

Louisiana Tax Topics

Department of Revenue and Taxation



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"The mission of the Louisiana Department of Revenue and Taxation is to serve the citizens of Louisiana by efficiently administering the state's tax and regulatory statutes in a manner that will generate the highest degree of confidence in our integrity and fairness."

John Neely Kennedy, Secretary

Due date changed for natural gas oilfield site restoration fee

The Department of Revenue and Taxation has amended the Oilfield Site Restoration Fee regulation to change the due date for the report and payment(s). The due date is now the fifteenth day of the second month following the end of the quarter. This is effective with the first quarter of 1997 and each quarter thereafter.

Quarter Ending	Due Date of Return
March, 1997	May 15, 1997
June, 1997	August 15, 1997
September, 1997	November 17, 1997
December, 1997	February 16, 1998

Title 61, Part I, Chapter 53, Section 5301(C)(3) was amended as follows:

3. The fees levied by R.S. 30:87(B), on natural gas, shall be due on a quarterly basis and will be due on or before the fifteenth day of the second month following the last day of the quarter period and shall become delinquent after this date and shall be subject to interest, penalties, and costs as provided in Chapter 18, Subtitle II of Title 47.

Questions about the above change should be directed to the Severance Tax Division at (504) 925-7500. Complete copies of all newly adopted rules are available through Fax Link, the Department's fax-on-demand system, at (504) 922-2984. The Fax Link document number for the Oilfield Site Restoration Fee regulation is 4008. ■

Taxation of insurance companies

The Louisiana taxation of insurance companies does not follow federal law. Insurance companies compute their net income according to the provisions of Revised Statutes 47:221 through 47:227, rather than follow the corporation income tax law enacted in 1986 (R.S. 47:287 et seq). Insurance companies are not allowed a net operating loss carryback or carryover.

The provisions referred to above provide for the computation of net income as follows:

- Life insurance companies - R.S. 47:221 through R.S. 47:223 and R.S. 47:225.

- Insurance companies other than life or mutual - R.S. 47:224 and R.S. 47:225.
- Mutual insurance companies other than life - R.S. 47:226.

Insurance companies are allowed an offset against the income tax in the amount of any taxes based on premiums they have paid within the preceding twelve-month period, as per R.S. 47:227. This credit is claimed on line 3D of the corporation income and franchise tax return.

Additionally, insurance companies that pay a premium tax are exempt from corporation franchise tax under R.S. 47:608. ■

Optional federal income tax deduction available to individuals

Resident individuals claiming foreign tax credit on their federal income tax returns have two options for computing the federal income tax deduction on their Louisiana income tax return. The first option is to deduct a federal income tax amount that has been reduced by the federal foreign tax credit and also take the special allowable credit on Schedule A. The second option is to deduct a federal income tax amount that has not been reduced by the federal foreign tax credit and forego the special allowable credit on Schedule A.

Taxpayers should use the option that results in the lowest Louisiana income tax. For taxpayers with a large foreign tax credit on their federal income tax return, the most beneficial method will be to deduct the federal income tax amount that has not been reduced by the foreign tax credit and forego the special allowable credit. The reason for using this method in this case is that federal income tax is a deduction on the Louisiana return. The larger the deduction, the better for the taxpayer.

The special allowable credit is 10 percent of certain federal credits, including the foreign tax credit, but it is **limited to \$25**. For individuals with a large foreign tax credit, the larger deduction is more valuable than the limited credit. The option is further explained in the 1996 resident return instructions. ■

New rule defines instances for waiver of interest on inheritance and estate transfer tax payments

Effective November 20, 1996, the Department adopted LAC 61:I.1701 concerning the interest on delinquent inheritance and estate transfer taxes. The regulation establishes the instances when interest on inheritance and estate transfer tax payments may be waived and the procedures to follow to obtain a waiver of interest.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and

Administered by the

Secretary of Revenue and Taxation

Chapter 17. Inheritance and Estate Transfer Tax

§1701. Extension of Time to File; Waiver of Interest

A. Definitions. For the purposes of this Section, the following terms are defined:

Bona Fide Contested—instances when

the right of any heir or legatee to receive an inheritance or legacy is contested in the succession proceeding.

Ignorant of the Inheritance—instances when the heir, legatee, or beneficiary lacked knowledge of either his right to inherit or of the property to be inherited.

B. Waiver of Interest. Interest on inheritance and estate transfer taxes may be waived by the Secretary if the settlement of the succession is bona fide contested or the beneficiary was ignorant of the inheritance. Beneficiaries or their legal representative requesting waiver of interest must make written application to the Secretary including the reasons why waiver of interest should be granted.

C. 1. Extension of Time to File. In all cases in which reasonable cause is established to the satisfaction of the court having jurisdiction over the

succession, an extension of time to file an inheritance tax return without the payment of interest may be granted.

2. When it is shown that an estate is required to file a federal estate tax return, such fact shall be deemed reasonable cause for granting an extension to file without the payment of interest not to exceed 15 months from the date of death.

3. An application for an extension to file a return must be submitted to the court prior to the time that the tax becomes due. An extension of time to file a return without the payment of interest for periods exceeding 15 months from the date of death may be granted by the court if the Secretary consents or is made a party to the proceeding. ■

Department adopts rule for payments under protest

Effective December 20, 1996, the Department adopted LAC 61:I.4907 concerning remittance of tax under protest and the suits to recover. The regulation deals with ambiguities not directly addressed by Revised Statute 47:1576(B) by expressly providing three options for giving notification of amounts of income tax or corporation franchise tax paid under protest and the intent to file suit for recovery.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and

Administered by the

Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4907. Remittance of Tax Under Protest; Suits to Recover

A. For the purposes of this Section, estimated taxes shall include any amounts paid on account of a tax prior to the due date or extended due date of the return required for such tax. Estimated taxes shall also include overpayments of in-

come tax designated on the prior year's return as an amount of overpayment to be credited to the next year's return. The term shall not include any other credits, including, but not limited to, enterprise zone credits or inventory tax credits.

B. R.S. 47:1576(B) makes specific provisions for income and corporation franchise taxes paid under protest. This regulation addresses the ambiguities not directly addressed by R.S. 47:1576(B) by expressly providing three options for giving notification of amounts of income tax or corporation franchise tax paid under protest and the intent to file suit for recovery.

1. Under the first option a taxpayer may make payments of estimated income and franchise taxes under protest and at that time give Notice of Intent to file suit for recovery. The amount paid under protest will be placed in an escrow account upon receipt of the notice. This is the method that has generally been required prior to this

regulation. It is not the intent of this regulation to change any procedures that existed prior to this regulation if the taxpayer chooses to follow this option.

2. Under the second option a taxpayer may consider, for purposes of this option only, payments of estimated taxes and, in the case of individual income tax, withholding taxes as required deposits that do not become payments of the income or franchise taxes until they are so designated on the income or franchise tax return filed for the taxable period. Under this option the taxpayer must make notification of the amount of tax being paid under protest and the intent to file suit for recovery at the time the return for the taxable period is filed. This notification should be in duplicate, once with the return and again as a separate notification to the Secretary. The amount designated as paid

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Limited exclusion available for parochial and private elementary and secondary schools

Act 15 of the 1996 Regular Session of the Louisiana Legislature provides limited sales and use tax exclusions, effective July 1, 1997, for certain purchases, leases, rentals, and sales made by approved parochial and private elementary and secondary schools. The exclusions are effective for one year, until July 1, 1998. Before claiming the exclusions provided by Act 15, schools must receive certificates of eligibility from the Department of Revenue and Taxation.

Under this act, approved private and parochial elementary and secondary schools can make state and local tax-free purchases, leases, or rentals of books, workbooks, computers, computer software, films, videos, and audio tapes to be used for classroom instruction. In addition, these schools, their students, administrators, teachers, and other employees can sell tangible personal property without collecting sales or use tax

on the sales, provided that the net proceeds, after the deduction of reasonable and necessary expenses associated with the sales, are used solely and exclusively to support the school, its programs, or curricula. The act specifically provides that the exclusion from the collection of the sales tax on sales not be construed to allow tax-free sales to students or their families by promoters or regular commercial dealers through the use of schools, school faculty, or school facilities.

To be approved for these exclusions, the schools must comply with the court order from the *Brumfield v. Dodd* [405 F.Supp. 338 (1975) and 425 F.Supp. 528 (1976)] decision and Section 501(c)(3) of the United States Internal Revenue Code. In *Brumfield v. Dodd*, the United States District Court for the Eastern District of Louisiana held that racially segregated private schools were ineligible for state assistance. The court

ordered the State Board of Elementary and Secondary Education (BESE) to initiate a certification procedure to determine the eligibility of all private schools that wanted to receive state assistance.

In order to be eligible to claim the limited exclusion provided by Act 15, schools must provide documentation to the Department that they have been recognized by BESE as eligible for state assistance, and that they are recognized under Section 501(c)(3) of the United States Internal Revenue Code as qualified nonprofit organizations. Application forms for the exemption can be obtained from any office of the Department beginning in April, 1997. ■

Telefile program expanded

This year's expanded TeleFile Program is offering more than 430,000 Louisiana taxpayers the opportunity to speed their refunds by filing their 1996 state individual income tax return by touchtone telephone. In last year's pilot program, more than 11,500 taxpayers used TeleFile.

Under the program, certain taxpayers selected by the Department were mailed TeleFile booklets in addition to their state individual income tax booklet. Those taxpayers have the option to either TeleFile, file electronically, or file the traditional paper IT-540 return.

Taxpayers wishing to TeleFile can do so only if the name and address are correct as printed on the TeleFile booklet and they meet the following criteria: no change in their filing status; no increase in the number of exemptions; no itemized deductions for federal income tax purposes; not more than five W-2s, including spouse if filing jointly; all income reported to the Internal Revenue Service must be taxable to Louisiana (Schedule E filers not eligible); must have made no estimated payments for 1996 or have any carryforward credit to 1996; must not be

eligible to claim credit for taxes paid to another state, special credits, or a business inventory tax credit (Schedule A filers are not eligible); have a federal adjusted gross income of \$200,000 or less; and, have state income tax withholdings of \$10,000 or less in 1996.

To TeleFile, a taxpayer using a touchtone telephone only needs to complete the short worksheet in the TeleFile booklet, call the toll-free 800 number listed in the booklet, and enter the tax information from the TeleFile worksheet. To complete the worksheet, the taxpayer must enter their Social Security Number, Personal Identification Number (the PIN is supplied with the booklet), exemption information, federal adjusted gross income, and W-2 information on employer wages and state income tax withheld.

After entering the information from the worksheet, the tax will be calculated automatically and the taxpayer will be told the amount of his refund. If a balance due is calculated, the taxpayer will be instructed to file electronically or file the traditional paper IT-540 return. ■

Kelly man pleads guilty to mail fraud

Jimmy M. Newsom, 57, of 101 Highway 56, Kelly, Louisiana, has pled guilty to one count of mail fraud for his involvement in a scheme to defraud the IRS, state taxing authorities, taxpayers, and credit issuing agencies. According to United States Attorney Michael Skinner and the Department's Special Investigations Division, Newsom fraudulently operated three H&R Block franchises in Ruston, Columbia, and Winnfield.

An investigation revealed that beginning in 1993, Newsom fraudulently obtained in excess of \$70,000 in federal tax refund checks, \$13,500 in state tax refund checks, and \$18,000 in credit. The scheme involved preparing fraudulent federal and state amended tax returns using the names and Social Security Numbers of his customers, having both legitimate refund checks and refund checks from the fraudulent amended returns sent to addresses controlled by Newsom, and obtaining various credit cards by utilizing the names, Social Security Numbers and occupational information of his customers.

Mail fraud carries a maximum penalty of five years imprisonment and a \$250,000 fine. Newsom is no longer affiliated with any H&R Block office. ■

Cost price set for refinery gas

The cost price for use tax purposes on refinery gas has been determined to be \$.445 per thousand cubic feet (MCF) for the calendar year 1997.

This year's value is based on the posted price of West Texas Intermediate Crude of \$24.80. By applying the price to the formula specified in Revised Statute 47:301(3)(f), the following value is determined: \$24.80 divided by \$29, multiplied by \$.52, equals \$.445 per MCF. This price is the maximum value that can be set for refinery gas by state and local authorities.

The statute specifies December 1 as the date to use for the posted price of West Texas Intermediate Crude. December 1, 1996 occurred on a Sunday when no established price was set. Therefore, the value of the oil on December 2, 1996, the next business day, was used in the valuation formula. *The Wall Street Journal* reported the price

of West Texas Intermediate Crude Oil on that date to be \$24.80.

Refinery gas that is sold, exchanged, or bartered (instead of being used by the producer) is subject to sales tax based on the greater of the actual selling price or the average monthly spot market price of one thousand cubic feet of natural gas delivered into pipelines in Louisiana as reported by the Natural Gas Clearing House and as determined by the Department for natural gas severance tax purposes. Refinery gas is subject to both state and local use taxes, regardless of the circumstances of its use.

Questions concerning the cost price for refinery gas for state tax purposes should be directed to the Sales Tax Division at (504) 925-7356. Questions on the valuation adopted by local authorities should be addressed to the particular local authority. ■

Payments under protest continued

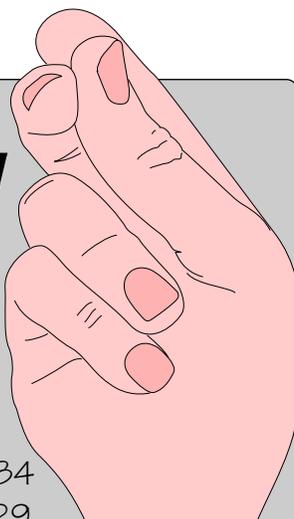
under protest will be placed in an escrow account upon receipt of the notice. This regulation does not extend or modify the time within which the taxpayer must file suit as provided by R.S. 47:1576(B).

3. The third option available to a taxpayer is to use a combination of the first two options. The fact that a taxpayer designates some estimated payments as payments under protest and makes the appropriate notification at the time of the estimated payment under the first option listed above will not preclude use of the second option with regard to additional amounts the taxpayer wishes to pay under protest. ■

Access is a Snap!

Many of the Department's forms and other information are now accessible 24 hours a day.

Fax Link (Fax-on-demand) (504) 922-2984
 Bulletin Board System (504) 922-2529
 World Wide Web <http://www.rev.state.la.us>



Rate of judicial interest determined

In accordance with Louisiana Civil Code Article 2924(B)(3), the rate of judicial interest for calendar year 1997 has been calculated at 9.25 percent.

Under provisions of Revised Statutes 47:1624 and 47:1576, interest payable on refunds made by the Department of Revenue and Taxation will be payable at this judicial rate during the 1997 calendar year. ■

Timber rates established for 1997

Timber values for use in determining timber severance tax for 1997 have been established by the Office of Forestry and the Louisiana Tax Commission.

The values and tax are as follows:

Product	Tax Value Per Tone	Tax Per Ton
Pine Sawtimber	\$43.50	.98
Hardwood Sawtimber	\$19.85	.45
Pulpwood Pine	\$ 8.87	.44
Pulpwood Hardwood	\$ 5.28	.26
Pine Chip-n-saw	\$32.89	.74

Questions regarding the severance tax on timber should be directed to the Severance Tax Division at (504) 925-7500. ■

Tax Topics is a quarterly publication of the Louisiana Department of Revenue and Taxation. 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 Research and Technical Services Division at the address below, or by calling 504•925•6047.

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M. J. "Mike" Foster, Jr. John Neely Kennedy
 Governor Secretary