

2008 Regular Legislative Session
Department of Revenue Legislative Summaries

Administrative

Act 121 [La. R.S. 47:1508(B)(25)*] allows the Department of Revenue, at the secretary's discretion, to release relevant data to the Department of Culture, Recreation and Tourism to be used solely to determine the economic impact and viability of art, historical, or cultural districts created within the state. Any information released shall be considered and held confidential by the Department of Culture, Recreation and Tourism. Effective August 15, 2008.

Act 652 [La. R.S. 17:1687(E), 1855.1(B)(2), 3048.1(A)(1), (B)(2), (C)(3), and (U), 3048.3(A) and (B), 3048.4, 3048.5(A), (C), and (F)(1), 3048.6(A)(1), (B)(1), and (2)(a), 3048.7(A)(1), (B)(1) and (2)(a), 3351(A)(5)(d)(iii), 3351.3(B)2), (3)(b) and (C)(3), 3351.7(B)(2), 3351.8(B)(2), 3351.9(B)2), 3351.10(B)(2), La. R.S. 29:36.1(D), and La. R.S. 47:1508(B)(17)] changes the name of the Louisiana Tuition Opportunity Program for Students to the Louisiana Taylor Opportunity Program for Students. Effective July 1, 2008.

Act 735 [La. R.S. 39:34(D), 51(E), and 56(D)] requires the inclusion of the Five Year Estimated Revenue Loss Chart from the Tax Exemption Budget prepared by the Department of Revenue in the Executive Budget, General Appropriations Bill, and the State Budget prepared by the Governor. Effective August 15, 2008.

Act 748 [La. R.S. 39100.71* through 100.75] creates the "Grants for Grads Program" to provide grants of cash awards to Louisiana residents who receive an associate, baccalaureate, masters, or other postgraduate degree to assist with payment of the down payment or closing costs on the purchase of a first home in Louisiana. The program will be administered by the Louisiana Housing Finance Agency.

Act 750 [La. R.S. 47:1671] requires that any return, statement, declaration, waiver, agreement, form or other document relative to matters subject to the jurisdiction of the Department of Revenue shall be signed by the individual, person, or persons having the authority to sign such document in accordance with forms or regulations prescribed by the secretary of the Department of Revenue. This requirement also applies to signatures which are electronic or in digital format. Effective July 6, 2008.

Act 801 [La. Civil Code Articles 38 through 46, and Code of Civil Procedure Article 11] clarifies the domicile of natural persons as follows:

- 1) a natural person's domicile is the person's habitual residence;
- 2) a person may not have more than one domicile;
- 3) spouses may have the same or different domiciles;
- 4) the domicile of an unemancipated minor is that of the parent, parents, tutor, or person granted legal authority, with whom the minor usually lives;
- 5) the domicile of a full interdict is that of his curator, the domicile of a limited interdict is governed by the judgment of limited interdiction, and the domicile of a person under continued or permanent tutorship is that of his tutor; and,
- 6) The domicile of military personnel is unchanged. The definition has been moved from Civil Code Article 40.1 to Code of Civil Procedure Article 11.

A person's intent to change his domicile depends on the circumstances, but a signed, recorded declaration should be considered evidence. Effective January 1, 2009.

Act 826 [La. R.S. 47:1621(H) and (D)(3)] requires that a refund ordered by a final, non-appealable administrative decision or judgment be issued by the secretary of the Department of Revenue within 45 days of the date the administrative decision or judgment has become final and non-appealable. Any refund not paid

2008 Regular Legislative Session
Department of Revenue Legislative Summaries

within 45 days, together with other information, must be reported to the Joint Legislative Committee on Budget. Effective for all final, non-appealable judgments issued on or after July 1, 2008.

[HCR 9](#) requests that the Department of Economic Development develop a process to annually review the effectiveness of tax deductions and tax credits enacted by the legislature, to evaluate the fiscal impact, and to make recommendations as to whether these incentives are in fact achieving their goals. A written report must be submitted to the legislature before the 2009 regular session.

[HCR 179](#) urges and requests all state departments to review their recovery policies and programs as they affect the rebuilding efforts in all coastal Louisiana communities impacted by hurricanes Katrina and Rita and to make recommendations to the Louisiana Legislature concerning practical alternatives to policies in order to allow for the preservation of the unique culture of coastal Louisiana.

[SCR 85](#) urges the Department of Agriculture and Forestry to work with the Department of Revenue, Department of Economic Development and Department of Environmental Quality to develop a strategic plan to implement a tax incentive program for the production of renewable fuels, such as ethanol and biodiesel. The strategic plan should include tax credits and tax incentives designed to jumpstart the production of ethanol and biodiesel in Louisiana and encourage Louisiana farmers, shrimpers, and oyster harvesters to use renewable fuels.

[SR 176](#) urges and requests the Senate Committee on Revenue and Fiscal Affairs to study the following:

1. Whether Louisiana should adopt a physical presence jurisdictional standard for purposes of levying corporate income and franchise taxes on businesses operating in interstate commerce;
2. Whether Louisiana should support the adoption by Congress of a national standard for purposes of taxation of interstate commerce; and,
3. Whether Louisiana should support the adoption by Congress of the Business Activity Simplification Act, which would establish a national physical presence standard for the taxation of interstate commerce.

Alcohol and Tobacco Control

[Act 740](#) [La. R.S. 11:441(A), 544(B)(3), (D), (E), and (F)] allows certain enforcement personnel employed by the Department of Revenue, office of alcohol and tobacco control (ATC), as of June 30, 2007, or after, who are members of the Louisiana State Employees' Retirement System (LASERS), to retire with 25 years of service at any age, 10 years of service at age 60, or with 20 years of service at any age at an actuarially reduced rate. Act 740 also reduces the amount of funds to be deposited in the Department of Revenue Alcohol and Tobacco Control Officers Fund to fund retirement benefits for these employees and provides for the abolition of such fund when the actuarially accrued liability resulting from such benefits has been fully satisfied. Effective August 15, 2008.

[Act 844](#) [La. R.S. 26:80(A)(3) and 280(A)(3)] provides for the issuance of alcohol permits to certain facilities which are leased for the sole purpose of conducting charitable gaming. Effective August 15, 2008.

Collections

[Act 848](#) [La. R.S. 9:5685] provides that the effect of recordation of a judgment, lien, or privilege in favor of the state ceases ten years after the date the judgment was rendered or the lien or privilege was recorded. The Act also provides that political subdivisions and municipalities may only reinscribe liens and privileges in the same manner as an instrument creating a mortgage, and judgments as provided by law. Effective August 15, 2008.

2008 Regular Legislative Session
Department of Revenue Legislative Summaries

Charitable Gaming

[Act 630](#) [La. R.S. 4:724(B)(5), (J) and (K)] defines the types of games played or displayed on electronic video bingo machines. The Act also provides for exceptions and for the replacement of certain machines destroyed or rendered inoperable. Effective July 1, 2008.

Income Tax

[Act 123](#) [La. R.S. 47:120.82] provides for donations to the Coastal Protection and Restoration Fund on individual income tax returns for tax years beginning on and after January 1, 2009. Effective June 6, 2008.

[Act 396](#) [La. R.S. 47:32(A)] returns the four percent and six percent brackets for individual income tax to those provided for before the enactment of the Stelly Plan. The first \$12,500 of net income will be taxed at 2%, the next \$37,500 of net income will be taxed at 4% and any net income in excess of \$50,000 will be taxed at 6%. These dollar amounts are doubled for married persons filing jointly. Effective for tax years beginning on or after January 1, 2009.

Inheritance Tax

[Act 822](#) [La. R.S. 47:2401 through 2426], effective January 1, 2008, provides that inheritance taxes shall prescribe in three years from December 31st of the year in which the taxes become due. Inheritance taxes owed for deaths occurring before July 1, 2004, for which an inheritance tax return has not been filed before January 1, 2008, shall be due on January 1, 2008. Act 822 also repeals the inheritance tax law, La. R.S. 47:2401 through La. R.S. 47:2426, effective January 1, 2010.

[HCR 5](#) and [SCR 27](#) request that the Louisiana Law Institute study the laws regarding successions and the inconsistencies existing due to the phase out of inheritance taxes. The Institute will report its findings to the Legislature before the convening of the 2009 Regular Session.

Miscellaneous

[Act 637](#) [La. R.S. 9:2271 through 2275, 2283, 2290, and 2291] amends the Louisiana Trust Code relative to the creation, administration and duration of charitable trusts, and repeals Sections 2276 through 2280 and 2292 through 2295 in their entirety. Effective January 1, 2009.

Sales Tax

[Act 232](#) changes the termination date of the Louisiana Tax Free Shopping Program from July 1, 2009 to July 1, 2013. Effective June 17, 2008.

[Act 250](#) [La. R.S. 47:322.47 and 332.53] dedicates the avails of the 1.97 percent state sales tax imposed under La. R.S. 47:321(C) and 331(C) on hotel occupancy in Webster Parish to the Webster Parish Convention and Visitors Bureau. Effective July 1, 2008.

[Act 456](#) [La. R.S. 47:303.1(B)(1)(c), (B)(3)(C), and (D)] reduces the amount of annual average taxable purchases or leases necessary for certain taxpayers to receive a Direct Payment Number from fifteen million dollars to five million dollars. The Act also provides that a taxpayer issued a DP number is not responsible for the remittance of use taxes on purchases made pursuant to a tax exemption contract with the Department of Economic Development. Effective August 15, 2008.

2008 Regular Legislative Session
Department of Revenue Legislative Summaries

[Act 463](#) [La. 9:1149.4(C)] prohibits action to collect state and local sales tax on purchases of certain manufactured homes between September 1, 2005 and December 31, 2006 used as residences in certain parishes which were severely impacted by hurricanes Katrina or Rita, or by purchasers who formally lived within one of these parishes on or after September 1, 2004, if the basis for such action is the date upon which the declaration of immovability is recorded. Effective July 1, 2008.

[Act 468](#) [La. R.S. 39:100.71* and La. 47:1508(B)(26)*] creates the Manufactured Home Tax Fairness Fund to be used for refunds of tax, penalty, and interest paid on purchases of manufactured homes made on or after September 1, 2005 and before January 1, 2007 used solely as residential housing in certain parishes severely impacted by hurricanes Katrina or Rita, or by purchasers who formally lived within one of these parishes on or after September 1, 2004 if a declaration of immovability has been recorded. Effective July 1, 2008.

[Act 632](#) [La. Civil Code Articles 466 and 508] redefines and clarifies that component parts of immovable property serve to complete a building of the same general type, without regard to its specific use. Article 466 specifically states certain movables that are considered component parts of an immovable, while Article 508 provides that accessories of a principal thing of a movable construction permanently attached to the ground are its components parts. Section 2 of Act 632 states that for purposes of sales and use taxation, the changes to Articles 466 and 508 do not change the characterization of movables as tangible personal property prior to the attachment or incorporation of them into a building or other construction. Effective July 1, 2008.

[Act 707](#) [La. R.S. 47:306(E)] authorizes an extension for remittance of taxes on the sale of a motor vehicle by a licensed motor vehicle dealer. Remittance of the tax is required no later than forty days from the date of sale or ten days from receipt of the title to any vehicle accepted in trade, if the title is received by the dealer more than thirty days from the date of sale. Effective August 15, 2008.

[Act 720](#) [La. R.S. 51:1787(A)(1)(a)(iii), (iv), and (v)] requires that the Department of Revenue within 10 business days of the receipt of a properly completed rebate request pay 80 percent of the total amount claimed. The Department will audit the rebate request within 3 months and rebate the remaining 20 percent of the amount claimed less any amount properly disallowed. Failure by the Department to pay rebates within the allotted time will entitle the taxpayer to interest at the judicial rate. Any rebate amount determined to be in excess of what should have been allowed is subject to collection by the Department. The Act also forbids the rebate of local sales and use taxes, which are dedicated to the repayment of bonded indebtedness or to schools. Effective July 1, 2008.

[Act 880](#) [La. R.S. 39:100.71*] creates the FEMA Mobile Home Reimbursement Fund. The Act requires the commissioner of the office of motor vehicles to identify for the state treasurer certain state and local sales or use tax, penalty and interest paid on mobile or manufactured homes provided to Louisiana citizens by FEMA or the General Services Administration (GSA). These mobile or manufactured homes must have been used or intended for use solely as residential housing from August 29, 2005 to July 9, 2008, and were subsequently returned to FEMA or the GSA. The amount identified shall be appropriated by the Legislature and credited by the treasurer to the FEMA Mobile Home Reimbursement Fund to be used solely for refunding any state or local tax, penalty and interest paid on or after August 29, 2005. Persons requesting a refund of tax, penalty and interest paid must present evidence of payment to the state treasurer. Effective July 9, 2008.

[Act 924](#) [La. R.S. 9:1149.4(C), and 32:412.1(A)(3)(y)] authorizes the recordation of an act of immobilization of a manufactured home with the Department of Public Safety and Corrections. Effective January 1, 2009.

2008 Regular Legislative Session
Department of Revenue Legislative Summaries

Sales Tax—Local

[Act 582](#) [R.S. 47:337.11.1] requires health insurance issuers which provide coverage for prescription drugs and pharmacist services to clearly define the responsibility of the health insurance issuer or the health insurance issuer's member for the payment of local sales tax on such items. Effective June 30, 2008.

[Act 762](#) (La. R.S. 47:337.101*) provides procedures for determining whether a law, rule, regulation, policy, or interpretation of local sales and use tax law, ordinance, rules, or regulations violates the requirement of uniformity of interpretation provided in La. R.S. 47:337.2(A) and (D), 337.4(C), 337.87(A), and 337.91. The Act allows a tax collector or taxpayer to seek uniformity of interpretation from any court of competent jurisdiction or through arbitration as provided in La. R.S. 47:337.101(B). Effective July 6, 2008.

Severance Tax

[Act 901](#) [La. R.S. 44:1(B)(29) and 47:1515.3*] allows the Department of Revenue and the Department of Agriculture and Forestry to enter into a cooperative agreement for collection of timber severance taxes, interest, penalties, and fees. The Act also authorizes a collection fee, not to exceed 15% of the total liability, to be paid to the Department of Agriculture and Forestry. Effective July 1, 2008.

[Act 932](#) proposes to amend Article VII, Section 4(D)(3) and add Article VII, Section 4(D)(4) and (5) of the Constitution of Louisiana to increase the amount of severance tax remitted to parish governing authorities from \$850,000 to \$1,850,000, effective July 1, 2009, and to \$2,850,000, effective July 1, 2010. The Act also provides that beginning January 1, 2009, fifty percent of the revenues received from severance taxes collected on state lands in the Atchafalaya Basin shall be deposited into the Atchafalaya Basin Conservation Fund each fiscal year, up to \$10 million. The proposal will be submitted to the voters at the statewide election November 4, 2008.

Tax Incremental Financing Districts

[Act 903](#) [La. R.S. 33:1420.19*] creates a tax increment financing district in Jefferson Parish. The Act provides for the boundaries, purpose, and powers of the district. The dedication of tax increments from any portion of tax previously dedicated to another purpose will require prior voter approval. Effective July 10, 2008.

[Act 912](#) [La. R.S. 44:4.1(B)(18), 33:4720.161*, and 4720.171*] creates the North Lafayette Redevelopment Authority and authorizes the formation of certain parish redevelopment authorities in Lafayette and St. Tammany parishes. The redevelopment authorities are granted the power to implement tax increment financing under certain conditions. Effective July 14, 2008.

[Act 914](#) [La. R.S. 33:9038.62*] creates the Gentilly Taxing District as a tax increment financing district in the parish of Orleans. The Act provides for the boundaries, purpose, and governance of the district. The dedication of tax increments from any portion of tax previously dedicated to another purpose will require prior voter approval. Effective July 11, 2008.