, Electronic Filing Requirements* and LAC 61:III.1534, *Tobacco Tax, Electronic Payment Required*, was sent to your committee for review. The purpose of this **Notice of Intent** is to mandate electronic filing of all tobacco tax returns and reports and electronic payment of tobacco taxes.

The **Notice of Intent** was published in the April 2019 issue of the *Louisiana Register*. A public hearing was held in the LaSalle Building on Thursday, May 30, 2019. One comment was received by phone prior to the public hearing and one attendee was present at the public hearing. No written comments were received. Oral comments received are noted below.

Oral Comments

*Comments from Ray Chu:* Mr. Chu with CoreMark questioned whether the Department would be using the Federation of Tax Administrator's (FTA) uniform forms. Mr. Chu also questioned the type of formatting that will be required and whether taxpayers would have to change the way they are reporting.

*Contributing to a better quality of life.*

617 North Third Street, Post Office Box 66258, Baton Rouge, Louisiana 70896  
Telephone (225) 219-4059 • Fax (225) 219-2114  
[www.revenue.louisiana.gov](http://www.revenue.louisiana.gov)

Proposed Regulation LAC 61:III.1533 and 1534  
June 4, 2019

*Response to Chu Comments:* The Department of Revenue is not adopting any new forms. Taxpayers will complete the same forms as are required currently except that the Form R-5604, *Tobacco Tax Return* will be completed through the Department's free online business tax account management application, Louisiana Taxpayer Access Point ("LaTAP"). Schedules and other reports may be uploaded as attachments to the return or completed in the same manner as the return itself.

*Comments from Debra Albarado:* Debra Albarado with Phillips Wholesale requested additional guidance on what taxpayers would have to do and asked whether wholesalers would need a new system.

*Response to Albarado Comments:* Taxpayers will be required to complete and submit Form R-5604 through LaTAP. Schedules and reports can either be completed in LaTAP or uploaded as an attachment to the return. Additional instructions and specifications will be provided by the Department in August 2019. It is not anticipated that wholesalers will be required to change their current systems.

This report is being made in accordance with R.S. 47:968(D)(1)(b) of the Administrative Procedure Act. The Department of Revenue has considered the oral comments regarding the regulation. After careful review and analysis of the public comments, the Department of Revenue has concluded that no changes will be made to the text of the rule before it is finalized. As summarized above, the oral comments received sought clarification of the requirements of the electronic filings and what will be expected of filers.

Unless otherwise directed, the proposed rule will be submitted for publication as a final rule in the July 2019 edition of the ***Louisiana Register***. Should you have any questions or need additional information, please contact me at (225) 219-2700.

Sincerely,



Kimberly Lewis Robinson  
Secretary

Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 113—Registration of  
Catastrophe Claims Adjusters**

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

The proposed rules will not result in additional costs or savings for state or local governmental units. The proposed rules align the administrative rules with statute and codify the procedure to register catastrophe claims adjusters, time periods for expiration or extension of catastrophe claims adjusters' ability to operate, and to set forth penalties pursuant to R.S. 22:1672. Act 783 of 2006 initially authorized insurers to utilize catastrophe adjusters in the event of emergencies declared by the governor of Louisiana or for any other event that the Commissioner of Insurance has determined to have caused widespread property damage or loss, and further required the registration of catastrophe adjusters, including registration fees.

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

The proposed rules are not anticipated to affect revenue collections for state or local governmental units. While the proposed rules include language allowing for the collection of fees when registering catastrophe adjusters, the LA Dept. of Insurance presently collects a \$25 fee associated with registering catastrophe adjusters pursuant to LA R.S. 22:821.

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

The proposed rules will benefit insurers by codifying the registration process for catastrophe adjusters, including how catastrophe or emergency adjusters may be utilized by insurers in the event of emergencies declared by the governor of Louisiana or for any other event that the Commissioner of Insurance has determined to have caused widespread property damage or loss. The proposed rules align with present practice and statute. Included in the proposed rules is a process to allow insurers to request that the commissioner authorize the use of catastrophe adjusters by making a written request to the commissioner. Furthermore, the proposed rules limit catastrophe adjusters' timeframe to operate to 180 days with up to one 90-day extension upon request.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

The proposed rules will not affect competition or employment.

Lance Harris  
Assistant Commissioner  
1904#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**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, LA.

Kimberly Lewis Robinson  
Secretary of Revenue

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Mandatory Electronic Filing of Tobacco Tax Returns and Payment of Tax**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT 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 NONGOVERNMENTAL 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.

Kimberly Lewis Robinson  
Secretary  
1904#041

Greg Albrecht  
Chief Economist  
Legislative Fiscal Office