

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

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

Under the authority of R.S. 47:1511, R.S. 47:1577, R.S. 47:295, and R.S. 47:1578 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, issues an Emergency Rule to amend LAC 61:I.5302, relative to the release of property subject to a lien and to offers in compromise. This Emergency Rule shall be effective February 1, 2007, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever occurs first.

With respect to release of a lien, the amendment conforms the language in the regulation to the language in R.S. 47:1578(B)(3), as amended by Act 56 of the 2004 Regular Legislative Session to clarify that the secretary is authorized to release any part of the property subject to the recorded lien when it is determined that the state's interest in the part to be released has no value.

Louisiana Revised Statutes 47:1578 and 47:295 allow the secretary to compromise certain judgments for taxes as well as to waive, reduce, or compromise individual income tax, penalties, interest, or other amounts. This Emergency Rule is necessary to allow the Department of Revenue to inform taxpayers and their representatives that the secretary will only accept one offer from a taxpayer in a 10-year period and that a nonrefundable payment of at least 10 percent of the amount offered must accompany the offer in compromise application. A delay in adopting this rule could have an adverse impact on the taxpayers who are unaware of the recent changes implemented for the offer in compromise program.

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.3. ...

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. This provision is subject to approval by the Board of Tax Appeals.

D. - E. ...

F. Offers in Compromise

1. The secretary will only accept one offer from any applicant in a 10-year period.

2. A nonrefundable payment of at least 10 percent of the amount offered must accompany an Offer in Compromise application.

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), amended LR 33:

Cynthia Bridges
Secretary

0702#003