

2003 Legislative Session
Department of Revenue Legislative Summaries

Administrative

Act 35 (HB 829) enacts R.S. 49:191(14) and repeals R.S. 49:191(12)(a) to recreate the Department of Revenue and the statutory entities made a part of the department by law and to provide for a termination date for all statutory authority for department's statutory entities. Effective June 30, 2003.

Act 39 (HB 893) amends R.S. 47:1511 to require the secretary of the Department of Revenue to promulgate rules and regulations in compliance with the Administrative Procedure Act, R.S. 49:950 et seq. Effective May 23, 2003.

Act 112 (HB 1036) amends R.S. 47:1519(B) to phase in a lowered electronic funds transfer requirement threshold from \$20,000 to \$5,000 beginning January 1, 2004, though January 1, 2008. This Act also provides that any electronic funds transfer delivered after the payment's due date will be considered timely if the transfer was initiated on the due date. If the payment is not timely paid, the date of receipt will determine the amount of any late payment penalties. The electronic funds transfer provisions of subsection (B) will not apply to individual income tax. Effective for taxable periods beginning on or after January 1, 2004.

House Concurrent Resolution 72 directs the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means to study the impact of the Constitutional Amendment, commonly referred to as the "Stelly Plan," on individual taxpayers and the state budget.

Alcohol and Tobacco Control

Act 6 (SB 285) amends R.S. 26:2(8) relative to the definition of "liquor retail distribution center" to include any commercial airline that stores sealed containers of alcoholic beverage at any airport regularly served by the permittee; R.S. 26:271 to authorize permit of the commercial airline; and R.S. 26:74 and 274 to prohibit local permits or fees for any commercial airline issued a permit as a liquor retail distribution center. Effective August 15, 2003.

Act 191 (SB 140) enacts R.S. 26:306 to provide tracking procedures for kegs of malt beverages consumed off-premise. Effective August 15, 2003.

Act 519 (SB 1040) amends R.S. 26:2, 71, 85, 271, and 273 relative to definitions and permits of manufacturers and suppliers of alcoholic beverages and amends R.S. 26:80 and 280 regarding the qualifications of applicants for permits. Effective June 20, 2003.

Act 629 (HB 455) amends R.S. 26:80 and 280 relative to the qualification of applicants for permits to provide that a conviction or plea of guilty or *nolo contendere* will not automatically disqualify an applicant if the felony for which convicted is not a crime of violence and ten years or more have elapsed between the date of application and the final discharge of the defendant. Effective August 15, 2003.

Act 677 (HB 1959) enacts R.S. 26:85.1 to allow the issuance of retail liquor permit to a manufacturer under certain circumstances. Effective August 15, 2003.

Act 881 (HB 1460) amends several sections within Title 26 relative to the Responsible Vendor Program to extend the program to vendors, their employees and customers in the business of selling or serving tobacco products. Effective August 15, 2003.

Act 936 (HB 1061) amends R.S. 26:73(B) and 272(B) relative to sparkling or still wine sold or served by the bottle by restaurants in conjunction with food service and also amends R.S. 26:906 to

allow payment by personal check for annual renewal fees for tobacco product certificates and permits. Effective August 15, 2003.

Act 1173 (SB 77) amends R.S. 17:405(A)(1) to add full-time day care center to “drug-free zone” and amends R.S. 26:81 and 281 to prohibit the issuance of a permit to any establishment situated within 300 feet of a full-time day care center. Effective August 15, 2003.

Act 1211 (SB 1039) enacts R.S. 26:597 specifying when municipalities are authorized to submit propositions related to alcoholic beverage sales in restaurants to voters in certain elections. Effective July 3, 2003.

Charitable Gaming

Act 602 (HB 162) amends R.S. 4:702 and 704 to include commercial lessors in the charitable gaming licensing system; R.S. 4:707 relative to the licensing of booster clubs and parent-teacher associations; R.S. 4:708 to establish mandatory training of designated members of charitable organizations prior to the holding, operation and conduct of games; and R.S. 4:724 to change the maximum payout on electronic bingo machines. Effective July 1, 2003.

Act 603 (HB 169) enacts R.S. 4:740 to define a session for the purposes of charitable games of chance. Effective August 15, 2003.

Act 614 (HB 270) amends R.S. 4:715, 724, and 727 relative to electronic bingo machines or electronic pull-tab devices used in charitable games of chance. Effective July 1, 2003.

Act 736 (HB 1849) amends R.S. 4:714 and enacts R.S. 4:725.1 authorizing licensed organizations to hold, operate, or conduct progressive pull-tabs during their licensed session, establishes the contribution per deal for the progressive jackpot and sets the maximum jackpot payout. Effective August 15, 2003.

Act 871 (HB 1062) amends R.S. 4:706, 707, 709, 710, 711, and 713 relative to the licensing and regulation of charitable gaming by local governing authorities. Effective July 1, 2003.

Collections

Act 36 (HB 830) enacts R.S. 47:1607 to require the secretary of the Department of Revenue to remove interest that has accrued on an erroneous refund up to the date the taxpayer is requested to repay the erroneous refund if the taxpayer did not cause the refund and the refund does not exceed \$50,000. The Act also authorizes the secretary to remove or reduce interest on other erroneous refunds issued as a result of an administrative action of the department based on the facts and circumstances of each case. Additionally, if the interest that is reduced or removed was reported as a deduction on the taxpayer’s tax return, it must be reported as income on the tax return for the year the interest was reduced or removed. Effective May 23, 2003.

Act 170 (HB 1250) amends R.S. 47:1642, relative to the criminal penalty for tax evasion; to increase the penalty for tax evasion when the total tax exceeds \$1,000 and add willful failure to pay tax, penalty, or interest as a punishable offense. The criminal penalty for tax evasion is a fine of up to \$1,000 or imprisonment for not more than one year, or both. This Act increases the penalty if the tax exceeds \$1,000 to a fine of up to \$2,000 or imprisonment, with or without hard labor, for not more than two years, or both. Effective June 2, 2003.

Act 380 (HB 1296) enacts R.S. 47:296.2 and R.S. 56:647(C) to suspend, revoke, or deny a fishing or recreational hunting license if a person owes more than \$500 in individual income taxes, exclusive of penalty, interest, costs, and other charges. Before the license can be revoked, denied, or suspended, the tax liability must be final and nonappealable. The Act provides that the suspension,

revocation, or denial will be effective until the individual has paid or makes arrangements to pay the delinquent tax, interest, penalties, and costs. The Act also provides that suspension, revocation, or denial will not apply to spouses who qualify for tax relief under the innocent spouse provisions contained in R.S. 47:101(B)(7). The provisions of this Act will be administered through rules and regulations adopted by the Department of Revenue and the Department of Wildlife and Fisheries. Effective January 1, 2004.

Act 453 (HB 1315) amends R.S. 32:432(A) and enacts R.S. 32:414(P) and 432(C) and R.S. 47:296.2 to deny or suspend a driver's license if a person owes more than \$1,000 in individual income taxes, exclusive of penalty, interest, costs, and other charges. Before the license can be denied or suspended, the tax liability must be final and nonappealable. A driver's license will be reinstated or renewed when the individual has paid or made arrangements to pay the delinquent amounts. The Act also provides that the denial or suspension will not apply to spouses who qualify for tax relief under the innocent spouse provisions contained in R.S. 47:101(B)(7). The provisions of this Act will be administered through rules and regulations adopted by the Department of Revenue and the Department of Public Safety and Corrections, office of motor vehicles. Effective January 1, 2004.

Act 878 (HB 1297) amends R.S. 47:1577 to provide that state tax lien, privilege, and mortgage arise at the time tax is assessed or a return is filed, whichever occurs first, on all of tax debtor's property, rights to property, or after-acquired property and is effective against all third parties except certain persons whose interests are perfected prior to time notice of lien, privilege, and mortgage is recorded, with respect to immovables, in parish where located, or filed, with respect to movables, including certain titled motor vehicles, with any parish clerk of court or, in the case of Orleans Parish, with recorder of mortgages, and that costs associated with such filings are to be assessed against and collected from taxpayer. Effective July 1, 2003.

Excise Taxes

Act 139 (HB 1533) moves the regulation and verification of commercial weighing and measuring petroleum products by the Department of Agriculture and Forestry to Title 3 and increases the inspection fee on gasoline to 4/32¢ per gallon and includes special fuels as subject to the inspection fee. Statute effective May 28, 2003; inspection fee implementation effective September 1, 2003 by agreement.

Act 1128 (HB 1741) enacts R.S. 47:871 through 878 to provide for the regulation of cigarette sales made through means of telephone, mail, or the Internet for delivery in Louisiana. Effective July 2, 2003.

Income and Corporation Franchise Taxes

Act 111 (HB 1005) enacts R.S. 47:120.71 to provide for an individual income tax check-off for donations to Louisiana Animal Welfare Commission. Effective for taxable years beginning on or after January 1, 2004.

Act 119 (HB 1378) enacts R.S. 39:100.1(D) to authorize the secretary of the Department of Revenue to prescribe regulations that provide for the proper attribution of income taxes to the Sports Facility Assistance Fund and require any returns, schedules, and payments necessary to administer the fund. This Act also enacts R.S. 47:1602.1 to impose penalties on persons who fail to make required filings and payments attributable to the Fund. The penalty for the failure to timely make and file any return or schedule will be \$500 for the first failure; \$1,000 for the second failure within a three-year period beginning on the due date of the first delinquent return; and \$2,500 for

each subsequent failure within the three-year period. The penalty for failure to timely remit any payment will be five percent of the total payment due if the delinquency is less than 30 days, with an additional five percent for each additional 30 days, not to exceed 50 percent of the amount due. The Act amends R.S. 39:100.1(C) to provide for the use of monies in the fund. Effective for tax years beginning on or after January 1, 2001.

Act 734 (HB 1756) enacts R.S. 47:120.64 to provide for an individual income tax check-off for donations to the Louisiana Housing Trust Fund. Effective June 27, 2003.

Act 847 (SB 1126) amends R.S. 51:2453(1)(a)(i)(cc) to provide for percentage of health insurance premium employer must pay for certain employees in order to qualify under "Louisiana Quality Jobs Program Act." Effective: July 1, 2003.

Act 1138 (HB 1828) enacts R.S. 47:118(H) and (I), relative to individual income tax, to require the secretary of the Department of Revenue to notify certain taxpayers of the requirement for filing a declaration of estimated tax and to permit the secretary to waive the penalty for the 2002 tax year in certain situations. Effective July 2, 2003.

Miscellaneous—Income and Sales Taxes

Act 1240 (HB 892) amends R.S. 47:6007(B)(1) and (C)(1), R.S. 51:1787(A)(1), (B)(5), (C)(1), (D)(5), (H)(4), and 2453(4) and enacts R.S. 47:303(H) and 6007(C)(4) and (5) to provide that certain out-of-state employees locating in Louisiana qualify as "new direct jobs" under the Quality Jobs Rebate Program. The Act also allows a rebate of state and local sales and use tax for the use of customer-owned tooling in a compression molding process, provides that the motion picture investors tax credit is based on percentage of actual amount of investment, and provides for transferability of certain motion picture incentive tax credits. Effective July 1, 2003.

Sales Tax

Act 43 (HB 1066) amends R.S. 47:306(A)(1)(b) and (3)(a) and (B)(4) to provide for an increase in the threshold for filing quarterly tax returns and to clarify when vendor's compensation may be claimed. Dealers will file their returns and remit taxes on a quarterly basis if the average tax due is less than \$500 a month. Dealers, manufacturers, wholesalers, jobbers and suppliers may claim vendor's compensation only if the payment is timely paid. Effective July 1, 2003.

Act 141 (HB 1621) amends R.S. 47:303.1(B), (C), and (D) to provide that private, nonprofit, tax-exempt organizations may apply for a direct payment number. The Act also amends Section 2 of Acts 1996, No. 15 (later amended by Act 1998, No. 47 and Act 2000, No. 33) to extend the termination date regarding the exclusion from state and local sales tax of certain transactions involving certain private and parochial elementary and secondary schools from July 1, 2003, to July 1, 2005. Effective July 1, 2003.

Act 250 (SB 1067) enacts R.S. 47:1508(B)(19) and R.S. 56:303(E) to require the Department of Wildlife and Fisheries (DWF), beginning January 1, 2004, to endorse a commercial fisherman's license as "certified" upon presentation of proof that the commercial fisherman possesses a certificate of exemption from state sales and use taxes and require DWF to maintain a list of commercial fishermen who possess a commercial fisherman's license having a "certified" endorsement. The Act also requires the Department of Revenue to supply to DWF the names and social security numbers of those persons issued a sales tax exemption certificate. Effective August 15, 2003.

Act 419 (HB 786) Repeals Section 4 of Acts 2002 1st Ex. Sess., No. 47, relative to the Capitol House Taxing District, to remove the requirement for the district to be effective upon the transfer of

property of the district to the East Baton Rouge City-Parish. The district is authorized to levy a tax on hotel occupancy within the district in lieu of any other hotel occupancy tax within the district except for any hotel occupancy tax based on a per person basis and the district's tax rate will be at least equal to the total rate of all hotel occupancy taxes collected within East Baton Rouge Parish. Effective June 18, 2003.

Act 985 (HB 2016) enacts the Louisiana Reclaimed Water Law, R.S. 30:2391 through 2399, to establish a reclaimed water program, provide for definitions, identify entities that are prohibited from using potable water for certain purposes if reclaimed water is available, and provide for the distribution of revenue generated under Act. Effective August 15, 2003.

Act 1203 (SB 809) enacts R.S. 51:1787(J) to provide a 30-day extension, upon request, for Enterprise Zones applicants to file their application, if the extension request is received by the Department of Revenue before the expiration of the filing period. The Act also authorizes the Department of Revenue to grant an additional extension, not to exceed 60 days, if the applicant can show reasonable cause for the extension. Act 1203 also enacts R.S. 51:2303(11) to define the term "Louisiana Entrepreneurial Business" for purposes of the Economic Development Act. Effective August 15, 2003.

Sales Tax—Local

Act 61 (SB 791) enacts R.S. 47:301(16)(I) to exclude from the definition of taxable tangible personal property for local sales and use tax purposes "other constructions" permanently attached to the land, regardless of the ownership of the ground. Effective May 23, 2003.

Act 73 (SB 551) enacts the Uniform Local Tax Code by placing the various provisions applicable to the local sales and use taxes under a separate Chapter of Title 47. The Act also provides that the Department of Revenue will design, implement, and operate a uniform local return and remittance system that will be available on the Department of Revenue's web site and that the Department of Revenue will provide the necessary staff and equipment to receive and transmit the electronic returns and funds to the local sales tax collectors. The system must be operative no later than January 1, 2005. Effective July 1, 2003.

Severance Tax

Act 1 (HB 1010) amends R.S. 47:633(9)(d)(i), (ii), and (iii), to change the source of price data used to annually adjust the severance tax rate on natural gas, natural gasoline, casinghead gasoline, and other natural gas liquids from the monthly average spot market price of gas fuels delivered into the pipelines in Louisiana as reported in the Natural Gas Clearing House to 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 effective with the 12-month period ending March 31, 2004. For the 12-month period ending March 31, 2003, the gas base rate adjustment numerator will be the average of the monthly average spot market price of gas fuels delivered into the pipelines into Louisiana as reported in the Natural Gas Clearing House for the months April 2002 through September 2002 and 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 months October, 2002 through March, 2003. Effective April 30, 2003.

Act 711 (HB 1323) amends R.S. 30:706 and 707 to increase the hazardous liquid pipeline fees from \$15 per pipeline mile to a fee not to exceed \$22.40 per pipeline mile or \$400 per facility, whichever is greater, and transfers collection of the fee from the Department of Revenue to the office of conservation, Department of Natural Resources. Effective June 27, 2003.

Act 879 (HB 1327) amends R.S. 30:560 and 561, relative to pipeline safety inspection fees, to define “jurisdictional gas” to mean natural gas, flammable gas, or gas that is toxic or corrosive and to provide that distributors engaged in the transportation, distribution, and or delivery of jurisdictional gas are liable for payment of the \$15 per mile safety inspection fee. The Act also transfers collection of the fee from the Department of Revenue to the office of conservation, Department of Natural Resources, changes the due date from June 30th to January 15th of each year beginning January 15, 2004, and provides an additional fee not to exceed \$7.40 per mile for the period July 1, 2003, through June 30, 2004. Effective July 1, 2003.

Act 1082 (HB 1299) amends R.S. 30:2486(A), (B), (C)(1), and (D), and 2487(A) to change the Oil Spill Contingency Fund balance thresholds that trigger ceasing and resuming collection of the oil spill contingency fee. The Act lowers the fund cap from \$10 million to \$7 million and lowers the fund minimum from \$8 million to \$5 million. Effective July 2, 2003.