

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

Withholding Tax added to E-File program

The Department is pleased to announce that electronic filing and payment of withholding tax is now available on our website at www.rev.state.la.us.

All employers who are registered with the Department to remit withholding tax may use this free service to file the L-1 withholding tax form and to make their payment electronically. Access to the program is through a secured environment and payment is accomplished via a debit to the taxpayer's checking account.

In order to use this new service, a taxpayer must first establish a Personal Identification Number (PIN) with the Department. This is easily done by visiting the Department's website and clicking on the "Click here to file Business Taxes Online" option located near the top of the home page. The taxpayer should then choose the "New Registration" function within the Withholding tax option. After completing the registration information, the taxpayer should print the registration screen and fax or mail the printed registration to the Department as indicated on the form.

This new service for Louisiana taxpayers joins Sales Tax, Individual Income Tax, and the Beer Tax as taxes that may be filed online in Louisiana. The Department is working to bring more electronic filing options in the near future.

Sales Tax on service contracts and extended warranties

Purchasers of new vehicles, home appliances and other property are often offered an opportunity to pay an optional additional charge to cover the costs of future repairs that might be necessary. And since repair services performed in Louisiana are subject to sales tax, the additional charge may be subject to sales tax, depending upon the contractual terms of the agreement between the seller and buyer of the property. The following guidelines describe agreements that cover motor vehicle repairs, but the same rules apply to service agreements for any tangible personal property.

Agreements (contracts) for the performance of maintenance or repair services to a motor vehicle may be taxable or nontaxable, depending upon the contractual terms of the agreement.

Taxable agreements: If, under the terms of the agreement, the same person who sells the vehicle is obligated to perform any required future repairs at his own expense, the sale of the agreement is taxable. Example: ABC Dealership sells a service agreement that obligates ABC Dealership's service department to perform maintenance and repair service on the purchaser's vehicle at ABC's expense and at no additional charge to the purchaser. These are often referred to as service repair contracts. ABC Dealership must charge sales tax on the sale of the agreement. Since ABC will not bill or invoice either the purchaser or the manufacturer when repairs are made, there

IMPORTANT ANNOUNCEMENT

Beginning January 1, 2003, 9-track magnetic tape will no longer be an acceptable type of media for submitting data/information to the Louisiana Department of Revenue.

The deadline for this requirement coincides with that of the Internal Revenue Service (IRS), which has also stated that 9-track magnetic tape will no longer be an acceptable type of media (IRS Publication 1220, May 21, 2001).

The Louisiana Department of Revenue will continue to accept IBM 3480, 3490, or 3490E compatible tape cartridges, or 3.5 inch diskettes. However, the tape cartridges are the preferred medium.

Inquires about magnetic tape media should be directed to the following:

Greg Montagnino, Director, Information Services Division
Louisiana Department of Revenue • 617 North Third Street
Baton Rouge, Louisiana 70802-5428
Phone: (225) 219-2677 • Fax: (225) 219-2678

Private Letter Rulings

X Redacted Private Letter Rulings are available on the Department's web page at www.rev.state.la.us under "Rules and Legislation." Because of space limitations, Tax Topics does not print the rulings in their entirety. The following are Redacted Private Letter Rulings issued recently.

ICFT

No. 01-009 - Private Letter Ruling on income taxation of a Qualified Subchapter S Subsidiary (03/08/02)

Sales Tax

No. 01-011 - Sales Taxability of the Construction and Lease of a Cogeneration Power Plant (01/2/02)

No. 02-002 - Sales Taxability of Charges for High-Speed Satellite Downloading, Internet Access, and Telecommunication Services (04/01/02)

Revenue Information Bulletin No. 02-004

*Natural Gas Severance Tax rate effective July 1, 2002*

The natural gas severance tax rate effective July 1, 2002, through June 30, 2003, has been set at 12.2 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with La. R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction of which the numerator is the average of the monthly spot market price of gas fuels delivered into the pipelines in Louisiana as reported in the Natural Gas Clearing House (now Dynegy Inc.) for the previous 12-month period ending March 31 and the denominator is the average of the monthly spot

market price of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990.

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for July 1, 2002, through June 30, 2003, to be 173.90 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 12.2 cents per MCF effective July 1, 2002, through June 30, 2003. The reduced natural gas severance tax rates provided for in La. R.S. 47:633(9)(b) and (c) remain the same.

Revised reporting forms will be distributed as soon as they are available. Questions concerning the natural gas severance tax rate should be directed to Carl Reilly, Director, Severance Tax Division, at (225) 219-2476.

Rules Adopted

X The following are descriptions of rules that have been adopted recently by the Department. The full texts of the rules are available on the Department's Internet website at www.rev.state.la.us under "Rules and Legislation," or from the website of the State Register at www.state.la.us/osr/reg/.

In February 2002, the Department adopted Louisiana Administrative Code 61:I.4913 relative to the collection of in-state tax liabilities. This rule allows the Secretary to enter into contracts with debt collection agencies or the Attorney General's office to collect in-state tax liabilities.

In February 2002, the Department adopted Louisiana Administrative Code 61:I.5302 relative to the issuance and cancellation of tax liens and the fees assessed to taxpayers for its recordation and cancellation. This rule establishes guidelines for filing and canceling a lien, as well as, the amount to assess taxpayers for its recordation and cancellation.

In February 2002, the Department adopted Louisiana Administrative Code

61:I.4908 relative to insufficient fund checks. This rule provides that when tax payments made under protest are returned for insufficient funds it will be treated as a failure to remit taxes.

In April 2002, the Department adopted Louisiana Administrative Code LAC 61:I.5101 to establish procedures for obtaining information from tobacco product manufacturers for the enforcement of conditions of the Master Settlement Agreement. This rule establishes the manner by which the information is to be provided and addresses penalties that may be imposed on registered tobacco dealers who fail to comply.

In April 2002, the Department amended LAC 61:I.4910 pertaining to the electronic transfer of funds in payment of various taxes due the state of Louisiana. These amendments reflect procedural changes in the processing of taxpayers who are required to make electronic transfer of funds in payment of taxes, fees, and other amounts due to be paid to the Department of Revenue. The Department updated the rule to reflect these changes and to further clarify the requirements associated with electronic funds transfers.

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Revenue Information Bulletin No. 02-006



Injunction prohibits Louisiana from enforcing religious entity sales tax exclusions

On March 23, 2002, the U.S. District Court for the Eastern District of Louisiana issued an injunction striking down Louisiana's sales tax laws granting exclusions to certain religious groups.

The American Civil Liberties Union Foundation of Louisiana (ACLU) filed suit against the Department of Revenue in June 2000 arguing that the sales and use tax exclusions Louisiana provides to certain religious groups violate the constitutional separation of church and state. The court found that the ACLU showed a substantial likelihood of success on the merits and entitlement to the injunctive relief sought. As a result, a preliminary injunction was granted and both parties were instructed to advise the Court in writing and within 10 days as to whether a permanent injunction hearing and trial would be necessary. The Attorney General, with the concurrence of the Secretary of Revenue, elected not to pursue further litigation in the case.

As a result of the court's injunction, the following transactions will now be taxable:

1. purchases of bibles, song books, or literature used for religious instruction classes excluded from the sales tax by R.S. 47:301(8)(d);
2. payment for the use of camp and retreat facilities owned and operated for religious purposes by nonprofit religious organizations excluded from the sales tax by R.S. 47:301(6)(b), R.S. 47:301(14)(b)(iv), and R.S. 33:4574.1(A)(1)(b); and
3. purchases by the Society of the Little Sisters of the Poor excluded from the sales tax by R.S. 47:301(8)(e)(i).

Effective immediately, vendors must begin collecting sales or use tax on sales made to these entities and customers must begin paying sales or use tax on purchases made from these entities.

For additional information, please contact the Department of Revenue at (225) 219-7356.

New Revenue Ruling



MRI Scanners

All Revenue Rulings are available on the Department's web page at www.rev.state.la.us under "Rules and Legislation." Because of space limitations, Tax Topics does not print the rulings in their entirety. The following is a recent Revenue Ruling.

Sales Tax

No. 02-003 - Status of Magnetic Resonance Imaging (MRI) Scanners as Movable or Immovable Property for Sales Tax Purposes (March 11, 2002)

Revenue Information Bulletin No. 02-005



Termination of tax compact with Coushatta Tribe of Louisiana

In 1991, a compact was signed with the Coushatta Tribe of Louisiana addressing certain tax issues related to the purchase of cigarettes and other tobacco products, gasoline and other motor fuels, and certain motor vehicles. The compact was for a ten-year term with a provision for its continuation after that time until notification by either party of their intent to terminate.

On January 23, 2002, the Coushatta Tribe of Louisiana gave written notification of their intent to terminate the compact at the end of ninety days. Therefore, the provisions associated with the tax compact with the Coushatta Tribe of Louisiana terminated on April 23, 2002.

With the termination of the compact, credit will no longer be allowed on motor fuels and tobacco reports for products purchased after the termination date. Motor vehicles purchased will no longer be exempt from state sales/use tax unless the vehicle is to be used exclusively on the reservation. Motor vehicles, which will be used on Louisiana highways and for which a license plate is required, will be subject to the state sales and use tax.

For further information, please contact the Policy Services Division at (225) 219-2780.

Sales Tax returns can be E-Filed

Taxpayers are reminded that electronic filing and payment of sales taxes is available on the Department's website at www.rev.state.la.us.

Any business registered with the Department for sales tax purposes may use this free service to file their sales tax form and to make their payment electronically. Access to the program is through a secured environment and payment is accomplished via a debit to the taxpayer's checking account.

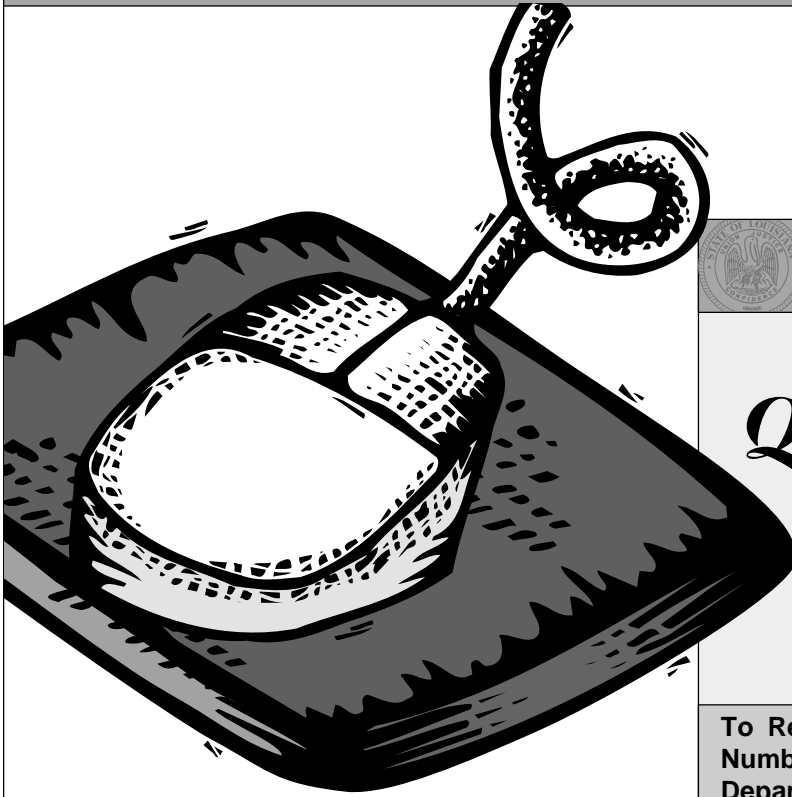
In order to use this new service, a taxpayer must first establish a Personal Identification Number (PIN) with the Department. This is easily done by visiting the Department's website and clicking on the "Click here to file Business Taxes Online" option located near the top of the home page. The taxpayer should then choose the "New Registration" function within the sales tax option. After completing the registration information, the taxpayer should print the registration screen and fax or mail the printed registration to the Department as indicated on the form.

This service for Louisiana taxpayers joins Withholding Tax, Individual Income Tax, and Beer Tax as taxes that may be filed online in Louisiana. The Department is working to bring more electronic filing options in the near future.

REMINDER!

- The Baton Rouge Headquarters Office has moved to 617 North Third Street Baton Rouge, LA
- The Baton Rouge Regional Offices has moved to 8549 United Plaza Blvd. Suite 200 Baton Rouge, LA

E-FILE YOUR SALES TAXES



www.rev.state.la.us

LOUISIANA
DEPARTMENT
OF REVENUE



Quick as a Click

www.rev.state.la.us

E-File is the fastest and most accurate way to file and pay your tax information with the Department of Revenue. E-File is the Department of Revenue's response to many requests from businesses to provide a more efficient and less time consuming way of sending tax information.

To Register and select a Personal Identification Number (PIN) to electronically file sales tax with the Department of Revenue:

1. Go to the Revenue web page at www.rev.state.la.us.
2. Click on Electronic Services/Online Tax Filing.
3. Click on Business Tax Internet Filing/Louisiana Online Sales Tax and Withholding Tax Filing.
4. Click "Continue" from Internet Online Tax Filing page.
5. Click Sales Tax Web Filing (R-1029).
6. Click New Registration.
7. Fill out Registration Form
8. Click on "Submit Pin/Update Contact".
9. Use your browser to print a copy of the registration form.
10. Then mail your completed form to:
Louisiana Department of Revenue
Sales Tax Division
P.O. Box 3138
Baton Rouge, La 70821-3138

or Fax it to: 225-219-2210

After your application/registration form is received, your PIN number will be activated and you may begin filing your state sales tax returns online. Please allow 10 working days from the date that your application was mailed/faxed for your PIN to be activated.



E-FILE YOUR WITHHOLDING TAXES

LOUISIANA
DEPARTMENT
OF REVENUE



Quick as a Click

www.rev.state.la.us

E-File is the fastest and most accurate way to file and pay your tax information with the Department of Revenue. E-File is the Department of Revenue's response to many requests from businesses to provide a more efficient and less time consuming way of sending tax information.

To Register and select a Personal Identification Number (PIN) to electronically file withholding tax with the Department of Revenue:

1. Go to the Revenue web page at www.rev.state.la.us.
2. Click on Electronic Services/Online Tax Filing.
3. Click on Business Tax Internet Filing/Louisiana Online Sales Tax and Withholding Tax Filing.
4. Click "Continue" from Louisiana Internet Online Tax Filing page.
5. Click Withholding L-1 Tax Web Filing.
6. Click New Registration/Update Contact.
7. Fill out Registration Form.
8. Click on "Submit Pin/Update Contact".
9. Use your browser to print a copy of the registration form.
10. Then mail your completed form to:
Louisiana Department of Revenue
Withholding Tax Section
P.O. Box 4998
Baton Rouge, La 70821-4998

or Fax it to: 225-219-2447

After your application/registration form is received, your PIN number will be activated and you may begin filing your state withholding tax returns online. Please allow 10 working days from the date that your application was mailed/faxed for your PIN to be activated.



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Sales Tax *cont'd from page 1*

will be no arm's length transaction to tax when the repair is performed. ABC Dealership will merely withdraw any repair parts it needs from its inventory without incurring any sales or use tax on the cost of the parts.

Nontaxable agreements: If, under the agreement, the cost of the repairs will be assumed by a third party (not the dealer selling the vehicle), the sale of the agreement is considered the same as an insurance policy and is not taxable at the time of its sale. These can be manufacturer's agreements, whereby the vehicle manufacturer agrees to pay for the needed repairs regardless of which dealer performs the actual repairs. These are generally referred to as manufacturers' extended warranties. Or they could be other third party agreements (aftermarket extended warranty agreements), whereby a third party other than the vehicle manufacturer agrees to pay the cost of any needed repairs regardless of which dealer performs the repairs. These are often referred to as service insurance. In either case, the repair dealer will issue an invoice for the repair charges to the party responsible for payment of the repairs and include applicable sales tax. If the purchaser of the agreement is subject to a deductible amount that deductible amount is collected from the purchaser after the tax is calculated and the remaining amount is collected from the responsible policy issuer. Example: A customer buys a new car and a manufacturer's extended warranty with a \$50 deductible amount. At the time of purchase of the car, he pays no sales tax on the optional charge for extended warranty coverage. At 75,000 miles, his vehicle needs repairs that are covered under the extended warranty, that cost \$100. An authorized repair dealer performs the repairs and issues an invoice to the manufacturer (policy issuer) for \$58. The invoice shows repair charges of \$100, 8% state and local sales tax amounting to \$8, a collection of the \$50 deductible payment from the customer and a remaining net amount due of \$58.

Joint accounts and Inheritance Tax



In the case of joint accounts, when an account holder dies, the funds in the account should not be released to a surviving account holder until the survivor establishes proof that no inheritance taxes are due or that all inheritance taxes due have been paid.

Often an elderly person will add the name of a son, daughter, or other close relative to their savings or checking account for convenient handling of their business affairs. With this in mind, the courts have held that the act that transfers a single bank account into a joint account does not create any proprietary interest in the surviving account holder following the death of one account holder, *Succession of Fralick*, 529 So 2d 159 (La. App. 3 Cir. 1988). Furthermore, joint deposits in and of themselves do not transfer ownership of the funds, *Broussard v. Broussard*, 340 So 2d 1309, 1313, (La. 1976), and *Owens v. Owens*, 259 So 2d 454, 457 (La. App. 3d Cir. 1972).

Inheritance tax rates to reduce



Pursuant to Act 18 of the 1997 Regular Session of the Louisiana Legislature that amends and re-enacts Revised Statute 47:2401, 2431, and 2432(A), and enacts R.S. 2403(E) and 2420(D), the inheritance tax rate will reduce by 60 percent for deaths occurring after June 30, 2002 and before July 1, 2003.

The phase out of inheritance tax began July 1, 1998, and reduced rates by 18 percent for deaths that occurred after June 30, 1998 and before July 1, 2001. The rate was reduced by 40 percent for deaths that occurred after June 30, 2001 and before July 1, 2002. In the future, the rate will be reduced 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 judgment 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 Taxpayer Services Division at (225) 219-0067.

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 Section at the address below, or by calling (225) 219-2760.

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