



tax Topics

December 2005

Volume 26

Number 1

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

Cynthia Bridges
Secretary

www.revenue.louisiana.gov

2005 First Extraordinary Session Legislative Summary

Administrative

Act 29 (HB 45) amends R.S. 47:1508(B)(1), to allow the release to the taxpayer or his duly authorized representative of any information regarding a taxpayer's individual income tax account even if the information has been provided by a third party. Effective November 29, 2005.

Income Tax

Act 23 (HB 24) amends R.S. 47:287.85(C)(2) and 293(3) relative to the income tax, to provide that the Louisiana federal income tax deduction is not to be reduced by the amount of any federal income tax credits determined to be disaster relief credits granted for the Hurricane Katrina or Hurricane Rita presidential disaster areas, as well as the amount by which a person's federal income tax due was decreased as a result of claiming a federal deduction for casualty losses as a result of Hurricanes Katrina or Rita in a presidential disaster area. Effective for all taxable periods beginning after December 31, 2004.

Act 27 (HB 41) amends R.S. 47:609(A) to allow corporations having 50 percent or more of their Louisiana property situated or used in the Federal Emergency Management Agency individual assistance areas of Hurricanes Katrina

and Rita or deriving 50 percent or more of their revenue in the state from those areas to compute the borrowed capital portion of their corporation franchise tax base at pre-hurricane levels. Effective November 29, 2005.

Sales Tax

Act 9 (HB 42) enacts R.S. 47:305.54, the "2005 Louisiana Sales Tax Holiday Act," which provides for an exemption from state sales tax during the three-day period December 16-18, 2005, on the first \$2,500 of the purchase price of most individual items of tangible personal property. The exemption will apply statewide to all consumer purchases of tangible personal property, other than vehicles subject to license and title and meals furnished for consumption on the premises where purchased, including to-go orders, provided that the property is not for use in a business, trade, or profession.

For business-use purchases, the Act authorizes the state sales tax exemption during the holiday only on purchases by those businesses that are located in Hurricane Katrina or Hurricane Rita Federal Emergency Management Agency (FEMA) Individual Assistance Areas who will

(Continued on page 2)

This issue of the Louisiana Tax Topics contains summaries of selected major tax laws amended or enacted during the 2005 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 the legislation enacted in 2005 may be obtained from the Department's web page on the Internet at www.revenue.louisiana.gov, or by contacting the Policy Services Division at: 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.



acquire property to replace property that was damaged, destroyed or lost as a result of conditions created by the two hurricanes. Eligible business purchasers must apply to the Department of Revenue and receive "Sales Tax Holiday Exemption Certificates" in order to be able to make tax-free purchases of replacement property. The exemption certificate application form can be downloaded from the department's web site using the following hyperlink:

[http://www.revenue.louisiana.gov/forms/taxforms/1017\(12_05\)F.pdf](http://www.revenue.louisiana.gov/forms/taxforms/1017(12_05)F.pdf).

Additional information regarding the sales tax holiday is available in Revenue Information Bulletin 05-032, also posted on the departments web site. See:

<http://www.revenue.louisiana.gov/forms/lawspolicies/RIB05032.pdf>.

gas and electricity. Previously, sales of natural gas for energy, electric power, steam, and water for nonresidential purposes were taxed at 3.8 percent through fiscal year 2009. After that a one percent tax applies. This Act provides for a 3.3 percent sales tax on sales for nonresidential purposes of natural gas for energy and electric power from January 1, 2006, to June 30, 2009. After that these sales would be subject to the one percent tax provided in current law. The Act also provides a full state sales tax exemption for purchases of electric power by the paper or wood products manufacturing facilities for the period July 1, 2006, through December 31, 2008, and allows these facilities to pay the 3.3 percent tax on natural gas purchased for energy purposes only up to the purchase price of \$6.20 per MMBtu and fully exempts any amounts in excess of the \$6.20 per MMBtu price. Effective January 1, 2006.

Act 60 (HB 115) amends R.S. 33:2711.9(B)(3) and Section 3(A) of Act No. 38 of the 1974 Regular Session of the Legislature, as thereafter amended and repeals R.S. 33:4574.1(A)(1)(d), 4574.1.1(E), 4574.9(C)(1)(d), 4574.12(D)(1)(d), 4574.13(C)(1)(d) and 4575.3(20)(d) so that local sales and use tax is now due on hotel rentals to the same occupant for 30 or more consecutive calendar days or when rented on an annual contract basis for consecutive or nonconsecutive days. The exemption for such rentals was repealed by this Act. Effective December 6, 2005.

A New Era for Tax Topics

This issue of Tax Topics marks a milestone in that it will be the first to be published exclusively in electronic format, rather than continuing to mail printed copies to subscribers. The decision to discontinue printing was based on a number of factors, not the least of which is the average cost of mailing "Tax Topics" to individual subscribers, which often exceeds \$7,500 per issue. Within the current economic environment

Act 47 (HB 39) enacts R.S. 47:305.55 to provide a state sales tax exemption for the purchase, lease, or rental of machinery and equipment and the repair parts or repair services for machinery and equipment damaged or destroyed by Hurricane Katrina or Hurricane Rita when the machinery and equipment is used by a manufacturer in a plant facility predominantly and directly in the actual manufacturing for agricultural purposes or the actual manufacturing process of an item of tangible personal property for ultimate sale to another. The sales tax exemption becomes null and void after June 30, 2007. Effective December 6, 2005.

Act 48 (HB 40) amends R.S. 47:331(P)(2) and enacts R.S. 47:301(3)(j) and (13)(m), 302(T), 321(J), and 331(R) to provide for a reduction in the sales tax rate for sales of natural

gas and electricity. Previously, sales of natural gas for energy, electric power, steam, and water for nonresidential purposes were taxed at 3.8 percent through fiscal year 2009. After that a one percent tax applies. This Act provides for a 3.3 percent sales tax on sales for nonresidential purposes of natural gas for energy and electric power from January 1, 2006, to June 30, 2009. After that these sales would be subject to the one percent tax provided in current law. The Act also provides a full state sales tax exemption for purchases of electric power by the paper or wood products manufacturing facilities for the period July 1, 2006, through December 31, 2008, and allows these facilities to pay the 3.3 percent tax on natural gas purchased for energy purposes only up to the purchase price of \$6.20 per MMBtu and fully exempts any amounts in excess of the \$6.20 per MMBtu price. Effective January 1, 2006.

Act 60 (HB 115) amends R.S. 33:2711.9(B)(3) and Section 3(A) of Act No. 38 of the 1974 Regular Session of the Legislature, as thereafter amended and repeals R.S. 33:4574.1(A)(1)(d), 4574.1.1(E), 4574.9(C)(1)(d), 4574.12(D)(1)(d), 4574.13(C)(1)(d) and 4575.3(20)(d) so that local sales and use tax is now due on hotel rentals to the same occupant for 30 or more consecutive calendar days or when rented on an annual contract basis for consecutive or nonconsecutive days. The exemption for such rentals was repealed by this Act. Effective December 6, 2005.

of our state, the use of an electronic subscribers list can save taxpayers approximately \$30,000 annually for the four "Tax Topics" issues. Tax professionals that would like to receive "Tax Topics" are encouraged to subscribe electronically by visiting the following page on the LDR website:

<http://www.revenue.louisiana.gov/sections/publications/ftss.asp>

Extensions Authorized for L-3 and Fourth Quarter Declarations

As directed by Legislative Statute 47:114 (F), the L-3 withholding reconciliation is to be filed, "On or before the first business day following February 27th of each year for the preceding calendar year." In response to circumstances created by Hurricanes Katrina and Rita, LDR will extend the February 28, 2006 deadline for the filing of the 2005 L-3 by thirty days. The new deadline will be March 30, 2006.

(...Extensions Authorized continued)

In addition, LDR has extended the deadline for the filing of the fourth quarter individual income tax declaration from its original due date of January 15, 2006 to a revised deadline of February 28, 2006. The extension allows fourth quarter payments not to become due prior to the extended deadline of third quarter obligations.

As part of a continuing effort to provide taxpayers affected by the hurricanes with additional time to compile their records, these most recent LDR extensions are intended to support taxpayers dealing with interruptions related to the devastation of this past hurricane season.

Individual Income Tax Form Changes

Louisiana taxpayers will see several changes in their upcoming 2005 individual income tax forms. The most prominent change will be to their federal income tax deduction. During the recent special legislative session, Act 23 was passed and signed by the Governor. This act allows victims of Hurricane Katrina and Rita to increase their Louisiana federal income tax deduction if they claimed a casualty loss on their federal return due to the hurricanes.

Individual income taxpayers will also find a new donation, the Military Family Assistance Fund. This fund will provide assistance to certain Louisiana families whose members have served in the Armed Forces of the United States.

Corporate taxpayers will also benefit from the provisions of Act 23, mentioned above. Their federal income tax deduction will also be increased to adjust for the impact of certain hurricane related federal credits. Corporate taxpayers will also see a change in the franchise tax computation. 2005 is the first year in which long-term debt is being phased out of the corporate franchise tax base.

Sales Tax Topics Workshop

The Baton Rouge Regional Office of the Louisiana Department of Revenue will be hosting a Beginner's Workshop covering general basic sales tax topics.

When:

January 13, 2006

April 21, 2006

July 14, 2006

October 13, 2006

Time:

10:00 a.m.

Where:

1st Floor Auditorium
8549 United Plaza Blvd.
Baton Rouge, LA

For more information, contact
Kent LaPlace at (225) 922-2300

Keep Your Eyes Out for a Modernized Joint Federal/State E-File Program

Louisiana will be one of several states participating in the Modernized e-file (MeF) 1120 Fed/State program beginning March 2006. This program will allow corporations to e-file federal and state returns in a single electronic submission. This project, under the oversight of the Federation of Tax Administrators, is a joint effort of the Internal Revenue Service, numerous states, software vendors and private businesses. This project will enable corporations to submit, to a single point, their federal return and state return information.

The IRS and participating states have been working together for the past few years, "boiling down" the number of return fields and developing a common pool of data elements on the forms. From this boil-down, the group has been able to develop a State Super Schema (form data

element definitions of all participating states in XML format), from which the individual states have derived state-specific schemas. Testing by individual states began in Fall 2005.

The taxpayer information will be submitted to a Web based service site, hosted by the IRS. From this single Web site, the taxpayer will be able to transmit returns and retrieve acknowledgements. Single point User Authentication will be provided by the IRS. Each return will be acknowledged separately. The IRS will extract the state information from the submissions and forward the state information to the appropriate states. The state, upon receipt, will send acknowledgements to the IRS

(Continued on page 4)

that the information has been received. Submissions and acknowledgements will be in an XML format. PDF attachments for supporting documents will also be supported. Federal and various state returns may also be zipped together in a single submission.

The IRS/state joint working group has also begun work on several other projects that will make income tax filing simpler and more efficient for the taxpayers. Work has already begun to develop single transmission of Fed/State 1065 partnership returns and Fed/State 1040 individual returns. Tentatively the Fed/State 1065 partnership program is slated to begin in 2007. The tentative target date for Fed/State 1040 individual return submission is 2009.

Change in Interest Rate Charged on Tax Obligations

The Louisiana Department of Revenue is changing the way we charge interest on tax obligations in accordance with the provisions of Act 788 of the 2001 regular session.

Effective 01/01/06 the rate of interest charged on tax obligations that have not become final and nonappealable will be tied to the annual Judicial Interest Rate. For the year 2006 the rate to be charged will be the Judicial Interest Rate of eight percent plus six percent, or 14%. The additional percentage above the judicial rate will decrease one percent each subsequent year until January 2009 when it will level out at three percent above the judicial rate. In no event shall the rate exceed one and one quarter percent per month. Once the tax period becomes final and nonappealable interest will be charged at the present rate of one and one quarter percent per month. Interest will be calculated at 15% per annum from the time the obligation becomes final.

Changes to the January 2006 Sales Tax Return

The Department of Revenue has revised the sales tax return for 2006. The new return will be mailed to taxpayers by February and applies to filing periods beginning on and after January 1, 2006. The return now includes a worksheet to make a donation to The Louisiana Military Family Assistance Fund. This fund was created by Act 151 of the 2005 Regular Legislative Session to assist the families of Louisiana's military personnel that are undergoing financial hardships resulting from their service overseas. A taxpayer may donate money to the fund by contributing a portion of their vendor's compensation or any refund due on the return or by simply adding an additional amount for the fund. The amount and source of the donation should be entered on Lines 35A, 35B, or 35C of the Military Family Assistance Fund worksheet.

Other changes on the 2006 sales tax return include a partial exemption for sales of electricity and natural gas used for nonresidential purposes. Beginning January 1, 2006, sales of these items will be subject to a state sales tax rate of 3.3%. The exemption may be claimed on Schedule A, Line 20A of the sales tax return. Sales of steam and water utilities for nonresidential use will remain subject to 3.8% sales tax while natural gas, water, and electrical utilities to residential customers continue to be exempt. These exemptions must be reported on Schedule A, Lines 20B and 29, respectively.

Finally, starting January 1st the interest rate on liabilities will change from 15% to 14% and will change each following year in accordance with the formula described in R.S. 47:1601(A)(2)(b). Form R-1111, which is available on the Department's website, lists the interest rate in effect for each year.

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 Communications Section at the address below, or by calling (225) 219-2760.

Kathleen Babineaux Blanco
Governor

Cynthia Bridges
Secretary

Byron Arthur
Press Secretary/Communications
Director

Vincent Caire
Public Information Officer

Christy Papa
Graphic Designer

Alexandria
Room B-100
900 Murray Street
P.O. Box 1191
Alexandria, LA 71309-1191
318-487-5333

Lafayette
Brandywine III, Suite 150
825 Kaliste Saloom Road
P.O. Box 81857
Lafayette, LA 70598-1857
337-262-5455

Monroe
Room 105
122 St. John Street
P.O. Box 1783
Monroe, LA 71210-1783
318-362-3151

Shreveport
1525 Fairfield Avenue
P.O. Box 31706
Shreveport, LA 71130-1706
318-676-7505

Baton Rouge
Suite 200
8549 United Plaza
P.O. Box 80519
Baton Rouge, LA 70898-0519
225-922-2300
225-219-2114 (TDD)

Lake Charles
Suite 1550
One Lakeshore Drive
P.O. Box 3702
Lake Charles, LA 70602-3702
337-491-2504

New Orleans
Suite 2100
1555 Poydras Street
New Orleans, LA 70112-3707
504-568-5233

Thibodaux
1418 Tiger Drive
P.O. Box 1429
Thibodaux, LA 70302-1429
985-447-0976