

Louisiana Tax Topics

Department of Revenue

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"The mission of the Louisiana Department of Revenue 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

Impacts tax refunds

Legislature lowers judicial interest rate

Effective August 1, 1997 through December 31, 1997, the judicial interest rate has been lowered from 9.25 percent to 7.9 percent under a new calculation method set forth in Act 275 of the 1997 Regular Session of the Louisiana Legislature. The judicial interest rate is used to calculate the interest to be paid on tax refunds.

The act provides that the judicial interest rate is to be equal to the coupon issue yield of the average accepted auction price for the last auction of 52-week U. S. Treasury bills settled immediately prior to October 1 of each year. The 7.9 percent rate was calcu-

lated using this method. Previously, the judicial interest rate was based on the average prime or reference rate established by major financial institutions for their most favored corporate clients, plus 1 percent, as determined by the Commissioner of Financial Institutions on October 1 of each year.

Act 275 also amended Civil Code Article 2924(B) to codify the judicial interest rate for the past 10 years and repeal the maximum interest rate of 14 percent, the minimum rate of 7 percent, and the default rate of 12 percent, which had been mandated by the old law. ■

This issue of Louisiana Tax Topics contains summaries of selected major tax laws amended or enacted during the 1997 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 1997 may be obtained from the Department's electronic bulletin board at (504) 922-2529, from Fax Link, (fax on demand) at (504) 922-2984, from the Department's page on the Internet at www.rev.state.la.us, or by contacting the Research and Technical Services Division at the following: P.O. Box 201, Baton Rouge, LA 70821-0201. Copies of particular acts may be obtained from the Office of the Secretary of State at (504) 342-2085.

1997 Regular Legislative Session Legislation Summary

Alcohol and Tobacco Control

Act 1054 (HB 551) enacts R.S. 26:901 through 909 to provide for the Responsible Vendor Program, which is designed to educate vendors and their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. The law also includes certification of vendors and servers. The program, which is voluntary effective January 1, 1998, becomes mandatory January 1, 2000.

Act 1370 (SB 1547) enacts R.S. 26:901 through 922, which changes the name of the Office of Alcoholic Beverage Control to the Office of Alcohol and Tobacco Control, and requires licenses for dealers who sell tobacco products at wholesale, retail, and

through vending machines. Requiring dealers to be licensed is to help ensure compliance with the "Prevention of Youth Access to Tobacco Law." Effective October 1, 1997.

Collection

Act 248 (HB 228) amends R.S. 47:1603(B) and enacts R.S. 47:1603(C) regarding waiver of delinquent penalties. Current law allows for penalty waiver for individual income taxpayers under certain situations. This act extends those provisions to corporations that are not "large corporations" and defines a "large corporation" as one with a taxable income of \$1 million or more for any taxable year in the

three taxable years immediately preceding the taxable year involved. Effective for taxable periods beginning after December 31, 1996.

Act 687 (SB 1034) amends R.S. 47:1605 to specify the circumstances when a taxpayer may be assessed the costs of an audit, examination, or hearing for filing a grossly incorrect report or a false or fraudulent report. "Grossly incorrect report" is defined as any report filed where there is substantial understatement of tax. The understatement is considered substantial if it exceeds ten percent of the tax due or \$10,000. "False or fraudulent report" is defined as any report

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Legislation Summary continued

filed with the intent to evade taxes, or a willful attempt to defraud or evade taxes that are due. Effective August 15, 1997.

Act 793 (HB 1039) amends R.S. 47:1519 to authorize the Department to accept credit or debit cards in payment of tax liabilities. The service fee charge by the credit card company must be paid by the taxpayer. The Department will promulgate the regulations needed to implement this program. Effective January 1, 1998.

Act 794 (HB 1040) amends R.S. 47:1562, 1563, and 1564 to extend the time that taxpayers are allowed to respond to an initial audit assessments from 15 to 30 days. Effective July 10, 1997.

Act 957 (HB 1020) enacts R.S. 47:1580(B)(4) to suspend the running of prescription in bankruptcy cases until six months after the bankruptcy case is closed. Effective July 10, 1997.

Act 1383 (HB 1023) amends R.S. 47:1578 to authorize the Secretary, with the approval of two assistant secretaries and the Board of Tax Appeals, to compromise certain tax judgements for taxes of \$500,000 or less exclusive of interest and penalties. A complete record of all compromises shall be kept, open to public inspection, and each compromise shall be published in the Department's annual report. Effective July 15, 1997.

Excise Taxes

Act 273 (HB 1056) creates a one-stop



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truck center to provide centralized services to assist motor carriers in identifying and securing all appropriate permits and the payment of any fees or charges required to engage in the motor carrier trade in the state of Louisiana. The truck center will have representatives from various agencies including the Public Service Commission and the Department of Revenue. Effective August 15, 1997.

Act 385 (SB 235) amends R.S. 45:162(18) to re-define the term "waste" and R.S. 45:1177 to provide that the amount of the inspection and supervision fees for each motor carrier, as defined under R.S. 45:162(10), shall be based on the carrier's gross receipts from Louisiana intrastate business activities that are subject to the control and jurisdiction of the Public Service Commission. Effective July 1, 1997.

Act 1210 (SB 319) amends R.S. 47:806(C), relative to the special fuels tax, to provide that owners or operators of trucks or truck-tractors that have a gross weight of 2,000 pounds or less that are operated exclusively for commercial use within a 50-mile radius of the commercial establishment from which the vehicle is operated, and which meets certain other criteria, are not required to maintain a record of fuel purchases. Effective August 15, 1997.

Income and Corporation Franchise Taxes

Act 34 (HB 1437) enacts R.S. 47:296.1 to authorize the secretary of the Department of Revenue to simplify the income tax filing requirements for certain resident individual taxpayers by providing a no-return option. Qualified individuals electing the no-return option would not be required to file an income tax return if the proper amount of income tax was withheld from their wages. Individuals eligible for the no-return option may file a return if desired and would be required to file a return to obtain a refund of any tax overpayments.

Initially, the Department will develop withholding tax tables with tax rates approximating the actual tax due and implement a pilot program targeting a small number of taxpayers. As the program proves

successful, the qualifications will be broadened to enable more taxpayers to select the no-return option. Effective May 29, 1997.

Act 270 (HB 1028) amends R.S. 47:1576(A) to provide that a refund issued for corporation income taxes, corporation franchise taxes, or individual income taxes that were paid under protest and placed in escrow pending the outcome of litigation shall include interest from the date the payment was received by the Department or the due date of the return, whichever is later. Effective for taxable periods beginning on or after January 1, 1997.

Act 1136 (SB 1305) amends R.S. 47:101(A)(1) to provide that individuals are *only* required to file and pay state individual tax if they are required to file a federal income tax return. Prior to this act, state income tax was due on income over \$4,500 for single taxpayers or \$9,000 for married taxpayers filing joint returns with no dependents, which is less than the 1997 federal income tax threshold of \$6,800 for single taxpayers and over \$12,200 for married taxpayers filing joint returns with no dependents. Effective January 1, 1999.

Act 1348 (SB 956) enacts R.S. 47:1580(C) and repeals R.S. 47:1580(A)(5) to provide that the failure to file any state income or corporation franchise tax shall interrupt the running of prescription until a return is filed. Once a taxpayer has filed a return, prescription would begin to run anew. Effective July 15, 1997; applicable to periods after December 31, 1997.

Inheritance and Estate Transfer Taxes

Act 271 (HB 1035) amends R.S. 47:2420(A), to provide for the payment of interest on delinquent estate transfer taxes. The provisions of the act shall apply to all estates of persons dying after December 31, 1997.

Act 818 (HB 1593) amends and enacts several sections of the law as follows:

- amends R.S. 47:2401 and enacts R.S. 47:2403(E) to phase out the inheritance tax by June 30, 2004. Effective July 1, 1998, the tax rates shall be as follows:
 - (1) For deaths occurring after June 30, 1998, and before July 1, 2001, the tax

Legislation Summary continued

rates shall be reduced by 18 percent.

- (2) For deaths occurring after June 30, 2001, and before July 1, 2002, the tax rates shall be reduced by 40 percent.
- (3) For deaths occurring after June 30, 2002, and before July 1, 2003, the tax rates shall be reduced by 60 percent.
- (4) For deaths occurring after June 30, 2003, the tax rates shall be reduced by 80 percent.

Effective for deaths occurring after June 30, 2004, R.S. 47:2401(B), provides that the 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.

- enacts R.S. 47:2420(D) to provide that no penalty or interest shall apply or be assessed when a succession is opened no later than the last day of the ninth month following the death of a decedent. Effective July 1, 1998.
- amends R.S. 47:2431 to provide for the levy of an estate transfer tax on all estates subject to federal estate taxation under the Federal Internal Revenue Code and R.S. 47:2432(A) to set the amount of the estate transfer tax at the maximum amount of federal estate credit for state death taxes. Effective July 1, 2004.

Act 1454 (HB 2368) enacts R.S. 47:2420(D), to exempt from penalty and interest any delinquent inheritance taxes owed by a direct descendant or ascendant in cases where the value of the inheritance is less than \$100,000. If the value of the inheritance exceeds \$100,000, the penalty and interest assessed direct descendants or ascendants will be computed only on the tax due on the portion of the inheritance which exceeds \$100,000. Effective July 1, 1998.

Unclaimed Property

Act 809 (HB 1351) amends and reenacts the "Uniform Disposition of Unclaimed Property Act" to conform with the 1995 Uniform Unclaimed Property Act, which was approved by the Conference of Commissioners on Uniform State Laws. This act clarifies the definition of *last known address*, *minerals*, *mineral proceeds*, and

money orders and consolidates the holding periods into one unified section. Holding periods were reduced as follows:

- corporate stock from seven years to five
- gift certificates from five years to three
- life insurance from five years to three
- payroll from two years to one

All companies are now required to file an annual report with the Department by November 1st. The Department will publish a notice no later than November 30th of the year following the year in which the property was paid or delivered. Effective July 10, 1997.

Sales Tax

Act 272 (HB 1043) amends R.S. 32:707 to extend the time allowed for purchasers of mobile homes to file an application for title from the five days allowed for other motor vehicles to the 20th day of the month following the month of the mobile home's delivery. R.S. 47:303(B) provides that the sales or use tax on vehicles, including mobile homes, must be paid at the time of application for a vehicle title, registration, or transfer of registration. Extending the time allowed to apply for title will likewise extend the sales tax due date, which will allow mobile-home purchasers who immobilize their homes and avoid paying the sales tax, a minimum of 20 days and as much as 50 days to file the paperwork with the appropriate clerk of court. Effective

July 1, 1997.

Act 627 (HB 1596) amends R.S. 47:305.14 to allow a taxpayer who has been denied a sales tax exemption for a nonprofit event to file court proceedings in the parish the activity took place or any parish the taxpayer has a corporate presence, instead of East Baton Rouge Parish. Effective July 3, 1997.

Act 1026 (HB 840) amends R.S. 47:532 to allow public license tag agents to advertise, collect motor vehicle registration license taxes and sales and use taxes, issue motor vehicle registration certificates and license plates, renew registrations, replace lost or stolen plates, correct certificates of title and other related functions. Effective August 15, 1997.

Severance Tax

Act 40 (HB 399) amends R.S. 47:631 and repeals R.S. 47:633(17), which repeals the six cents per ton severance tax on gravel. Effective August 15, 1997.

Act 1499 (HB 720) is a constitutional amendment to increase the maximum amount of severance tax that a parish can receive from natural resources severed within its borders to \$750,000 annually. Currently, parishes receive one-fifth of the severance tax on natural resources, other than sulphur, lignite, and timber, limited to \$500,000 annually. This proposed constitutional amendment will be submitted to voters at the 1998 congressional primary election. If approved, the effective date would be July 1, 1999. ■

Our name has changed

On July 7, 1997, Governor Mike Foster signed Act 658 that changed the name of the Department from the Louisiana Department of Revenue and Taxation to the
Louisiana Department of Revenue.

The change became effective upon the Governor's signature.

