

2004 Regular Legislative Session
Department of Revenue Legislative Summaries

Administrative

Act 48 (HB 501) amends R.S. 51:1306 relative to the Tax Free Shopping Program to allow the international visitors to present retailers with other current official picture identification in lieu of their foreign passport when purchases are made. Effective May 21, 2004.

Act 330 (HB 505) amends R.S. 49:316.1(A)(2)(a) and enacts R.S. 49:316.1(A)(2)(c) to provide that fees charged by third-party processors for the Department of Revenue or the Department of Transportation and Development shall be a convenience fee paid directly to the private entity third-party processor by the taxpayer and shall not be considered a "state charge" as provided in R.S. 49:316.1(A)(2)(a). The amount of the convenience fee must be approved by the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. The amount of the fee must also be disclosed to the payor before the transaction is completed and the payor must be given the option of canceling the transaction at that time. Effective June 18, 2004.

Act 900 (HB 1696) amends R.S. 47:105(A) to provide that the total amount of tax on an income tax return be paid on the date the return is required by law to be filed, determined without regard to any extension of time for filing the return. Prior law required the tax be paid on the earlier of this date and the date the return is actually filed. This Act also amends R.S. 47:116(C) and (F), 1621(E), and 1624(A) and enacts R.S. 47:115(C) to provide that interest on refunds of taxes erroneously paid will be computed from the later of 90 days after the filing date of the final return showing the overpayment or the due date of the final return; that the secretary is allowed to recover not only refunded amounts determined not to be an overpayment, but also amounts that were credited; and that interest on refunds or credits will be at the annual rate established in R.S. 13:4202 from the later of the date the return was due, the date the first return for that tax period was filed, or the date the tax was paid; and that overpayments that are credited to the taxpayers account bear no interest. Effective for refunds claimed after December 31, 2004.

Charitable Gaming

ACT 874 (HB 1417) amends R.S. 4:705(3) and 739(A)(3)(a), (C)(3), (E)(1), and (F) to authorize the office of charitable gaming to collect an additional fee not to exceed three percent of the lease/rental price of electronic dabber devices; to remove the requirement that bingo paper be disposable; and to authorize the office to adopt any rules and regulations necessary regarding electronic dabber devices. Effective August 15, 2004.

Collection

Act 56 (HB 1123) amends R.S. 47:1578(B) to clarify that the lien may be released on any part of property upon a determination that the state's interest in the property has no value. Effective May 21, 2004.

Act 60 (SB 112) amends R.S. 13:3881(D)(3) to clarify that ROTH IRA's are exempt from seizure by creditors. Effective August 15, 2004.

Act 65 (SB 239) amends R.S. 6:969.17, R.S. 9:3529, and R.S. 47:1604.2 to extend charges for insufficient credit or funds to payment by electronic means for motor vehicle transactions, consumer credit transactions and payment of taxes. Effective August 15, 2004.

Act 166 (HB 1115) amends R.S.47:1606 pertaining to the distraint cost penalty to remove the flat \$10 penalty and allow the imposition of a penalty in an amount to compensate for distraint

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costs provided that the amount charged by a third party for distraint concerning the seizure of a vehicle shall not exceed \$275. Effective June 10, 2004.

Act 197 (HB 205) amends R.S. 47:1568(B) to increase the time allowed for payment of tax from 10 days from receipt of a notice of taxes due to 30 days when a taxpayer has filed a return but failed to include the payment of taxes due. Effective August 15, 2004.

Act 468 (SB 805) amends R.S. 13:3881(A) and enacts R.S. 13:3881(A)(6) to provide that the federal earned income tax credit is exempt from seizure except for seizure by the Department of Revenue or arrears in child support payments. Effective June 24, 2004.

Excise Taxes

Act 47 (HB 478) amends R.S. 3:4602(1) and (13), 4623(A), 4671, and 4684; enacts R.S. 3:4602(1.1), (12.2), (13.1), and (14.1); and repeals R.S. 3:4672(G), 4674, 4676, 4677, 4687, and 4688, relative to the regulation of devices for weighing and measuring petroleum products; to provide that petroleum product inspection fee does not apply to exports, liquefied petroleum gas, natural gas, or bulk sales or transfers as defined in R.S. 3:4602; that the fee will be collected by the position holder from the person that orders the withdrawal of product from the terminal rack; that the first importer will pay the fee on product imported into the state other than by bulk sale or transfer; removes the fee exemption for special fuels eligible for fuel tax refunds under R.S. 47:802.1; and adds an exemption for special fuel sold for use in or distributed to seagoing vessels as defined in R.S. 3:4602. Effective May 21, 2004.

Income Tax

Act 53 (HB 898) amends R.S. 47:118(I) to authorize the secretary to waive payment of the penalty for underpayment of individual income taxes when the taxpayer has acted in good faith in failing to make the estimated payments. Effective May 21, 2004.

Act 74 (SB 530) amends R.S. 3:2364(B)(2) and R.S. 47:120.71(B), relative to the individual income tax donation check off for the Louisiana Animal Welfare Fund, to provide that the secretary remit the donation for deposit directly into the fund within the state treasury no more than 120 days from the due date of the return. Effective August 15, 2004.

Inheritance Tax

Act 42 (HB 329) amends R.S. 6:312(A) and 765(B) and repeals R.S. 6:325(E) and 768(E), relative to financial institutions; to delete the requirement that banks and savings and loan associations that have been notified of the death of an account holder report payments from the account to the Department of Revenue and the requirement that the Department of Revenue approve the transfer of safety box contents after the state inheritance tax has been paid. Effective August 15, 2004.

Act 884 (HB 1576) amends Code of Civil Procedure Articles 2951(A)(1) and 2953 and R.S. 47:2401(B); enacts Code of Civil Procedure Article 2951(C) and R.S. 47:2426; and repeals Code of Civil Procedure Article 2953 as amended by Act No. 560 of the 1972 Regular Session, relative to inheritance and estate taxes; to remove the requirements in the Code of Civil Procedure for obtaining proof that inheritance taxes have been paid in the case where a judgment of possession has been rendered or the succession has been judicially opened no later than the last day of the ninth month following the death unless a federal estate tax return is required or with respect to a revocable inter vivos trust, a trust declaration is filed with the Department of Revenue; provides at R.S. 47:2401 (B) that inheritance tax does not apply with respect to a

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revocable inter vivos trust in which a succession has been judicially opened no later than the last day of the ninth month following the death of the decedent; and adds provisions related to filing of inheritance tax returns. Effective for deaths occurring after June 30, 2004.

Legal

Act 134 (HB 880) amends R.S. 47:1522 to authorize the secretary to use mediation as a means of alternative dispute resolution to assist in tax collection and raises the limit for alternative dispute resolution from \$1 million to \$5 million. Effective June 4, 2004.

Act 455 (SB 226) amends R.S. 35:12(A), (B), and (D) and 35:511(3) to require notaries to insert in their acts the Christian names and surnames of the parties in full or the full names of the parties and not their initial letters alone together with the printed or typed names of the witnesses. Every document notarized in Louisiana must bear the notary identification number issued by the secretary of state, except an attorney may use his bar roll number in lieu of his notary identification number. The Act enacts new law R.S. 35:12 (A)(2) to specifically authorize the use of initials by parties signing the notarial act. Acknowledgments taken in this state must be signed in conformity with the provisions of R.S. 35:12 and either Article 1836 of the Louisiana Civil Code or R.S. 13:3720. Effective August 15, 2004.

Act 478 (HB 129) provides for the partial cancellation of a judgment as it affects property not owned by the judgment debtor on the date of his filing a petition under Chapter 7 of the U.S. Bankruptcy Court. Provides that a debtor is deemed to own inherited property as of the date of death of the decedent from whom the debtor inherited the property. Effective August 15, 2004.

Sales Tax

Act 49 (HB 506) amends R.S. 47:301(13)(d) to change the source of the price data used to determine the "sales price" for refinery gas to the New York Mercantile Exchange (NYMEX) Henry Hub, as reported in the Wall Street Journal. Effective May 21, 2004.

Act 418 (HB 868) amends R.S. 47:510(A) to exempt new motor vehicle dealers that are properly licensed from the requirement to notify the Department of Public Safety of vehicle transfers. Effective August 15, 2004.

Act 724 (SB 800) amends R.S. 37:2175.2(C) and enacts R.S. 37:2171.2, relative to contractors, to require that an applicant who registers with the Board of Contractors as a home improvement contractor provide proof of registration with the Department of Revenue by submitting a certificate of resident/nonresident status. Effective August 15, 2004.

Severance Tax

Act 412 (HB 651) amends R.S. 30:87(A), (B), and (F) to increase the oilfield site restoration fee on oil and condensate produced from wells in the state from one cent per barrel to one and one-half cent per barrel and on gas produced from wells in the state from 1/5 of one cent per thousand cubic feet (mcf) to 3/10 of one cent per thousand cubic feet (mcf). The reduced rates for low-producing oil and gas wells such as stripper and incapable wells, which is in the same proportion to the full rate production fees as the reduced rate severance tax to the full rate severance tax, are also increased. Effective July 1, 2004.