

Tax Topics

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"The mission of the Louisiana Department of Revenue is to serve the citizens of Louisiana by administering efficiently the state's tax and regulatory statutes in a manner that will generate the highest degree of public confidence in our integrity and fairness."
Brett Crawford, Secretary

Legislative Summary

Alcohol and Tobacco Control

Act 139 (HB 795) repeals R.S. 26:73(D)(3) requiring an affidavit from the local health department be included in the application for a special Class "R" restaurant permit. Effective August 15, 1999.

Act 556 (HB 1157) amends R.S. 32:407(D) and R.S. 40:1321(E) and (F) to require that, beginning January 1, 2000, driver's licenses and identification cards issued to persons under 21 years of age will contain a highly visible

distinctive color to clearly indicate the applicant is underage. Effective August 15, 1999.

Act 719 (HB 796) amends R.S. 26:77 and 277 to require only one advertisement in the newspaper when making application for a retail dealer's permit for the sale of alcoholic beverages. Effective August 15, 1999.

Act 987 (HB 794) amends R.S. 26:793(A) to allow the commissioner of the Office of Alcohol and Tobacco Con-

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This issue of the *Louisiana Tax Topics* contains summaries of selected major tax laws amended or enacted during the 1999 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 1999 may be obtained from the Department's web 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 15409, Baton Rouge, LA 70895, FAX (225) 925-3855.

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

Special Announcement

Not all taxpayers will be mailed pre-addressed income tax booklets

\$ In a move to increase efficiency and save taxpayer dollars, Revenue Secretary Brett Crawford says approximately 650,000 taxpayers will not receive a pre-addressed state individual income tax booklet in the mail in January. That number includes taxpayers, who for the past two years, have filed electronically, through tax preparers who used computer-generated substitute tax forms, by on-line computer, or by TeleFile. Those who telefiled, however, will receive a TeleFile booklet in the mail.

"Taxpayers who use a paid professional tax preparer don't need a tax booklet," Crawford says. "He points out that taxpayers bring the pre-addressed booklet to a paid professional preparer thinking it will be used and sent to the

Department. "In fact, most preparers have a software program that prints a computer-generated substitute form that is filed for processing," Crawford says. "The pre-addressed booklet is usually discarded." Statistics show that the Department processes only about one-third of the 1.5 million pre-addressed booklets that are mailed to taxpayers each January. "It is very inefficient and costly to print that many booklets because that means nearly one million of the booklets are not used by taxpayers, Crawford says."

In selecting those who will not receive a booklet this year, Crawford says the Department compiled a list of those taxpayers who have filed by alternative methods for both of the last two years.

"By using this method, we came up with a list of about 650,000 taxpayers. Reducing the number of printed booklets by that number represents a savings of approximately \$160,000 in printing costs and \$98,000 in postage." He stresses that the savings to taxpayers will grow even larger in future years as greater numbers of taxpayers choose to use popular alternative methods of filing that don't require printed booklets.

Unaddressed booklets will be available at libraries and regional offices of the Department and downloadable forms will be available from the Department's Internet web page at www.rev.state.la.us. Beginning in January, taxpayers may also order tax booklets by calling the toll-free number, (888) 829-3071.

Legislative Summary (continued)

trol to provide for the definition and issuance of Class A - Caterers Permits. Effective August 15, 1999.

Act 1010 (HB 2032) enacts R.S. 26:81(F) and 281(J) to provide a definition of the term "public library" for the purposes of alcoholic beverage permit limitations. Effective August 15, 1999.

House Study Request 60 requests the House Committee on Judiciary to study whether the Office of Alcohol and Tobacco Control, Department of Revenue, should promulgate rules and regulations making licensed establishments that serve alcoholic beverages responsible for the nuisances caused by their customers. The study must be completed before the 2001 Regular Legislative Session convenes.

Charitable Gaming

Act 568 (HB 1365) creates the Office of Charitable Gaming within the Louisiana Department of Revenue and transfers regulatory and statutory authority from the Division of Charitable Gaming Control, Office of State Police, Department of

Public Safety and Corrections. This Act also enacts Chapter 11 of Title 4 of the Louisiana Revised Statutes to be comprised of R.S. 4:701 through 739 and repeals R.S. 33:4861.1 through 4861.28 and R.S. 44:1485.1 through 1485.11, all relative to the conducting and regulation of charitable gaming. The transfer is to be completed no later than January 1, 2000. Effective June 30, 1999.

Act 1286 (HB 1362) amends R.S. 4:705(2), created by Act 568 of the 1999 Regular Legislative Session, to increase the annual license fees for licensed organizations from \$50 to \$75 and for commercial lessors from \$200 to \$500. Effective August 15, 1999.

House Concurrent Resolution 6 amends certain rules associated with charitable gaming; specifically LAC 42:I.1731(C), 1742(B)(1), 1757(A), 1787(A)(2), and 2215. HCR 6 also repeals LAC 42:I.1725(D)(1)(d), which provided that a bingo caller was a position of managerial capacity. The Louisiana Register was directed to print the amendments in the Louisiana Administrative Code.

Excise Taxes

Act 202 (SB 260) amends R.S. 47:852 and 853 and enacts R.S. 26:143(C), 355(C) and (D) and R.S. 47:806(H) to provide for an alternative to producing invoice records when verifying taxes paid or requesting a refund. Alcoholic beverage manufacturers and wholesalers, special fuel suppliers and users, and tobacco wholesalers must maintain records of invoices for purchases of the respective products to produce as evidence of having paid the taxes. Industry's adoption of various technological changes has resulted in many records being computerized and the required information appearing on a report rather than single sheet invoices. This Act allows the use of these automated records in lieu of the single invoices currently required by law. Effective August 15, 1999 and applicable to taxable periods beginning on or after July 1, 1999.

Act 721 (HB 1007) establishes requirements for tobacco product manufacturers, who were not part of the Master Settlement Agreement, to deposit funds into an escrow account based on the

amount of product sold in Louisiana by the respective manufacturer. The funds will come from a surcharge of 19 cents a pack of 20 cigarettes for the year 1999. The escrow fund would be used to pay health claims. Effective July 1, 1999.

Act 893 (HB 1626) amends R.S. 47:806(C)(2) to provide that the owner or operator of a motor vehicle, truck or truck-tractor, owned and operated by a business domiciled within this state exclusively for commercial use within this state, shall not be required to maintain special fuel invoices in the vehicle. Effective August 15, 1999.

Act 1265 (HB 886) amends R.S. 26:911(C) and R.S. 47:843(A) to provide that no individual packages of cigarettes shall be sold or distributed in individual packages containing fewer than 20 cigarettes nor shall smoking tobacco intended for use as roll-your-own smoking tobacco for cigarettes be sold or distributed in packages containing less than six-tenths of one ounce of smoking tobacco. Effective July 12, 1999.

Legal

Act 201 (SB 259) enacts R.S. 47:1522 to authorize the secretary to arbitrate certain issues when alternative dispute resolution procedures are in the best interest of the state. Arbitration may be preferable to litigation when the parties wish to avoid binding precedent or when cost is an issue. Under the new Act, arbitration agreements must be approved by the attorney general and the disputed amount including taxes, penalties, and interest may not exceed \$1 million. Although R.S. 47:1502 authorizes the secretary to use whatever means to enforce the collection of taxes, penalties, and interest, this Act clearly confirms the validity of arbitration as a means to settle tax disputes. Effective June 11, 1999.

Miscellaneous

Act 1032 (HB 2110) enacts R.S. 47:1605(C) to provide that certain underpayments of tax shall not subject a taxpayer to the imposition of the examination and hearing cost penalty provided in R.S. 47:1605(A). Under current law, taxpayer

Certain cigarette sales banned

As of August 1, 1999, Louisiana businesses can no longer sell cigarettes labeled "For Export Only," "U.S. Tax Exempt," or with other wording that shows the products were never meant for sale in the United States.

Act 304 of the 1999 Regular Session of the Louisiana Legislature (SB 766) prohibits the sales of export cigarettes on the domestic market. The law brings Louisiana into compliance with a federal law that makes possession or sale of these specified cigarettes a violation of Title 26, United States Code Section 5754.

Violators of the act are subject to seizure of their inventory and fines that range from \$1 per item for a first offense, up to \$100 per item for four or more offenses. Personnel from the state Office of Alcohol and Tobacco Control will check businesses for compliance with the law and are also in charge of the destruction of any illegal cigarettes seized.

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Legislative Summary (continued)

ers that fail to make a return or make a grossly incorrect or false or fraudulent report may be assessed costs incurred in making an examination or audit, holding hearings, or subpoenaing and compensating witnesses. This legislation provides that the secretary will not impose the examination and hearing cost penalty when the taxpayer has made a grossly incorrect report but shows that there was reasonable cause for the underpayment and they acted in good faith. Effective August 15, 1999.

Personal Income Taxes

Act 129 (HB 672) amends R.S. 47:120.35 to provide for the donation by an individual of all or any portion of his individual income tax refund to the Children's Trust Fund. This fund will be added to the donation schedule beginning with the 1999 tax year. Effective August 15, 1999.

Act 195 (HB 2039) enacts R.S. 47:120.61 to provide for the donation by an individual of all or any portion of their individual income tax refund to the Louisiana Breast Cancer Task Force. This organization will be added to the donation schedule beginning with the 1999 tax return. Effective August 15, 1999.

Act 203 (SB 261) amends R.S. 47:101(B)(7) to expand the innocent spouse provisions and make relief easier

to obtain. This Act eliminates existing understatement thresholds and only requires that the innocent spouse prove that the understatement of tax was attributable to an "erroneous," as opposed to a "grossly erroneous" item of the other spouse. A method is also provided to apportion tax relief based on the tax attributable to the portion of the understatement that the innocent spouse was not aware. Taxpayers are allowed two years from the date that collection activities began to make the election to qualify as an innocent spouse, but under certain conditions the secretary is allowed discretionary authority to grant relief when the taxpayer fails to make the election within the prescribed time period. This Act conforms Louisiana's innocent spouse provisions with the recent changes made by the Internal Revenue Service Restructuring Act of 1998. Effective August 15, 1999.

Act 205 (SB 264) enacts R.S. 47:1601(D) to provide for the suspension of the accrual of interest on certain individual income tax liabilities when the Department fails to notify a taxpayer of a liability within a certain time period. Under the Act, if an individual income taxpayer files a timely tax return and the secretary does not notify the taxpayer within 18 months of the tax return's due date or date of filing, whichever is later, the interest is suspended from the period beginning 18 months after the tax return's due date and does not begin again until 21 days after the secretary's notice to the taxpayer. The suspension does not apply to taxpayers that fail to notify the secretary of adjust-

ments to their federal income tax within 60 days after the adjustments have been made. The Act's intention is to protect individual income taxpayers from accruing large interest liabilities when the Department does not timely issue a notice of additional taxes due. The Internal Revenue Service Restructuring Act of 1998 enacted a similar provision for the federal individual income tax. Effective June 11, 1999.


Act 711 (HB 519) enacts R.S. 47:299.2(1)(d) and 299.11(8) to add municipalities and parishes, except the city of New Orleans and the parish of Orleans, to the claimant agencies that may request the offset of state individual income tax refunds owed to persons with legally collectible debts. Effective August 15, 1999.

Sales Taxes

Act 200 (SB 258) amends R.S. 47:1576(A)(1) to provide procedures for individuals or businesses to pay disputed sales taxes under protest when the tax is collected by the vendor. Present law provides clear procedures for the payment of tax and the filing of suit against the Department by taxpayers who directly remit the tax at issue to the Department. Under the new Act, the customer who wishes to lodge a protest to a vendor-collected sales or use tax will pay the tax to the vendor as they normally would. By the 20th of the following month, the customer would notify the Department of the details of the disputed tax and file suit against the Department within 30 days


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New Telephone System Installed

 A new Automatic Call Distribution (ACD) telephone system has been installed in the Department's Taxpayer Services Division in order to provide faster service to callers.

The telephone number for taxpayer assistance remains the same, (225) 925-7318. However, under the new ACD system, callers needing assistance from Central Registration will be instructed to press "1" on their touch-tone telephone. Callers to Special Collections will be instructed to press "2." The new system eliminates manual transfers and speeds service to the caller.

New Fiduciary Income Tax booklets - Form IT 541 - Returns of Estates and Trusts

 The state fiduciary tax return form and its instructions have been revised and put into booklet form.

Department of Revenue Form 541 (*Fiduciary Income Tax Return and Instructions*) may be obtained by writing or calling the Personal Income Tax Division at the following: Louisiana Department of Revenue, Personal Income Tax Division, Post Office 201, Baton Rouge, LA 70821-0201, (225) 925-4611.

Revisions to the form were made necessary when Louisiana began "piggy backing" Federal Form 1041 (*Income Tax Return for Estates and Trusts*) in 1998. Forms dated prior to October 1998 can no longer be used for filing year 1998 or later.

Legislative Summary (continued)

from the date of the notification. This Act codifies current Department procedures. Effective October 1, 1999.

Act 429 (SB 897) amends R.S. 47:473(H), which currently allows motor vehicle dealers to furnish vehicles with dealer inventory plates to the dealer's own sales representatives or educational institution employees as long as they are not renting or leasing the vehicle to them. This Act adds language to clarify that even though the IRS considers the dealer-provided automobile to be a taxable fringe benefit, the arrangement is not considered a rental or lease transaction. This amendment is consistent with the Department's interpretation of these transactions. Effective August 15, 1999.

Act 553 (HB 1132) enacts R.S. 47:303(B)(7) to provide that when the agent of a motor vehicle lessor collects an initial payment from a lessee, the state and local sales tax must be collected by the agent from the lessee and paid to the lessor. The lessor would then be responsible for remitting the tax to the appropriate state and local taxing authorities. The local tax rate collected by the dealer from the lessee is to be based on the rate in effect in the parish where the vehicle will be used and not necessarily the location of the lessee. As an example, a motor vehicle could be leased by a dealer in one parish, leased to a company in a second parish, and primarily used by an employee (i.e. salesperson) in a third parish. The payments and the tax would be due based on the location where the vehicle is primarily used, in the third parish. Effective August 15, 1999.

Local Sales Tax

Act 1266 amends the exclusions from the statutory definitions of "retail sale" and "use" in the sales tax law to provide a phased-in exclusion from local sales and use taxes on the purchase and use of tangible property to be leased or rented in arm's-length transactions. The bill amends R.S. 47:301(10)(a)(iii) and 47:301(18)(a)(iii). From the July 9, 1999, effective date of Act 1266 through June 30, 2000, one-fourth of the sales price or cost price of property sold or purchased for the purpose of lease or rental will be

excluded from the sales and use taxes imposed by political subdivisions of the state. From July 1, 2000, through June 30, 2001, one-half of the sales price or cost price of lease or rental property purchases will be excluded from local sales and use taxes. During the period July 1, 2001, through June 30, 2002, the portion of the sales price or cost price of lease or rental property to be excluded from local sales taxes will be increased to three-fourths. As of July 1, 2002, the entire sales price or cost price of tangible personal property purchased or sold for lease or rental will be excluded from local sales and use taxes.

The Act also provides that a property owner who is entitled to a homestead exemption from property taxes on his/her residence can waive that exemption and pay the property taxes. The property owner who waives the homestead exemption will receive a credit for the increased amount of taxes paid because of the waiver. The credit can be applied to local sales taxes in the parish in which the taxpayer filed the waiver. The credit cannot be applied to state sales or use taxes or to any other state or local tax.

State sales taxes are not affected by Act 1266. This exclusion for lease and rental property has already been in effect for several years for state sales and use taxes, and will remain in effect. Questions concerning the changes made by this act should, therefore, be directed to local sales and use tax authorities.

Withholding Tax

Act 204 (SB 262) amends R.S. 47:1519(B)(1) to require tax payments by electronic funds transfer (EFT) when the taxpayer files more frequently than monthly and the average total monthly payments during the preceding 12-month period exceed \$20,000 per month. In addition, this Act requires companies who file withholding returns and payment on behalf of other taxpayers to remit the taxes by EFT when the average total payments for all tax returns filed during the preceding 12-month period exceed \$20,000 per month. Effective June 11, 1999.

Baton Rouge – Main Office

- Central Registration
- (Taxpayer Services) .. 225•925•7318
- Collection 225•925•7448
- Corporate Income and Franchise Taxes 225•922•0447
- Excise Taxes 225•925•7656
- Inheritance & Gift Taxes 225•925•7424
- Office of Alcohol and Tobacco Control 225•925•4041
- Personal Income Tax ... 225•925•4611
- Sales Tax 225•925•7356
- Severance Tax 225•925•7500
- Tax Forms 225•925•7537
- Unclaimed Property 225•925•7407
- Toll-Free 888•925•4127
- Withholding 225•922•0447
- TDD 225•925•7533

Regional Offices

- Alexandria 318•487•5333
- Baton Rouge 225•763•5721
- Lafayette 318•262•5455
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- Monroe 318•362•3151
- New Orleans 504•568•5226
- Shreveport 318•676•7505
- Thibodaux 504•447•0976

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