

Louisiana has the following e-file mandates for Tax Year 2011:

- **Form IT-540, IT-540B (Individual):**
 - **Practitioner mandate:** if 100 or more returns were filed during prior year, 90% of all returns that are due on or after January 1, 2012 must be e-filed. **Yes**
 - Individual nonresident and dual status returns are accepted by e-file. **Nonresident- yes. Don't know what is a dual-status return.**
 - **Reports and Returns related to the Sports Facility Assistance Fund:** Taxpayer mandate requiring e-filing IT540/IT540B for a professional athletic team or a professional athlete. Failure to comply with the electronic filing requirement will result in the assessment of a penalty of \$1,000 per failure. Effective for the 2011 tax year filings and all years thereafter. **Yes. Also includes their extension requests.**
- Per the draft 2011 Louisiana Corporate eFile Handbook, tax payments must be made electronically if the tax reported in a year is more than \$5,000. **yes**

Possible Future Mandates:

- **Corporations:** Even though the Department has been statutorily authorized by Sec. 47:1520(c), LaR.S. to allow or require the electronic filing of a corporate return, the Department has not yet implemented any such mandate. **Correct**
- **Pass through Entities:** Even though the Department has been statutorily authorized by Sec. 47:1520(c), LaR.S. to allow or require the electronic filing of returns for pass through entities, the Department has not yet implemented any such mandate.
 - Please confirm that there are no plans to implement an e-File mandate for either corporate or pass through entities for tax year 2011. **Correct, there are no current plans.**
- **Extensions:** Per the draft 2011 Legacy e-File handbook, the Louisiana Department of Revenue is in the process of issuing a notice of intent to amend Louisiana Administrative Code 61:III.2501 to mandate that an extension to file an individual income tax return be submitted electronically. This proposed rule would be applied for returns due on or after January 1, 2012. If this rule is adopted, paper extensions for individual returns will no longer be accepted.
 - **Please confirm whether this plan is still being pursued by the LDR and an estimated time when the final rules will be made. Yes it is still being pursued.**
 - Please confirm whether a similar requirement for extensions for other return types (corporate, partnership, trusts) will be proposed. **Yes for corporate.**

For existing Individual return mandates, the following rules apply:

1. Forms that are accepted/not accepted when e-filed through fed/state Legacy system:
 - a. Resident, nonresident and Part-year returns: All accepted and required to be e-filed.
 - b. Amended: Accepted, but not required to be e-filed.
 - ◆ Question: Are amended returns prior to TY 2011 accepted by fed/state e-file?
 - c. Superseding: Not accepted
 - d. Prior year returns: Not accepted
2. Requiring e-payment for e-filed returns: Currently there is no e-payment required with an e-filed individual return. **Correct**
3. Perfection period: There is no period allowed to correct a rejected return. **The guidelines for IRS are the same for LDR.**
4. Timely filing determination: Louisiana utilizes the e-Postmark to determine timely filing but does not adjust the e-Postmark to reflect the time zone of the taxpayer. **Time returns transmitted by are determined by the Julian date in the RSN.**
5. Tax practitioner opt-out: Not available. However, the secretary may waive the requirement in cases of undue hardship. **Correct**
6. Taxpayer opt-out availability : No taxpayer opt out for individual returns is available; since only 90% of returns are required to be e-filed, it is likely that the few taxpayers who opt out would be in the 10% of returns not requiring e-filing. **Correct**
7. Linked/Unlinked return acceptance: both linked and unlinked transmissions are allowed for mandated returns. State only submissions are allowed.
8. Signature forms: Form LA 8453, if the federal Form 8879 is not used. ERO retains for 3 years.
9. Noncompliance penalties
 - a. **Practitioners:** Even though R.S. 47:1520(b) provides that “Failure to comply with electronic filing requirements will result in the assessment of a penalty of one hundred dollars or 5% of the tax, whichever is greater....”, the LA DOR interprets this penalty to only apply to taxpayer electronic filing mandates. No penalties will be assessed for failure to comply with the e-file mandate for tax preparers. **Correct**
 - b. **Taxpayers:**
 - i. **Sports Facility Assistance Fund Mandate for Professional athletes/teams:** Failure to comply with the electronic filing requirement will result in the assessment of a penalty of \$1,000 per failure. Effective for the 2011 tax year filings and all years thereafter. **Correct**

Related to 1040 MeF:

Louisiana has an individual return mandate and supports MeF. A draft MeF (as well as a draft Legacy) handbook is currently posted on the state website. Per this draft handbook:

- ◆ Returns cannot be efiled for tax years prior to 2009. Both 2009 and 2010 returns will be accepted in MeF.
- ◆ Question: Are amended returns supported for the prior year in addition to the original return?
- ◆ Question: Will the state assess penalties for non-compliance? **Yes**
- ◆ Question: Will the state allow for a waiver request by the practitioner? **A request can be submitted on a case by case basis.**
- ◆ Sale of business assets or stock:
 - ◆ 1) Does an 80% shareholder selling 50% of his stock get the benefit of the exclusion under La Revised Statute 47:293? **Yes, if the business is a non-publicly trade business that is commercially domiciled in Louisiana.**
 - ◆
 - ◆ 2) When assets are sold the recapture portion of depreciation is not included on schedule D. Is the recapture portion of depreciation excluded under the La Revised Statute?
 - ◆ **The recapture portion is not excludable under R.S. 47:293.**
 - ◆

I have a question from a software developer that wants to know will we observe Emancipation Day 2012, Monday, April 16, 2012? Do you know the answer?

- ◆ **Emancipation Day is not a federal holiday, however it is a holiday for the District of Columbia and therefore is observed as a holiday by the IRS. This came up earlier this year, about whether we would recognize it as a holiday for the 2010 individual income tax returns. Based on the draft instructions for the 2011 1040, the due date for the 1040 is April 18th instead of the 15th.**
- ◆
- ◆ **Louisiana Administrative Code 61:I.4910.E.3 provides that when the statutory filing due date, without regard to extensions, falls on a Saturday, Sunday, Federal Reserve holiday, or legal State of Louisiana holiday, the payment is due on or before the next business day. Emancipation Day is not a holiday for Louisiana or the Federal Reserve.**
- ◆

- ◆ THE SMALL EMPLOYER HEALTH INSURANCE CREDIT REQUIRES YOU TO REDUCE YOUR HEALTH INSURANCE DEDUCTION BY THE AMOUNT OF THE CREDIT ON THE FEDERAL RETURN.
- ◆
- ◆ MY SOFTWARE IS TREATING THE SMALL EMPLOYER HEALTH INSURANCE CREDIT THE SAME AS IF IT WERE A DISASTER CREDIT...IN OTHER WORDS, IT IS ADJUSTING THE FEDERAL AGI TO DEDUCT THE SMALL EMPLOYER HEALTH INSURANCE CREDIT TO GET TO LOUISIANA AGI. IT'S SHOWING UP ON THE 280C ADJUSTMENT LINE OF LA RETURN. IS THIS CORRECT?
- ◆
- ◆ IF SO, I ASSUME WE SHOULD ALSO INCREASE THE FEDERAL TAX DEDUCTION FOR THE CREDIT TAKEN ON THE FEDERAL BUT NOT ALLOWED ON LA.
- ◆
- ◆ I DON'T REMEMBER READING ANY BULLETINS ABOUT THIS BUT MY SOFTWARE IS PRETTY SOPHISTICATED AND I DON'T WANT TO OVERRIDE IT IF THE ADJUSTMENTS ARE CORRECT.
- ◆
- ◆ **The SMALL EMPLOYER HEALTH INSURANCE CREDIT is not like the disaster credits and should not be treated as such for Louisiana. There is no adjustments to the federal income tax deduction for it.**
- ◆
- ◆ **However, under R.S. 47:293(9)(ix) we would allow the add back of any deductions disallowed by IRC 280C in calculating Louisiana taxable income for individuals. R.S. 47:287.73(C)(4) allows the add back of deductions disallowed under IRC Section 280C in calculating Louisiana taxable income for corporations. Therefore the amount of premiums disallowed under IRC Section 280C due to the tax credit provisions in the Patient Protection and Affordable Care Act can be added back in calculating taxable income for Louisiana.**
- ◆
- ◆ **On 2010 IT-540, this would be done on Schedule E, line 5B. On 2010 IT-540B, on Line 28 of the Nonresident and part-year resident worksheet. On 2010 CIFT-620, either Schedule D, line 9 or Schedule G as a subtraction. On the partnership return, you would notate the amount on Schedule K and also on the K-1 as a flow-thru items to the partner.**
- ◆

We have a participant who took a distribution from Deferred Compensation. Louisiana is not a state that mandates tax withholding at the time of distribution, so no state taxes were paid. When she completed her taxes on Turbo Tax, she says it stated that no state taxes were to be paid on this distribution, and she was later contacted by the La Department of Revenue that taxes were due. She wants to "alert" someone about the TurboTax issue. Is there a number she can call at Revenue to discuss this issue? Also, I heard one time that the first \$6000 of income is exempt from state taxes. Are you aware of this rule?

Title 11 of the Louisiana Revised Statutes provides various exemptions for state retirement proceeds. For example, proceeds received from the Louisiana State Employees Retirement System are exempt from state income tax under R.S. 11:405. But no such exemption has been provided for proceeds received from the deferred

compensation plan. However, R.S. 47:44.1 does provide an annual retirement income exemption, which states that six thousand dollars of annual retirement income received by an individual sixty-five years of age or older shall be exempt from state income tax. Therefore, if your participant is sixty-five years of age or older, the first \$6,000 she receives from the deferred compensation plan will be exempt from state income tax.