

tax *Topics*

April 2008

Volume 28

Number 2

"The mission of the Louisiana Department of Revenue is to administer applicable laws and collect revenues to fund state services."

Cynthia Bridges
Secretary

www.revenue.louisiana.gov

Secretary Bridges Announces Executive Appointments

Secretary Bridges announces the re-appointments of Clarence Lymon as Undersecretary, Kurt Van Brocklin as Assistant Secretary, Murphy Painter as the Assistant Secretary of the Office of Alcohol and Tobacco Control, and Shone Pierre as Assistant Secretary of the Office of Legal Affairs. Secretary Bridges also announces the appointments of Earl Millet as Deputy Secretary, Jarrod Coniglio as Assistant Secretary for the Office of Tax Administration Group 2, and Byron Henderson as the Press Secretary to her executive team for Governor Jindal's administration.

Clarence Lymon has served as Undersecretary since 2004. He is responsible for the Office of Management and Finance, which includes the agency's enterprise services such as fiscal, information technology, human resources, and internal audit. Mr. Lymon previously served as Assistant Secretary of the Office of Tax Administration Group 3 from 2000 to 2004, overseeing the Department's compliance program. He also served as manager of the Houston Audit District, one of the program's major audit-producing offices.

Kurt Van Brocklin has served as the Assistant Secretary for the Office of Tax Administration Group 3 since 2004. He is responsible for the audits conducted by the Department to ensure compliance, and educate and inform taxpayers of their tax obligations. Under Mr. Van Brocklin's leadership,

the field audit program consistently exceeded one-hundred million dollars in audit-related collections each fiscal year, a historical accomplishment for the program. Mr. Van Brocklin has an MBA and formerly served as Director of the Field Audit Services Division.

Murphy Painter has served as Assistant Secretary of the Office of Alcohol and Tobacco Control for the past twelve years. Under Mr. Painter's leadership, the Office of Alcohol and Tobacco Control has made great strides in bringing the regulation of alcohol and tobacco in Louisiana into a modern, more ethical operation. During his tenure as Assistant Secretary and Commissioner of Alcohol and Tobacco Control, Louisiana has gone from being ranked worst in the United States in youth access noncompliance to alcohol and tobacco in 1996, to having the best compliance rates in 2007.

Shone Pierre began her career at the Department in the Legal Division as an attorney in January 1998. In 2003, she was promoted to Deputy General Counsel and ultimately Assistant Secretary in July 2006. As Assistant Secretary, Shone is credited with the implementation of improved case management practices, utilization of technology, and the recruitment of talented attorneys.

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The Baton Rouge Regional Office, hosts a New Business Sales Tax Class each quarter. The classes are held at the Regional Office, 8585 Archives Ave. Suite 200, Baton Rouge, Louisiana, in the first-floor auditorium. The class begins at 10:00 a.m. and lasts approximately 90 minutes. Classes are scheduled for 2008 on Friday, April 18, July 18, and October 17. Persons interested in attending the class should contact the Regional Office at (225) 922-2300.

The Lake Charles Regional Office also hosts a New Business Sales Tax Class on the first Wednesday of each month, except if the Wednesday is a holiday, in which case the class is conducted the next workday. The class begins at 2:00 p.m. and lasts approximately 90 minutes. The Lake Charles Regional Office is located at 1 Lake Shore Drive, Suite 1550, Lake Charles, Louisiana. Persons interested in attending the class should contact the office at (337) 491-2504. Classes currently scheduled for 2008 are on Wednesday, May 7, June 4, July 2, and August 6.



Earl Millet has served as the Director of the Department's New Orleans regional office for the past 19 years. Under his leadership, the agency has participated in the New Orleans metropolitan area's annual Super Tax Day for the past 5 years assisting low to moderate income citizens in filing their federal and state individual income tax returns. He also coordinated the department's mobile tax service project, which allows staff real-time access to taxpayer account information via a Tablet PC, providing on-site assistance to businesses and tax preparers in the resolution of taxpayers' state tax account matters. Mr. Millet routinely makes tax education presentations in conjunction with the New Orleans local CPA chapter, universities, and various non-profit organizations, and frequently collaborates with local tax jurisdictions and District Attorneys to facilitate joint tax compliance and enforcement initiatives.

Jarrod Coniglio, a former Vice President of Consumer Banking for JP Morgan Chase Bank, specializes in collections and quality customer service. Jarrod's knowledge and experience is in management and collections, and he has been responsible for the profit, growth and cash management control.

Byron Henderson is a former Public Information Director for the Louisiana State Employees' Retirement System (LASERS). Byron also brings a wealth of knowledge in media relations, with past experiences working as a news reporter and producer.

According to Secretary Bridges, she's excited to have the continued services of Mr. Lymon, Mr. Van Brocklin, Mr. Painter and Ms. Pierre. She is equally excited to have Mr. Millet, Mr. Coniglio and Mr. Henderson join the team as we strive to improve the process for an individual or business to take care of their state tax responsibilities, while contributing to a better quality of life for all Louisiana citizens.

LDR Provides Additional E-Services to Tax Preparers

In an effort to make doing business with the Louisiana Department of Revenue easier and more convenient, the department has implemented Problem Resolution Mailboxes and an E-Fax Number for tax preparers.

Problem Resolution Mailboxes for Tax Preparers

[http://www.revenue.louisiana.gov/forms/misc/TaxPractitionersMailboxes\(2\).pdf](http://www.revenue.louisiana.gov/forms/misc/TaxPractitionersMailboxes(2).pdf)

Tax Preparers can now contact a Department of Revenue representative directly to resolve billing and refund problems through the electronic mailboxes.

To ensure that questions are properly assigned, tax preparers should address their inquiries to the appropriate mailbox according to the inquiry type:

- CPABilling.Inquiry-Ind@la.gov
(For individual income tax billing inquiries)
- CPABilling.Inquiry-Bus@la.gov
(For business tax billing inquiries)
- CPARefund.Inquiry@la.gov
(For refund inquiries)

To aid in the research and problem resolution, tax preparers should include the billing letter number or other information sufficient to identify the taxpayer and any other pertinent information including the tax preparer's telephone contact information.

Emails sent to the tax preparer mailboxes will be acknowledged automatically upon receipt. Responses will be issued promptly to notify the tax preparer of the problem's resolution.

E-Fax Number for Tax Preparers

<http://www.revenue.louisiana.gov/forms/misc/efax.pdf>

Tax preparers may now fax income tax return attachments for electronically filed returns to the Department of Revenue using a new E-fax number, (225) 231-6221.

This E-fax number should only be used for return attachments for individual and corporate income tax returns. Because the attachment will be uploaded to the taxpayer's account, the taxpayer's name, account number, and tax filing period must be printed at the top of the first page of the fax. A cover page can be used but is not required.

Once the attachment is received, it will be immediately transferred to the taxpayer's account. If the return is later selected for examination, the auditor will access the taxpayer's account and the attachment will be available for review.

The E-fax system is more efficient and less costly for tax preparers because it eliminates the need to mail paper copies of attachments and the accompanying processing delays. Also, because E-faxed attachments are stored on the taxpayer's accounts, if the documentation is needed, it is available without having to request it from the taxpayer.

The only documents that should be E-faxed to (225) 231-6221 are the attachments that would normally be submitted with a paper return. The documents should be E-faxed at the time the return is electronically filed.

Do not use this E-fax number for any of the following:

- Attachments or supporting information that has been requested by Department of Revenue personnel. Once a request has been made, the information should be submitted as specified on the request letter. Providing the information via this E-fax number in response to a request will delay processing. Attachments received via this E-fax number will not be reviewed once a request for documentation has been made.

- Documents that are required to be filed electronically with the federal tax return such as W-2s and 1099-Rs.

- **Form LA 8453**, the Individual Income Tax Declaration for Electronic Filing, which must be maintained by the tax preparer.

As with all technology, it is possible that documents sent through the E-fax system may be incorrectly processed or misplaced. If this should occur and the return is selected for review, the missing documentation will be requested from the taxpayer.

To obtain assistance with the E-fax system, please call the electronic filing help desk at (225) 219-2488.

State Sales Tax Holiday on Purchases of Hurricane Preparedness Supplies

R.S. 47:305.58 provides an annual state sales tax holiday on sales of hurricane-preparedness items or supplies made on the last Saturday and Sunday in May.

This year's sales tax holiday will be on Saturday & Sunday, May 24 & 25, 2008.

During the two-day holiday, tax-free purchases are allowed for the first \$1,500 of the sales price of each of the following items:

- Self-powered light sources such as flashlights and candles.
- Portable self-powered radios, two-way radios, and weather band radios.
- Tarpaulins or other flexible waterproof sheeting.
- Ground anchor system or tie-down kits.
- Gas or diesel fuel tanks.
- AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries—automobile and boat batteries are excluded.
- Cellular phone batteries and chargers.
- Nonelectric food storage coolers.
- Portable generators used to provide light or communications or preserve food in the event of a power outage.
- Storm shutter devices, which are defined as materials and products manufactured, rated, and marketed specifically for the purposes of preventing window damage from storms.
- Carbon monoxide detectors.
- Blue ice products.

State and Local Sales & Use Tax Seminar

Offered by:

Louisiana Association of Tax Administrators

Thursday, May 8, 2008

8:30 a.m. – 4:30 p.m.

Best Western Conference Center – Alexandria, LA

Presenters are:

Roger Bergeron, Former Administrator, West Baton Rouge Parish Sales Tax Department & Timmy Hulin, Consultant, Ryan & Company

\$199.00 (in advance)

Lunch is provided

CPE Credit: 8 Hours

CLE Credit: 6.7 Hours

This informative seminar will cover sales tax versus use tax, exclusions and exemptions, taxable services, differences between state and local sales taxes & electronic filing, as well as practical applications with examples of transactions concerning different industries such as manufacturing, healthcare, retail and construction.

Registration is limited to the first 250 people. Please RSVP by Friday, April 25, 2008. Checks are to be made payable to LATA and mailed to P.O. Box 671, Alexandria, LA 71309 and must be submitted in advance. For questions, please contact Donna Andries with Rapides Parish Sales Tax Dept. at (318) 445-0296 ext. 3006.

LDR Address Changes

The Baton Rouge Regional Office, along with the Office of Alcohol and Tobacco Control and Charitable Gaming have a new address:

Baton Rouge Regional Office

8585 Archives Ave., Suite 200
Baton Rouge, LA 70809

Office of Alcohol and Tobacco Control

8585 Archives Ave., Suite 220
Baton Rouge, LA 70809

Office of Charitable Gaming

8585 Archives Ave., Suite 301
Baton Rouge, LA 70809

Mobile Tax Service

The Louisiana Department of Revenue Mobile Tax Service (MTS) was created to enhance field collections and taxpayer services, and to allow for more efficient and effective taxpayer assistance. The innovative use of tablet PCs, operating on a wireless computer network, relieves MTS agents of having to carry paper files on site visits with possibly outdated information. The program was designed and functions as a means of streamlining the compliance process.

The MTS is part of LDR's strategic vision to be recognized as a leader in customer service for businesses, tax preparers, and individual taxpayers throughout Louisiana.

With the wireless network, MTS agents are able to gain secure access to information that was previously available only in an office setting. The agents can now remain in the field for longer periods of time, therefore making more field contacts in less time.

Wireless functionality enables MTS agents to perform the following operational tasks in real time:

- Access taxpayer information;
- Make changes to accounts;
- Identify and register previously unregistered businesses;
- Eliminate the need for updating accounts when returning to the office.

A regional LDR representative will be assigned to do problem resolution for tax preparers. Visits will be scheduled within 7 days of an appointment request.

For more information, contact your Louisiana Department of Revenue regional office.

Louisiana Tax Free Shopping Relocates Riverwalk Refund Center

The Louisiana Tax Free Shopping Refund Center at Riverwalk Marketplace has relocated from Level C to a new location on Level B, next door to the Riverwalk Management Office. Riverwalk Marketplace is home to New Orleans' only downtown Tax Free Refund Center for international shoppers.

Every store in Riverwalk is a participant in the Louisiana Tax Free Shopping program for international visitors. Those international visitors who present proof of residence and request a voucher at the time of purchase are entitled to a 9% cash refund. All vouchers and receipts must be presented at the Tax Free Refund Center to receive the cash refund.

The Riverwalk Louisiana Tax Free Refund Center's current hours of operation are Monday to Friday 9:30 a.m. to 4:30 p.m. and Saturday to Sunday 10:30 a.m. to 4:30 p.m. Riverwalk Marketplace mall hours of operation are Monday to Saturday 10 a.m. to 7 p.m. and Sunday 12 p.m. to 6 p.m.

LDR Laws and Policies: Severance Tax

Revenue Information Bulletin No. 08-009
<http://www.revenue.louisiana.gov/forms/lawspolicies/RIB08009.pdf>

Natural Gas Severance Tax Rate Effective July 1, 2008

The natural gas severance tax rate effective July 1, 2008, through June 30, 2009, has been set at 28.8 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2007, through March 31, 2008, to be 411.36 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 28.8 cents per MCF effective July 1, 2008, through June 30, 2009. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

Revised reporting forms will be distributed as soon as they are available. Questions concerning the natural gas severance tax rate should be directed to the Taxpayer Services Division, Severance Tax Section at 225-219-7656, Option 3.

Individual Income Tax and Corporation Income Tax

Revenue Ruling No. 08-001
<http://www.revenue.louisiana.gov/forms/lawspolicies/RR08001.pdf>

Hurricane Recovery Benefits and Insurance Settlement Proceeds

Purpose: The purpose of this Revenue Ruling is to address whether or not hurricane recovery benefits can be deducted from individual and corporate income tax and whether insurance settlement proceeds have similar treatment.

Conclusion: Insurance settlement proceeds do not fall within the provisions of Act 247 of the 2007 Regular Session. As such, insurance settlement proceeds would have a different treatment from hurricane recovery benefits and would not be deducted from individual and corporate income tax. When a taxpayer receives both hurricane recovery benefits and insurance settlement proceeds, the hurricane recovery benefits will be deemed included in income prior to the inclusion of the insurance settlement proceeds.

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Analysis/Discussion: Act 247 of the 2007 Regular Session enacted La. R.S. 47:287.738(G) to provide a corporate income tax deduction for hurricane recovery benefits. Specifically, La. R.S. 47:287.738(G) states that “Any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity as defined in La. R.S. 47:293(5) shall be allowed as a deduction if such benefit was included in federal adjusted gross income.”

Act 247 of the 2007 Regular Session enacted La. R.S. 47:293(9)(a)(i) to provide a similar income tax deduction for resident individuals and amended La. R.S. 47:293(10) to provide a similar income tax deduction for nonresident individuals.

Finally, Act 247 of the 2007 Regular Session enacted La. R.S. 47:293(5) to define a “hurricane recovery entity” to be either the Road Home Corporation, the Louisiana Recovery Authority, or the Louisiana Family Recovery Corps.

Example 1: Taxpayer sustained a casualty loss in 2005 in the amount of \$75,000 that was claimed on Taxpayer’s federal tax return. In 2007, Taxpayer receives \$20,000 in insurance settlement proceeds which were not accounted for in the casualty loss and includes the \$20,000 as income on the 2007 federal return. Since the insurance settlement proceeds are not hurricane recovery benefits, the insurance settlement proceeds would be included on the 2007 state income tax return, to the extent that it would be included in federal adjusted gross income.

Example 2: Taxpayer sustained a casualty loss in 2005 in the amount of \$75,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$80,000 in insurance settlement proceeds which were not accounted for in the casualty loss and includes \$75,000 as income on the 2007 federal return. Since the insurance settlement proceeds are not hurricane recovery benefits, the insurance settlement proceeds would be included on the 2007 state income tax return, to the extent that it would be included in federal adjusted gross income.

Example 3: Taxpayer sustained a casualty loss in 2005 in the amount of \$60,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$60,000 in hurricane recovery benefits. On the 2007 federal return, \$60,000 is taxable. Hurricane recovery benefits are not taxable in Louisiana to the extent that such income is considered taxable income at the federal level. In this case, the \$60,000 would be deemed to be hurricane recovery benefits, and \$60,000 would be allowed as a deduction on the Louisiana return.

Example 4: Taxpayer sustained a casualty loss in 2005 in the amount of \$60,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$65,000 in hurricane recovery benefits. On the 2007 federal return, \$60,000 is taxable. In this case, since the hurricane recovery benefits exceed the casualty loss, the \$60,000 that was included in federal adjusted gross income is allowed as a deduction on the Louisiana return.

Example 5: Taxpayer sustained a casualty loss in 2005 in the amount of \$52,000. In 2007, Taxpayer receives \$50,000 in hurricane recovery benefits, \$10,000 in insurance settlement proceeds, and includes \$52,000 in 2007 federal taxable income. In this case, the first \$50,000 would be deemed to be hurricane recovery benefits, leaving \$2,000 of taxable insurance settlement proceeds. The \$50,000 in hurricane recovery benefits would be allowed as a deduction on the Louisiana return.

Example 6: Taxpayer sustained a casualty loss in 2005 in the amount of \$52,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$55,000 in hurricane recovery benefits and \$10,000 in insurance settlement proceeds. On the 2007 federal return, \$52,000 is taxable. Hurricane recovery benefits are deemed included in federal adjusted gross income prior to insurance proceeds, so a deduction of \$52,000 is allowed on the Louisiana return.

Withholding Tax

Revenue Ruling No. 08-004

<http://www.revenue.louisiana.gov/forms/lawspolicies/RR08004.pdf>

When Does an Employer Have to Withhold Louisiana Income Taxes from Employees

Purpose: The purpose of this Revenue Ruling is to address when an employer, who is a Louisiana business, is obligated to withhold Louisiana income taxes from its employees. Below is a fact pattern that illustrates the different withholding situations that a Louisiana-based employer might encounter. After the statement of facts, this ruling will address common withholding questions that arise from the facts concerning different types of employees.

Statement of Facts: Company A is a Louisiana-based franchisor. The system has over 300 franchised locations in more than half the states. The company’s corporate location is in New Orleans, LA. Company A employs several team members who reside in states other than Louisiana. When hired, team members report to Louisiana for four to six weeks for orientation and training. Team members work as part of the staff at Company A’s corporate store in New Orleans for a number of weeks and additional training takes place at other Louisiana locations. Once the four to six weeks of training is over, team members visit franchised locations within a selected territory consisting of the employee’s resident state as well as other states.

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The team members consult with the owner/manager of each franchised location to discuss adherence to the system and offer suggestions for operations. All direction and control for the franchised locations comes from the corporate office in Louisiana. Team members do not engage in any sales transactions and no money is collected by the team members. Team members are paid an annual salary for work performed and no direct income is generated from their visits to their assigned stores.

Discussion: R.S. 47:112(A) states that every employer making a payment of wages to an employee shall deduct and withhold a tax from those wages as provided for by withholding tables as promulgated by the Secretary of the Department of Revenue. R.S. 47:111(C) defines employee as a resident or nonresident individual of Louisiana who performs any service in the state for wages or any resident of Louisiana who performs any services outside of the state for wages. For example, if a nonresident employee performs services in Louisiana, the withholding tax shall be deducted and withheld from all wages paid with regard to those services. If a nonresident employee performs services partly within and partly without the State, only wages for services within the State are subject to withholding. While the statute requires an employer to withhold income taxes on services provided by a Louisiana resident either in or out of Louisiana, the Department does not penalize an employer for failure to withhold on a Louisiana resident for services performed in another state so long as income taxes are withheld for the state in which the services are performed. The reason for this practice is that Louisiana allows an income tax credit to its residents for taxes paid to another state. The employee therefore effectively will receive a credit against the Louisiana income tax on the out of state income and will ultimately owe little, if any, Louisiana tax on that income. If instead the employee is a Louisiana resident and working in a state that does not have an income tax, like Texas or Florida, the employer will be penalized for failure to withhold Louisiana income taxes on the income earned from services performed in the other state.

Ruling: Based on the facts given in the situation above, Company A should withhold on all team members, regardless of their state of residence, for the 4-6 weeks that they are trained in Louisiana. After the 4-6 weeks of training, Company A is not required to withhold income taxes on team members who are not residents of and do not perform any additional services in Louisiana. Company A should continue to withhold income taxes on wages for services perform in Louisiana regardless of the state of residency and regardless of the number of hours an employee worked in Louisiana. No de minimus withholding rule exists. Lastly, Company A should withhold income taxes on the wages of Louisiana residents for the performance of services in Louisiana and for the performance of services in other states so long as that state does not have an income tax. If a team member is a Louisiana resident and working in another state, the employer will not be penalized for failure to withhold Louisiana income taxes on wages earned in another state so long as the employer has withheld income taxes for the state in which the services are performed.

Tax Topics is a quarterly publication of the Louisiana Department of Revenue. Information contained herein is of a general nature; taxpayers requiring information concerning a specific tax matter should contact the appropriate tax office. Subscription information may be obtained from the Tax Administration Division at the address below, or by calling (225) 219-2690.

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