

NOTICE OF INTENT

Department of Revenue

Severance Tax Returns— Electronic Filing and Payment Requirements (LAC 61.III.1525)

Under the authority of R.S. 47:1511, 47:1519, 47:1520 and in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Revenue, through this Notice of Intent, proposes to amend its regulations to require electronic filing by severers and purchasers of timber and minerals (other than oil and gas) who are filing severance tax returns and to require electronic payments of all severance taxes.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2)-(3) grants the secretary the discretion to require electronic filing of tax returns or reports by administrative rule promulgated with legislative oversight in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.* The purpose of this amendment is to require electronic filing of mineral and timber severance tax returns and to require electronic payment of all severance taxes.

This rule is written in plain language in an effort to increase transparency.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

~~§1525. Severance Tax —Oil or Gas~~

A. Oil and Gas

~~A.1.~~ R.S. 47:1520(A)(1)(b) authorizes the secretary of revenue to require electronic filing of tax returns or reports by persons severing oil or gas from the soil or water from the state that are required to file reports under R.S. 47:635(A)(2) or 640(A)(2).

~~B.~~ ~~R.S. 47:635(A)(2) requires every person severing oil or gas from the soil or water of the state to submit, on or before the twenty fifth day of the second month following the month to which the tax is applicable, a statement on forms approved by the department, of the business conducted by the severer during the month, showing the gross quantity of oil or gas severed or produced, the names of the owners at the time of severance, the portion owned by each, the location and place(s) where the oil or gas was produced or severed from the soil or water and any other reasonable and necessary information pertaining thereto that the secretary may require.~~

~~C.~~ ~~R.S. 47:640(A)(2) requires purchasers and other persons dealing in oil or gas severed from the soil or water in Louisiana to submit, on or before the twenty fifth day of the second month following the month to which the tax is applicable, to the Department of Revenue a monthly statement on forms approved by the department, showing the names and addresses of all persons from whom they have purchased oil or gas during that month, together with the total quantity of, and gross price paid for the oil or gas, and, at the time the report is made, pay the amount of tax deducted or withheld, or that may be due.~~

~~D.2.~~ Effective with the July 2010 filing period, severers of oil or gas that are Persons required to file reports under R.S. 47:635(A)(2) and 640(A)(2) shall be required to file the tax returns or

report electronically with the Department of Revenue using the electronic format prescribed by the department.

~~E. — R.S. 47:633(7)(b) and 633(7)(c)(i)(aa) provide reduced severance tax rates on oil produced from wells that have been certified by the Department of Revenue as “incapable wells” and “stripper wells” on or before the twenty fifth day of the second month following the month of production.~~

~~F. — R.S. 47:633(9)(b) and 633(9)(c) provide reduced severance tax rates on gas produced from wells that have been determined by the secretary of revenue to be “incapable oil wells” and “incapable gas wells.”~~

~~G.3. Beginning with the July 2011 production month application that is due September 25, 2011, Form G-2, Application for Certification of Incapable Wells, and Form O-2, Application for Certification of Stripper/Incapable Wells, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. If the due date falls on a weekend or holiday, the application and electronic filing thereof is due on the next business day.~~

4. Effective for all taxable periods beginning on or after the January 1, 2025, all payments due on the severance of oil or gas shall be electronically transferred to the Department of Revenue on or before the twenty-fifth day of the second month following the production month.

B. Minerals (other than oil and gas) and Timber

1. Effective for all taxable periods beginning on or after the January 1, 2025, all returns and reports required by R.S. 47:635(A)(1) and 640(A)(1) shall be filed electronically with the Department of Revenue using the electronic format prescribed by the department.

2. Effective for all taxable periods beginning on or after the January 1, 2025, all payments of tax on the severance of any natural resources, other than oil or gas, shall be electronically transferred to the Department of Revenue on or before the twenty-fifth day of the second month following the production month.

3. Specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Penalties

~~H1. Failure to comply with these electronic filing requirements will result in the assessment of a penalty of \$100 or five percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).~~

~~1. — If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to other cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty.~~

~~2. — If the penalty exceeds \$25,000, it may be waived by the secretary only after approval by the Board of Tax Appeals.~~

~~3.2. If the taxpayer can prove electronic filing of a tax return, report, or application for certification would create an undue hardship, the secretary may exempt the taxpayer from filing the return, report, or application electronically.~~

3. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 through 1602.

4. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1519, 47:1520, 47:635(A)(2), 47:640(A)(1), 47:633(9)(c).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1271 (June 2010), amended LR 37:1614 (June 2011), amended by the Department of Revenue, Tax Policy and Planning Division, LR 50:

Family Impact Statement

The proposed adoption of this rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect 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.
5. The behavior and personal responsibility of children.
6. 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 has no known measurable impact on small businesses as described in R.S. 49:974.4.

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 John Pearce, Attorney, Tax Policy and Planning Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., October 28, 2024.

Public Hearing

A public hearing will be held on October 29, 2024 at 10:00AM in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana. Should individuals with a disability need an accommodation in order to participate, contact John Pearce at the address given above in the Public Comments section, by email at LDRadarequests@la.gov or at by phone at (225) 219-2784.

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§1525. Severance Tax

A. Oil and Gas

1. R.S. 47:1520(A)(1)(b) authorizes the secretary of revenue to require electronic filing of tax returns or reports by persons severing oil or gas from the soil or water from the state that are required to file reports under R.S. 47:635(A)(2) or 640(A)(2).

2. Persons required to file reports under R.S. 47:635(A)(2) and 640(A)(2) shall be required to file the tax returns or report electronically with the Department of Revenue using the electronic format prescribed by the department.

3. Form G-2, Application for Certification of Incapable Wells, and Form O-2, Application for Certification of Stripper/Incapable Wells, must be filed electronically with the Department of Revenue on or before the twenty-fifth day of the second month following the production month in which the reduced tax rate(s) is applicable. If the due date falls on a weekend or holiday, the application and electronic filing thereof is due on the next business day.

4. Effective for all taxable periods beginning on or after the January 1, 2025, all payments due on the severance of oil or gas shall be electronically transferred to the Department of Revenue on or before the twenty-fifth day of the second month following the production month.

B. Minerals (other than oil and gas) and Timber

1. Effective for all taxable periods beginning on or after the January 1, 2025, all returns and reports required by R.S. 47:635(A)(1) and 640(A)(1) shall be filed electronically with the Department of Revenue using the electronic format prescribed by the department.

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3. Specific requirements relating to the procedures for making payments by electronic funds transfer are set forth in R.S. 47:1519 and LAC 61.I.4910.

D. Penalties

1. Failure to comply with these electronic filing requirements will result in the assessment of a penalty of \$100 or five percent of the tax, whichever is greater, as provided by R.S. 47:1520(B).

2. If the taxpayer can prove electronic filing of a tax return, report, or application for certification would create an undue hardship, the secretary may exempt the taxpayer from filing the return, report, or application electronically.

3. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 through 1602.

4. In any case where the taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the taxpayer from the requirement to transmit funds electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511, 47:1519, 47:1520, 47:635(A)(2), 47:640(A)(1), 47:633(9)(c).

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FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	Dana Gibson	Dept.:	Louisiana Dept of Revenue
Phone:	(225) 219-2174	Office:	External Reporting Division
Return Address:	617 North Third Street	Rule Title:	LAC 61:III.1525
	Baton Rouge, LA 70802	Date Rule Takes Effect:	January 1, 2025

SUMMARY
(Use complete sentences)

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

Implementation of this proposed rule will result in approximately \$105,500 in additional costs associated with the development and testing of the reporting schedule. Computer system acceptance of the required electronic return is already in place. Accounting for non-compliance penalties will not result in material additional costs.

The proposed rules require severance taxpayers to file their mineral tax and timber tax returns and reports electronically. In addition, severance taxpayers are required to submit payments electronically for the severance oil, severance gas, minerals, and timber taxes. The proposed rules also provide for the assessment of penalties for non-compliance and the waiver of penalties as provided for in R.S. 47:1520(B).

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

The proposed rules may increase self-generated revenue (SGR) and state general fund (SGF) collections from penalties by an indeterminable amount beginning in FY 25 (see note below). A modest and temporary increase in revenue from penalties may occur as the proposed rules are implemented, although the Louisiana Department of Revenue ("LDR") cannot predict non-compliant behavior. For returns that are currently required to be filed electronically, LDR has collected the following amounts in non-E-filing penalties: \$48,900 in FY 20, \$23,500 in FY 21, \$13,900 in FY 22, \$113,100 in FY 23, and \$230,300 in FY 24. LDR has collected the following amounts in non-E-payment penalties: \$395,800 in FY 20, \$438,500 in FY 21, \$390,900 in FY 22, \$356,467 in FY 23, and \$418,592 in FY 24. However, any actual collections in penalties are dependent upon non-compliant behavior associated with the filing types included in the proposed rules. Therefore, any increase in revenue is indeterminable.

Note: Pursuant to Act 348 of the 2020 Regular Session, penalties and fees except compensatory fees levied by LDR will accrue to the state general fund, rather than self-generated revenue for the department.

Local governmental units are not affected.

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

The proposed rules require severance taxpayers to file their minerals tax and timber tax returns and

reports electronically and remit the severance oil, gas, minerals, and timber taxes and payments by electronic funds transfer for reporting periods beginning on or after January 1, 2025. Electronic filing of the minerals tax and timber tax returns will be available directly through LDR's LaTAP portal which will allow taxpayers to file for free. LDR does not have the information necessary to determine the additional costs to comply with the proposed rules, but these costs are expected to be minimal as online access and activity have largely become a business standard. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. LDR cannot estimate the additional penalty amount as it is dependent upon taxpayer violations and liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.



Signature of Head or Designee

Richard Nelson, Secretary

Typed Name & Title of Agency Head or Designee

9.9.24

Date of Signature



Legislative Fiscal Officer or Designee

9/10/24

Date of Signature