

# Tax Topics

www.rev.state.la.us

Volume 21  
Number 2  
April 2001

*"The mission of the Louisiana Department of Revenue is to administer applicable laws and collect revenues to fund state operations."*

Cynthia Bridges

## Emergency Rule adopted Addresses return of erroneous and duplicate payments

**\$** Under the authority of Louisiana Revised Statute 47:1519(C) and in accordance with the provisions for adopting an emergency rule under the Administrative Procedures Act, R.S. 49:953(B), the Department of Revenue has adopted Louisiana Administrative Code 61:III.7501, effective January 2, 2001, and to remain in effect for 120 days or until adoption of the final rule, whichever occurs first. This rule provides for the payment of taxes by electronic funds transfer, credit or debit cards, or bank drafts and was adopted to address the payment alternatives and the procedures for returning erroneous payments and duplicate payments.

In the absence of rules defining when a payment by electronic funds transfer, credit or debit cards, or bank draft is made erroneously, the Department is required to treat all amounts paid in excess of the tax due as overpayments. Currently, if a taxpayer makes an erroneous payment using any of the aforementioned payment alternatives, the taxpayer is required to file a Claim Against the State in accordance with R.S. 47:1481 to recover the amount paid in error. The time involved in recovering the amount paid in error under this provision creates an undue economic hardship on taxpayers. This emergency rule will allow the Department to immediately identify those payments by electronic funds transfer, credit or debit cards, or bank drafts that are made in error, and to return those erroneous payments in the most expedient manner.

This rule can be found at the Department's web site at <http://www.rev.state.la.us>.

### Title 61

### REVENUE AND TAXATION

### Part III. Department of Revenue; Administrative Provisions and Miscellaneous Return of Funds

### Chapter 75.

### §7501. Payment of Taxes by Electronic Funds Transfer; Credit or Debit Cards; Other

A. Payments Accepted. As authorized by R.S. 47:1519, the secretary will accept cash, bank draft, cashier's

check, teller's check, certified check, personal check, money order, electronic funds transfer, or credit or debit card from a nationally recognized institution for the payment of taxes, penalties, interest, fees, and payments due under any state law which the authority to collect has been delegated to the secretary.

B. Definitions. For the purposes of this Section, the following terms are defined:

**Duplicate Payment**—a payment permitted by cash, bank draft, cashier's check, teller's check, certified check, personal check, money order, electronic funds transfer, or credit or debit

*(Continued on Page 4)*

## Summary of Department of Revenue Policy and Procedure Memorandum 30.1

On November 6, 2000, the Department issued Tax Administration Policy and Procedure Memorandum 30.1., which provides for the following:

1. Outlines the procedures for filing a claim for a refund;
2. Describes the procedures for verifying an overpayment and for notifying the taxpayer if the Department determines that no overpayment exists; and,
3. Specifies the criteria for ascertaining whether or not the Department has statutory authority to issue a refund under a given set of circumstances.

The policy adheres to a strict interpretation of Louisiana statutes and describes each statute under which the Department is authorized to issue a refund. Some statutes apply to specific taxes, while others apply to all taxes administered by the Department. The policy states that the taxpayer's claim for refund cannot be approved without statutory authorization. In the absence of such authorization, the refund will be denied and the taxpayer notified of his appeal remedies.

A complete copy of Policy and Procedure Memorandum 30.1 is available on the Department's web site at <http://www.rev.state.la.us>.

## Inheritance tax rates to reduce

Pursuant to Act 818 of the 1997 Regular Session of the Louisiana Legislature that amends and reenacts Revised Statute 47:2401, 2431, and 2432(A), and enacts R.S.2403(E) and 2420(D), the inheritance tax rate will reduce by 40 percent for deaths occurring after June 30, 2001, and before July 1, 2002.

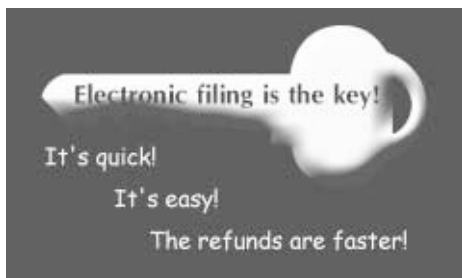
The phase out of inheritance tax began July 1, 1998, and reduced tax rates by 18 percent for deaths occurring after June 30, 1998, and before July 1, 2001. In the future, the rate will be reduced by 60 percent for deaths occurring after June 30, 2002, and before July 1, 2003, and by 80 percent for deaths occurring after June 30, 2003, and before July 1, 2004. Effective for deaths occurring after June 30, 2004, R.S. 47:2401(B) provides that inheritance tax levied by 2401(A) shall not apply when a judgement of possession is rendered or when a succession is judicially opened no later than the last day of the ninth month following the death of a decedent.

For further information, contact the Inheritance and Gift Taxes Section at (225) 925-7424.

## Rate of judicial interest determined

In accordance with Louisiana Revised Statute 13:4202, the judicial interest rate beginning January 1, 2001, and ending December 31, 2001, has been set at 8.241 percent.

Under provisions of R.S. 47:1624 and 47:1576, interest on refunds made by the Department of Revenue will be paid at this rate during calendar year 2001.



## Names of delinquent taxpayers published

In January, the Department began posting the names of chronic delinquent taxpayers on its Internet web page at <http://www.rev.state.la.us>.

The program is called 'CyberShame' and is based on the premise that publication of a delinquent taxpayer's name will shame them into paying the taxes they owe. The program has been instituted in five other states and has resulted in the collection of millions of dollars in delinquent taxes.

The source of the delinquent tax information is public record tax liens on file with the Clerk of Court in the appropriate Louisiana parish and means republication of those public records does not constitute a violation of the confidentiality provisions of Louisiana Revised Statute 47:1508 that requires a taxpayer's records be kept confidential by the De-

partment. Taxpayers receive notification before their names are published.

CyberShame produced results even before the first list of names was published. After learning that their names were to be published, nine taxpayers contacted the Department and made arrangements to pay more than \$438,000 in delinquent taxes. For that reason, their names were not posted. Originally, the first list consisted of 126 taxpayers. Of that number 48 were individuals that owed a total of \$4.3 million. The remaining 78 taxpayers were businesses that owed \$5.5 million.

Another 125 to 150 delinquent taxpayers are scheduled to be published on the web page in March. Because of the publishing deadline for Tax Topics, information about that list is not available for this issue. In the future, a new list of names will be posted approximately every three months.

## 2001 cost price for refinery gas

The cost price for refinery gas for use tax purposes has been set at \$.58 per thousand cubic feet (MCF) for the calendar year 2001.

This year's value is based on the posted price of \$32.35 for West Texas Intermediate Crude Oil on December 1, 2000, as reported in the Wall Street Journal. By applying the price formula specified in Louisiana Revised Statute 47:301(3)(f), the value is determined as follows: \$32.35 divided by \$29.00, multiplied by \$.52, equals \$.58 per MCF. This price is the maximum value that can be set for refinery gas by state and local authorities. Refinery gas that is sold, exchanged, or bartered (rather than used by the producer) is subject to sales tax based on the greater of the actual selling price or the average monthly spot market price of one MCF of natural gas delivered into pipelines in Louisiana as reported by the Natural Gas Clearing House and as determined by the Department of Revenue for natural gas severance tax purposes. Re-

finery gas is subject to both state and local use tax, regardless of its use. Listed below are the valuations for previous years, as well as the current year:

1997	\$ .445	1998	\$ .335
1999	\$ .20	2000	\$ .41
2001	\$ .58		

Questions concerning the cost price for refinery gas for state purposes should be directed to the Sales Tax Division at (225) 925-7356. Questions about the valuation adopted by local authorities should be directed to the appropriate local authority.





## LaSalle Building to house Revenue

**X** This fall, the Headquarters office of the Department of Revenue is scheduled to move into the new 12-story LaSalle Office Building now under construction in downtown Baton Rouge.

Revenue will occupy the first seven floors of the new building that is located on the corner of Third Street and North Street, near the State Capitol Building. The Department will have approximately 156,000 square feet of space, or about 20 percent more than in its present building. The Department of Natural Resources will occupy all of the remaining space in the new building.

A parking garage is also being built across the street from the LaSalle Building and will provide 1,920 parking spaces for employees and visitors. The parking garage building also has 10,000 square feet of retail space that will be occupied by the YMCA of Baton Rouge.

The LaSalle Building is part of a major project to consolidate much of Louisiana state government in Baton Rouge into a Capitol Park in the downtown area near the State Capitol Building. Included in the project are the Claiborne Building, which will house the Division of Administration and other agencies, and the East Building, which will house the Department of Environmental Quality. Also being built on the Claiborne Building site is a parking garage for 1,400 vehicles.

## Nonprofits not always exempt from sales taxes

**=** Nonprofit organizations are granted an exemption from the payment of income taxes under Internal Revenue Code Section 501(c). However, these organizations are not exempt from the payment of state and local sales taxes, except as specifically provided for in the sales tax statutes. These specific circumstances include:

- Purchases of bibles, songbooks, and literature by churches and synagogues.
- Purchases made by certain sheltered workshops.
- Purchases of specialty items by Mardi Gras organizations.
- Purchases made by Ducks Unlimited and certain other conservation organizations.

Churches and other nonprofit organizations often assume that they are exempt from state and local sales taxes, and misinform their vendors to that effect. Any vendor who is presented with an exemption certificate that does not appear to be genuine, or is offered no certificate at all, should contact the Department of Revenue's Sales Tax Division at (225) 925-7356 to verify that the nonprofit organization claiming an exemption is entitled to do so.

## New Orleans man pleads guilty

**≥** Michael Lubrano, a New Orleans resident who operated the "Your Daily Bread" bakery in New Orleans, has pleaded guilty to 22 counts of failing to file Louisiana sales tax and to three counts of issuing worthless checks.

Lubrano was sentenced to six-months in jail and ordered to pay full restitution of \$33,312.99 to the State of Louisiana. The jail sentence was suspended on the condition that the restitution be made during the two-year probationary period.

## Timber rates established for 2001

**\$** Timber values for use in determining severance tax timber rates for 2001 have been established by the Office of Forestry and the Louisiana Tax Commission.

The values and tax rates are as follows:

Product	Value Per Ton	Tax Rate Per Ton
Pine Sawtimber	\$46.14	\$1.04
Hardwood Sawtimber	\$24.04	\$.54
Pulpwood Pine	\$ 9.32	\$.47
Pulpwood Hardwood	\$ 4.47	\$.22
Pine Chip-n-saw	\$37.19	\$.84

Revised forms will be provided as soon as they are available. Any questions should be directed to the Severance Tax Division at (225) 925-7500, or the Department's web site at <http://www.rev.state.la.us>.

## Former Probation Officer pleads guilty

**÷** Lawrence Mason, 50, 4743 Sandalwood Street, New Orleans, has pleaded guilty to filing false public records, tax evasion, and failing to file state income tax forms.

Mason, a former Orleans Parish Municipal Court probation officer, was arrested in June of last year for allegedly misappropriating more than \$167,000 in grant money used to track drug-related domestic violence from 1995 through 1999. Mason was the director for the grant money. In addition to the tax-related charges, Mason also pleaded guilty to felony theft and malfeasance in office.

The court sentenced Mason to five years in prison, but suspended the sentence and placed him on probation for five years. No determination has made with regard to restitution of the money.

# Louisiana CVO/ITS



Louisiana's Commercial Vehicle Operations/Intelligent Transportation Systems (CVO/ITS) Business Plan provides a long-term strategic vision and implementation program for meeting Louisiana's transportation needs.

Commercial Vehicle Operations (CVO) are the various activities in which public agencies and motor carriers engage to credential or permit commercial vehicles; to clear vehicles through weigh stations; to assure motor carrier, vehicle and driver safety; and, to manage the flow of commercial vehicle traffic. Intelligent Transportation Systems (ITS) is the application of advanced technologies to surface transportation needs. CVO/ITS activities involve automating existing CVO processes, and clearance or safety assurance to improve the efficiency and effectiveness of these processes for both motor carriers and the state.

Louisiana's CVO/ITS Business Plan identifies a coordinated program of "no-tech", low-tech, and technology-based initiatives to achieve the following:

- Increased administrative productivity of both the state and private sector;
- Maximized commercial vehicle operational safety through improved compliance and targeted enforcement; and,
- Increased CVO operational productivity by improving freight flows.

The Business Plan was developed by a state CVO/ITS Steering Committee led by the Louisiana Department of Transportation and Development (DOTD). Steering

Committee members include representatives of the state's Department of Revenue, Office of Motor Vehicles, Public Service Commission, Louisiana State Police Transportation and Environmental Safety Section, Louisiana Motor Transport Association, and the regional office of the Federal Highway Administration (FHWA) and its Office of Motor Carriers. Project funding was provided by a grant from FHWA, CVO/ITS Mainstreaming funds, and a state match.

Louisiana's Business Plan provides a roadmap for changing the way the state and motor carriers do business together. The plan is a framework for implementing the change with an expected result of decreasing costs for both the state and industry, improving productivity and compliance, and decreasing unsafe/illegal carrier, vehicle, and driver operations. Under the plan scenario, the Department of Revenue's credentialing, permitting and tax filing requirements would be streamlined. Motor carriers with access to a personal computer, modem, and a telephone line would enter all required application information. The carrier would then be able to obtain an annual credential or permit within minutes. Monthly IFTA transmittals and associated payments would be automated using the national clearinghouses. Recaps, transmittals, and payments would be exchanged electronically and the clearinghouse would net out the payments.

More information about the Business Plan may be obtained by calling the Excise Taxes Division at (225) 925-7652.

## Rule (continued)

card from a nationally recognized institution for the same tax type and the same tax period.

**Erroneous Payment**—a payment remitted by bank draft, cashier's check, teller's check, certified check, personal check, money order, electronic funds transfer, or credit or debit card from a nationally recognized institution, in which the amount remitted differs from the amount shown to be due on the face of the tax return,

report, bill, or assessment submitted at the time of payment.

**Payment**—any amount paid to the Department of Revenue representing a tax, fee, interest, penalty, or other amount.

- C. Return of Funds. The secretary is authorized to return funds to a taxpayer when the taxpayer has remitted an erroneous payment or a duplicate payment.

## Estimated income tax payments required for many taxpayers

Louisiana law requires that every individual whose Louisiana income tax liability can reasonably be expected to exceed \$200 (\$400 if a joint declaration) and every corporation whose Louisiana tax liability can reasonably be expected to exceed \$1,000 are liable for filing declarations of estimated tax. The term "estimated tax" means the amount a taxpayer estimates to be the income tax imposed for the period, less the amounts estimated to be the sum of any credits or withholding allowable against the tax. Statutorily sanctioned interest and penalties will be imposed against those individual and corporate taxpayers who fail to pay estimated tax for the 2001 income tax year.

The first quarterly estimated payment for the 2001 tax year is due on or before April 15, 2001. Estimated tax worksheets and instructions for tax year 2001 are available on the Department's website at <http://www.rev.state.la.us>.

Additional information about estimated taxes may be obtained by calling the Income and Corporation Franchise Taxes Division at (225) 925-4611.

**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 Public Affairs Bureau at the address below, or by calling (225) 925-6823.

This public document was published at a total cost of \$6,800. One hundred eight thousand copies of this public document were published in this first printing at a cost of \$6,800. The total cost of all printings of this document, including reprints, is \$6,800. 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.

M. J. "Mike" Foster, Jr.  
Governor

Cynthia Bridges  
Secretary

Danny Brown  
Public Information Director

Paulita Chartier  
Public Information Specialist

Joy Lonibos  
Graphics Designer