Louisiana
Tax Topics
Department of Revenue and Taxation
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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.

New rule affects electronic filers and Form LA 8453

The Department has published a new rule, Louisiana Administrative Code 61:I.4905, effective January 20, 1996, that provides for alternatives to the signature/written declaration requirement for certain tax returns.

In addition to the individual income tax electronic filing program, several electronic filing programs are in the process of being implemented. Many of the tax statutes require that tax returns have a written signature or declaration. The new rule provides for an alternative to the signature/written declaration requirement for tax returns filed electronically or through other alternative nonpaper means. The entire text of the revised rule is published in this issue.

Beginning with the 1996 tax filing season, electronic return originators (EROs) in the Fed/State Electronic Filing Program for individual income taxes will maintain the taxpayer's signature document on file for a period of three years from December 31 of the year in which the taxes were due. Under the new rule, the Individual Income Tax Declaration for Electronic Filing (Form 8453) is not to be mailed to the Department of Revenue and Taxation. Form 8453, along with the taxpayer's state W-2 statements, are to be retained by the ERO. Taxpayers who have electronically filed their individual income tax return and who owe additional Louisiana individual income tax should use the separate payment voucher (Form R-6943-A or the substitute document version printed from software) to mail their payment to the Department.

Questions concerning the new rule should be directed to the Research and Technical Services Division at (504) 925-6047. ■

Consumer use tax returns included in 1995 tax income booklets

A schedule is enclosed in the 1995 individual income tax booklet for taxpayers to use in reporting the use tax on any taxable purchases made in 1995 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 1995 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 requires that all in-state sellers and

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TeleFile program

Some state taxpayers have been filing their 1995 Louisiana individual income tax returns by using a touchtone telephone.

Under a pilot TeleFile program being offered by the Department in the 1996 processing season, taxpayers selected for the pilot program can enter by telephone their Social Security Number, personal identification number, wages, withholding, and total number of dependents. After the requested information is entered, the tax will be calculated. With the new TeleFile program, Louisiana joins other states, as well as the Internal Revenue Service, in giving taxpayers an alternative method of filing individual income tax returns.

More than 130,000 eligible taxpayers in the state were sent TeleFile booklets in January 1996. Taxpayers selected to participate in the pilot TeleFile program must meet the following criteria: have single filing status; received a refund for the 1994 tax year; filed a Louisiana resident tax return for the previous two years; did not make any estimated payments for 1995; and, have no federal itemized deductions on the 1995 return. A taxpayer is ineligible to TeleFile if his return is calculated to have a payment due, if his name, address, or filing status has changed, or if the number of exemptions has increased since last year.

Taxpayers selected to participate in the pilot TeleFile program also received the standard 1995 Louisiana income tax booklets and will have the option to file their returns either by mail or electronically, if they do not choose to TeleFile. ■

Inheritance tax laws

Nearly every citizen in Louisiana is affected by the Louisiana inheritance tax laws at some point in their lives. This is the first in a series of articles on Louisiana's inheritance tax provisions.

Overview

Louisiana Revised Statutes 47:2401 et seq. impose an inheritance tax and R.S. 47:2431 et seq. impose an estate transfer tax. The inheritance tax is imposed for the privilege of receiving property from a deceased person, whereas the estate transfer tax is a "pick-up" tax designed to absorb the federal state death tax credit allowable under Section 2011 of the Internal Revenue Code. Only those estates with gross assets valued at $600,000 or more, may incur an estate transfer tax. The tax is equal to that portion of the state death tax credit that exceeds the inheritance tax due.

Intestate succession

In the absence of a will, the law prescribes those individuals, referred to as heirs, to whom property will be transferred. Article 880 of the Louisiana Civil Code provides that undisposed property devolves by operation of law in favor of a decedent's:

- Direct descendants by blood or adoption;
- Ascendants by blood or adoption;
- Collaterals by blood or adoption; and
- Surviving spouse not judicially separated from the decedent.

The order of devolution is in accordance with the Civil Code based on whether the property owned by the decedent was his separate property (Articles 2341 and 894), or community property (Articles 2338 and 889).

It is a common misconception that the surviving spouse automatically inherits one-half of the deceased spouse's half of the estate. In an intestate succession, the surviving spouse is entitled only to usufruct of the deceased spouse's portion of the estate as provided by Article 890 of the Civil Code. The exception to this is when the decedent leaves no children. When there are no children, the surviving spouse inherits the decedent's interest in any community property.

Testate succession

In the case of a decedent who leaves a will, the individuals who receive property are called legatees. A testator is permitted to leave the disposable portion of his estate (defined by Articles 1493 and 1496 of the Civil Code) to anyone he chooses. The law does not require a testator to leave anything to his spouse, including usufruct. Consequently, with a testament, it is possible for a surviving spouse to receive nothing from the deceased spouse's estate.

Classification of heirs and legatees

Heirs or legatees of a decedent are classified under R.S. 47:2402 on the basis of their relationship to the decedent. The established categories and a brief definition are as follows:

Direct descendants - the children, grandchildren, great-grandchildren, etc., of a decedent, whether the relationship is by blood, adoption, or marriage.

Ascendants - the parents, grandparents, great-grandparents, etc., of a decedent related by blood, adoption, or marriage.

Surviving spouse - the husband or wife of a decedent not divorced from the decedent.

Collaterals - the brothers, sisters, brothers-in-law (and their descendants), and sisters-in-law (and their descendants) of a decedent.

Strangers - nonrelated legatees of a decedent whether persons or organizations.

These classifications, together with other criteria, determine the exemptions that will be allowed, and the tax rates to be imposed.

Exemptions and tax rates will be covered in the second article of this series. ■

Timber tax rates for 1996 established

Timber values for use in determining severance tax timber rates for 1996 have been established by the Office of Forestry and the Louisiana Tax Commission.

The values and tax rates are as follows:

Product	***Tax value per ton***	***Tax rate per ton***
Pine Sawtimber	$45.17	$1.02
Hardwood Sawtimber	$20.58	$ .46
Pulpwood Pine	$ 8.83	$ .44
Pulpwood Hardwood	$ 4.43	$ .22
Pine Chip-n-saw	$30.41	$ .68

Revised forms are available. Any questions concerning timber tax rates should be directed to the Severance Tax Division at (504) 925-7500. ■

Time to update L-4s

Businesses with employees subject to withholding tax must be registered with the Department to withhold and report the tax that is due. They must also obtain an Employee's Exemption Certificate, Form L-4, from each employee at the time of their employment and each time their status changes so that the proper amount can be withheld.

However, employers often will not know when their employees' status has changed, so it is a good idea to have all employees fill out new forms each year to make sure the withholding status stays current. It will only take a few seconds and the employees will have the proper amounts withheld while the employer avoids the problems associated with withholding the wrong amounts.

Employees who qualify for a total exemption from withholding can use form L-4E to claim the exemption. For forms or more information concerning obligations to withhold, contact the Income and Corporation Franchise Taxes Division at (504) 925-4611. ■

Electronic bulletin board system (BBS)

Tax-related information is now accessible through the Department's electronic bulletin board system (BBS). Federal/state electronic filing information, EDI procedures and guidelines for sales and withholding taxes, 1996 Requirements for Substitute Forms, Sales Tax Laws and Regulations, and Tax Topics newsletter issues are some of the information currently available on the BBS. Also, most nonscannable tax forms and instructions can be obtained through the system. The BBS system is frequently being updated with new and revised information.

To access the BBS, one only needs a computer, a modem, and a telephone. The telephone number for the BBS is (504) 922-2529. Each caller is allowed 60 minutes each day to use the system. If the caller is downloading files, the system will continue to download beyond the 60 minutes until the download is completed. Users encountering problems or having questions may call the BBS Help Desk at (504) 925-7292. ■

Unlawful to advertise "tax-free"

Louisiana dealers are required to charge state sales tax on taxable sales, rentals, or services. Each dealer is required by law to separately state and collect the tax from the price paid for the merchandise.

It is unlawful to advertise any products for sale free of state sales tax. Louisiana Revised Statute 47:304F reads as follows:

"No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars nor more than two hundred fifty dollars, or imprisoned for not more than three months, or both. For a second or subsequent offense, the penalty shall be double."

This statute clearly provides that the state sales tax must be separately stated and collected from the price paid for any taxable sale, rental, or service.

For additional information concerning the application of the sales tax statutes, contact the Sales Tax Division at (504) 925-7356. ■

Use toll-free number to check on income tax refunds

Taxpayers living outside of the Baton Rouge area can now inquire on the status of their individual income tax refunds and electronic funds transfers using a toll-free line. For the past two years, taxpayers have been able to inquire via an automated telephone system; however, nonlocal calls were charged long distance fees.

The toll-free number, 1-800-469-8784, and the Baton Rouge local number, 922-3270, are available 24 hours a day. Beginning this tax season, taxpayers may also use the automated telephone system to request individual income tax booklets. Forms will be mailed to the most recent address recorded in the Department's taxpayer file. ■

Title 61

Revenue and Taxation

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4905. Signature Alternatives; Electronic Filings

A. As authorized by R.S. 47:1520, the following alternate methods for signing, subscribing, or verifying tax returns, statements, or other documents filed by electronic means are allowed and shall have the same validity and consequence as the actual signature and/or written declaration.

B. Electronic Filing. The following alternatives, as determined by the secretary, are allowed for submitting a written signature/declaration for tax returns transmitted electronically by the taxpayer or the taxpayer's agent:

1. the taxpayer's signature document maintained by the electronic filer on file and secure for a period of three years from December 31 of the year in which the taxes were due;
2. the taxpayer's signature on a trading partner agreement with the department; or
3. an electronic signature as determined by the secretary.

C. Telefiling. For tax returns filed by the taxpayer using a touch-tone telephone to transmit return information, a voice recording of the taxpayer, and spouse for married taxpayers filing joint returns, will serve as a signature alternative. The voice recording will be maintained by the department for a period of three years from December 31 of the year in which the taxes were due. ■

Consumer use returns included *(continued)*

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 out-of-state vendors to collect the Louisiana sales or use tax on their sales to Louisiana citizens. Many dealers have voluntarily complied, 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 the 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 1995 individual 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 an audit staff to pursue the collection of the amounts due the state. Under legislation passed in 1994, the Department of Revenue and Taxation is required to collect the local sales or use tax on sales made into Louisiana from unregistered vendors. The tax is collected at a uniform rate of four percent (in addition to the state rate of four 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 noncommercial 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. ■

Sales taxability of "loaner vehicles" for warranty work customers

Many new vehicle warranties and extended warranties now cover the cost of providing a "loaner" vehicle to a customer whose vehicle must remain in the repair shop overnight for services covered by the vehicle warranty. Under the terms of the manufacturer's original warranty or extended warranty, the customer is provided with a loaner vehicle, the entire cost of which is borne by the manufacturer who has provided the warranty or extended warranty. These vehicles are usually rented by the manufacturer from a rental car company, who directly bills the manufacturer for the rental.

Such rentals by the manufacturer are subject to the Louisiana sales tax on the gross amount paid for the lease or rental. In the case of a manufacturer's warranty, the price of the warranty is included in the taxable price of the vehicle. Some persons would reason that since the warranty was taxed at the time of sale, the rental of the vehicle by the manufacturer is a rental for re-rental, and should not be taxed to the manufacturer. However, the law levies the tax on each and every rental of property, including with only a limited exception, the rental of property to be re-rented.

If customers are not required to pay for the furnishing of the vehicles to them, there is no basis for the payment of tax by the customers.

For additional information concerning the application of the sales tax statutes, contact the Sales Tax Division at (504) 925-7356. ■

Louisiana Tax Topics goes quarterly

Beginning with this issue, the *Louisiana Tax Topics* will become a quarterly publication.

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