

# 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. 47:295, R.S. 47:1511, R.S. 47:1577, 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, adopts this Emergency Rule to provide for the fee and payment required to apply for compromises of judgments (offer in compromise) for taxes of five hundred thousand dollars or less exclusive of interest and penalty, including assessments for such amounts which are equivalent to judgments. The department has an immediate need to adopt rules for the Offer in Compromise Program (R.S. 47:1578) to implement the new fee and deposit requirements provided by Act 130 (HB 774) of the 2015 Regular Session of the Louisiana Legislature. A delay in collecting the required fee and payment would impose unfunded and unrecoverable costs on the department, resulting in an adverse financial impact on the state, the department, Louisiana businesses and taxpayers. This Emergency Rule shall become effective July 17, 2015 and shall remain in effect for a period of 120 days or until a final rule is promulgated under the nonemergency rulemaking procedures of the Administrative Procedure Act, whichever occurs first.

## 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.2.- . . .

C. The secretary may authorize the release of a lien subject to the following terms and conditions:

3. when the lien on the taxpayer's remaining real property is valued at not less than the amount of the remaining tax obligation, including all penalties, interest, and other costs incurred, plus the amount of all prior liens on the remaining property. ~~This provision is subject to approval by the Board of Tax Appeals;~~

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. The secretary with the approval of two assistant secretaries ~~and the Board of Tax Appeals~~ may compromise any judgments for taxes of \$500,000 or less exclusive of interest and penalty, including assessments for such amounts that are equivalent to judgments, when any of the following conditions exist:

1. there is serious doubt as to the collectibility of the outstanding judgment;
2. there is serious doubt as to the taxpayer's liability for the outstanding judgment;
3. the administration and collection costs involved would exceed the amount of the outstanding liability.

E. The secretary may, ~~with the approval of the Board of Tax Appeals,~~ upon making a record of his reasons, waive, reduce, or compromise individual income tax, penalties, interest, or other amounts.

F. Offers in Compromise

1. A taxpayer may have only one offer in compromise approved in a 10-year period. If an offer in compromise is approved, the secretary shall not consider or accept any other application for an offer in compromise from the taxpayer until the expiration of the 10 year period. The secretary will only accept one offer from any applicant in a 10-year period.

2. Each application for an offer in compromise shall be made on a form and in the manner prescribed by the secretary. A nonrefundable application fee of \$186 payable to Louisiana Department of Revenue shall be submitted with each application. The application fee shall not be applied to the tax liability.

23. A nonrefundable initial payment of ~~at least 10~~ 20 percent of the amount offered must ~~accompany an~~ be submitted with ~~Offer in Compromise~~ the offer in compromise application. This payment shall be applied to the tax liability.

4. The secretary shall keep a record of all such offers in compromise which shall be open to public inspection and, notwithstanding the provisions of R.S. 47:1508 and 1508.1, shall be published in the department's annual report.

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), LR 33:860 (May 2007), LR: (July 2015).

---

Tim Barfield, Secretary

Date