

Tax Topics

www.rev.state.la.us

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

Cynthia Bridges
Secretary

Robinson named Assistant Secretary



Governor Mike Foster has appointed **Kimberly Lewis Robinson** as Assistant Secretary of the Office of Legal Affairs. Prior to her appointment, Ms. Robinson had been serving as Confidential Assistant to Revenue Secretary Cynthia Bridges.

Secretary Bridges says, "Ms. Robinson's leadership ability and legal training will be assets in her new role as the Department continues to strive for excellence in the legal arena." Bridges adds, "The Office of Legal Affairs is responsible for litigating tax matters in the district courts and before the Board of Tax Appeals, promulgating policy rules and regulations, and participating in taxpayer conferences, to which Ms. Robinson will provide guidance and direction."

An attorney, Ms. Robinson holds a Juris Doctor degree from the Paul M. Hebert Law Center at Louisiana State University, as well as Master of Public Administration and Bachelor of Arts degrees from LSU. Before joining the Department of Revenue, she worked as a judicial clerk to Louisiana Supreme Court Justice Bernette J. Johnson and in the Civil Division of the Louisiana Department of Justice. She is a member of the Louisiana State Bar Association, American Bar Association, Louis A. Martinet Legal Society, and the Delta Theta Phi Law Fraternity.

Ms. Robinson is a native of Baton Rouge and graduated from Scotlandville Magnet High School. She is married to Antonio Robinson.

2nd Annual Joint Revenue/Rapides Parish Sales & Use Tax Seminar Held

X Approximately 70 people attended the second annual joint Department of Revenue/Rapides Parish Sales and Use Tax Seminar held January 17 at the Holiday Inn Convention Center in downtown Alexandria.

The seminar concentrated on sales and use tax return filing instructions, exemptions and exclusions, audits, assessment and collection techniques, and differences between Louisiana and Rapides Parish sales tax law. In attendance were manufacturing industry accountants, Certified Public Accountants, professional tax preparers, attorneys, and tax administration staff from other parish tax agencies. Attorneys and CPAs in attendance earned eight hours of Continuing Professional Education credits.

The seminar is part of the Department's on-going efforts to increase taxpayer education and contact through its "Taxpayer Outreach" program. Making presentations at the seminar were **Joseph Vaughn**, Regional Director of the Department of Revenue's Alexandria Service Center, **Donna Andries, CPA**, Administrator of the Rapides Parish Sales and Use Tax Office, and **Raymond Tangney**, Senior Policy Consultant in the Policy Services Division of the Louisiana Department of Revenue.

Feedback comments from those in attendance included "down to earth," "in layman's terminology," "enlightening," and "valuable in increasing voluntary compliance with the state and parish tax requirements."

2002 Severance Tax Rates for Timber Products


Louisiana Revised Statute 47:633 imposes a severance tax on timber and pulpwood based on the current average stumpage market value determined annually on the second Monday of December by the Louisiana Forestry Commission and the Louisiana Tax Commission.

Effective for 2002, the timber values to be used to determine the severance tax on timber are as follows:

Product	Value Per Ton	Tax Rate	Tax Per Ton
Pine Sawtimber	\$42.94	2.25%	\$0.97
Hardwood Sawtimber	\$25.94	2.25%	\$0.58
Pine Chip-n-saw	\$35.64	2.25%	\$0.80
Pulpwood Pine	\$8.01	5.00%	\$0.40
Pulpwood Hardwood	\$4.14	5.00%	\$0.21

Revised tax forms will be distributed as soon as they are available. Any questions concerning these severance tax values and rates should be directed to the Severance Tax Division at (225) 219-2500.

Rules Adopted


 All recently adopted rules are on the Department's web page at www.rev.state.la.us under "Rules and Legislation." Because of space limitations, *Tax Topics* does not include the rules in their entirety.

The following are descriptions of rules adopted by the Department during October 2001 through January 2002. The full text of the rules is available on the Department's website at www.rev.state.la.us under "Rules and Legislation," or from the website of the Office of the State Register at www.state.la.us/osr/reg/.

In October 2001, the Department adopted Louisiana Administrative Code 61:I.1902 relative to inventory tax credits. This rule clarifies the application of inventory tax credits to different business associations.

In October 2001, the Department amended Louisiana Administrative Code 61:I.4301 relative to the definition of Sales Price for sales and use tax purposes.

CyberShame a success

 After a little more than one year in operation, the Department's CyberShame program is a huge success. During the past year, the names of 503 delinquent taxpayers have been published on the Department's website at www.rev.state.la.us, resulting in the collection of more than \$2.5 million.

The CyberShame program is based on the premise that publication of the names of delinquent taxpayers will shame them into paying their delinquent taxes. In addition to 67 taxpayers who paid their delinquent taxes after their names were published, an additional 29 delinquent taxpayers paid more than \$300,000 in delinquent taxes to keep their names from being published.

During 2001, the Department published a new CyberShame list approximately every three months. The first publication of names in 2002 was scheduled for February, after the printing deadline for this issue of *Tax Topics*.

In November 2001, the Office of Alcohol and Beverage Control amended Louisiana Administrative Code 55:VII.303 to reflect revisions of Revised Statutes Title 26 statute numbers. The amendments also provide for the truth in labeling and consumer information by requiring disclosure of trademarked alcohol brand names contained in certain frozen drinks and to require proper signage to be affixed to alcohol dispensing machines.

In December 2001, the Department adopted Louisiana Administrative Code 61:I.1303 relative to the taxation of income of Native Americans. This rule clarifies the application of Louisiana individual income tax to Native Americans.

In January 2002, the Department adopted an emergency rule, Louisiana Administrative Code 61:I.1401, to provide guidelines to enable taxpayers to comply with the partnership composite return and payment requirements of Louisiana Revised Statute 47:201.1 that go into effect January 2002. Without these guidelines, taxpayers who are unable to comply would be subject to interest and penalties.

In January 2002, the Department adopted an emergency rule, Louisiana Administrative Code 61:I.5101, to establish procedures to obtain information for the enforcement of conditions of the Master Settlement Agreement between Louisiana and other states and leading tobacco product manufacturers. This rule establishes the manner by which information is to be supplied to the state by tobacco wholesale dealers and addresses penalties that may be imposed on registered tobacco dealers who fail to comply.


In January 2002, the Department adopted Louisiana Administrative Code 61:I.1302 relative to the nonresidents and Louisiana net operating losses. This rule informs taxpayers that nonresidents are allowed to carry back and carry over their Louisiana net operating losses.

In January 2002, the Department adopted Louisiana Administrative Code 61:I.1304 relative to the collection of Louisiana individual income tax from nonresidents who perform personal services in Louisiana including nonresident professional athletes and entertainers.

In January 2002, the Department adopted Louisiana Administrative Code 61:I.1305 relative to the attribution of Louisiana individual income tax from nonresident professional athletes professional sports franchises to the Sports Facility Assistance Fund.

In January 2002, the Department amended Louisiana Administrative Code 61:I.309 relative to the corporation franchise tax due dates to make it conform to current statutes.

Private Letter Rulings

 Redacted Private Letter Rulings are available on the Department's web page at www.rev.state.la.us under "Rules and Legislation." The following Revenue Private Letter Rulings are listed on the Department's web page.

Income and Corporation Franchise Taxes

No. 01-001 - Absence of "Throwback" Rules in Income and Franchise Taxes (07/25/01)

Personal Income Tax

No.01-004 - Taxation of Severance Pay for Personal Income Tax (10/03/01)

Sales Tax

No.01-003 - Due Date for the remittance by the Seller of Sales Taxes on Sales of Season Tickets of a Professional Athletic Team When Payments are Made In Installments (12/12/01)

No.01-006 - Carpet Cleaning and Installation, Building Contents Cleaning, Furniture Cleaning and Storage, Furnishing of Cleaning Equipment (12/12/01)

No.01-007 - Sales Tax Treatment of Leased Equipment that has been rendered an Immovable Component of a Building (01/22/02)

No.01-008- Sales Taxability of Cylinder Testing and Related Services 01/22/01)

No.01-011 - Sales Taxability of Purchases by Advertisers and Commercial Publishers of Newspaper Inserts (01/01/02)

Revenue Rulings

X All Revenue Rulings are available on the Department's web page at www.rev.state.la.us under "Rules and Legislation." The following Revenue Rulings are listed on the Department's web page.

* Revenue Rulings not previously published in Tax Topics

Administrative

No.01-001 — Garnishment of Seamen and Masters Federal Income Tax Refund (5/16/01)

Income and Corporation Franchise Taxes

No. 01-003 — Status of Certain Unincorporated Group Self-Insurance Funds for Worker's Compensation (10/08/01)

No.01-012 — "Manufacturer" for Inventory Tax Credit Purposes (9/17/01)

No. 01-013 — Effect of Federal "Check-the-Box" Elections on Franchise Tax (10/01/01)

No. 01-014 — Period in which Inventory Tax Credit may be Claimed (10/08/01)

* No.01-018 Inclusion of Certain Indebtedness in the Franchise Tax Base (12/28/01)

Personal Income Tax

No.01-002 — Certain Lump Sum Distributions (5/18/01)

No. 01-014 — Period in which Inventory Tax Credit may be Claimed (10/08/01)

Sales Tax

* No.01-004 — Assessment of Penalties and Loss of Vendor's Compensation on Sales Tax Returns with Extensions (2/05/02)

No.01-005 — Application of Revised Statute 47:305.1(A) to Purchases for Vessels of Over 50 Tons Load Displacement Following Recent Decision by Louisiana Supreme Court (8/21/01)

No.01-006 — Application of the Louisiana Sales Tax Law to Repair Services Rendered by Diving Service Companies (10/10/01)

No.01-007 — Sales Taxability of Charges for Transportation Associated with Sales of Tangible Personal Property (10/10/01)

No.01-008 — Taxability of Folding Invoices and Stuffing Envelopes (9/05/01)

No.01-009 — Sales Taxability to the Purchases of a Private Nonprofit Corporation Who Is the Lessee of Hospital Facilities Owned by a Hospital Service District (10/08/01)

No.01-010 — Application of the Louisiana Sales Tax Law to the Transactions of Roustabout or "Work as Directed" Service Companies (10/10/01)

No.01-011 — Applications for Sales and Use Tax Rebate Under the Enterprise Zone Program Must Be Submitted Before Legal Deadline (10/10/01)

No.01-015 — Sales Taxability of Purchases by Advertisers and Commercial Publishers of Newspaper Inserts (10/10/01)

* No. 01/016 - Dealers Allowed to Absorb Sales and Use Tax Under Certain Circumstances (11/15/01)

2002 Cost Price for Refinery Gas

≥ Louisiana Revised Statute 47:301(3)(f) provides that the value for refinery gas will be computed annually by multiplying 52 cents per thousand cubic feet by a fraction of which the numerator is the posted price for a barrel of West Texas Intermediate Crude Oil on December first of the preceding calendar year and the denominator is \$29. Since December 1, 2001, fell on a Saturday, the posted price used in the computation was the average of the posted prices for West Texas Intermediate Crude Oil as reported by the Wall Street Journal for November 30, 2001, and December 3, 2001. This average was \$16.95. The cost price for refinery gas was computed as follows:

$$\$0.52 \times \left(\frac{\$16.95}{\$29} \right) = \$0.304 \text{ per MCF}$$

Accordingly, the cost price for refinery gas for use tax purposes for calendar year 2002 has been set at \$.304 per thousand cubic feet (MCF). This price is the maximum value that can be set for refinery gas by state and local authorities.

Judicial Interest Rate for Refunds

The judicial interest rate, which is the rate the Department uses to pay interest on refunds and credits, has been set by the Office of Financial Institutions at 5.75 percent effective January 1, 2002, through December 31, 2002.

Louisiana Revised Statute 47:1624(B) provides that the Department will pay interest on refunds and credits at the judicial interest rate established pursuant to La. Civil Code Article 2924(B)(1), which states that the judicial rate will be set by the Commissioner of the Office of Financial Institutions in accordance with R.S. 13:4202. The annual judicial interest rates for years through 2002 are available at the Office of Financial Institution's web site at www.ofi.state.la.us.

For further information concerning this matter, contact the Taxpayer Services Division at (225) 219-7318.

Refinery gas that is sold, exchanged, or bartered, rather than used by the producer, is subject to sales tax. The sales tax is 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. Refinery gas is subject to both state and local use tax, regardless of its use.

Refinery gas valuations for 2002 and previous years are as follows:

2002	\$.304
2001	\$.58
2000	\$.41
1999	\$.20
1998	\$.335

For questions concerning the cost price for refinery gas for state purposes, call the Taxpayer Services Division at (225) 219-7318. Questions about the valuation adopted by local authorities should be directed to the appropriate local authority.

Sales and use tax on newspaper inserts

Is use tax due on newspaper inserts purchased from out-of-state vendors who deliver the inserts as a finished product to be inserted into newspapers before delivery to customers?

The Louisiana sales tax law, R.S. 47:305(D)(1)(e), provides an exemption from the tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in Louisiana of newspapers. Since July 1, 1986, this exemption has been fully or partially suspended, without interruption, by several resolutions or Acts of the Louisiana Legislature. Advertising flyers that are inserted into newspapers are, for purposes of this Louisiana sales tax exemption, considered a part of the newspapers into which they are inserted.

Except for the suspension of the "newspaper" exemption, printed matter purchased to be inserted into and distributed as part of newspapers is exempt from state sales tax regardless of whether the purchase is made by an advertiser or by a newspaper publisher. However, because the newspaper exemption is suspended, advertisers cannot claim the exemption when purchasing printed matter from printing firms that the advertiser has delivered to newspaper publishers for insertion and distribution as part of newspapers.

In the typical scenario, an advertiser or its agent will engage a printing firm to print a quantity of flyers. The advertiser or its agent will then furnish the flyers to a newspaper publisher without charge. The

publisher will insert and distribute the flyers with a newspaper. The publisher will charge the advertiser or its agent for the service of inserting and distributing the flyers. The advertiser or the advertiser's agent will owe the state sales or use tax on the full "cost price" or "sales price" of the flyers and printing services acquired from the printing firm. The tax will be at the rate applicable to suspended exemptions.

Even though the "newspaper" exemption is suspended, commercial newspaper publishers whose publications and inserts are for sale can continue to acquire comic inserts, printed television schedules, Sunday magazines, and other property for resale as part of their newspapers without the payment of state sales or use tax. Newspaper publishers who have been issued state sales tax wholesaler accounts can, when making purchases, claim advance sales tax exemption by presenting Department of Revenue exemption form LGST-9 to their vendors. Other publishers of newspapers for sale can, when filing their state sales tax returns, claim credit for the advance sales taxes that they have paid to their vendors on property purchased for resale.

If a Louisiana company buys mass produced materials (inserts, flyers, brochures, etc.) from an out-of-state vendor who in turn ships it directly to a customer who is located in a state that is not Louisiana, are Louisiana sales and use taxes applicable?

If the materials are not sold, used, consumed, distributed, or stored in Louisiana, they are not subject to Louisiana sales or use taxes.

Important Department telephone numbers

Collection

(225) 219-7448

Excise Taxes

(225) 219-7656

Personal Income, Withholding Taxes

(225) 219-0102

Inheritance, Corporation Income & Franchise Taxes

(225) 219-0067

Sales Tax

(225) 219-7356

Severance Tax

(225) 219-2500

Taxpayer Assistance - Central Registration

(225) 219-7318

Tax Forms

(225) 219-2113

Telephone Device for the Deaf (TDD)

(225) 219-2114

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) 219-2760.

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

Joy Lonibos
Computer Graphics Designer

**Visit us on
the
Internet!**

