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Department of Revenue Legislative Summaries

Administrative

Act 1 (HB 1127) provides for supplement appropriation of funds from the state general fund to the Tax Collection Program for 150 temporary employees to help process tax returns, 42 to help review and process exceptional tax returns, and to the Alcohol and Tobacco Control Program for operations. Effective July 1, 2006.

Act 32 (HB 392) amends R.S. 49:191(3) and repeals R.S. 49:191(1)(m), relative to the re-creation and termination of the Department of Revenue and all statutory entities made a part of the department by law, to extend the termination date until July 1, 2010. Effective June 30, 2006.

Act 452 (SB 190) amends R.S. 47:114(F)(2) and 1520(A) and (C) to authorize the secretary to require certain employers, taxpayers, and tax preparers to file returns and receipts electronically under certain circumstances and to require that the electronic filing requirements be implemented by administrative rule in accordance with the Administrative Procedure Act. Effective June 16, 2006.

Act 752 (HB 269) enacts R.S. 47:841(F) to establish the Tobacco Regulation Enforcement Fund in the state treasury to provide support for enforcement activities of the Office of Alcohol and Tobacco Control. Effective July 1, 2006.

HCR 131 urges and requests the Department of Revenue to design an electronic tax return that is simpler and more easily understood and interpreted.

Alcohol and Tobacco

Act 108 (SB 142) amends R.S. 26:901(16) and 909, R.S. 47:843(C)(5), 844, 848(B), and 859(A)(1) and enacts R.S. 26:907.1 and 916(H), to provide that a wholesale dealer of tobacco also includes a bona fide tobacconist engaged in receiving bulk smoking tobacco for the purpose of blending the tobacco for retail sale at a retail outlet where 50 percent or more of the total purchases for the preceding 12 months were purchases of tobacco products, excluding cigarettes. Requires the commissioner of the Office of Alcohol and Tobacco Control to suspend or revoke any permit of any dealer that fails to pay taxes due to the state. The amount of stamps which may be purchased is increased to 100 percent of the amount of the bond. The Act deletes the provisions prohibiting any dealer purchasing stamps on credit from qualifying for a bond waiver. Effective July 1, 2006.

Act 454 (SB 266) amends R.S. 26:924 and R.S. 47:843(A)(1), (B), (C)(3), (4), (5) and (6), 848(B), and 851(B)(2), and repeals R.S. 47:844(A)(5), to provide for reciprocal agreements with tax authorities of other states whereby wholesale tobacco dealers in the other states who have a direct purchasing contract with a manufacturer and serve a trade area of retail dealers in this state may purchase Louisiana stamps and sell in Louisiana with benefit of a discount, which may not be greater than that extended to Louisiana wholesale tobacco dealers by the contracting state and will not exceed six percent. The Act deletes provisions prohibiting any dealer purchasing stamps on credit from qualifying for a bond waiver. Effective June 15, 2006.

Act 570 (SB 101) amends R.S. 14:93.11(B) to increase the penalties for selling alcoholic beverages to a minor. Effective August 15, 2006.

Act 803 (HB 1311) amends R.S. 26:2(12) and 71(A)(3)(c), 71.1(1)(b) and (f) and (3)(a), 241(8), (12), and (18), 271(A)(1), (4), and (5), and 271.2(1)(b) and (f) and (3)(a) and enacts R.S. 26:71(A)(3)(d), 71.2, 73(B)(1)(f), 271(A)(6), 271.3, and 272(B)(1)(f) to provide for a new definition of Package House-Class B, defines a Retail Class C-Package Store permit and fee, adds to the definition of restaurant establishment for purposes of Restaurant permits, and separates malt beverages into those containing not more than six percent alcohol by volume and those containing more than six percent

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alcohol by volume, provides definitions of wholesale dealers of each type of malt beverage, and provides for the permitting of these wholesale dealers of malt beverages. Effective August 15, 2006.

Collection

Act 33 (HB 395) amends R.S. 47:118(I) to change the deadline for submitting an application for penalty waiver from on or before December 31st of the year in which the tax return associated with the underpayment is due to one year from the statutory due date of the tax return not including any applicable extensions. Effective January 1, 2006.

Act 34 (HB 396) amends R.S. 47:1562(A), 1563, and 1564 to increase the time the taxpayer has to protest proposed assessment from 15 to 30 days. Effective May 12, 2006.

Act 77 (HB 394) amends R.S. 47:1602(A)(2) to provide that penalties for late payment of certain taxes are not due if at least 90 percent of total tax due on return is paid on or before due date of return and extensions are to be taken into consideration when determining whether payments are delinquent. Effective January 1, 2006.

Act 153 (HB 203) enacts R.S. 12:1601 through 1606 to authorize any domestic limited liability company, business corporation, partnership in commendam, or partnership to convert to another type of domestic business entity by submitting a conversion application to the secretary of state; to provide that if the tax classification is different for the converting and converted entities, tax liabilities for the converting entity will be calculated based on the method prescribed by current law for the converting entity's tax classification and will be a liability of the converted entity; and to provide that short period tax returns must be filed for the converting entity if the converted entity's tax classification is different from the converting entity's classification. Effective June 2, 2006.

Act 180 (HB 449) amends R.S. 47:1601(A)(2) to provide that the interest rate on final and nonappealable tax obligations will be the same as the interest rate on tax obligations that are not final and nonappealable. Effective January 1, 2007.

Excise Taxes

Act 108 (SB 142) amends R.S. 26:901(16) and 909, R.S. 47:843(C)(5), 844, 848(B), and 859(A)(1) and enacts R.S. 26:907.1 and 916(H), to provide that a wholesale dealer of tobacco also includes a bona fide tobacconist engaged in receiving bulk smoking tobacco for the purpose of blending the tobacco for retail sale at a retail outlet where 50 percent or more of the total purchases for the preceding 12 months were purchases of tobacco products, excluding cigarettes. Requires the commissioner of the Office of Alcohol and Tobacco Control to suspend or revoke any permit of any dealer that fails to pay taxes due to the state. The amount of stamps which may be purchased is increased to 100 percent of the amount of the bond. The Act deletes the provisions prohibiting any dealer purchasing stamps on credit from qualifying for a bond waiver. Effective July 1, 2006.

Act 454 (SB 266) amends R.S. 26:924 and R.S. 47:843(A)(1), (B), (C)(3), (4), (5) and (6), 848(B), and 851(B)(2), and repeals R.S. 47:844(A)(5), to provide for reciprocal agreements with tax authorities of other states whereby wholesale tobacco dealers in the other states who have a direct purchasing contract with a manufacturer and serve a trade area of retail dealers in this state may purchase Louisiana stamps and sell in Louisiana with benefit of a discount, which may not be greater than that extended to Louisiana wholesale tobacco dealers by the contracting state and will not exceed six percent. The Act deletes provisions prohibiting any dealer purchasing stamps on credit from qualifying for a bond waiver. Effective June 15, 2006.

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Act 656 (SB 454) enacts R.S. 3:3751 and 3752 to create The Louisiana Renewable Fuels Production Accountability Act to provide for the production, use, sale, and regulation of renewable Louisiana fuels such as ethanol and bio-diesel; to establish The Louisiana Bio-Fuel Panel in Louisiana; and to provide for oversight by the secretary of revenue. Effective July 1, 2006.

Act 808 (HB 1387) amends R.S. 26:2(10) and (17), 85, 142, and 359(B), (C), (D), (E), and (G), to enact R.S. 26:2(21) and (22) and 71(A)(6) and (7), and to repeal R.S. 26:321 through 327 and R.S. 26:341(A)(5) and (B), to provide for permits; to authorize a wine producer to sell or serve its product at retail directly to consumers at its winery, at specified other locations, and to directly ship to consumers in Louisiana; to authorize the selling and direct shipment of sparkling or still wine directly to a consumer in Louisiana by a manufacturer or retailer domiciled outside of the state or by a wine producer domiciled inside or outside of the state; to provide for exceptions requiring shipment to a wholesaler; to repeal all provisions of Louisiana's Native Wine Law; to repeal provisions providing for an excise or license tax on native wines; and to repeal provisions providing for an additional tax on manufacturers or retailers of sparkling wine or still wine domiciled outside the state who directly ship to a consumer within the state. Effective June 30, 2006.

Income Tax

Act 153 (HB 203) enacts R.S. 12:1601 through 1606 to authorize any domestic limited liability company, business corporation, partnership in commendam, or partnership to convert to another type of domestic business entity by submitting a conversion application to the secretary of state; to provide that if the tax classification is different for the converting and converted entities, tax liabilities for the converting entity will be calculated based on the method prescribed by current law for the converting entity's tax classification and will be a liability of the converted entity; to provide that short period tax returns must be filed for the converting entity if the converted entity's tax classification is different from the converting entity's classification. Effective June 2, 2006.

Act 170 (HB 352) amends R.S. 12:142.1 (A) to provide for dissolution of a corporation by filing an affidavit with the Secretary of State if the corporation is not doing business, owes no debts, and owns no immovable property. Effective August 15, 2006.

Act 478 (HB 538) amends R.S. 47:299.31 and 299.32(1) and (2) to allow an offset claim against a Louisiana individual income tax refund for past due spousal support. It also enacts R.S. 9:315.26 and 325 and R.S. 47:299.41(C), which allows any party to seek the collection of past due child support or spousal support from federal tax refunds and provides that if claims for both child support and spousal support are filed against an individual's refund, the claims for child support will be given priority. Effective June 22, 2006.

Act 702 (HB 578) enacts R.S. 47:1520.1 to require taxpayers filing for a state individual income tax refund through the Federal/State E-file Program to direct deposit the state tax refund if the federal tax refund is directly deposited. This provision does not apply if the taxpayer does not have a personal checking account. Effective for tax years beginning on or after January 1, 2006.

HCR 201 directs the Department of Revenue to provide notice to displaced Louisiana Citizens regarding requirements for filing income tax returns.

Inheritance

Act 314 (SB 35) amends Code of Civil Procedure Article 3061 to authorize the court to render and immediately sign a judgment of possession, if it finds from examination of the petition for possession and from the record of the proceeding that the inheritance taxes due have been paid or deposited into

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the registry of the court or that no taxes are due and that an inheritance tax return, when required, has been filed with the Department of Revenue. Effective August 15, 2006.

Legal

Act 119 (SB 388) enacts R.S. 47:1576.1 to require written settlements offers on matters in litigation to be submitted to the secretary of the Department of Revenue, who is required to respond with a written acceptance, rejection or counteroffer within three months of the date the settlement offer is received. If the secretary fails to respond within the three month timeframe, the secretary's conduct constitutes unreasonable delay by the department within the meaning of R.S. 47:1601(A)(2)(d) and interest is abated from the date the offer was received through the date a written response is provided to the taxpayer. Effective June 2, 2006.

Act 611 (SB 575) amends R.S. 49:257(B), (C), (D), (E) and (F) and enacts R.S. 49:257(G) to require state agencies, boards, or commissions that appoint, employ, or contract private legal counsel to represent the state to maintain accurate data on legal costs, which must be reported to the Attorney General's Office on a quarterly basis. Effective August 15, 2006.

Act 826 (HB 439) amends R.S. 1:13 and R.S. 13:3712 (A) and enacts R.S. 13:3711 and R.S. 24:177 to specifically provide that certain elements of a bill are not law; provides for legislative journals as well as audio and video recordings of legislative proceedings; and provides legislative intent and defines the extent to which certain elements of a bill are considered to determine legislative intent. Effective August 15, 2006.

Sales Tax

Act 41 (HB 1128) amends R.S. 47:301(16)(f) to provide that pharmaceuticals administered to livestock used for agricultural purposes and not included in the term tangible personal property shall be registered with the Department of Agriculture and Forestry. Legend drugs administered to livestock for agricultural purposes are not required to be registered, but those drugs that are not registered will be considered tangible personal property. Effective August 15, 2006.

Act 76 (HB 393) changes the termination date of Louisiana Tax Free Shopping Program for foreign visitors from 2007 to 2009. Effective May 25, 2006.

Act 457 (SB 354) amends R.S. 47:306(E) and 337.18(D) to provide that the submission of state and local sales taxes by a licensed vehicle dealer may be extended for a period not to exceed 90 days, by approval from the secretary if good cause is shown. Current law requires licensed vehicle dealers who sell a vehicle at retail to remit all taxes collected no later than 40 days from the date of sale. Effective June 15, 2006.

Act 551 (SB 654) amends R.S. 33:9038.27(B), (C), (F)(1), (H), and (I) and enacts R.S. 33:9038.27(J), relative to sales tax increment finance in the city of Lake Charles; to provide for the boundaries of a certain district in the city of Lake Charles; to provide for the district to utilize sales tax increment financing of the costs and expenses associated with certain commercial or residential development, to authorize the district to levy a sales tax on hotel occupancy in the newly created district that would supersede any other taxes on hotel occupancy within the district except the taxes on hotel occupancy levied by the Southwest Louisiana Convention and Visitors Bureau and any tax on hotel occupancy that is levied on a per head or per person basis. Effective June 22, 2006.

Act 765 (HB 594) retroactively amends Civil Code Article 466, relative to component parts of immovable property. The term "immovable" is replaced with the term "a building or other construction." It also provides that other things are considered to be permanently attached to a building

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or other construction if they cannot be removed without substantial damage to themselves or to the building or other construction or if, according to prevailing societal expectations, they are considered to be component parts of its component parts. Effective June 29, 2005.

Act 839 (HB 1130) enacts R.S. 33:9039.101 through 9039.112 to provide for the creation of local and regional economic development districts and to authorize the boards to exercise the power of taxation, levy assessments on property, and collect certain fees. Effective July 5, 2006.

Act 850 (HB 1281) enacts R.S. 33:9033.4 and 9038.1 to provide for sales tax increment financing in Jefferson Parish and conforms existing law relative to certain tax increment financing with Louisiana Supreme Court decisions in the *Bass Pro* and *World Trade Center* cases, provides that a tax levied pursuant to certain existing law shall supersede and be in lieu of only the other existing taxes that do not secure authorized bonds and that have not been dedicated by law or by a vote of the electors and that are not based on a per head or per person basis. Effective July 11, 2006.

Sales Tax--Local

Act 411 (HB 1003) enacts R.S. 47:337.9(F) and exempts purchases of prescription drugs purchased pursuant to a Medicare Part D plan from sales and use taxes imposed by any local governmental subdivision, school board, or other political subdivision whose boundaries are not coterminous with the state. Effective July 1, 2006.

Act 608 (SB 546) enacts R.S. 47:337.9(F) to exempt purchases of prescription drugs purchased pursuant to a Medicare Part B and D from sales and use taxes imposed by local governmental subdivisions, school boards, and other political subdivisions. It also enacts R.S. 47:318(B)(2)(a)(ii) that provides that the annual \$250,000 appropriation to the Liberty Fund will now be appropriated to the District 2 Enhancement Fund. Effective July 1, 2006.

Severance Tax

Act 38 (HB 569) amends R.S. 47:633(7)(b) and (c)(i)(aa) to change due date for reduced severance tax rate certifications on incapable and stripper wells from the 15th day to the 25th day of the second month following the month of production. Effective July 1, 2006.

Act 864 (HB 714) proposal to amend Article VII, Section 4(D) of the Constitution of Louisiana to increase the severance tax allocation to parishes. Effective July 1, 2007.