

Louisiana **Tax Topics**

Department of Revenue and Taxation



Vol. 14, No. 3
January 1995

The mission of the Louisiana Department of Revenue and Taxation is to serve the citizens of Louisiana by efficiently collecting the state's tax revenue in a manner that will generate the highest degree of public confidence in our integrity and fairness.

The entire "Sales Price" is taxable

The Louisiana sales tax law levies the tax on the "sales price" of tangible personal property. The term "sales price" is defined by Revised Statute 47:301(13)(a) to include "the total amount for which tangible personal property is sold" When tangible personal property is sold to a customer, dealers must collect the sales tax on the entire "sales price" for which the property is sold, including the portion of the "sales price" paid to the selling dealer directly by the retail customer and any additional portion of the "sales price" that might be paid by persons other than the retail customer. This payment of a portion of the "sales price" by a party other than the retail customer occurs frequently when manufacturers' coupons are presented to the selling dealer. More recently, some sellers of cellular telephones have been able to offer telephone hardware to retail customers at reduced prices because of a partial payment of the "sales price" of the telephone hardware by cellular telephone service providers.

Manufacturers' coupons

When a customer presents a manufacturer's coupon to a retail dealer, which is redeemable by the retail dealer for the amount stated on the coupon, the sales tax should be charged on the "sales price" before the deduction of the coupon discount. In this case, the total "sales price" is not reduced by the acceptance of the coupon. The dealer receives a portion of the "sales price" by payment from the retail customer and the remaining portion of the "sales price" from the

manufacturer through the seller's redemption of the coupon.

The sales tax treatment of manufacturers' coupons is contrasted with the sales tax treatment of coupons that are issued by retail dealers, where the coupons are not redeemable by the retail dealers after their allowance of discounts to their customers. When a retailer redeems a coupon that the retailer has issued, the retailer has lowered the "sales price" of the property or services. In such cases, the sales tax is calculated on the reduced amount after the allowance of the coupon discount.

Cellular telephones

When a portion of the "sales price" of tangible personal property is paid by a party other than the buyer to whom the property is sold and delivered, such payment does not reduce the taxable "sales price" of the property. This principle is applicable to recent advertised sales of cellular telephone equipment, where sellers of hardware offer a reduced price to the retail buyer of the cellular hardware. In the typical case, the reduced price to the buyer of the telephone hardware is made possible by a payment of a portion of the "sales price" of the hardware by the cellular service provider who has contracted with the retail dealer. Sellers of cellular telephone equipment must collect the sales tax on the entire "sales price" of cellular equipment, including the portions of the "sales price" paid by both the retail buyers and the cellular service providers. ■

Consumer use tax returns included in 1994 tax income booklets

A schedule is enclosed with this year's income tax booklet that taxpayers must use to report the use tax on any taxable purchases made in 1994 from vendors who did not collect the sales or use tax. The schedule requires that each taxpayer report the total amount of taxable purchases made in 1994 and compute the use tax on the total amount.

The Louisiana sales and use tax law not only levies a sales tax on sales of tangible personal property made by sellers who are located in our state, but also levies a "use tax" on purchases—primarily those from outside the state—on which a tax was not collected by the sellers of the property. The law

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Recent court decisions

The Supreme Court of Louisiana recently handed down decisions in two cases of significance to state taxpayers.

South Central Bell Telephone Co. v. Sidney J. Barthelemy, et al., was decided October 17, 1994, by the Supreme Court of Louisiana (No. 94-C-0499). The decision involved a dispute between the city of New Orleans and South Central Bell over the sales and use taxability of computer software. The court upheld the taxability of both "canned" software and computer software customized specifically for use with the company's central office switching equipment. The court held that computer

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software, either "canned" or custom, constitutes taxable tangible personal property, regardless of the means by which the software is transmitted. Although the case was decided 6-0, South Central Bell asked for a rehearing, which could affect the department's treatment of this issue. The department's current regulation concerning the taxability of software is being reviewed for revision in accordance with this Supreme Court decision.

BP Oil Company v. Plaquemines Parish Govt., was decided September 6, 1994, by the Supreme Court of Louisiana (No. 93-CA-1109). The court has granted a rehearing and the department is continuing to closely monitor this case. However, the issues currently being argued primarily affect taxation by local governments. The issues affecting taxpayers for state taxation purposes are the taxability of refinery gas and "coke-on-catalyst" (by-products of the refining process). The court ruled that the use of by-products by a manufacturer does not qualify for the reprocessing exclusion provided by Revised Statutes 47:301(10) and is taxable just as though the items had been purchased for use by the manufacturer in the refining process. The court also set the value of the refinery gas for local tax purposes at the same taxable value as the state taxes.

For additional information concerning these decisions, contact the Sales Tax Division at (504) 925-7356.

Individual income tax booklets in the mail

More than 1.5 million 1994 individual income tax booklets were mailed to Louisiana taxpayers during the first week of January.

This year there are only two booklets, which are the IT-540 resident form and the IT-540B nonresident and part-year resident form. Both booklets are in a scannable format that enables new processing equipment to electronically capture income tax information directly from the return. This reduces the need for employees to manually enter tax return data into the department's computer system. The ability to scan the information also reduces the incidence of errors and speeds processing time. Schedules A, D, and E are also in a scannable format.

Like last year's returns, the 1994 returns utilize special inks and paper to make them scannable. Taxpayers need to handprint their numerals in the boxes provided on the returns and take care to make them in the same fashion as the example shown at the top of the returns. This will help ensure efficient processing of the returns.

In previous years, there was a short form and a long form for resident taxpayers. However, this year, the forms have been

combined and there is only one booklet for resident taxpayers and one booklet for non-resident taxpayers. This was done to eliminate any confusion regarding which form should be used.

The IT-540 booklet was mailed to all resident taxpayers. This booklet includes two copies of the resident return, two copies of Schedules A, D, and E, a return mail envelope, instructions, and tax tables.

Nonresidents and part-year residents were mailed the IT-540B booklet. This booklet contains two copies of the nonresident and part-year resident return, two copies of Schedule D, a return mail envelope, instructions, and a worksheet the taxpayer must complete in order to calculate the correct amount of Louisiana tax.

Taxpayers who need different or additional forms or schedules, should contact the headquarters office in Baton Rouge or one of the regional offices listed on the back of this newsletter.

Copies of federal tax returns are not normally needed by this department to process the state returns and they should not be included with the state returns. If additional information is needed, the department will contact the taxpayer and request only the schedule required rather than the entire federal return.

Tax return preparers who use computer software to generate federal and state substitute returns may submit documents that do not utilize the handprint format. These documents must meet the specifications for substitute documents as stated in the department's specifications manual and have received prior approval by the department. Copies of the specifications manual and approval of computer generated substitute forms may be obtained from the Research and Technical Services Division at the headquarters office in Baton Rouge. ■

Department creates substitute documents for software developers

There is now a specifications manual available for software developers to use in setting up substitute documents that can be printed using personal computers and submitted to the department in lieu of the pre-printed documents the department distributes to taxpayers. Samples of proposed substitute forms, complete with variable data printed in the proper positions, must be submitted to the department for approval prior to usage. Allow six weeks for review.

You may request the specifications manual by writing to the following address:

Louisiana Department of Revenue
and Taxation
Research and Technical Services Division
Attention: Danny Brown
P.O. Box 201
Baton Rouge, LA 70821-0201

FAX (504) 925-3855 ■

Rule on taxable value of oil and/or condensate amended

Revised rule clarifies definition of value, gross receipts, and posted field price

The department has amended LAC 61.2903.A.8 relative to the taxable value of oil and/or condensate. Severance tax is collected on oil and/or condensate based on a percentage of its value at the time and place of severance. Revised Statute 47:633(7) states that "Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price." The revised rule clarifies the definition of value, gross receipts, and posted field price and defines what constitutes an arm's length transaction.

§2903. Severance Taxes on Oil: Distillate, Condensate or Similar Natural Resources; Natural Gasoline or Casinghead Gasoline; Liquefied Petroleum Gases and Other Natural Gas Liquids; and Gas

A. Definitions

* * *

8. *Value* - with respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser by the producer or (2) the posted field price.

a. *Gross Receipts* - the total amount of payment (i) received from the first purchaser, in an arm's length transaction, or (ii) received from the first purchaser or transferred from the first purchaser by recognized accounting methodology, in a non-arm's length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and any other thing of value such as exchanges, barter, or reimbursement of costs. Advanced payments are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser.

b. *Posted Field Price* - a statement of crude oil prices circulated among buyers

and sellers of crude petroleum and is generally known by buyers and sellers within the field as being the posted price. The posted field price is the actual price of crude petroleum advertised for a field. The area price is a statement of crude oil prices circulated among buyers and sellers of crude petroleum listing prices for different areas of the state, usually listed as north Louisiana and south Louisiana, and generally known among buyers and sellers within the area as the posted price. This area price is the beginning price for crude petroleum of an area before adjustments for kind and quality (including but not limited to gravity adjustments) of the crude petroleum. When no actual posted field price is advertised or issued by a purchaser, the area price less adjustments for kind or quality (including but not limited to gravity adjustments) becomes the posted field price.

c. *Arm's Length Transaction* - a contract or agreement that has been arrived at in the open market place between independent and nonaffiliated parties with opposing economic interests.

d. *Non-arm's Length Transaction* - a contract or agreement between subsidiaries and/or related parties and/or affiliates.

e. *Value in Arm's Length Transaction* - in an arm's length transaction the value shall be the gross receipts of all things of value received directly or indirectly by the producer.

f. *Value in Non-arm's Length Transaction* - in a non-arm's length transaction, the value shall be derived by taking the following into consideration:

i. the gross receipts of all things of value received directly or indirectly by the producer.

ii. if the producer or a subsidiary, related party, or an affiliate of the producer, is the purchaser, look to the

gross proceeds from contemporaneous arm's length transactions by such purchaser for the purchase of significant quantities of like quality oil or condensate in the same field, or if necessary, the same area.

iii. the prices paid by independent and nonaffiliated parties for significant quantities of like quality oil or condensate produced in the same field or, if necessary, the same area.

iv. other relevant information, including information submitted by the producer concerning the unique circumstances of producer's operations, product or market.

g. The secretary, in the absence of supporting documentation or arm's length transaction, may adjust a producer's reported value to conform with the above mentioned standards.

h. *Transportation Costs* - there shall be deducted from the value determined under the foregoing provisions the charges for trucking, barging, and pipeline fees actually charged the producer. In the event the producer transports the oil and/or condensate by his own facilities, \$.25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from the value computed under the foregoing provisions. The producer can deduct either the \$.25 per barrel or actual transportation charges billed by third parties but not both. Should it become apparent the \$.25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be allowed when the producer transports the oil and/or condensate in his own facilities.

* * *

For additional information concerning this revised rule, contact the Severance Tax Division at (504) 925-7500. ■

Sales tax exemption enacted on property paid with Medicare funds

Act 25 of the 1994 Regular Session enacted Revised Statute 47:315.3 that provides for a refund of Louisiana sales tax paid on the sales and leases of certain tangible personal property, when paid by the Medicare Program. The effective date of this statute is August 15, 1994. Although the exemption from sales tax on property paid by Medicare was not specifically provided before Act 25, the **sale** to individuals, with a doctor's prescription, of most medical related property has been and continues to be exempt from the 4 percent state sales tax. However, leases and rentals of medical related property were not otherwise exempted from the state sales tax, so Act 25 created a new refund entitlement for leases and rentals of tangible personal property paid by the Medicare Program. Act 25 affects the 3 percent state and Louisiana Tourism Promotional District Sales and Use

Tax, but not the 1 percent sales and use tax of the Louisiana Recovery District.

Prior to this legislation, rentals of hospital beds, wheelchairs, and other medical equipment were subject to the 4 percent state rental tax. With this legislation, the state tax due on these rentals will be reduced when they are paid by the Medicare Program. The Medicare Program allows for reimbursement of up to 80 percent of allowable tangible personal property purchased or rented. The providers of this property must file a claim for the participant through the Medicare Program. A state tax of 1 percent is due on the amount paid by the Medicare Program. Any amount paid by the participant in excess of the amount paid by the Medicare Program, is subject to the full 4 percent tax.

Since state sales tax on rental payments is not due until the rental amount has been collected and since medicare providers must file a claim for all transactions, the department will administer this refund program differently from other refund programs. The Medicare provider will report the 1 percent tax on the amount paid by Medicare in the tax period he receives the payment and remit the 4 percent tax on the amount paid by the Medicare participant when payment is received from the participant. The department will not require the payment of the 3 percent state sales tax on the rental amount paid by the Medicare Program. The Medicare provider will be required to maintain all pertinent records concerning the lease payments received from the Medicare Program and the participant in the Medicare Program.

For additional information concerning this exemption, contact the Sales Tax Division at (504) 925-7356. ■

Consumer use tax returns

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requires that all in-state sellers and many out-of-state sellers with business activities in this state register for sales and use tax collection purposes.

In order for the state to collect the sales and use tax to the fullest extent possible, and to relieve Louisiana citizens from the responsibility of filing sales and use tax returns on their purchases, the department has encouraged additional vendors to collect the Louisiana sales or use tax on their sales to Louisiana citizens. Many dealers have voluntarily complied with our request, relieving their customers from the obligation of filing use tax returns for those purchases. When the sales tax is properly collected by sellers who are registered with our department for sales and use tax collection, the purchasers have no direct reporting requirement to the department, and the tax that is legally due is collected at a minimum cost to the state and to the vendors involved.

However, some out-of-state sellers, including prominent catalog merchants with extensive sales, have refused to register for use tax collection. Louisiana residents purchasing from unregistered merchants are

required by law to directly remit the use tax on these purchases to the Department of Revenue and Taxation. The return included in the 1994 income tax booklet is provided for this purpose.

The department has always attempted to collect the state tax on sales made into Louisiana from unregistered dealers, and has a large audit staff to pursue the collection of the amounts due the state. Act 18 of the 1994 Legislature requires the Department of Revenue and Taxation to also collect the local sales/use tax on sales made into Louisiana from unregistered vendors on or after August 15, 1994. The tax is collected at a uniform rate of 4 percent (in addition to the state rate of 4 percent) regardless of the actual local tax rate. The local tax collected under this provision of law is distributed to the parishes based on a population formula.

The use tax return enclosed in this year's booklet is to be used only by individuals to report the use tax due on their purchases for non-commercial use. The use tax that is payable on commercially used purchases is required to be reported on regular monthly or quarterly sales and use tax returns. ■

Baton Rouge - Main Office

Central Registration	504•925•7318
Collection	504•925•7448
Excise Taxes	504•925•7656
Income & Corporation Franchise Taxes ...	504•925•4611
Inheritance & Gift Taxes	504•925•7424
Sales Tax	504•925•7356
Severance Tax	504•925•7500
Tax Forms	504•925•7532
Unclaimed Property	504•925•7407
Withholding	504•925•4611
TDD	504•925•7533

Regional Offices

Alexandria	318•487•5322
Lafayette	318•262•5455
Lake Charles	318•491•2504
Monroe	318•362•3151
New Orleans	504•568•5233
Shreveport	318•676•7505
Thibodaux	504•447•0976

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This public document was published at a total cost of \$7,250.00. One hundred ten thousand copies of this public document were published in this first printing at a cost of \$7,250.00. The total cost of all printings of this document, including reprints, is \$7,250.00. This document was published for the Department of Revenue and Taxation, Post Office Box 201, Baton Rouge, LA 70821-0201, by the Division of Administration, State Printing Office, to disperse information concerning Louisiana tax matters deemed to be of public interest under authority of R.S. 47:1509. This material was printed in accordance with the standards for printing by state agencies established pursuant to R.S. 43:31.

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