



# Tax Topics

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*"The mission of the Louisiana Department of Revenue is to serve the citizens of Louisiana by administering efficiently the state's tax and regulatory statutes in a manner that will generate the highest degree of public confidence in our integrity and fairness."*  
**John Neely Kennedy,**  
Secretary

## 1998 Individual Income Tax Booklets Mailed

**%** More than 1.5 million Louisiana taxpayers were mailed their 1998 individual income tax booklets during the first week of January. Both the resident IT-540 and the nonresident IT-540B booklet are in a scannable format that enables automatic processing equipment to electronically capture income tax information directly from the form. Taxpayers meeting certain prerequisites were also mailed TeleFile booklets that allow them the option of filing a return by telephone.

In a format change from last year, the remittance coupon has been moved to the bottom of the return. Last year, the remittance coupon was a detachable extended foldout of the booklet's cover. Schedule D (donations) has been moved

from the back of the return to the schedule page with Schedules A (tax credits) and E (adjustments to income). Added to the IT-540 Resident booklet are Form R-6465 (Application for Extension of Time to File) and Form R-19025 (Installment Request for Individual Income).

Again this year, the Department will be accepting substitute forms produced from commercial software programs that have been approved by the Department. Substitute forms will again utilize the scannable band format on a single return page. Substitute form Schedules A, D, and E are together on a separate sheet, and a remittance coupon is available for any accompanying payment.

A listing of companies that have received software approval for substitute

forms can be obtained from *Fax Link* at (225) 922-2984, or from the Internet at <http://www.rev.state.la.us>.

## Inheritance Tax and Estate Transfer Tax changes

### **≥** Inheritance Tax

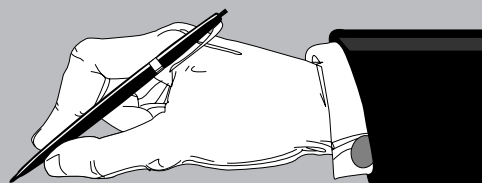
Under Revised Statute 47:2403, inheritance tax rates have been reduced by 18 percent on estates of persons dying after June 30, 1998 through June 30, 2001. In addition, delinquent inheritance taxes owed by a direct descendant or ascendant receiving an inheritance from a person dying after June 30, 1998 that is valued at less than \$100,000 will be exempt from interest. If the value of the inheritance exceeds \$100,000, interest will be assessed on that portion of the inheritance exceeding \$100,000.

### Estate Transfer Tax

For estates of persons dying after December 31, 1997, interest will be assessed on delinquent estate transfer taxes at the rate of one-half of one percent (0.5%) per month after nine months from the date of death. The rate will increase by one percent (1%) per month after 12 months from the date of death.

Further information is available by calling the Inheritance and Gift Taxes Section at (225) 925-7424.

## Things to remember



### Taxpayers should remember the following when filing their individual income tax returns:

1. Do **NOT** submit a photocopy of an original scannable IT-540 or IT-540B return.
2. Do **NOT** staple W-2s or other pages to the return. Use paper clips.
3. Submit only an **ORIGINAL LASER COPY** of substitute returns.
4. Be sure the return has been signed before mailing.

# Taxability of Offset Plates, Typesetting Used by Printers

**#** The Department often receives questions concerning the Louisiana state sales and use taxability of offset plates and typesetting used by Louisiana commercial printing firms in the production of tangible personal property for sale.

Under the Louisiana sales and use tax law, items such as typesetting or offset plate production materials purchased by a commercial printing firm for use by the firm in the production of printed materials, are considered "retail sales" to the firm. These retail sales to printing firms are taxable to them even if subsequent to the printing firms' uses of the property, the property is sold to customers as part of the sale price of printed property. Although these materials might actually be furnished to customers and charged as a separate line item on invoices for printed property, the materials are used by the printing firm before any sales to customers. On an audit examination of a Louisiana printing firm, the Department will assess the company for any unpaid sales or use taxes on these typesetting or offset plate production materials, and other similar materials, or for any advance sales tax credit that is erroneously claimed for taxes paid on the materials.

In some transactions, the offset plates that are utilized by printers in the production of printed property are actually sold to customers, becoming the customers' property, before production of the printed property begins. Where the facts indicate that offset plates are actually sold to customers as desirable and useful products before production of the printed

matter begins, and are shown as separate line items on invoices to customers, printing firms are to treat that property for sales and use tax purposes as property for resale, so as to not become liable for payment of the sales or use tax on their acquisitions of the offset plates or the material acquired for production of the offset plates for resale. Printing firms will be required to collect and remit the tax on their retail sales of the offset plates. The sales of the offset plates will be considered taxable retail sales in Louisiana, and the applicable Louisiana sales tax must be collected and remitted on the price charged for the plates, even when the printed matter produced from the plates is sold in interstate commerce or when the printed matter produced from the plates is sold to other dealers for resale.

LAC 61:I.4301.7 in connection with the definition of the term "retail sale" in R.S. 47:301(10), provides, in pertinent part, as follows:

"Sales of materials for further processing into articles of tangible personal property for subsequent sale at retail do not constitute retail sales. This exemption does not cover materials which are used in any process by which tangible personal property is produced, but only those materials which themselves are further processed into tangible personal property. Whether materials are further processed or simply used in the processing activity will depend entirely upon an analysis of the end product. Although any particular material may be fully used, consumed, absorbed, dissipated or otherwise completely disappear during processing, if it does not become a recognizable and identifiable component which is of some benefit to the end product, it is not exempt under this provision. The fact that a material remained as a recognizable component of an end product by accident because the cost of removal from the end product was prohibitive, or for any other reason, if it does not benefit the property by its presence, it was not 'material for further processing' and the sale is not exempt under this provision."

Louisiana R.S. 47:305.44 provides an exemption on certain purchases by commercial printing firms, as follows:

"§ 47:305.44. Exclusions and exemptions; raw materials used in printing process.

A. The sales and use taxes imposed by the state under R.S. 47:302, R.S. 47:321, and R.S. 47:331 and by any political subdivision shall not apply to purchases and sales of the following, including all chemical supplies necessary to produce such items whether manufactured by printer or purchased from subcontractor:

- (1) Artwork.
- (2) Blankets and bars.
- (3) Chemicals.
- (4) Color separations.
- (5) Dies.
- (6) Film, including negatives.
- (7) Offset plates.
- (8) Press proofs and photomechanical proofs.
- (9) Layouts.
- (10) Typesetting.
- (11) Rubber plates.
- (12) Paper.
- (13) Ink.

B. The exemption provided in Subsection A shall apply on and after the effective date of this Act."

The exemption under R.S. 47:305.44 has been fully or partially suspended since July 1, 1986. The most recent suspension was by Act 1 of the 1998 regular session of the Louisiana Legislature. The rate of tax on suspended exemptions will be 3 percent through June 30, 2000. The Department will recognize the resale of "materials for further processing" exclusion as applying to commercial printing firms' purchases of the last two items listed in R.S. 47:305.44(A), the paper and the ink. The other items listed will be subjected to the appropriate rate of tax that applies to suspended exemptions.



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## Sales taxability of charges by food and beverage caterers explained

**X** The Louisiana sales tax law levies the sales tax on sales of tangible personal property and provides that the tax shall be collected on the sales price of that property. In the case of caterers of food and beverages, the law provides that taxable sales shall include the amounts charged for the preparing and serving of food on the caterers' premises. The term "sale" is defined by Revised Statute 47:301(12) and the term "sales price" is defined, in pertinent part, by R.S. 47:301(13), as follows:

"(12) 'Sale' means any transfer of title or possession, or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, *preparing or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property.* A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale." (emphasis added)

"(13)(a) 'Sales price' means the total amount for which tangible personal property is sold, less the market value of any article traded in *including any services except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing which shall not exceed the legal interest rate and a service charge not to exceed six percent of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.*" (emphasis added)

Article 61:I.4301.12, provides with respect to the sales taxability of catering services, as follows:

"If a person prepares, furnishes, or serves tangible personal property which is consumed on his premises, those activities, i.e., the furnishing, the preparation, and the serving constitutes a sale for purposes of this act, whether billed as one item or billed separately. If the property is not consumed on the preparer's premises, preparing or serving is not a part of the "sale" under this act, if and only if, a separate charge is made for the preparation and serving. All consumables served by a caterer at the customer's premises or designated location are includible in sales; the preparation and serving are includible only if no separate charge is made for the "service" element. If a lump sum bill is rendered, the entire amount thereof must be included in sales. A sale has been consummated for purposes of this Chapter even though the seller may retain legal title to the property as security to insure full payment of the selling price."

## Oilfield Site Restoration Fee

The State Treasurer has notified the Department of Revenue that the Oilfield Site Restoration Fund has reached a balance of ten million dollars. Therefore, in accordance with the provisions of Revised Statute 30:86(C), the collection of the fee will be suspended starting December 1, 1998. This fee is suspended until the fund balance falls below six million dollars. Taxpayers will be notified when to resume collection.

Taxpayers are however, still required to collect and remit this fee for the quarter annual period ending December 31, 1998, for the months of October and November. The Oilfield Site Restoration Fee collected for this period will be due January 31, 1999 for oil/condensate and February 15, 1999, for gas. Failure to collect and/or remit this fee will result in an assessment of tax, interest, and penalties.

Further information is available from the Severance Tax Division at (225) 925-7500.

## Federal/state electronic filing program

**±** Again this year, Louisiana taxpayers will have the option of filing their individual income tax returns from their own personal computer using software available from participating software providers.

Until last year, the federal/state electronic filing program that allows taxpayers to file both their federal and state income tax returns electronically had been available only through professional tax preparers or electronic transmitters. The federal/state on-line option will be offered by tax preparation software providers who have successfully tested their software with the Internal Revenue Service and the Department. As software is approved by the Department, the information will be made available on the Department's website, which is located at [www.rev.state.la.us](http://www.rev.state.la.us). Software providers may charge for their software and/or for the transmission of the on-line filing.

Advantages of on-line filing include faster refunds, more accurate returns, and electronic acknowledgments that the returns have been received by the IRS and the state. Once a taxpayer has filed an on-line return, a signed state signature document (Form LA8453OL) and the state copies of W2s must be mailed to the state. A federal signature document and the federal copies of W2s must be mailed to the IRS.

## FAQ Inheritance Tax:

### What is forced heirship?

Forced heirship is a doctrine which guarantees to designated worthy heirs a portion of a decedent's estate. The "forced portion" is reserved for those stipulated heirs, whether a succession is testate or intestate.

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## Forced Heirship (continued)

### Who is a forced heir?

A forced heir is any person whom a testator or donor cannot deprive of the portion of his estate reserved for them by law, except in cases where the law allows him to disinherit them.

### How does the amendment to the constitution approved by the voters on October 21, 1995, change the forced heirship law?

The constitutional amendment approved by the voters on October 21, 1995 redefined forced heir to be "descendants of the first degree twenty-three years of age or younger, or descendants of any age who, because of mental incapacity or physical infirmity, are incapable of taking care of their persons or administering their estates." To take advantage of these provisions, one must execute a will. Otherwise, in an intestate succession all property will be inherited by the decedent's children, subject to any usufruct in favor of the surviving spouse over any community property being inherited by the children.

**Tax Topics** is a quarterly publication of the Louisiana Department of Revenue. Information contained herein is of a general nature; taxpayers requiring information concerning a specific tax matter should contact the appropriate tax office. Subscription information may be obtained from the Research and Technical Services Division at the address below, or by calling (225) 925-6047. This public document was published at a total cost of \$6,876. One hundred eight thousand copies of this public document were published in this first printing at a cost of \$6,876. The total cost of all printings of this document, including reprints, is \$6,876. This document was published for the Department of Revenue, 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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