

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 administering the state's tax and regulatory statutes in a manner that will generate the highest degree of confidence in our integrity and fairness."

John Neely Kennedy, Secretary

Sales tax rate reduced on exemptions as full suspension expires

Full suspension of most sales tax exemptions expired on June 30, 1997, reducing the the sales tax rate on exempted items from 4 percent to 3 percent. The Department is in the process of notifying all sales tax registrants.

The suspension of exemptions on food and utility items had been continued under Act 5 of the 1996 Regular Session of the Louisiana Legislature, but was allowed to expire when Governor Mike Foster, in May, decided not to seek renewal of the suspension. Beginning with the July return, the state sales tax form has been revised to reflect the expiration of the suspensions.

The tax reduction because of the exemption reinstatement affects a variety of transactions, including but not limited to, the following:

- sales of food for preparation and consumption in the home;
- sales of electricity;
- sales of natural gas;
- sales of water utility services;
- sales of newspapers;
- purchases by nonprofit electrical cooperatives;
- purchases of butane, propane, and other liquefied petroleum gases for private residential consumption;
- purchases of certain materials for use in commercial printing processes;

- purchases of certain materials by organizations that sponsor Mardi Gras balls;
- purchases of materials for the construction and operation of nonprofit retirement centers;
- the first \$50,000 of the sales price of certain items of commercial farm equipment, including irrigation wells, and on-the-farm facilities that are used to dry or store grain;
- sales of admission tickets by Little Theater organizations;
- sales of racehorses at claiming races;
- sales of feed and feed additives for animals used for business purposes;
- sales of certain supplies for use in the harvesting of crawfish;
- sales of steam;
- automobiles, trucks, and aircraft removed from inventory for use as demonstrators;
- catalogs distributed in the state free of charge;
- purchases by Ducks Unlimited and other organizations dedicated exclusively to the conservation of North American waterfowl and wetland habitat; and
- sales of certain supplies for use in the harvesting of catfish.

Questions concerning suspension of exemptions should be directed to the Sales Tax Division at (504) 925-7356, or to any of the Department's regional offices. ■

Date should not be entered

Taxpayer's are reminded that on the Employer's Withholding Tax Form (Form L-1), a date should not be entered in the boxed area entitled *Enter Date Business Sold or Closed* unless the business has been sold or closed.

Electronic funds transfer rule amended

Effective April 20, 1997, the Department amended LAC 61:I.4910 concerning electronic funds transfer. The amendments add the definition for the term *Business Tax* for the purposes of electronic funds transfer and provide that effective January 1, 1998 taxpayers whose tax payments averaged \$20,000 or more during the previous 12-month period will be required to electronically transfer the funds. In addition, the regulation was also amended to make an exception to the tax return filing requirement for withholding tax return Form L-1, which may be included with the electronic funds transfer transmission.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected

and Administered

by the Secretary of

Revenue and Taxation

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

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EFT continued

A. Electronic Funds Transfer Effective Dates

1. Taxpayers whose payments in connection with the filing of any business tax return or report, including declaration payments, during the prior 12-month period average \$50,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds, as required by R.S. 47:1519, effective January 1, 1995.
2. Effective January 1, 1998, electronic payments or payment by other immediately investible funds will be required of filers of all business taxes whose payments during the previous 12-month period averaged \$20,000 or more.
3. Any taxpayer whose tax payments for a particular tax averages less than \$20,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

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

Automated Clearinghouse Credit - an automated clearinghouse transaction in which the taxpayer through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction shall be paid by the person originating the credit.

Automated Clearinghouse Debit - an automated clearinghouse transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the taxpayer's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

Business Tax - any tax, except for individual income tax, collected by the Department of Revenue and Taxation.

Louisiana Capital Investment Tax Credit

Act 42 of the First Extraordinary Session of the 1996 Louisiana Legislature established the Louisiana Capital Investment Tax Credit. This credit against the corporation franchise tax is available for certain investments in facilities located in Louisiana that create new jobs. For those projects that qualify, the credit is an annual amount equal to five percent of the capital costs of the project and can be taken each year for the first 20 years the qualifying project is in service. The credit is limited to the increase in the franchise tax that results from the project each year. This effectively limits the credit to a maximum of three-tenths of one percent of the investment during the first year, decreasing each year as the property is depreciated.

Projects that qualify are those for which the predominant trade or business activity is industrial, warehousing, or research. Establishment of a headquarters in Louisiana also

qualifies. If the business has more than 100 employees, the minimum investment in the project must be \$20 million with the creation of at least 20 new jobs. A business with less than 100 employees may also qualify for the credit if a minimum \$1 million dollar expansion is made to an existing facility that results in the creation of at least 10 new jobs.

To apply for the credit, a notice of intent to claim the credit must be sent to the Corporation Income and Franchise Taxes Division prior to the qualifying project being placed in service. The Department and the taxpayer will then enter into a written agreement specifying how the increase in franchise tax that results from the project will be computed. Additional information on this credit, including Standard Industrial Classification (SIC) codes for qualifying activities, can be found in Revised Statute 51:2771. ■

Electronic Funds Transfer - any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, that is initiated electronically so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfer shall be accomplished by an automated clearinghouse debit or automated clearinghouse credit. Federal Reserve Wire Transfers (FedWire) may be used only in emergency situations and with prior approval from the department.

FedWire Transfer - any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by FedWire only if payment cannot, for good cause, be made by automated clearinghouse debit or credit and the use of FedWire has the prior approval of the department.

Banking costs incurred for the FedWire transaction shall be paid by the person originating the transaction.

Other Immediately Investible Funds - cash, money orders, and cashier's checks.

Payment - any amount paid to the Department of Revenue and Taxation representing a tax, fee, interest, penalty, or other amount.

C. Taxes Required to be Electronically Transferred.

Tax payments required to be electronically transferred may include corporation income and franchise taxes; income tax withholding; sales and use taxes; severance taxes; excise taxes; and any other tax or fee administered or collected by the Department of Revenue and Taxation. A separate transfer shall be made for each return.

D. Taxpayer Notification

1. Those taxpayers required to electronically transfer tax payments will be notified in writing by the department of the electronic funds transfer data

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Transportation and Communication Utilities Tax Law amended

Act 18 of the 1996 Regular Session of the Louisiana Legislature amended Revised Statute 47:1003(5) and (11)(b) of the Transportation and Communication Utilities Tax Law.

Effective July 1, 1997, only those motor carriers engaged in the business of transporting household goods or waste as defined in R. S. 45:162(17) and (18) for hire in this state, such transportation being accomplished in any automobile, automobile truck, or any self-propelled vehicle or vehicles used in connection therewith not operated or driven upon fixed rails or tracks shall be subject to the tax. Transporters of passengers are unaffected by the law change and remain subject to the tax.

“Gross receipts” of a motor freight line,

as defined in R. S. 47:1003(5), includes only receipts from billings for the actual transportation or movement of household goods or waste as defined in R. S. 45:162(17) and (18) and does not include any other receipts that are incidental to the transportation or movement of household goods or waste, including receipts from a fuel surcharge, even if the receipts are a direct or immediate result of the transportation or movement of household goods or waste.

Motor Carriers that are affected by this legislation are encouraged to contact the Department of Revenue and Taxation, Excise Taxes Division, at (504) 925-7656 for assistance in making adjustments to their filing status. ■

Sales taxability of certain lease and rentals

Questions are periodically directed to the Department concerning whether the state sales tax is levied on certain lease and rental transactions and on “up front” payments by lessees in connection with long-term leases of tangible personal property.

Revised Statute 47:302(B), 321(B), 331(B) and the sales tax ordinance of the Louisiana Tourism Promotion District levy the sales tax “upon the lease or rental within this state of each item or article of tangible personal property...” Except for certain specialized oilfield tools that are rented for rental, the law levies the tax on each and every lease or rental of tangible personal property, regardless of whether the lease or rental is to an end-user or to another dealer for re-lease or re-rental. The sales tax is due on leases and rentals of vehicles to vehicle manufacturers, extended warranty companies, or to retail vehicle dealers who loan vehicles to customers in order to fulfill their obligations under warranty agreements.

Typically, the vehicle renting and leasing business rents a vehicle directly to a customer whose personal vehicle is being repaired, and as a courtesy, the rental invoice is forwarded to the repair dealer for collection from the customer. The vehicle renting

and leasing business should charge and collect the appropriate amount of state sales tax on the rental to that customer. The Department will not consider the collection of the invoice through the repair dealer to constitute a separate taxable rental to the repair dealer, provided the invoice and other paperwork documenting the transaction indicate that there is only one rental - that being the rental from the rental and leasing business directly to the service customer.

State and local sales tax is due on “up front” payments that some lessees make in connection with long term leases of tangible personal property, regardless of whether those payments are made in cash or by the transfer of ownership to the lessor of other property owned by the lessee. The lessor is responsible for the collection and remittance of the sales tax on these “up front” payments, frequently termed “capitalized cost reductions.” The law does not allow a “trade-in” reduction from the taxable base on leases and rentals for the value of similar property given to the lessor as partial payment for the lease or rental. “Trade-ins” reduce the sales taxable base only on sales transactions, but not on lease and rental transactions. ■

Soft drinks tax repealed

Effective February 1, 1997, the Soft Drinks Tax Law (Revised Statute 47:881-907) has been repealed in its entirety. The Louisiana Legislature by Act 203 of the 1993 Regular Session of the Louisiana Legislature amended the Louisiana Soft Drinks Tax Law to provide for the repeal of the tax effective the first day of the month following the month in which a contract is signed for the construction of a regional soft drink bottling facility in Louisiana costing no less than \$50 million. The provisions of this Act have been met.

Soft Drink taxes will not apply to transactions after January 31, 1997. Soft drink sales transactions prior to this date are taxable at the one and one-quarter percent (1¼%) rate and must be filed with a taxpayer’s final return for January 1997. Taxes due and owed for periods prior to and including January 1997 will remain due until paid and are subject to audit verification over the three year prescriptive period.

Refund requests for periods after February 1, 1997 may be made to the Department of Revenue and Taxation in the manner prescribed for all refunds. For additional information, contact the Department’s Excise Taxes Division at (504) 925-7656. ■

Severance tax rate determined

Under the authority of Revised Statute 47:633(9)(d)(i), the “gas base rate adjustment” for the twelve-month period ending March 31, 1997 is 1.4446. Accordingly, the Department of Revenue and Taxation has determined that effective July 1, 1997 the severance tax rate on natural gas and related products described in R.S. 47:633(9)(a) to be 10.1 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit. The reduced rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

Revised reporting forms will be distributed as soon as they are available. Questions should be directed to the Severance Tax Division at (504) 925-7500. ■

