

E.3.b of this Section; however, a new pressure test is not required provided no damage or threats to the operational integrity of the prefabricated unit or pressure vessel were identified during the inspection and the MAOP of the pipeline is not increased. [49 CFR 192.153(e)(5)]

6. Except as provided in Subparagraphs E.4.b and Paragraph E.5 of this Section, on or after October 1, 2021, an existing prefabricated unit or pressure vessel relocated and operated at a different location must meet the requirements of this Subpart and the following: [49 CFR 192.153(e)(6)]

a. The prefabricated unit or pressure vessel must be designed and constructed in accordance with the requirements of this Subpart at the time the vessel is returned to operational service at the new location; and [49 CFR 192.153(e)(6)(i)]

b. The prefabricated unit or pressure vessel must be pressure tested by the operator in accordance with the testing and inspection requirements of this Subpart applicable to newly installed prefabricated units and pressure vessels. [49 CFR 192.153(e)(6)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1734 (June 2004), LR 44:1037 (June 2018), LR 47:1142 (August 2021) repromulgated LR 47:1331 (September 2021).

Chapter 15. Joining of Materials Other Than by Welding
[49 CFR Part 192 Subpart F]

§1515. Plastic Pipe: Qualifying Persons to Make Joints
[49 CFR 192.285]

A. - B.2. ...

a. tested under any one of the test methods listed under §1513.A, and for PE heat fusion joints (except for electrofusion joints) usually inspected in accordance with ASTM F2620 (incorporated by reference, see §507) or a written procedure that has been demonstrated to provide an equivalent or superior level of safety, applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007), LR 44:1039 (June 2018), LR 46:1586 (November 2020), LR 47:1144 (August 2021), repromulgated LR 47:1332 (September 2021).

Chapter 29. Maintenance
[49 CFR Part 192 Subpart M]

§2940. Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Regulated Gathering or Transmission Pipelines
[49 CFR 192.740]

A. This Section applies, except as provided in Subsection C of this Section, to any service line directly connected to a transmission pipeline or regulated gathering pipeline as determined in §508 that is not operated as part of a distribution system. [49 CFR 192.740(a)]

B. - B.4. ...

C. This Section does not apply to equipment installed on:
[49 CFR 192.740(c)]

1. a service line that only serves engines that power irrigation pumps; [49 CFR 192.740(c)(1)]

2. a service line included in a distribution integrity management plan meeting the requirements of Chapter 35 of this Subpart; or [49 CFR 192.740(c)(2)]

3. a service line directly connected to either a production or gathering pipeline other than a regulated gathering line as determined in §508 of this Subpart. [49 CFR 192.740(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 44:1042 (June 2018), LR 46:1597 (November 2020), LR 47:1146 (August 2021), repromulgated LR 47:1332 (September 2021).

Chapter 35. Gas Distribution Pipeline Integrity Management (IM)
[49 CFR Part 192 Subpart P]

§3503. What do the Regulations in this Chapter Cover?
[49 CFR 192.1003]

A. General. Unless exempted in Subsection B of this Section this Chapter prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this Subpart, including liquefied petroleum gas systems. A gas distribution operator must follow the requirements in this Chapter. [49 CFR 192.1003(a)]

B. Exceptions. This subpart does not apply to: [49 CFR 192.1003(b)]

1. Individual service lines directly connected to a production line or a gathering line other than a regulated onshore gathering line as determined in §508; [49 CFR 192.1003(b)(1)]

2. Individual service lines directly connected to either a transmission or regulated gathering pipeline and maintained in accordance with §2940.A and B; and [49 CFR 192.1003(b)(2)]

3. Master meter systems. [49 CFR 192.1003(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:123 (January 2002), amended LR 44:1044 (June 2018), LR 47:1146 (August 2021), repromulgated LR 47:1332 (September 2021).

Richard P. Ieyoub
Commissioner

2109#012

RULE

**Department of Revenue
Policy Services Division**

**Abatement of Presumed Accuracy-Related Penalties
(LAC 61.III.2121-2125)**

Under the authority of R.S. 47:1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, have adopted LAC 61.III.2121-2125, to provide guidance on the exceptions to the presumption of penalties provided in R.S. 47:1604.1 and to provide procedures for requesting abatement of a presumed penalty.

R.S. 47:1511 authorizes the secretary to prescribe rules and regulations to carry out the purposes of Title 47 and the purposes of any other statutes or provisions included under the secretary's authority. Pursuant to R.S. 47:1604.1(A)(2), the negligence penalty is presumed to apply if the taxpayer understates tax liability by ten percent or more. However, such penalty shall not apply if the understatement is due to reasonable cause where the taxpayer acted in good faith. Additionally, pursuant to R.S. 47:1604.1(E)(3), willful disregard is presumed when a taxpayer fails to timely remit tax that is withheld or collected from others, absent a showing of good cause. The purpose of this regulation is to provide further guidance on regarding the reasonable cause and good faith and the good cause exceptions and to provide procedures for requesting relief when the exceptions apply. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 21. Interest and Penalties

§2121. Reasonable Cause and Good Faith Exception to Presumption in R.S. 47:1604.1(A)(1)

A. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein.

Advice—any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

Professional Tax Advisor—a person or entity whose job duty, function or service focuses on or involves providing tax and tax related advice or products, which may include the preparation of or providing the use of or access to tax returns, forms or documents

Professional Tax Preparer—a person or entity whose job duty, function or service focuses on or involves the preparation of or providing the use of or access to tax returns, forms or documents, which may include providing tax and tax related advice or products.

B. The penalty for negligent failure to comply authorized in R.S. 47:1604.1(A)(1) is presumed to apply when a taxpayer understates his tax liability by ten percent or more, but did not demonstrate a willful disregard of the tax laws.

C. The presumed penalty shall not apply when the understatement was due to reasonable cause where the taxpayer acted in good faith.

D. A determination of reasonable cause and good faith will be made on a case-by-case basis, considering all relevant facts and circumstances.

1. Generally, the most important factor in determining reasonable cause and good faith is the extent of the taxpayer's effort to assess the proper tax liability.

2. Circumstances that may indicate the extent of the taxpayer's effort to assess the proper tax liability, include but are not limited to:

a. an honest misunderstanding of fact or law that is reasonable in light of all of the facts and circumstances, including the experience, knowledge, and education of the taxpayer;

b. an isolated computational or transcriptional error;

c. Reliance on an information return, advice, or other facts, if under all the circumstances such reliance was reasonable and the taxpayer acted in good faith.

3. Reliance on an information return, including the return of a pass-through entity, or on the advice of a professional tax advisor or tax preparer does not automatically demonstrate reasonable cause and good faith.

a. All facts and circumstances shall be considered when determining whether a taxpayer has reasonably relied in good faith on an information return or the advice of a professional tax advisor or tax preparer. Facts to be considered include, but are not limited to, the taxpayer's education, sophistication and business experience.

b. A determination of whether a taxpayer acted with reasonable cause and in good faith with respect to an underpayment that is related to an item reflected on the return of a pass-through entity will take into account the taxpayer's own actions, as well as the actions of the pass-through entity.

c. Generally, a taxpayer knows, or has reason to know, that the information on an information return is incorrect if such information is inconsistent with other information reported or otherwise furnished to the taxpayer, or with the taxpayer's knowledge of the transaction. This knowledge includes, for example, the taxpayer's knowledge of the terms of his employment relationship or of the rate of return on a payor's obligation.

d. Reliance shall not be considered reasonable or in good faith if the taxpayer knew, or reasonably should have known, that the advice was rendered by a non-tax professional or non-tax preparer, or a professional tax advisor or tax preparer who lacked knowledge in the relevant aspects of federal or Louisiana tax law.

e. The advice relied on by the taxpayer shall be based upon all relevant facts and circumstances and the law as it relates to those facts and circumstances. Reliance shall not be considered reasonable or in good faith if the taxpayer fails to disclose a fact that he knows, or reasonably should know, to be relevant to the proper tax treatment of an item.

f. The advice relied on by the taxpayer shall not be based on unreasonable factual or legal assumptions and shall not unreasonably rely on the un-true or inaccurate assumptions representations, statements, findings, or agreements of the taxpayer or any other person. For example, the advice shall not be based upon a representation or assumption which the taxpayer knows, or has reason to know, is unlikely to be true, such as an inaccurate representation or assumption as to the taxpayer's purposes for entering into a transaction or for structuring a transaction in a particular manner.

g. A taxpayer may not rely on an opinion or advice that a regulation is invalid to establish that the taxpayer acted with reasonable cause and good faith unless the taxpayer discloses the position that the regulation in question is invalid in a statement attached to and filed with the taxpayer's return containing the understatement.

h. A taxpayer may not rely on an opinion or advice that is contrary to existing, applicable case law.

i. For purposes of this Paragraph, advice is any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the

taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1333 (September 2021).

§2123. Good Cause Exception to Presumption of Willful Disregard

A. For purposes of the penalty for willful disregard provided in R.S. 47:1604.1(D)(1), willful disregard is presumed when a taxpayer fails to timely pay tax that has been collected or withheld from others unless good cause is shown.

B. Examples of good cause for failing to timely pay taxes collected or withheld from others, include:

1. The delinquency was directly attributable to a significant disaster or emergency declared by the President or the governor.

2. The delinquency was directly attributable to an extraordinary circumstance beyond the taxpayer's control such as, but not limited to, the following:

a. An actual or threatened event, other than a presidential or gubernatorial declared disaster or emergency, such as fire or casualty; and

b. An action against the taxpayer's tax preparer or legal representative for acts constituting fraud, theft, embezzlement, fraudulent conversion, or misappropriation of the taxpayer's property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1335 (September 2021).

§2125. Request for Abatement of Presumed Penalty

A. A request for abatement of penalty under this section shall be limited to the following instances:

1. A penalty is assessed pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) and the taxpayer is requesting abatement based on the exception set forth in R.S. 47:1604.1(A)(2)(b); or

2. A penalty is assessed pursuant to a presumption of willful disregard in accordance with R.S. 47:1604.1(E)(3) and the taxpayer is requesting abatement on the basis that good cause exists for the failure to timely pay collected or withheld taxes.

B. This section does not apply to any penalty assessed pursuant to R.S. 47:1604.1(A)(1).

C. Taxpayers requesting an abatement of penalty based on the exception set forth in R.S. 47:1604.1(A)(2)(b) or R.S. 47:1604.1(E)(3) shall comply with the following procedures:

1. a request for abatement shall be in writing, on a form prescribed by the secretary and shall:

a. contain a clear explanation detailing the basis for reasonable cause and good faith, or good cause;

b. be signed and dated by the taxpayer or an authorized representative with personal knowledge of the facts;

c. be accompanied by documentation supporting the basis for the request; and

d. be submitted to the Department of Revenue prior to the date that the assessment of the penalty pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) or R.S.

47:1604.1(E)(3) becomes final in accordance with R.S. 47:1565(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:1334 (September 2021).

Kimberly J. Lewis
Secretary

2109#061

RULE

**Department of Revenue
Policy Services Division**

**Claim for Refund Requirements
(LAC 61.I.4909)**

Under the authority of R.S. 47:1511, 47:1621(I), and 47:1623(A), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, have amended LAC 61.I.4909, to require taxpayers to provide certain documentation and information in support of a claim for refund or credit.

R.S. 47:1621(I) authorizes the secretary to promulgate rules to administer and enforce refunds authorized by 47:1621. R.S. 47:1623(A) authorizes the secretary to prescribe the manner of filing claims for refund or credit. The purpose of this regulation is to provide guidance regarding the information and documentation required to be provided in support of a claim for refund or credit and when that information and documentation must be submitted. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Administrative and Miscellaneous Provisions

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:

a. submitted on claims for refund/credit forms provided by the secretary; or

b. written in a format substantially the same as that provided by the secretary; or

c. submitted by timely filing an amended return.

2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:

a. contain a clear statement detailing the reason for the claim;

b. indicate the appropriate tax and tax amount by tax period; and

c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An *appropriate office, division, or representative of the Department of Revenue* means:

i. a regional service center or regional audit office;