



Tax Topics

www.rev.state.la.us

Volume 21
Number 3
July 2001

"The mission of the Louisiana Department of Revenue is to administer applicable laws and collect revenues to fund state operations."

Cynthia Bridges
Secretary

103 names added to CyberShame list

In April, the names of 103 chronic delinquent taxpayers who owe nearly \$4.1 million were added to the CyberShame list of delinquent taxpayers published on the Department of Revenue's Internet web page.

The Department initiated the CyberShame program in January by publishing the names of 117 chronic delinquent taxpayers that owed more than \$9 million. The program is based on the premise that publication of a delinquent taxpayer's name will shame them into paying the taxes they owe. Anyone with access to the Internet can view the CyberShame list of delinquent taxpayer names on the Department's web page at www.rev.state.la.us. The list also provides the delinquent taxpayer's address and amount of tax owed.

The January publication of names resulted in the collection of \$469,100.80 in delinquent taxes from taxpayers on the list. An additional \$193,812.97 was collected from delinquent taxpayers not on the list, but who wanted to ensure that their names would not be published in the future. The new names added to the list in April represent 62 individuals who owe \$2,883,643.93 and 41 businesses that owe \$1,184,270.68.

In order to avoid violation of the confidentiality provisions of state law that require taxpayer records be kept confidential, the published list is taken from public record tax liens on file with the Clerk of Court in the appropriate parish. Present plans by the Department of Revenue call for additional names to be added to the CyberShame list approximately every three months.

Rule adopted

% In February, the Department adopted Louisiana Administrative Code 61:111.101 to establish the types of policy statements issued by the Department for the proper administration and enforcement of the tax laws and the collection of revenues.

Department policy statements are intended to provide guidance as to the Department's position on administrative issues and to help ensure that employees enforce the tax laws correctly, consistently, and fairly. The rule adopted in February defines the various types of policy statements that the Department may issue and outlines the procedures for issuing them.

The rule is available in its entirety on the Department's website at www.rev.state.la.us under "Rules and Legislation." It is also available from the website of the Office of the State Register at www.state.la.us/osr/reg/0102/0102rul.pdf (on page 26).

Refund denials re-evaluated

= Act 6 of the First Extraordinary Session of the 2001 Louisiana Legislature has given the Department of Revenue wider latitude to issue refunds and to re-evaluate previously denied refunds of overpayments.

The act was signed by Governor Foster on March 27 and includes a transition rule that gives the Department the authority to re-evaluate all refund claims that were denied between January 1, 2000, and March 27, 2001. Lack of specific authority in the statutes forced the Department to deny overpayment refunds in hundreds of cases during the past year.

Before Act 6 was passed, a refund of an overpayment by a taxpayer was only authorized in a few instances specifically named in the statutes, such as overpayment of withholding tax for individual income tax or because of a mathematical error. The Department had earlier urged the legislature to correct the problem by amending the law.

Revenue Secretary Cynthia Bridges says that in general, most overpayments, except those that should have been paid under protest, will be refundable. During the past year, several hundred taxpayers filed appeals with the Board of Tax Appeals (BTA) in order to receive their refunds. Many of those appeals are still pending before the BTA, but those cases will also be re-evaluated.

Nonprofit organizations are generally not exempt from sales taxes

\$ Nonprofit organizations are granted an exemption from the payment of income taxes under Internal Revenue Code Section 501(c). However, these organizations are not exempt from the payment of state and local sales taxes, except under certain circumstances specifically provided for in the sales tax statutes. These specific circumstances include:

- Purchases of bibles, songbooks, and literature by churches and synagogues.
- Purchases made by certain sheltered workshops.

Churches and other nonprofit organizations often assume that they are exempt from state and local sales taxes, and misinform their vendors to that effect. Any vendor who is presented with an exemption certificate that does not appear to be genuine, or is offered no certificate at all, should contact the Department of Revenue's Sales Tax Division at (225) 925-7356 to verify that the nonprofit organization claiming an exemption is entitled to do so.



Revenue Ruling No. 01-002
May 18, 2001

Certain Lump Sum Distributions Not Taxable

X This Revenue Ruling addresses the taxation of lump sum distributions paid to a Louisiana domiciliary for state income tax purposes. For purposes of this ruling, a lump sum distribution is defined as provided by IRC 402(e)(4)(D)(i). Such distributions often occur from qualified pension or profit sharing plans upon the retirement or death of a covered employee.

Louisiana individual income tax is based on tax table income. The computation of tax table income begins with federal adjusted gross income and makes certain modifications. The Louisiana Revised Statutes, Title 47, Section 293 defines adjusted gross income as the adjusted gross income of the individual for the taxable year that is reportable on the individual's federal income tax return. No modifications are made for lump sum distributions. To the extent that lump sum distributions are not properly includable in the federal adjusted gross income, such distributions are not included in tax table income.

Couple arrested for failing to pay \$1.6 million dollars in state taxes

¢ On April 19, 2001, Louisiana state police arrested Lawrence D. Smith, 53, of 3548 Lost Creek Blvd., Austin, TX and his wife Brenda H. Smith, 48, (same address) on one count each of evasion of tax and one count each of filing false public documents.

An investigation by the Louisiana Department of Revenue alleges that the Smith's sold their shares of stock in McCormick & Company, Inc., which controlled the *Alexandria Daily Town Talk* newspaper, in Alexandria, LA. The Smith's netted more than \$16 million as a result of the sale, but failed to report this taxable income to the state. The charges allege that the Smiths filed a 1996 nonresident/part-year individual income tax return in an attempt to defraud the state out of \$708,225 in state taxes, which was the amount of state tax owed on the \$16 million. Fees, penalties, and interest make the total now due \$1,658,172.55.

Ragley man guilty of tax charges

÷ Craig M. Fontenot, 32, of 17481 Hwy. 171, Ragley, LA, pleaded guilty on February 5 to theft, failure to account for municipal monies, evasion of income and sales taxes, and filing false public records in relation to his embezzlement of \$535,770 in funds from Condea Vista Plant in Lake Charles.

Fontenot, a former warehouse clerk at Condea Vista, fraudulently manipulated the plant's computer system in order to have payments made to two "shell" companies he had established. Fontenot operated alone in the embezzlement scheme from approximately February 1997 through April 1999.

After Fontenot pleaded guilty, Judge Wilford Carter of the 14th Judicial District court in Lake Charles ordered a pre-sentence investigation prior to formal sentencing. It is expected that a determination with regard to restitution will be made at the time of sentencing.

Advance sales tax requirements

≥ Out-of-state retail sellers who have established “substantial nexus” in Louisiana qualify as dealers in Louisiana and are required to pay the state advance sales tax on their purchases for resale that are delivered to Louisiana. They are also required to collect and remit sales tax on their taxable sales to Louisiana customers.

The state advance sales tax is recoverable by claiming a credit on the state sales tax return that is required to be filed with the Department. “Substantial nexus” is established through a number of business activities, including the operation of a business location in the state; having personal representation in the state; maintaining an inventory in the state of property for sale, lease, or rental; selling taxable services or leasing or renting property in the state; delivering property into the state in personally owned or controlled vehicles; making intrastate sales to vending operators; or through the buying of property from Louisiana wholesale suppliers and the selling of that property in the intrastate commerce of the state.

If out-of-state retail sellers have not established nexus in Louisiana so as to be classified as dealers in the state, they cannot be required to collect and remit the sales or use tax on their sales to Louisiana customers, nor can they be required to pay the advance sales tax to their wholesale suppliers. To be exempt from paying advance sales tax on purchases for resale, sellers must certify in writing to their wholesale suppliers that they have not established substantial nexus in Louisiana.

In a case where an out-of-state seller purchases tangible personal property from a Louisiana in-state wholesale dealer and directs the dealer to ship the property directly to the seller’s Louisiana in-state customer, the out-of-state seller is required to remit the state advance sales tax to their Louisiana supplier. The out-of-state seller will, in this case, be required to collect the appropriate sales tax, file a Louisiana sales tax return, and remit the tax that is due on intrastate sales.

For further information about advance sales tax, contact the Sales Tax Division at (225) 925-7356.

Regional Offices

- Alexandria
900 Murray Street, Room B-100
(318) 487-5333
- Baton Rouge (Main Office)
330 N. Ardenwood Drive
(225) 925-7318
- Baton Rouge Regional Office
8490 Picardy Avenue, Bldg. 600
(225) 763-5700
- Lafayette
825 Kaliste Saloom Road, Brandywine III
Suite 150
(337) 262-5455
- Lake Charles
One Lakeshore Drive, Suite 1550
(337) 491-2504
- Monroe
122 St. John Street, Room 105
(318) 362-3151
- New Orleans
1555 Poydras Street, Suite 900
(504) 568-5233
- Shreveport
1525 Fairfield Avenue
(318) 676-7505
- Thibodaux
1418 Tiger Drive
(985) 447-0976

Inheritance tax may be filed at Regional Offices

± Inheritance and Estate Transfer Tax Returns may be filed at any regional office of the Department of Revenue. Regional offices are authorized to issue inheritance tax receipts provided a complete return is filed and accompanied with:

1. an affidavit of death and heirship;
2. a petition for possession (Act 314 of 1995 amended Article 2951 of the Code of Civil Procedure to authorize the filing of a tableau of distribution or certain trust instruments in lieu of a petition for possession);
3. a sworn detailed descriptive list or inventory of assets;
4. a copy of a will, if any; and,
5. a copy of the federal estate tax return, when required.

However, regional offices are prohibited from issuing an inheritance tax receipt if:

1. one of the previously mentioned documents is missing;
2. a partial possession is being requested;
3. an installment agreement is being requested;
4. the waiver of interest is being requested; or,
5. prescription of taxes is being claimed.

For further information about inheritance tax, call the Inheritance Tax Section at (225) 925-7424, or write to: Louisiana Department of Revenue, Inheritance Tax Section, P. O. Box 201, Baton Rouge, LA 70821.



File your Louisiana Sales Tax Return through the Internet at www.rev.state.la.us

For more information, call (225) 925-7356.

Drop shipments to a Louisiana destination must bear sales tax on billing

X Louisiana retail dealers often sell tangible personal property for which an invoice is issued to a customer located in another state, but which is drop-shipped to a Louisiana location at the customer's direction. Such shipments, even though they are sold to and billed to a customer located in another state, are sales made in Louisiana and must bear the advance Louisiana sales tax, as provided by Revised Statute 47:306(B). If the property is intended for resale, the out-of-state customer must be a registered Louisiana dealer in order to file a return and recover the advance tax. His invoice, in turn, must bear Louisiana sales tax on the sale to the Louisiana addressee.

The only exception is provided for in R.S. 47:306(B)(10), which says that a manufacturer in Louisiana may sell tangible personal property for resale to an out-of-state wholesale dealer of building materials, if the goods are drop-shipped to a Louisiana dealer who holds an exempt wholesale "W" number. This provision was added to the statute in 1998.

Investigation nets guilty pleas

÷ The Department's Special Investigations Division recently participated in a task force formed by the United States Secret Service that resulted in 11 individuals and eight corporations pleading guilty to criminal charges arising from the failure to report \$4.5 million in corporate and personal income and the underpayment of at least \$1.4 million in federal taxes and \$160,015 in State Sales taxes. The guilty pleas were the result of a 17-month investigation by the task force into the fraudulent use of electronic food stamp cards.

The pleas were entered on April 24, 2001 before Judge Eldon E. Fallon, United States District Court, Eastern District of Louisiana. The eight corporations pleaded guilty to mail fraud for filing a materially false tax return via the United States Postal Service. The under-reported sales resulted in the underpayment of \$160,015 in sales taxes to the state of Louisiana.

All the individuals pleading guilty were owners or co-owners of the stores operated primarily by Rabah Hindi, 38, 8010 Morrison Road, New Orleans, La., and Bilal Hindi 36, same address. In addition to charges of under reporting corporate and personal income, Bilal and Rabah Hindi also pleaded guilty to conspiracy charges relating to the supervision of operations at nine stores in New Orleans and Baton Rouge.

The corporations pleading guilty were: NOR, Inc., d/b/a Downman Discount Market, 4827 Downman Rd., New Orleans; Basha Inc., d/b/a Louisiana Meat Market, 1641 Louisiana Ave., New Orleans; Family Farm Inc., d/b/a Family Farm Market, 2541 N. Claiborne, New Orleans; Salam Inc., d/b/a Broad Meat Market, 325 S. Broad St., New Orleans; Dalal, Inc., d/b/a City Farm Market, 3800 St. Bernard Ave., New Orleans; Malak, Inc., d/b/a Crowder Discount Market, 8426 I-10 Service Rd., New Orleans; Serena, Inc., d/b/a Read Discount Market, 7045 Read Blvd., New Orleans; and Hindi, Inc., d/b/a Save More Market, 2956 Nicholson Dr., Baton Rouge.

In addition to the Hindis, other individuals pleading guilty were: Omar Ahmad, 38, 12345 I-10 Service Rd., New Orleans; Walid Ahmad, 36, 12345 I-10 Service Rd., New Orleans; Abdelrahim Ayyad, 42, 8812 Gevais St., New Orleans; Ahmad Ayyad, 34, 325 S. Broad St., New Orleans; Zuhdi Ayyad, 33, 7039 Ligustrum Dr., New Orleans; Ayed Hammad, 37, 210 38th St., New Orleans; Ahmad Hindi, 26, 6318 Hayne Blvd., New Orleans; Ismail Odeh, 31, 1641 Louisiana Ave., New Orleans; and Maskoor Ali Kahn, 52, 1600 Peach St., Metairie.

Revenue Information Bulletin:

Natural gas Severance Tax rate change

Under the authority of Louisiana Revised Statute 47:633(9)(d)(i), the Department of Natural Resources has determined the "gas base rate adjustment" for the twelve-month period ending March 31, 2001, to be 2.8403. Accordingly, the severance tax rate on natural gas and related products described in Louisiana R.S. 47:633(9)(a)(i) has been set at **19.9 cents per thousand cubic feet**, measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of sixty degrees Fahrenheit, effective July 1, 2001. The reduced rates provided for in Louisiana R.S. 47:633(9)(b) and (c) remain the same.

Revised reporting forms will be distributed as soon as they are available. Questions should be directed to the Severance Tax Division at (225) 925-7500.

Tax Topics is a quarterly publication of the Louisiana Department of Revenue. 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 Public Affairs Bureau at the address below, or by calling (225) 925-4299.

This public document was published at a total cost of \$6,800. One hundred eight thousand copies of this public document were published in this first printing at a cost of \$6,800. The total cost of all printings of this document, including reprints, is \$6,800. This document was published for the Department of Revenue, Post Office Box 201, Baton Rouge, LA 70821-0201, by the Division of Administration, State Printing Office, to disperse information concerning Louisiana tax matters deemed to be of public interest under authority of R.S. 47:1509. This material was printed in accordance with the standards for printing by state agencies established pursuant to R.S. 43:31.

M. J. "Mike" Foster, Jr.
Governor

Cynthia Bridges
Secretary

Danny Brown
Public Information Director

Paulita Chartier
Public Information Specialist

Joy Lonibos
Graphics Designer