

3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., July 27, 2021.

**Public Hearing**

A public hearing will be held on July 28, 2021 at 10 AM in the LaBelle located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Abatement of Presumed  
Accuracy-Related Penalties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule is to provide guidance regarding the exceptions to the penalties pursuant to LA R.S. 47:1604.1 as amended by Act 348 of 2020 Regular Session. The statute provides that an accuracy-related penalty is presumed to apply if a taxpayer understates their tax liability by ten percent or more except when the taxpayer’s understatement is due to reasonable cause and the taxpayer acted in good faith. The statute further provides that a willful disregard of the law is presumed when a taxpayer fails to timely remit tax that is withheld or collected from others, unless the failure was due to good cause. The proposed rule also provides procedures for requesting relief when the exceptions apply.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have an indeterminable impact on annual state revenue collections. The impact is dependent upon taxpayer behavior. The proposed rule provides guidance regarding exceptions to the application of the presumed penalties and procedures for requesting relief when these exceptions apply. Clarifying the exceptions and providing procedures for requesting relief will afford taxpayers a better understanding of the circumstances under which relief from the penalties may be requested and encourage better compliance.

While the proposed rule offers guidance regarding the penalties provided in LA R.S. 47:1604.1 and clarification of the circumstances that may allow a taxpayer to make an application for relief from the penalties, it does not directly affect revenues. In FY 19, an amount of \$11.9M was collected from the basic Negligence Penalty assessed per the provisions of R.S. 47:1604.1 prior to the amendments that occurred as a result of Act 348 of 2020. With the passage of Act 348, the section changed from Negligence Penalty to Accuracy-related penalty. In addition, Act 348 designated that the funds associated with this penalty would no longer be self-generated funds but would go to the State General Fund beginning July 1, 2022.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule will have a slight economic impact on the affected taxpayer by clarifying circumstances and procedures for requesting relief from the penalty assessments.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule does not affect competition or employment.

Kimberly J. Lewis  
Secretary  
2106#058

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**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, gives notice that rulemaking procedures have been initiated to amend 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.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**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;

- ii. the appropriate division located at the department's headquarters in Baton Rouge;
- iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
- iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
- v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;
- vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

3. Information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, shall be attached to and submitted with the taxpayer's claim for refund or credit.

4. Information or documentation required by statute or regulation to be maintained by the taxpayer in regard to a tax levied or credit granted pursuant to Title 47 of the Revised Statutes or any other tax, fee, charge, exclusion, exemption, credit or rebate administered by the secretary shall be provided within thirty days of written request by the secretary.

B. Claims for refund shall be approved or denied by the secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623 and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 26:95 (January 2000); amended by the Department of Revenue, Policy Service Division, LR 47:

**Family Impact Statement**

The proposed Rule might have a slight impact on family as defined by R.S. 49:972(D) or on family formation, stability and autonomy by clarifying requirements and procedures for requesting a refund. The proposed rule has no other known or foreseeable impact on:

- 1. the stability of the family;
- 2. the authority and rights of parents regarding the education and supervision of their children;
- 3. the functioning of the family;
- 4. family earnings and family budget;
- 4. the behavior and personal responsibility of children;
- 5. the ability of the family or a local government to perform this function.

**Poverty Impact Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The proposed Rule may have a slight economic impact on small businesses by clarifying circumstances and procedures for requesting relief from certain penalty assessments. The proposed rule has no other known measurable impact on small businesses as described in R.S. 49:965.6.

**Provider Impact Statement**

The proposed Rule has no known or foreseeable effect on:

- 1. the staffing levels requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
- 3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., July 27, 2021.

**Public Hearing**

A public hearing will be held on July 28, 2021 at 9 AM in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Claim for Refund Requirements**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in implementation costs or savings to state or local governmental units. The proposed rule amends the refund claim process to clarify that all information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, must be attached to and submitted with the claim for refund. The proposed rule further provides that information or documentation that the taxpayer is required to maintain by statute or regulation must be submitted within thirty days of a written request by the secretary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have an indeterminable impact on state or local governmental revenues. While the proposed rule clarifies what information and documentation must be submitted with refund claims and when, it does not directly affect revenues. However, by providing guidance regarding what information and documentation must be provided in support of a refund claim and when it must be submitted, less interest is anticipated to be paid on refunds. The revenue effect is indeterminable as the amount of interest paid on a refund is dependent upon taxpayer behavior, including the completeness of an original claim for refund and the timing of responses to requests for information.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have a slight economic impact on the affected taxpayer by clarifying requirements and procedures for requesting a refund. The proposed rule provides additional requirements and guidance regarding information and documentation to be provided in support of a claim for a refund. Clarifying the information required for a claim for a refund will afford taxpayers a better understanding of the process and may reduce delays caused by incomplete refund claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

The proposed rule will have no impact upon competition and employment in the state.

Kimberly J. Lewis  
Secretary  
2106#059

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of State  
Elections Division**

**Opportunity to Cure Deficiencies in  
Absentee By Mail Ballots (LAC 31:I:Chapter 3)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given through authority granted in R.S. 18:18(A)(3) and R.S. 36:742 the Department of State proposes to add to Title 31, Part I, by adding Chapter 3, §§301, 303 and 305, to provide a permanent procedure for curing absentee by mail ballot envelope flaps with deficiencies. Emergency rules on this topic have been in effect since June 15, 2020.

**Title 31**

**ELECTIONS**

**Part I. Election Process**

**Chapter 3. Opportunity to Cure Deficiencies in  
Absentee by Mail Ballots**

**§301. Absentee by Mail Ballot Deficiencies that May  
Be Cured**

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. missing voter signature;
2. missing witness signature; and

incomplete affidavit information, including but not limited to missing election date and voter information.

This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

**§303. Absentee Ballot Deficiency Notification**

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as "deficient with opportunity to cure."

C. The registrar shall immediately mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency. If there is a telephone number or email address available in the voter's registration record, the registrar shall also attempt to contact the voter by telephone or email.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Effective February 1, 2022, there will be a space on the Secretary of State website area to Check Absentee Ballots indicating that the voter has been notified of an opportunity to cure a deficiency.

F. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

**§305. Curing Absentee by Mail Ballot Deficiencies**

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

**Family Impact Statement**

1. What effect will this rule have on the stability of the family? The proposed Rule will not affect the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? The proposed Rule will not affect the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? The Rule will not affect the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will not affect the family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will not affect the behavior or personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, the proposed Rule will have no impact.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

The impact of the proposed Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.