

**2001 Legislative Sessions**  
**Department of Revenue Legislative Summaries**

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**2001 First Extraordinary Session of the Louisiana Legislature**

**Act 5** (HB 12) amends R.S. 47:305.51, the sales tax exemption for utilities used by steelworks and blast furnaces, to provide the exemption only applies if there are more than 125 full-time employees and are classified by the Department of Labor as SIC 3312. The Act also enacts R.S. 47:302(P), 321(G), 331(N) to provide that the sales tax exemption will be effective for April 1, 2001, through June 30, 2002. Effective March 27, 2001.

**Act 6** (HB 14) amends R.S. 47:1621 to expand the authority of the secretary of the Department of Revenue to refund overpayments under certain circumstances and to re-evaluate refund overpayments denied between January 1, 2000, and March 27, 2001. Effective March 27, 2001.

**Act 7** (HB 16) changes the termination date for the Louisiana Tax Free Shopping Program from July 1, 2001, to July 1, 2004. Effective March 27, 2001.

**2001 Regular Session of the Louisiana Legislature**

**Administrative**

**Act 70** (HB 988) amends R.S. 47:1520 to authorize the secretary of the Department of Revenue to require electronic filing of tax returns or reports where the amount due in connection with the returns or reports exceeds \$100,000 or the gross receipts, gross income, or gross sales reported on the return or report exceeds \$5 million. The Act also provides for penalties, waivers, and exemptions. This legislation will allow the secretary to take full advantage of available technology to improve the accuracy of tax data received and to reduce the amount of manual intervention currently required to process a tax return. Effective May 24, 2001.

**Act 104** (SB 674) enacts R.S. 47:1542.2, to provide that if a taxpayer maintains both machine-sensible and hard-copy formats of records in regard to a tax levied, the taxpayer shall make the records available to the secretary of the Department of Revenue or his designee in the machine-sensible format upon request of the secretary or his designee. Effective May 24, 2001.

**Act 201** (SB 668) amends R.S. 47:1541 and R.S. 47:1562 (B), relative to audits and assessments. The Act enacts new law R.S. 47:1541 (B) and R.S. 47:1541 (C) to specifically provide that the taxpayer and the secretary of the Department of Revenue or his designee may enter into a binding agreement to use a sampling procedure as a basis for projecting audit findings and establishing the taxpayer's tax liability. Effective May 31, 2001.

**Act 244** (HB 888) enacts R.S. 9:2601 through 2620. This new law enacts the Louisiana Uniform Electronic Transactions Act and constitutes an adoption of the Uniform Electronic Transactions Act recommended for enactment in all states by the National Conference of Commissioners on Uniform State Laws. Except as otherwise provided by the statute, the Act applies to electronic records or electronic signatures created, generated, sent, communicated, received or stored on or after July 1, 2001. Under the Act, each governmental agency of the state is required to determine whether, and the extent to which, it will use or allow the use of electronic records or electronic signatures. Agencies opting to use electronic records or electronic signatures may specify control processes and procedures to ensure preservation, confidentiality, and audit ability of electronic records. Effective July 1, 2001.

**Act 841** (HB 759) amends R. S. 13:1402 (B)(1) and enacts R.S. 13:4202 (A) (13) through (16) to statutorily codify the rate of legal or judicial interest resulting from a lawsuit pending or filed on January 1, 1998 through December 31, 2001. The Act also provides for the calculation of legal interest on and after January 1, 2002. Effective August 15, 2001.

### Alcohol and Tobacco Control

**House Resolution 62** requests that the commissioner of alcohol and tobacco control provide rules and regulations to require that brand names of alcohol used in frozen drinks be disclosed, that a sign disclosing the brands and types of alcohol in the mixture be affixed to the dispensing machine, and that it be clearly visible to the consumer.

**Act 214** (HB 160) amends R.S. 26:71.1(4)(a) and (b) and 271.2(4)(a) and (b) to extend the hours from 9:00 p.m. to 11:00 p.m. that Class A-Restaurant Conditional premises may allow persons under 18 years of age to be present. Effective August 15, 2001.

**Act 728** (SB 770) amends R.S. 26:493.1 to allow the governing authority of a municipality within a parish with a population between 53,000 and 57,000 persons according to the most recent census to regulate the closing times of bars in the parish. Effective June 25, 2001.

**Act 1188** (HB 1682) enacts R.S. 26:71.1(1)(g), (h), and (i) and 271.2(1)(g), (h), and (i) to provide that Class A-General retail permits must be able to accommodate a minimum of 25 patrons and contain no less than 375 square feet of public habitable floor area; amends R.S. 26: 73.1 and 273 (A)(7) to provide for the definition of a donut shop ; and amends R.S. 26:280(C) and 80 (C)(3) to authorize the commissioner to accept documentation as proof that certain specified people meet the necessary qualifications of applicants for alcohol permits from certain publicly traded corporations. Effective June 29, 2001.

### Charitable Gaming

**Act 106** (SB 698) enacts R.S. 4:703(10) defining non-commercial lessor; amends R.S. 4:707(D) and enacts R.S. 4:717(B) to allow the examination of the records of certain exempt organizations to ensure that net gaming proceeds are devoted to allowable purposes; and enacts R.S. 4:719(E) to require commercial and non-commercial lessors to verify that lessees are properly licensed to conduct charitable games. Effective July 1, 2001.

### Collection

**House Concurrent Resolution 46** directs the secretary of the Department of Revenue and commissioner of administration to determine feasibility of tax clearance program for persons contracting with the state and for lottery renewal permits. (Also see Act 716)

**Act 69** (HB 985) enacts R.S. 47:1582 to authorize the Department of Revenue to collect the federal refund offset fee from the tax debtor in instances when the Internal Revenue Service (IRS) has garnished a taxpayer s federal income tax refund to pay state tax liabilities. The IRS charges a fee per refund offset and this legislation will allow the department to pass on this fee to the tax debtor. Prior to submitting the debt for offset, the Department will notify the taxpayer by certified mail, return receipt requested, and allow 60 days for the taxpayer to respond. Effective July 1, 2001.

**Act 103** (SB 659) amends R.S. 47:1580(C) pertaining to suspension and interruption of prescription to provide that prescription will be interrupted for failure to file any tax return and will not begin to run again until the tax return has been filed. However, this provision does not apply if the taxpayer has entered into a voluntary disclosure agreement with the department or for use tax returns if the use tax due is \$500 or less. (Also see Act 1167) Effective July 1, 2001.

**Act 136** (HB 992), entitled the Louisiana Tax Delinquency Amnesty Act, provides for an amnesty period under which no interest or penalties will be collected on certain taxes paid. The amnesty program will be conducted during a 60-day period between July 1, 2001, and June 30, 2002. Effective May 25, 2001.

**Act 141** (HB 1102) enacts R.S. 14:71(A)(1)(e) to provide that the crime of issuing worthless checks applies to any check, draft, or order issued for payment of any tax, fee, fine, penalty, or other obligation to the state or any of its political subdivisions. (Also see Act 1022) Effective May 25, 2001.

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**Act 202** (SB 669) enacts R.S. 47:1574.1 to authorize the secretary of the Department of Revenue to institute cease and desist proceedings against taxpayers that fail to pay state final assessments and court judgments of sales and withholding taxes collected from others. Effective July 1, 2001.

**Act 254** (HB 1105) enacts R.S. 47:1582 to authorize the secretary of the Department of Revenue to institute cease and desist proceedings against taxpayers that fail to remit taxes collected on behalf of the state. Effective June 1, 2001.

**Act 257** (HB 1172) enacts R.S. 47:1508(B)(18), relative to the confidentiality of state tax records, to authorize the secretary to publish the names and addresses of taxpayers who are delinquent in the payment of any tax and the assessment has become final and collectible by distraint and sale. Disclosures may only be made after the taxpayer has been notified by registered mail. Effective August 15, 2001.

**Act 716** (SB 678) amends R.S. 47:9050(B)(2) and 9060(D) to expand the lottery tax clearance program to require clearances for lottery retail license renewals and clearances before contracts can be entered into with businesses that provide lottery goods and services. Effective July 1, 2001.

**Act 763** (SB 1104) enacts R.S. 47:1516.1 to authorize the secretary of the Department of Revenue to contract with private collection agencies to collect in-state tax debts. The department must notify the taxpayer that the debt is a final judgment and if the debt is not paid within 60 days of the date of the notice, a collection fee, not to exceed 25 percent of the total liability, will be charged to the taxpayer's account. Effective June 25, 2001.

**Act 788** (SB 1086) amends R.S. 47:114(D)(2) and 1601(A), relative to the interest rate collected on unpaid taxes, to provide for an adjustable interest rate on tax liabilities that have not become final and a rate of 1\_ percent per month after the liability becomes final and nonappealable. Effective January 1, 2006, the adjustable rate will be an annual rate of six percent above the judicial interest rate provided for in Civil Code Art. 2924(B)(1). The interest rate will decrease one percent each year thereafter until January 1, 2009 when the rate will be set annually at three percent above judicial interest rate. However, the interest rate may not exceed 1\_ percent per month. Effective January 1, 2006.

**Act 904** (HB 1442) enacts R.S. 39:88.1 et seq. to establish a comprehensive collection policy and procedure for state agencies to assist in the collection of obligations due to the state. Effective June 26, 2001.

**Act 1022** (SB 665) amends R.S. 14:71 to provide that the crime of issuing worthless checks applies to any check issued for payment of any tax, fee, fine, penalty, or other obligation to the state or any of its political subdivisions. (Also see Act 141) Effective July 1, 2001.

**Act 1167** (HB 1103) amends R.S. 47:1580(A)(4) and (C), pertaining to suspension and interruption of prescription, to clarify the actions that constitute the filing of a false or fraudulent return and provide that prescription will be interrupted for failure to file any tax return and will not begin to run again until the tax return has been filed. However, this provision does not apply if the taxpayer has entered into a voluntary disclosure agreement with the department or for use tax returns if the use tax due is \$500 or less. (Also see Act 103) Effective August 15, 2001.

### Excise Taxes

**Act 435** (HB 1327) amends R.S. 47:1508(B)(11), relative to the Department of Revenue's tax record confidentiality provisions, to allow the exchange of tobacco tax data with the tobacco settlement enforcement unit of the Louisiana Department of Justice for the purposes of enforcing Part XIII of Chapter 32 of Title 12 of the Louisiana Revised Statutes of 1950. Effective June 15, 2001.

**Act 652** (HB 1971) enacts R.S. 47:843(D)(4) making it unlawful to sell or distribute, acquire, hold, own, possess, transport, import or cause to be imported into this state for sale or distribution any cigarettes that do not comply with federal law and regulations. Also enacts R.S. 47:865(C)(3)(c) to provide that any cigarettes that violate R.S. 47:843(D)(4) are contraband and subject to seizure and forfeiture. Effective June 22, 2001.

## Income Tax

**House Concurrent Resolution 208** urges and requests the secretary of the Department of Revenue to take all reasonable and necessary actions to collect all income taxes owed to the state by nonresident professional athletes and professional sports franchises.

**House Concurrent Resolution 209** requests the secretary of the Department of Revenue to take every possible action to ensure that no additional state tax burden is placed on the citizens of Louisiana as a result of the passage of federal income tax relief by the United States Congress and the mailing of tax rebate checks. This resolution further requires the secretary to recommend possible legislation to aid in this endeavor to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs prior to the 2002 Regular Session of the Legislature.

**House Resolution 144** requests the governor to include legislation to repeal the reduction of the excess itemized deduction from personal income taxes, effective January 1, 2001, within the call of any special session called prior to the 2002 Regular Session of the Legislature.

**Act 71** (HB 989) amends R.S. 47:299.5 and R.S. 47:299.35 to increase the Department of Revenue's fee for individual income tax refund offsets from \$2.75 to \$4.00. A review of the department's cost for garnishing state individual income tax refunds for certain state and local agencies indicates that actual costs average \$4.00 per offset. Effective May 24, 2001.

**Act 203** (SB 675) amends R.S. 47:116(A) and 118(A) and the introductory paragraph of (D) and R.S. 47:120.1(A), the introductory paragraph of R.S. 47:120.1(D), and R.S. 47:120.1(G)(1) to provide that every individual whose income tax liability can reasonably be expected to exceed \$200 for declarations of estimated tax for income tax years starting prior to January 1, 2001, and \$1,000 for declarations of estimated tax for income tax years starting on and after January 1, 2001, after deducting all allowable credits, shall be liable for filing of a declaration of estimated tax. A penalty is to be imposed when there is any underpayment of estimated tax by an individual. Effective May 31, 2001.

**Act 268** (HB 1399) enacts R.S. 47:299.2(1)(a)(vii) and R.S. 47:299.11(9) to authorize the Louisiana Board of Ethics to file offset claims with the secretary of the Department of Revenue against an individual's income tax refund and to provide for the ranking and priority of two or more claims. Effective June 6, 2001.

**Act 269** (HB 1402) amends R.S. 47:299.1, 299.2(1)(a), and 299.11(8) and enacts R.S. 47:299.11(9) to authorize any agency of the state to file offset claims with the secretary of the Department of Revenue against an individual's income tax refund and for the ranking and priority of offset claims filed by two or more agencies. It is the intent of the legislature that an agency use the remedy of offset in addition to and not as a substitute for any other remedy or action available to it for collecting debts. Effective June 1, 2001.

**Act 332** (SB 690) amends R.S. 17:3091 et seq. and R.S. 47:293(6)(a)(vi), and enacts R.S. 17:3092(11) and (12) and repeals R.S. 17:3097, relative to the Louisiana Student Tuition Assistance and Revenue Trust Fund (START). The Act clarifies state tax laws relating to the taxation of education savings accounts deposits. For tax years beginning on and after January 1, 2001, if the owner of an education savings account deposits less than the maximum \$2,400 into an owned account, the difference between the total deposits and \$2,400 will roll over to subsequent years and will be exempt from inclusion in the account owner's taxable income for purposes of state income in addition to the \$2,400 in the year actually deposited, as provided in R.S.47:293(6)(a)(vi). Effective June 6, 2001.

**Act 501** (HB 94) amends R.S. 9:315.13 (B)(1) and enacts R.S. 9:315.13(C) to provide that when the non-domiciliary party's child support obligation is equal to or greater than 50 percent and equal to or less than 70 percent of the total support obligation, the non-domiciliary party will be entitled to claim the federal and state tax dependency deductions if, after a contradictory motion, the court finds that no arrearages are owed and the deductions would substantially benefit the non-domiciliary party without significantly harming the domiciliary party. R.S. 9:315.13(C) provides that if

the non-domiciliary party's total support obligation exceeds 70 percent, he will be entitled to claim the deductions every year if no arrearages are owed to the domiciliary parent. Effective June 21, 2001.

**Act 1033** (SB 1001) enacts R.S. 47:120.63, which provides that every individual who files an individual income tax return for the current tax year and who is entitled to a refund may designate on his current year return that all or any portion of the refund be donated to the Louisiana Cancer and Lung Trust Fund Board for the purpose of combating and researching prostate cancer. The designation must be made at the time the current year tax return is filed and upon the income tax return form provided by the secretary of the Department of Revenue. The secretary is required to forward all such donations to the Louisiana Cancer and Lung Trust Fund Board annually, no later than March first of the year following the year in which the tax return was filed. Effective August 15, 2001.

**Act 1203** (HB 2013) enacts R.S. 39:99, which creates the Sports Facility Assistance Fund. The Act requires the treasurer to pay into the fund an amount equal to income taxes collected by the state from nonresident professional athletes and professional sports franchises. Effective August 15, 2001.

### **Legal**

**Act 23** (HB 20) amends C.C.P. Art. 42(4) to provide that an action against a foreign corporation or foreign limited liability company licensed to do business in this state shall be brought where the entity's primary business office is located as designated in its application to do business in the state. If no such designation is made, venue is proper in the parish where the foreign corporation or foreign limited liability company's primary place of business in the state is located. Effective August 15, 2001.

### **Miscellaneous**

**Act 1060** (HB 987) enacts R.S. 47:1561.2 to authorize the secretary of the Department of Revenue to use collection remedies authorized by R.S. 47:1561 to recover certain refunds and rebates that are later disallowed. The Act also provides for the assessment and collection of interest on recovered refunds and rebates. Effective June 28, 2001.

### **Sales Tax**

**Senate Concurrent Resolution 4** memorializes Congress to enact federal legislation providing for a method for a state to require all out-of-state sellers to collect the state's sales tax on their remote sales.

**Act 7** (HB 1274) amends R.S. 47:306(A)(3)(a) and (B)(4) to retain the rate of vendor's compensation for sales and use tax filers at one and one-tenth percent after June 30, 2001. Effective July 1, 2001.

**Act 13** (HB 923) amends R.S. 47:303(B)(7) to stipulate that when a licensed motor vehicle dealer sells, assigns, or otherwise transfers an agreement for the lease of a motor vehicle to the licensed lessor of the motor vehicle for whom the agreement was made, the transfer includes the sales tax on the lease and the licensed lessor is responsible for remitting the taxes to the appropriate taxing authority. Effective August 15, 2001.

**Act 68** (HB 984) amends R.S. 47:306(B)(11)(a) to extend the effective period for an exemption identification number to purchase resale merchandise without paying Louisiana's advance sales tax from two to five years. This exemption number is given to retailers with \$3 million in annual sales and one year of timely filings. Effective January 1, 2001.

**Act 72** (HB 994) creates the Uniform Sales and Use Tax Administration Act to authorize and direct the Louisiana Department of Revenue to enter into the Streamlined Sales and Use Tax Agreement with one or more other states. The Streamlined Sales and Use Tax project is a combined effort by many states to establish uniform standards for the imposition and collection of sales taxes. Louisiana has previously participated in this project under the direction of the governor. Effective May 24, 2001.

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**Act 215** (HB179) amends R.S. 47:306(B)(1)(d)(iii) to exempt dealers of all-terrain vehicles and marine products who are licensed by the Louisiana Used Motor Vehicle and Parts Commission from payment of Louisiana's advance sales tax. Effective July 1, 2001.

**Act 221** (HB 229) amends R.S. 47:332.20 to provide for the disposition of state sales tax in St. Landry Parish and for the dedication of an additional one cent of sales taxes collected on room rentals in the parish. Effective July 1, 2001.

**Act 224** (HB 261) enacts R.S. 47:302.51 and R.S. 332.49 to establish the Bienville Parish Tourism and Economic Development Fund and to provide for the disposition of state sales tax collected on hotel occupancy in the parish. Effective July 1, 2001.

**Act 245** (HB 896) amends R.S. 47:304(F) to allow dealers to absorb the sales tax charged to customers under certain conditions. In any advertisements of such intent, the dealer must state that he will remit the tax not paid by the purchaser. Also, the dealer must furnish written evidence to the customer that the tax was paid by the dealer. Effective July 1, 2001.

**Act 653** (HB 1981) amends R.S. 47:302.27 (A) to dedicate a portion of the state sales tax collected on hotel occupancy in St. Martin Parish to the St. Martin Parish Enterprise Fund. Effective July 1, 2001.

**Act 816** (HB 471) dedicates a portion of state sales tax collections on hotel occupancy in Claiborne Parish to the Claiborne Parish Tourism and Economic Development Fund. Effective July 1, 2001.

**Act 1175** (HB 1391) amends R.S. 33:9109(C)(4) and 9126(F), and 47:301(14)(i)(ii) and (iii), (16)(d)(ii), 302(C), and 331(C) to conform Louisiana law to the federal Mobile Telecommunication Sourcing Act (P.L. 106-252). The bill imposes state sales and use tax and emergency service telephone charges on mobile telecommunications services when the customer's place of primary use is within Louisiana regardless of whether the customer's transmissions originate or terminate within this state. Previously tax was imposed on interstate telecommunications that either originated or terminated in this state and were billed to a Louisiana address. Effective August 2, 2002.

**Act 1212** (HB 1368) provides for the settlement of certain suits filed against the state related to the assessment of sales and use taxes on the purchase of certain manufactured and mobile homes. The Act establishes a special custodial fund, the Manufactured and Mobile Homes Settlement Fund, in the state treasury for disposition of certain suits monies held in escrow to pay in full settlement the claims of all persons who meet all of the statutorily required qualifications. Effective July 1, 2001.

### **Sales Taxes-Local**

**Act 60** (HB 730) enacts R.S. 47:301(7)(i) and (10)(t) to exclude the sale, lease, or rental of tangible personal property from local sales and use taxes when paid for by Medicare. Effective July 1, 2001.

**Act 874** (HB1075) enacts R.S. 47:301(10)(t) and (18)(h) to exclude telephone directories acquired by an advertising company that is not affiliated with a provider of telephone services from local sales and use tax if the telephone directories will be distributed free of charge. Effective June 26, 2001.