

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Installment Agreement for Payment of Tax; Fees (LAC 61:I.4919)

Under the authority of R.S. 105 and R.S. 47:1576.2, and, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.4919, Installment Agreement for Payment of Tax; Fees, to provide for the payment of taxes, interest, penalties, fees and costs (“taxes due”) by installment payments.

Act 130 of the 2015 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:105 and enacted R.S. 47:1576.2 to provide for taxpayer election of installment payments for taxes due and to set mandatory fees for the establishment of standard installment agreements and reinstatement of such agreements in cases of defaults. To effect optimal collection of taxes due, improve compliance and keep viable businesses operational, the proposed rule provides the requirements, conditions and procedures that apply when qualified taxpayers elect to pay the taxes due in installment payments.

### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 49. Tax Collection

#### §4919. Installment Agreement for Payment of Tax

A. Time Tax Payable. The total amount of tax due on a tax return shall be paid no later than the date the return is required to be filed without regard to any extension of time for filing the return. An extension of time to file a return is not an extension of time to pay the tax due. The total amount of tax shown on the return as filed is an assessment, which is equivalent to a judgment, and shall be recorded as an assessment in the records of the secretary.

B. Installment Agreement. If a taxpayer qualifies for an installment agreement, the secretary may allow the taxpayer to pay taxes, interest, penalties, fees and costs due in installments subject, but not limited, to the following requirements or conditions:

1. The taxpayer shall pay a nonrefundable installment agreement fee in the amount of \$105, payable to the Department of Revenue, to establish an installment agreement for the payment of the tax debt. Payment of the fee is mandatory. The installment agreement fee cannot be paid in installments nor waived or applied against any tax debt. However, the secretary shall not charge the fee to enter into an installment payment agreement plan with any taxpayer whose adjusted gross income is less than or equal to \$25,000.

2. The taxpayer must be current in the filing of all returns and in the payment of all liabilities for all tax types and periods not covered in the installment agreement.

3. The taxpayer shall file returns for all tax periods in the installment agreement.

4. The taxpayer shall agree to waive all restrictions and delays on all liabilities not assessed and to timely file all returns and pay all taxes that become due after the periods included in the installment agreement.

5. The taxpayer may be required to pay a down payment of 20 percent and to make installment payments by automatic bank draft.

6. All installment agreement payments shall be applied to accounts, taxes, and periods as determined by the department.

7. Any and all future credits and overpayments of any tax shall be applied to outstanding liabilities covered by the installment agreement.

8. The taxpayer shall notify the department before selling, encumbering, alienating, or otherwise disposing of any of their real (immovable) or personal (movable) property.

9. Tax liens may be filed in any parish wherein the department has reason to believe the taxpayer owns immovable property.

10. A continuing guaranty agreement may be required on installment agreements requested by a corporation.

#### C. Offset of Tax Refunds and Other Payments

1. All state tax refunds issued to the taxpayer shall be applied to the tax debt until the balance is paid in full.

2. Monies received as an offset of the taxpayer's federal income tax refund shall be credited to the tax debt for the amount of the offset, less a deduction for the offset fee imposed by the Internal Revenue Service, until the balance is paid in full.

3. Other payments that the taxpayer may be entitled to receive shall be offset in accordance with applicable law.

4. Amounts of state or federal tax refunds offsets or other payments applied to the tax debt shall not reduce the amount of any installment payment due or extend the time for paying an installment payment.

#### D. Forms of Installment Agreements

1. Informal installment agreements shall be allowed only if the amount owed is less than \$25,000 and the payment period is 24 months or less.

2. Formal installment agreements shall be required if the amount owed is \$25,000 or more or the payment period exceeds 24 months. Information relative to the taxpayer's employment, bank account, credit, income statement, balance sheets, cash-flow data, and any other information shall be provided to the department upon request.

3. All installment agreements shall be made on forms and in the manner prescribed by the secretary.

#### E. Default; Reinstatement of Installment Agreement

1. If any installment payment is not paid on or before the date fixed for its payment, the total outstanding balance shall be due and payable immediately upon notice and demand from secretary. All collection actions shall be reactivated.

2. Upon request of the taxpayer and the approval of the secretary, the installment agreement may be reinstated, provided the taxpayer pays the mandatory reinstatement fee in the amount of \$60, payable to the Department of Revenue. The reinstatement fee cannot be paid in installments nor waived or applied against any tax debt.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 105 and R.S. 47:1576.2.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Policy Services Division, LR: (February 20, 2016).

### **Family Impact Statement For Administrative Rules**

#### **Rule Title:** LAC 61:I.4919 Installment Agreement for Payment of Tax; Fees

The proposed adoption of LAC 61:I.4919 relative to installment agreements and fees 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 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 9:00 a.m. in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

**Tim Barfield**  
**Secretary, Department of Revenue**