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 collecting the state's tax revenue in a manner that will generate the highest degree of public confidence in our integrity and fairness.*

## La. prescription differs from federal statute of limitations

The Louisiana Constitution, Article 7, Section 16, provides that taxes, except real property taxes, and licenses, shall prescribe in three years after December 31 in the year in which they are due. Louisiana Revised Statute 47:1623 has a similar provision for the prescription of refunds and credits. Both of these provisions allow for prescription to be interrupted or suspended as provided by law.

Most federal income tax returns prescribe three years from the date filed, which would be a shorter prescriptive period than our law provides in the case of calendar year filers, and a longer prescriptive period than our law provides for many fiscal filers, especially those filing under extension. As a result, many taxpayers filing "eleventh hour" amended federal returns are surprised to discover that the period is already prescribed at the state level.

The date the taxes become due is not necessarily the same as the due date of the return on which those taxes are reported and paid. The taxes become delinquent after the due date of the return.

Income taxes become due and payable on the first day following the last day of the taxable period, which is January 1 for all calendar year taxpayers, July 1 for all June 30 fiscal year taxpayers, etc. Franchise taxes become due on the first day of the taxable period, since franchise taxes are paid in advance. An income and franchise tax return for calendar year 1991 (Income) and 1992 (Franchise) taxes that became due on January 1, 1992, will prescribe in three years from December 31, 1992, which is December 31, 1995.

Without regard to allowable interruptions or suspensions of prescription, the following is a quick reference of the prescriptive periods of currently open income tax periods:

| Income tax period ended | Prescribes on |
|---|---|
| 12/91 | 12/31/95 |
| 1/92-11/92 | 12/31/95 |
| 12/92 | 12/31/96 |
| 1/93-11/93 | 12/31/96 |
| 12/93 | 12/31/97 |
| 1/94 -11/94 | 12/31/97 |
| 12/94 | 12/31/98 |
| 1/95 -11/95 | 12/31/98 |

Sales tax returns are usually filed monthly or quarterly, and are governed by the same provisions as income tax for purposes of prescription. Therefore, a sales tax return for the month or quarter ended December 1991, would be due in January 1992, and prescribe on December 31, 1995, just as a 1991 calendar year income tax return does. Sales tax returns for periods ending before December 31 in 1992 would also prescribe on December 31, 1995, like the fiscal year income tax returns.

R.S. 47:1580 and R.S. 47:1623 provide for the conditions that suspend the running of prescription on taxes and refunds, respectively. ■

## Sales taxability of telephone calling cards

Questions have been received recently concerning the sales and use taxability of sales by retailers and telephone companies of prepaid telephone calling cards. The calling cards, as described in the inquiries to the department, provide access numbers that allow the holders of the cards to use a predetermined number of minutes, or a set dollar amount of long distance service.

The department considers the sales of these cards as the sale of the right to a future service (telephone service) rather than as a sale of tangible personal property (the tangible card). Retailers and telephone companies should not collect the sales tax on sales of these cards.

Louisiana law does impose a tax on certain telecommunications services. When taxable Louisiana intrastate calling is made with the use of these prepaid calling cards, the charge made to the balance on the cards should include the 3 percent state sales tax on intrastate telecommunication service. The providers of the taxable intrastate telecommunication service will be required to remit the sales tax on the sale of that service on the provider's sales tax returns.

Questions concerning this subject should be directed to the Sales Tax Division at (504) 925-7356. ■

# Modified "piggy-back" of federal deductions explained

New corporation income tax provisions (Louisiana Revised Statutes 47:287.2 - 47:287.785) were enacted in 1986 to more closely align Louisiana corporation income tax law with federal corporation income tax law. In the July 1995 issue of *Louisiana Tax Topics*, the definition of gross income and the modifications to federal gross income were given. Also included in the Louisiana corporation income tax law is a "modified piggy-back" of the federal allowable deductions.

R.S. 47:287.63 defines allowable deductions to be the deductions from federal gross income allowed by federal law in the computation of taxable income of a corporation for the same taxable year, subject to specified modifications. The modifications that are deleted from federal deductions and are therefore not allowed as deductions on the Louisiana return are:

- **The federal net operating loss deduction -** The amount of net operating loss allowed on the Louisiana return is addressed in R.S. 47:287.86.
- **Louisiana income taxes**
- **The federal dividends received deduction -** The amount of the Louisiana dividends received deduction is addressed in R.S. 47:287.73(C)(1).
- **Depletion for oil and gas wells -** The amount of depletion allowed on the Louisiana return is addressed in R.S. 47:287.745.
- **Subpart F deletions -** Where applicable, such as decreases to deductions necessary to take into account the differences in reporting under prior Louisiana law.

Modifications that are added to federal deductions are:

- **Dividends received deduction -** As determined under R.S. 47:287.73(C)(1).
- **Depletion on oil and gas wells -** As determined under R.S. 47:287.745.
- **Intangible drilling and development costs -** As allowed under R.S. 47:287.743.
- **Expenses not deductible under federal law -** Expenses that would be deductible under federal law except for the disallowance under IRC Section 280(C), pertaining to expenses for which credits were given.
- **Subpart F additions -** Additions to deductions necessary to take into account the differences in reporting under prior Louisiana law.

Questions concerning the computation of allowable deductions and corporation net income should be directed to the Income and Corporation Franchise Taxes Division at (504) 925-4611. ■

*Tax Topics* is a monthly publication of the Louisiana Department of Revenue and Taxation. 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 Research and Technical Services Division at the address below, or by calling 504•925•6047.

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Edwin W. Edwards, *Governor*
Ben Morrison, *Secretary*

# Sales tax returns to be filed on accrual basis

The Louisiana sales and use tax law generally requires that sales be reported on tax returns and taxes due on those sales be remitted on an accrual basis, with cash basis reporting allowed only for two categories of transactions. Cash basis reporting and remitting is allowed by Louisiana Revised Statute 47:303(F) on the sales taxes for memberships in health and physical fitness clubs. R.S. 47:306(A)(2) allows cash basis reporting on the gross proceeds from rentals and leases of tangible personal property. All other sales-taxable transactions must be reported on an accrual basis on the sales tax return for the period when the transaction was made, without regard to whether a sale was made for cash or on credit. ■

***Baton Rouge – Main Office***

| | |
|---|---|
| Central Registration | 504•925•7318 |
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| Income & Corporation Franchise Taxes | 504•925•4611 |
| Inheritance & Gift Taxes | 504•925•7424 |
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| New Orleans | 504•568•5233 |
| Shreveport | 318•676•7505 |
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# Administrative Provisions book available

The *Administrative Provisions* book is available on request from the department at no charge. This publication contains the statutes used by the department to administer the tax laws, covering everything from the duties and powers of the secretary to the assessment and collection procedures that must be followed by the department. State law requires a written request to mail publications over ten pages in length. The coupon below is for your convenience in requesting the law book.

Please send a copy of the ***Administrative Provisions*** to the following address:

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