

Tax Topics

www.rev.state.la.us

Volume 23
Number 4
October 2003

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

Cynthia Bridges
Secretary

Legislative Summary 2003 Regular Session of the Louisiana Legislature

Alcohol and Tobacco Control

Act 191 (SB 140) enacts R.S. 26:306 to provide tracking procedures for kegs of malt beverages consumed off-premise. Effective August 15, 2003.

Act 519 (SB 1040) amends R.S. 26:2, 71, 85, 271, and 273 relative to definitions and permits of manufacturers and suppliers of alcoholic beverages and amends R.S. 26:80 and 280 regarding the qualifications of applicants for permits. Effective June 20, 2003.

Act 629 (HB 455) amends R.S. 26:80 and 280 relative to the qualification of applicants for permits to provide that a conviction or plea of guilty or *nolo contendere* will not automatically disqualify

an applicant if the felony for which convicted is not a crime of violence and ten years or more have elapsed between the date of application and the final discharge of the defendant. Effective August 15, 2003.

Act 881 (HB 1460) amends several sections within Title 26 relative to the Responsible Vendor Program to extend the program to vendors, their employees and customers in the business of selling or serving tobacco products. Effective August 15, 2003.

Charitable Gaming

Act 602 (HB 162) amends R.S. 4:702 and 704 to include commercial lessors in the charitable gaming licensing system;

R.S. 4:707 relative to the licensing of booster clubs and parent-teacher associations; R.S. 4:708 to establish mandatory training of designated members of charitable organizations prior to the holding, operation and conduct of games; and R.S. 4:724 to change the maximum payout on electronic bingo machines. Effective July 1, 2003.

Act 603 (HB 169) enacts R.S. 4:740 to define a session for the purposes of charitable games of chance. Effective August 15, 2003.

Act 614 (HB 270) amends R.S. 4:715, 724, and 727 relative to electronic bingo

(Continued on Page 2)

Corporate Account Number Notification



In November 2003, the Department of Revenue will mail notices to all Department of Revenue corporate accounts in order to provide them with copies of their Louisiana Revenue Account Number.

The Louisiana Revenue Account Number is required to be included on all tax documents, payments, and correspondence to the Louisiana Department of Revenue. Failure to include the account number can delay posting to the account, which in turn may lead to the issuance of erroneous bills to the taxpayer. Omitting the account number may be viewed by the Department as negligence on the part of the taxpayer because omission not only delays processing of the account, but also adds to the cost of processing.

The November notification will be in duplicate format so the recipient can provide a copy of the account number to their paid tax preparer, if that is applicable. The account number is non-transferable and should be available for inspection at the place of business until the business is closed or sold.

Taxpayers with questions regarding the notification should contact the Taxpayer Services Division at (225) 219-7318.

This issue of the *Louisiana Tax Topics* contains summaries of selected major tax laws amended or enacted during the 2003 Regular Session of the Louisiana Legislature. The summary information presented is only intended to provide a general description of the law's major provisions and should not be construed to represent a complete analysis or specific interpretation of the law.

A complete listing of tax legislation enacted in 2003 may be obtained from the Department's web page on the Internet at www.rev.state.la.us, or by contacting the Policy Services Division at the following: P.O. Box 44098, Baton Rouge, LA 70804-4098, FAX (225) 219-2776.

Copies of particular acts may be obtained from the Office of the Secretary of State at (225) 342-2085.

Summary (...continued)

machines or electronic pull-tab devices used in charitable games of chance. Effective July 1, 2003.

Act 736 (HB 1849) amends R.S. 4:714 and enacts R.S. 4:725.1 authorizing licensed organizations to hold, operate, or conduct progressive pull-tabs during their licensed session, establishes the contribution per deal for the progressive jackpot and sets the maximum jackpot payout. Effective August 15, 2003.

Act 871 (HB 1062) amends R.S. 4:706, 707, 709, 710, 711, and 713 relative to the licensing and regulation of charitable gaming by local governing authorities. Effective July 1, 2003.

Collection

Act 36 (HB 830) enacts R.S. 47:1607 to require the secretary of the Department of Revenue to remove interest that has accrued on an erroneous refund up to the date the taxpayer is requested to repay the erroneous refund if the taxpayer did not cause the refund and the refund does not exceed \$50,000. The Act also authorizes the secretary to remove or reduce interest on other erroneous refunds issued as a result of an administrative action of the department based on the facts and circumstances of each case. Additionally, if the interest that is reduced or removed was reported as a deduction on the taxpayer's tax return, it must be reported as income on the tax return for the year the interest was reduced or removed. Effective May 23, 2003.

Act 170 (HB 1250) amends R.S. 47:1642, relative to the criminal penalty for tax evasion; to increase the penalty for tax evasion when the total tax exceeds \$1,000 and add willful failure to pay tax, penalty, or interest as a punishable offense. The criminal penalty for tax evasion is a fine of up to \$1,000 or imprisonment for not more than one year, or both. This Act increases the penalty if the tax exceeds \$1,000 to a fine of up to \$2,000 or imprisonment, with or without hard labor, for not more than two years, or both. Effective June 2, 2003.

Act 380 (HB 1296) enacts R.S. 47:296.2 and R.S. 56:647(C) to suspend, revoke, or deny a fishing or recreational hunting license if a person owes more than \$500

in individual income taxes, exclusive of penalty, interest, costs, and other charges. Before the license can be revoked, denied, or suspended, the tax liability must be final and nonappealable. The Act provides that the suspension, revocation, or denial will be effective until the individual has paid or makes arrangements to pay the delinquent tax, interest, penalties, and costs. The Act also provides that suspension, revocation, or denial will not apply to spouses who qualify for tax relief under the innocent spouse provisions contained in R.S. 47:101(B)(7). The provisions of this Act will be administered through rules and regulations adopted by the Department of Revenue and the Department of Wildlife and Fisheries. Effective January 1, 2004.

Act 453 (HB 1315) amends R.S. 32:432(A) and enacts R.S. 32:414(P) and 432(C) and R.S. 47:296.2 to deny or suspend a driver's license if a person owes more than \$1,000 in individual income taxes, exclusive of penalty, interest, costs, and other charges. Before the license can be denied or suspended, the tax liability must be final and nonappealable. A driver's license will be reinstated or renewed when the individual has paid or made arrangements to pay the delinquent amounts. The Act also provides that the denial or suspension will not apply to spouses who qualify for tax relief under the innocent spouse provisions contained in R.S. 47:101(B)(7). The provisions of this Act will be administered through rules and regulations adopted by the Department of Revenue and the Department of Public Safety and Corrections, office of motor vehicles. Effective January 1, 2004.

Excise Taxes

Act 139 (HB 1533) moves the regulation and verification of commercial weighing and measuring petroleum products by the Department of Agriculture and Forestry to Title 3 and increases the inspection fee on gasoline to 4/32¢ per gallon and includes special fuels as subject to the inspection fee. Statute effective May 28, 2003; inspection fee implementation effective September 1, 2003 by agreement.

Act 1128 (HB 1741) enacts R.S. 47:871 through 878 to provide for the regulation of cigarette sales made through means of telephone, mail, or the Internet for delivery in Louisiana. Effective July 2, 2003.

Income and Corporation Franchise Taxes

Act 119 (HB 1378) enacts R.S. 39:100.1(D) to authorize the secretary of the Department of Revenue to prescribe regulations that provide for the proper attribution of income taxes to the Sports Facility Assistance Fund and require any returns, schedules, and payments necessary to administer the fund. This Act also enacts R.S. 47:1602.1 to impose penalties on persons who fail to make required filings and payments attributable to the Fund. The penalty for the failure to timely make and file any return or schedule will be \$500 for the first failure; \$1,000 for the second failure within a three-year period beginning on the due date of the first delinquent return; and \$2,500 for each subsequent failure within the three-year period. The penalty for failure to timely remit any payment will be five percent of the total payment due if the delinquency is less than 30 days, with an additional five percent for each additional 30 days, not to exceed 50 percent of the amount due. The Act amends R.S. 39:100.1(C) to provide for the use of monies in the fund. Effective for all tax years beginning on or after January 1, 2001.

Act 1138 (HB 1828) enacts R.S. 47:118(H) and (I), relative to individual income tax, to require the secretary of the Department of Revenue to notify certain taxpayers of the requirement for filing a declaration of estimated tax and to permit the secretary to waive the penalty for the 2002 tax year in certain situations. Effective July 2, 2003.

Miscellaneous - Income and Sales Taxes

Act 1240 (HB 892) amends R.S. 47:6007(B)(1) and (C)(1), R.S. 51:1787(A)(1), (B)(5), (C)(1), (D)(5), (H)(4), and 2453(4) and enacts R.S. 47:303(H) and 6007(C)(4) and (5) to provide that certain out-of-state employees locating in Louisiana qualify as "new direct jobs" under the Quality Jobs Rebate Program. The Act also allows a rebate of state and local sales and use tax for the use of customer-owned tooling in a compression molding process, provides that the motion picture investors tax credit is based on percentage of actual amount of investment, and provides for transferability of certain motion picture incentive tax credits. Effective July 1, 2003.

(continued on page 3)

Summary (...continued)

Sales Tax

Act 141 (HB 1621) amends R.S. 47:303.1(B), (C), and (D) to provide that private, nonprofit, tax-exempt organizations may apply for a direct payment number. The Act also amends Section 2 of Acts 1996, No. 15 (later amended by Act 1998, No. 47 and Act 2000, No. 33) to extend the termination date regarding the exclusion from state and local sales tax of certain transactions involving certain private and parochial elementary and secondary schools from July 1, 2003, to July 1, 2005. Effective July 1, 2003.

Act 419 (HB 786) Repeals Section 4 of Acts 2002 1st Ex. Sess., No. 47, relative to the Capitol House Taxing District, to remove the requirement for the district to be effective upon the transfer of property of the district to the East Baton Rouge City-Parish. The district is authorized to levy a tax on hotel occupancy within the district in lieu of any other hotel occupancy tax within the district except for any hotel occupancy tax based on a per person basis and the district's tax rate will be at least equal to the total rate of all hotel occupancy taxes collected within East Baton Rouge Parish. Effective June 18, 2003.

Act 985 (HB 2016) enacts the Louisiana Reclaimed Water Law, R.S. 30:2391 through 2399, to establish a reclaimed water program, provide for definitions, identify entities that are prohibited from using potable water for certain purposes if reclaimed water is available, and provide for the distribution of revenue generated under Act. Effective August 15, 2003.

Act 1203 (SB 809) enacts R.S. 51:1787(J) to provide a 30-day extension, upon request, for Enterprise Zones applicants to file their application, if the extension request is received by the Department of Revenue before the expiration of the filing period. The Act also authorizes the Department of Revenue to grant an additional extension, not to exceed 60 days, if the applicant can show reasonable cause for the extension. Act 1203 also enacts R.S. 51:2303(11) to define the term "Louisiana Entrepreneurial Business" for purposes of the Economic Development Act. Effective August 15, 2003.


Sales Tax - Local

Act 73 (SB 551) enacts the Uniform Local Tax Code by placing the various provisions applicable to the local sales and use taxes under a separate Chapter of Title 47. The Act also provides that the Department of Revenue will design, implement, and operate a uniform local return and remittance system that will be available on the Department of Revenue's web site and that the Department of Revenue will provide the necessary staff and equipment to receive and transmit the electronic returns and funds to the local sales tax collectors. The system must be operative no later than January 1, 2005. Effective July 1, 2003.

Severance Tax

Act 1 (HB 1010) amends R.S. 47:633(9)(d)(i), (ii), and (iii), to change the source of price data used to annually adjust the severance tax rate on natural gas, natural gasoline, casinghead gasoline, and other natural gas liquids from the monthly average spot market price of gas fuels delivered into the pipelines in Louisiana as reported in the Natural Gas Clearing House to the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal effective with the 12-month period ending March 31, 2004. For the 12-month period ending March 31, 2003, the gas base rate adjustment numerator will be the average of the monthly average spot market price of gas fuels delivered into the pipelines into Louisiana as reported in the Natural Gas Clearing House for the months April 2002 through September 2002 and the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the months October, 2002 through March, 2003. Effective April 30, 2003.

Revenue Information Bulletins

 All Revenue Information Bulletins are available on the Department's Internet web page at www.rev.state.la.us under "Laws and Policies" – "Policy Documents." Because

of space limitations, *Tax Topics* does not print Revenue Information Bulletins in their entirety. The following are recent Revenue Information Bulletins


Excise Taxes

No. 03-014 – Increase in the inspection fee on gasoline and motor fuels (7-1-03)

Sales Tax

No. 03-013 – Sales tax changes effective July 1, 2003 (6-11-03)


Private Letter Ruling Issued

 All Private Letter Rulings (redacted versions) are available on the Department's Internet web page at www.rev.state.la.us under "Laws and Policies/Policy Documents/Private Letter Rulings." Because of space limitations, *Tax Topics* does not print Private Letter Rulings in their entirety.

The following Private Letter Ruling was issued on July 3, 2003. **Private Letter Ruling No. 03-008** (redacted version) that addresses whether or not the application of the exclusion from sales tax that is granted the state and its instrumentalities under Revised Statute 47:301(8) also applies to purchases made by individual schools.

A copies of this ruling is available on the Department's Internet web page at www.rev.state.la.us. Questions and comments about Private Letter rulings should be directed to the Policy Services Division at (225) 219-2780.


Revenue Ruling

 All Revenue Rulings are available on the Department's Internet web page at www.rev.state.la.us under "Laws and Policies/Policy Documents." Rulings are listed under the type of tax for which the ruling was made. Because of space limitations, *Tax Topics* does not print the Revenue Rulings in their entirety. The following Revenue Ruling was issued in July 2030.

Sales Tax

No. 03-003 – Requirements for obtaining sales and use tax relief granted by the Louisiana Motion Picture Incentive Act, Revised Statute 47:1121 et seq. (7-03-03)

Electronic Funds Transfer Threshold Lowered

 Act 112 of the 2003 Regular Session of the Louisiana Legislature amended Revised Statute 47:1519(B) to phase in a lowered Electronic Funds Transfer (EFT) requirement threshold. The threshold will be lowered in phases from \$20,000 to \$5,000 beginning January 1, 2004 through January 1, 2008. The Act also provides that any electronic funds transfer delivered after the payment's due date will be considered timely if the transfer was initiated on the due date.

Under Act 112, the following taxpayers will be required to use EFT to remit tax payments in connection with the filing of any business tax return or report:


1. Taxpayers who remit tax payments of \$15,000 or more for taxable periods beginning on January 1, 2004; \$10,000 or more for taxable periods beginning on January 1, 2006; and \$5,000 or more for taxable periods beginning on or after January 1, 2008.

2. Taxpayers who file more frequently than monthly whose average payments are \$15,000 or more per month for taxable periods beginning on January 1, 2004; \$10,000 or more per month for taxable periods beginning on January 1, 2006; and \$5,000 or more per month for taxable periods beginning on or after January 1, 2008.

3. Companies that file withholding tax returns and make payments on behalf of other taxpayers and remit average monthly payments of \$15,000 or more per month for taxable periods beginning on January 1, 2004; \$10,000 or more per month for taxable periods beginning on January 1, 2006; and \$5,000 or more per month for taxable periods beginning on or after January 1, 2008.

Any taxpayer whose tax payments average less than the threshold amount may voluntarily remit amounts due by EFT with the approval of the Department. Once a taxpayer requests to electronically transfer tax payments, EFT must continue for a period of at least 12 months.

Quarterly sales tax filing limit raised to \$500

 Act 43 of the 2003 Regular Session of the Louisiana Legislature increased the average monthly payment limit to \$500 so more taxpayers can file their sales tax returns quarterly instead of monthly. The previous payment limit of \$250 was set in 1998 by administrative authority of the Secretary of Revenue.


The Department has reviewed its database files to determine what accounts will become quarterly filers under the new \$500 limit. The following criteria were used: (1) the business must have remitted an average monthly sales tax of \$500 or less; and, (2) the business must have been open for at least twelve months.

All monthly accounts determined to be quarterly were notified by letter in August that they will be automatically converted from monthly to quarterly on January 1, 2004. A reminder letter will be mailed in November. The Department will review its computer database annually in order to identify any new qualifying accounts.

Sales tax dealers that prefer to continue as monthly filers may do so by complet-

ing and returning the affidavit at the bottom of the notification letter sent to them by the Department. Sales tax filers open for less than one year will not be included in the automatic conversion. However, if a taxpayer has filed six consecutive monthly sales tax returns and meets the \$500 payment limit, they may contact the Department and have their account converted to a quarterly, beginning with the next calendar quarter.

Rules Adopted

 The following are brief descriptions of rules recently adopted by the Department. The full text of the rules are available on the Department's web page at www.rev.state.la.us under "Laws and Policies/Louisiana Administrative Code/Adopted Rules." The rules are also available from the Office of the State Register's Internet web page at www.state.la.us/osr/reg/.

On June 20, 2003, the Department amended **Louisiana Administrative Code 61:I.2903.A, Severance Tax - Defi-**

nition of Payout. Revised Statute 47:633(7)(c)(iii), 47:633(9)(d)(v), and 47:648.3 allow severance tax suspensions for horizontal, deep, and new discovery wells. The suspensions are limited to 24 months or until payout of the well cost, whichever comes first. Payout occurs when gross revenue from the well less royalties and operating costs directly attributable to the well equal the well cost as approved by the Office of Conservation. Because payout of the well cost triggers the end of the severance tax suspension, the computation should be uniform for all taxpayers. This amendment clarifies that operating costs do not include any costs that were included in the well cost approved by the Office of Conservation.

On June 20, 2003, the Department amended **Louisiana Administrative Code 61:III.2101** pertaining to a penalty waiver for delinquent filing or delinquent payment. The amended rule sets forth what documentation is required when submitting requests for waiver of a delinquent filing or a late payment penalty. It also lists factors that will be considered by the Department in evaluating waiver requests. Title 47 Section 1603 provides that if a failure to file on time or a failure to timely remit the full amount due is not due to the negligence of the taxpayer, but is due to other causes set forth in written form and considered reasonable, the Secretary may waive the penalty in whole or in part. The waiver must be approved by the Board of Tax Appeals when the penalty exceeds \$5,000.

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.

This public document was published at a total cost of \$7,657.00. One hundred eight thousand copies of this public document were published in this first printing at a cost of \$7,657.00. The total cost of all printings of this document, including reprints, is \$7,657.00. 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. Cynthia Bridges
Governor Secretary

Danny Brown • Public Information Director

Joy Lonibos • Charles Cryer
Computer Graphics Designers