



Tax Topics

www.revenue.louisiana.gov

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

Cynthia Bridges
Secretary

2004 Regular Session Legislative Summary

Administrative



Act 900 (HB 1696) amends R.S. 47:105(A) to provide that the total amount of tax on an income tax return be paid on the date the return is required by law to be filed, determined without regard to any extension of time for filing the return. Prior law required the tax be paid on the earlier of this date and the date the return is actually filed. This Act also amends R.S. 47:116(C) and (F), 1621(E), and 1624(A) and enacts R.S. 47:115(C) to provide that interest on refunds of taxes erroneously paid will be computed from the later of 90 days after the filing date of the final return showing the overpayment or the due date of the final return; that the secretary is allowed to recover not only refunded amounts determined not to be an overpayment, but also amounts that were credited; and that interest on refunds or credits will be at the annual rate established in R.S. 13:4202 from the later of the date the return was due, the date the first return for that tax period was filed, or the date the tax was paid; and that overpayments that are credited to the taxpayers account bear no interest. Effective for refunds claimed after December 31, 2004.

Collection

Act 56 (HB 1123) amends R.S. 47:1578(B) to clarify that the lien may be released on any part of property upon a determination that the state's interest in the property has no value. Effective May 21, 2004.

Act 166 (HB 1115) amends R.S. 47:1606 pertaining to the distraint cost penalty to remove the flat \$10 penalty and allow the imposition of a penalty in an amount to compensate for distraint costs provided that the amount charged by a third party for distraint concerning the seizure of a vehicle shall not exceed \$275. Effective June 10, 2004.

Act 197 (HB 205) amends R.S. 47:1568(B) to increase the time allowed for payment of tax from 10 days from receipt of a notice of taxes due to 30 days when a taxpayer has filed a return but failed to include the payment of taxes due. Effective August 15, 2004.

Excise Taxes

Act 47 (HB 478) amends R.S. 3:4602(1) and (13), 4623(A), 4671, and 4684; enacts R.S. 3:4602(1.1), (12.2), (13.1), and (14.1); and repeals R.S. 3:4672(G), 4674, 4676, 4677, 4687, and 4688, relative to the regulation of devices for weighing and measuring petroleum products; to provide that petroleum product inspection fee does not apply to exports, liquefied petroleum gas,

natural gas, or bulk sales or transfers as defined in R.S. 3:4602; that the fee will be collected by the position holder from the person that orders the withdrawal of product from the terminal rack; that the first importer will pay the fee on product imported into the state other than by bulk sale or transfer; removes the fee exemption for special fuels eligible for fuel tax refunds under R.S. 47:802.1; and adds an exemption for special fuel sold for use in or distributed to seagoing vessels as defined in R.S. 3:4602. Effective May 21, 2004.

Income Tax

Act 53 (HB 898) amends R.S. 47:118(I) to authorize the secretary to waive payment of the penalty for underpayment of individual income taxes when the taxpayer has acted in good faith in failing to make the estimated payments. Effective May 21, 2004.

Inheritance Tax

Act 42 (HB 329) amends R.S. 6:312(A) and 765(B) and repeals R.S. 6:325(E) and 768(E), relative to financial institutions; to delete the requirement that banks and savings and loan associations that have been notified of the death of an account holder report payments from the account to the Department of Revenue and the requirement that the Department of Revenue approve the transfer of safety box contents after the state inheritance tax has been paid. Effective August 15, 2004.

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This issue of the *Louisiana Tax Topics* contains summaries of selected major tax laws amended or enacted during the 2004 Regular Session of the Louisiana Legislature. The summary information presented is only intended to provide a general description of the laws 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 2004 may be obtained from the Department's web page on the Internet at www.revenue.louisiana.gov, or by contacting the Policy Services Division, 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)

Act 884 (HB 1576) amends Code of Civil Procedure Articles 2951(A)(1) and 2953 and R.S. 47:2401(B); enacts Code of Civil Procedure Article 2951(C) and R.S. 47:2426; and repeals Code of Civil Procedure Article 2953 as amended by Act No. 560 of the 1972 Regular Session, relative to inheritance and estate taxes; to remove the requirements in the Code of Civil Procedure for obtaining proof that inheritance taxes have been paid in the case where a judgment of possession has been rendered or the succession has been judicially opened no later than the last day of the ninth month following the death unless a federal estate tax return is required or with respect to a revocable inter vivos trust, a trust declaration is filed with the Department of Revenue; provides at R.S. 47:2401 (B) that

inheritance tax does not apply with respect to a revocable inter vivos trust in which a succession has been judicially opened no later than the last day of the ninth month following the death of the decedent; and adds provisions related to filing of inheritance tax returns. Effective for deaths occurring after June 30, 2004.

Sales Tax

Act 418 (HB 868) amends R.S. 47:510(A) to exempt new motor vehicle dealers that are properly licensed from the requirement to notify the Department of Public Safety of vehicle transfers. Effective August 15, 2004.

Act 724 (SB 800) amends R.S. 37:2175.2(C) and enacts R.S. 37:2171.2, relative to contractors, to require that an applicant who registers with the Board of Contractors as a home improvement contractor provide proof

of registration with the Department of Revenue by submitting a certificate of resident/nonresident status. Effective August 15, 2004.

Severance Tax

Act 412 (HB 651) amends R.S. 30:87(A), (B), and (F) to increase the oil field site restoration fee on oil and condensate produced from wells in the state from one cent per barrel to one and one-half cent per barrel and on gas produced from wells in the state from 1/5 of one cent per thousand cubic feet (mcf) to 3/10 of one cent per thousand cubic feet (mcf). The reduced rates for low-producing oil and gas wells such as stripper and incapable wells, which is in the same proportion to the full rate production fees as the reduced rate severance tax to the full rate severance tax, are also increased. Effective July 1, 2004.

Easy File/Easy Pay Program - A Better Way to File and Pay Louisiana Taxes

The Department's online Easy File/Easy Pay program gives businesses and individuals a better way to file and pay Louisiana taxes.

Through the Department's website at www.revenue.louisiana.gov, taxpayers have the option to electronically file and pay individual income tax, sales tax, business taxes, and the Form L-1 withholding tax. Two newly added features to the Easy File/Easy Pay Program are the severance oil & gas web filing registration and the Form L-2/L3 withholding tax web filing registration.

In addition to the above services, direct deposits are available for taxpayer refunds, and automated bank drafts are an option for payment of installment agreements.

For more information, or to register for the Easy File/Easy Pay program, go to the Department's website at www.revenue.louisiana.gov and click on "e-services," then "LDR on-line filing."

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Adopted Rules and Policy Documents

X The following are brief descriptions of adopted rules and policy documents recently published by the Department. The policy documents include Revenue Rulings, Revenue Information Bulletins, Redacted Private Letter Rulings, and Statements of Acquiescence and Non-Acquiescence. The full texts of adopted rules are available on the Department's Internet web page at www.revenue.louisiana.gov under "Laws and Policies/Louisiana Administrative Code/Adopted Rules." The other policy documents are available under "Laws and Policies/Louisiana Administrative Code/Policy Documents." Adopted rules are also available from the Office of the State Register's Internet web page at www.state.la.us/osr/reg/.

Rules

On July 2, 2004, the Department adopted Louisiana Administrative Code 61:I.4301 concerning the sales tax exclusions for manufacturing machinery and equipment that are phased-in over six years, starting July 1, 2004.

On June 25, 2004, the Department adopted Louisiana Administrative Code 61:I.4301 defining sales taxable services to include the furnishing of laundry, cleaning, pressing, and dying services, and the cleaning and renovation of clothing, furs, carpets, and rugs.

On May 20, 2004, the Department adopted Louisiana Administrative Code 61:I.1351 concerning the suspension, revocation, or denial of hunting and fishing licenses.

On May 20, 2004, the Department adopted Louisiana Administrative Code 61:I.5302 concerning the issuance of a lien; fees.

On May 19, 2004, the Department adopted Louisiana Administrative Code 61:I.4403 concerning the sales tax exemptions provided by Revised Statute 47:305.1 for vessels of fifty tons load displacement and over, and for vessels operating exclusively in foreign or interstate coastwise commerce.

On April 20, 2004, the Department adopted Louisiana Administrative Code 61:I.320 concerning the books of a corporation.

Revenue Information Bulletins

No. 04-017 – Oilfield Restoration Fee Increase (July 1, 2004)

No. 04-018 – Franchise Tax Debt v. Equity – Application of Revised Statute 47:605.1 (July 6, 2004)

No. 04-019 – Changes to the Petroleum Products Inspection Fee (July 8, 2004)

No. 04-020 – Calculation of Individual Income Tax Refund Interest (July 30, 2004)

Subscription Service for Tax Topics

The Louisiana Department of Revenue has initiated a listserv subscription service for the Louisiana *Tax Topics* newsletter.

To sign up for this e-mail notification, go to the Department's Internet website at www.revenue.louisiana.gov and click on "Publications." From there, click on the link "Tax Topics Subscription Service" and complete the on-line subscription request form. The subscription request is then submitted by simply clicking on "Submit Request." Subscribers will be automatically notified whenever a new issue of the Louisiana *Tax Topics* newsletter is published on the Department's website.

The subscription service is free and taxpayers may unsubscribe at anytime.

Inheritance Tax Information

≥ The following is information regarding the inheritance tax since June 30, 2004:

General Information

For deaths occurring after June 30, 2004, no inheritance tax shall be due, and no inheritance tax return or any other succession related documentation shall be required to be filed with the secretary of the Department of Revenue, if application is made with the court no later than the last day of the ninth month following the death of a decedent for either the judicial opening of the succession or the rendering of a judgment of possession. Affidavits of Small Succession shall continue to be filed with the Department of Revenue.

Revocable Inter Vivos Trusts

For deaths occurring after June 30, 2004, no inheritance tax shall be due, and no inheritance tax return or any other succession related documentation shall be required to be filed with the secretary of the Department of Revenue, if a trust declaration is filed with the secretary of the Department of Revenue in accordance with the provisions of Revised Statute 47:2426. The trust declaration to be filed shall include the following:

1. The name, address, and Social Security Number of the decedent.
2. The name and Taxpayer Identification Number of the trust, if any.
3. The name and address of the declarant and his relationship to the trust.
4. The date of death of the decedent.
5. A statement by the declarant that the succession has not been judicially opened.

Federal Estate Tax Return Required

For deaths occurring between July 1, 2004, and January 1, 2005, proof must be submitted to the court evidencing the payment of any estate transfer taxes due, and the filing with the secretary of the Department of Revenue of the following:

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Oilfield Site Restoration Fee Increased

X Act No. 412 of the Regular Session of the Louisiana Legislature increased the oilfield site restoration fee on oil and condensate produced from wells in the state from one cent per barrel to one and one-half cent per barrel, and on gas produced from wells in the state from 1/5 of one cent per thousand cubic feet (mcf) to 3/10 of one cent per thousand cubic feet (mcf). The reduced rates for low-producing oil and gas wells, such as stripper and incapable wells, which are in the same proportion to the full rate production fees as the reduced severance tax to the full rate severance tax were also increased.

The Act also repealed Revised Statute 30:87(G), which provided that as production declines, the fund shall be compensated to maintain the required amount by increasing the site reclamation fees on each site by five percent annually until the fees have been increased by a total of 100 percent per site.

In accordance with Act 412, the fee rates are as follows:

| Oil | Per Barrel (Through June 30, 2004) | Per Barrel (Effective July 1, 2004) |
|-----------------------|--|---|
| Full rate | \$.01 | \$.015 |
| Incapable rate | \$.005 | \$.0075 |
| Stripper rate | \$.0025 | \$.00375 |
| | | |
| Gas | Per mcf | Per mcf |
| Full rate | \$.002 | \$.003 |
| Low pressure oil well | \$.0008 | \$.0012 |
| Incapable gas well | \$.00035 | \$.000525 |

Monies collected from the oilfield site restoration fee are deposited into the Oilfield Site Restoration Fund, which provides revenue to the assistant secretary of the Office of Conservation for the cleanup, closure, and restoration of orphaned oilfield sites.

The fees are due quarterly on the last day of the month following the end of the quarter. Due dates are April 30, July 31, October 31, and January 31. The increased fee was effective with the July through September 2004 quarter and is due October 31, 2004.

Questions concerning these severance tax values and rates should be directed to the Taxpayer Services Division at (225) 219-2512.

Inheritance (...Continued)

1. An inheritance and estate tax return, when required.
2. A copy of the petition for possession.
3. The formal inventory or the sworn descriptive list.
4. The affidavit of death and heirship.
5. A copy of the federal estate tax return, when required.
6. A copy of the testament, if any.

Failure To Comply

Inheritance tax shall be due and payable as if the decedent had died prior to July 1, 2004.

The Department of Revenue has a new web address:

www.revenue.louisiana.gov

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.

Kathleen Babineaux Blanco
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Danny Brown
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Public Information Officers

Tax assistance is available at the following offices of the Louisiana Department of Revenue.

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| <p>ALEXANDRIA REGIONAL OFFICE 900 MURRAY ST ROOM B 100 318-487-5333</p> <p>BATON ROUGE—MAIN OFFICE 617 NORTH THIRD STREET 225-219-7318 (ASSISTANCE) 225-219-2114 (TDD)</p> <p>BATON ROUGE—REGIONAL OFFICE 8549 UNITED PLAZA BOULEVARD, STE. 200 225-922-2300</p> <p>LAFAYETTE REGIONAL OFFICE 825 KALISTE SALOOM ROAD BRANDYWINE III, STE. 150 337-262-5455</p> | <p>LAKE CHARLES REGIONAL OFFICE ONE LAKESHORE DRIVE, STE. 1550 337-491-2504</p> <p>MONROE REGIONAL OFFICE 122 ST. JOHN STREET ROOM 105 318-362-3151</p> <p>NEW ORLEANS REGIONAL OFFICE 1555 POYDRAS STREET, STE. 900 504-568-5233</p> <p>SHREVEPORT REGIONAL OFFICE 1525 FAIRFIELD AVENUE, ROOM 630 318-676-7505</p> <p>THIBODAUX REGIONAL OFFICE 1418 TIGER DRIVE 985-447-0976</p> |
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