

BOBBY JINDAL
Governor



TIM BARFIELD
Secretary

State of Louisiana
Department of Revenue

January 4, 2016

Sent via Email To: apa.h-wm@legis.la.gov

The Honorable Joel C. Robideaux, Chairman
House Committee on Ways and Means
P.O. Box 90462
Baton Rouge, Louisiana 70804

RE: Proposed Regulation LAC 61:I.5302 (Issuance and Cancellation of a Lien; Fees)

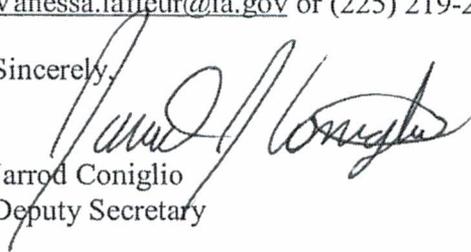
Dear Representative Robideaux:

On November 12, 2015 a copy of the Notice of Intent for the above-referenced proposed rule was electronically mailed to you for review. The purpose of the proposed rule is to amend and adopt LAC 61:I.5302 so as to implement the fee and payment required by Act 130 of the 2015 Regular Session of the Louisiana Legislature in order to apply for compromises of judgments (offer in compromise) for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts which are equivalent to judgments.

The Notice of Intent was published on page 2486 in the November 2015 issue of the *Louisiana Register*. A public hearing was held at the LaSalle building on Tuesday, December 29, 2015, and there were no attendees. Additionally, we received no comments from the public on the proposed rule.

This report is being made in accordance with R.S. 49:968(D)(1)(b) of the Administrative Procedure Act. Unless otherwise directed, our rule will be submitted for publication in the February 2016 issue of the *Louisiana Register*. Should you have any questions or need additional information, please contact Vanessa LaFleur, Director, Policy Services Division at Vanessa.lafleur@la.gov or (225) 219-2780.

Sincerely,


Jarrod Coniglio
Deputy Secretary

Enclosure

Contributing to a better quality of life

617 North Third Street, Post Office Box 66258, Baton Rouge, Louisiana 70896
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NOTICE OF INTENT

Department of Revenue Policy Services Division

Issuance and Cancellation of a Lien; Fees (LAC 61:I.5302)

Under the authority of R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and Act 130 of the 2015 Regular Session of the Louisiana Legislature, the Department of Revenue, Policy Services Division, proposes to amend and adopt LAC 61:I.5302 to implement the fee and payment required to apply for compromises of judgments (offer in compromise) for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts which are equivalent to judgments.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 53. Miscellaneous Fees

§5302. Issuance and Cancellation of a Lien; Fees

A. - C.2. ...

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property;

4. when the amount paid to the secretary in partial satisfaction of the liability is not less than the value of the interest of the state of Louisiana in the part of the property to be released or the secretary determines that the interest of the state of Louisiana in the part to be released has no value.

D. The secretary with the approval of two assistant secretaries may compromise any judgments for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment;

2. there is serious doubt as to the taxpayer's liability for the outstanding judgment;

3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. Offers in Compromise

1. A taxpayer may have only one offer in compromise approved in a 10-year period. If an offer in compromise is approved, the secretary shall not consider or accept any other application for an offer in compromise from the taxpayer until the expiration of the 10-year period.

2. Each application for an offer in compromise shall be made on a form and in the manner prescribed by the secretary. A nonrefundable application fee of \$186 payable to Louisiana Department of Revenue shall be submitted with each application. The application fee shall not be applied to the tax liability.

3. A nonrefundable initial payment of 20 percent of the amount offered must be submitted with the offer in

compromise application. This payment shall be applied to the tax liability.

4. The secretary shall keep a record of all such offers in compromise which shall be open to public inspection and, notwithstanding the provisions of R.S. 47:1508 and 1508.1, shall be published in the department's annual report.

G. The department shall assess a fee against the taxpayer for the filing of a tax lien and the cancellation of a lien. The amount of the fee to be assessed against the taxpayer shall be determined according to the amount charged the department by the parish in which the lien is filed. In the event a lien is filed in more than one parish for the same taxes, each lien shall be treated separately and the total charges per parish for the liens shall be assessed against the taxpayer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:295, R.S. 47:1511, R.S. 47:1577, and R.S. 47:1578.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:347 (February 2002), amended LR 30:1045 (May 2004), LR 33:860 (May 2007), LR 42:

Family Impact Statement

The proposed adoption of LAC 61:I.5302 Issuance and Cancellation of a Lien should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Annie L. Gunn, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., December 28, 2015.

Public Hearing

A public hearing will be held on December 29, 2015 at 11 a.m. in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Tim Barfield
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Issuance and
Cancellation of a Lien; Fees**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This amendment reflects the statutory changes implemented by Act 130 of the 2015 Regular Session concerning fees and procedures applicable to offers in compromise. It also removes the requirement for approval by the Board of Tax Appeals (BTA) for the release of liens meeting certain criteria as addressed by Act 198 of the 2014 Regular Session and states the Secretary of the Department of Revenue has the authority to waive all individual income tax, penalties and interest or other amounts concerning liens without BTA approval.

Per Act 130, a nonrefundable application fee of \$186 must be submitted with each application for an offer in compromise. Further, the rule increases the down payment from 10% to 20% of the amount offered in accordance with the same Act. The process of implementing the new fees will require a small, indeterminable amount of resources. These costs consist of adjustments to the LDR software system and to existing forms to account for the changes, all of which will be absorbed in the current budget. However, the increase in fees and down payment could discourage some individuals from choosing to apply for an offer in compromise, leading to a small and indeterminable reduction in costs.

The BTA is removed from the process of approving the release of certain liens, causing a small, indeterminable reduction in workload and corresponding costs to that agency with no discernible fiscal impact. Local governments will not be affected by this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule introduces a fee of \$186 to apply for an offer in compromise. Based on historical data, LDR expects to process approximately 115 offers in compromise each year. Assuming the number of offers in compromise applications remains constant, LDR self-generated revenue would increase by \$21,390 ($\186×115) per year, though the fee could discourage applicants.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

Taxpayers choosing to apply for an offer in compromise will incur a fee of \$186. The increase in the down payment from 10% to 20% of the amount offered will require the taxpayer to pay a larger portion of the offered tax liability up front.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This proposed rule should not affect competition or employment.

Tim Barfield
Secretary
1511#089

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office