

NOTICE OF INTENT

Department of Revenue

Aviation Fuel Dealer Sales Tax Returns, Form R-1029E—Electronic Filing and Payment Requirement
(LAC 61.III.1549 and 1550)

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 adopt rules to require electronic filing and payment requirements for aviation fuel dealers who are filing the Form 1029, *Louisiana Sales Tax Return*.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(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.* R.S. 47:1520(A)(1)(d) also allows the secretary to require electronic filing when the report is required for dedicated fund distribution. The purpose of this regulation is to require aviation fuel dealers to electronically file all state sales tax returns and electronically submit all related sales and use tax payments. Article VII §27(B)(1) of the Louisiana Constitution requires the revenue dedicated to airports be appropriated based on annual estimated revenue from sales taxes collected and received on aviation fuel. Aviation fuel dealers must file and pay electronically so that aviation fuel revenues can be tracked to ensure the accuracy of future revenue estimates.

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

§1549. Aviation Fuel Dealers – Electronic Filing Requirements

A. Definitions. The terms “aviation fuel”, “aviation fuel dealer”, “aviation gasoline”, and “aviation jet fuel” shall have the same meanings given to them in R.S. 47:818.2.

B. For filing periods beginning on or after October 1, 2024, aviation fuel dealers shall be required to file the Form R-1029E, Louisiana Sales Tax Return, electronically.

C. Aviation fuel dealers may not file paper versions of the Form R-1029.

D. 1. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B), beginning with the October 2024 filing period.

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR:

§1550. Aviation Fuel Dealers - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require aviation fuel dealers to pay sales and use tax by electronic funds transfer.

B. Effective for all filing periods beginning on or after October 1, 2024, all payments by any aviation fuel dealer shall be electronically transferred to the department on or before the twentieth day following the close of the reporting period using the electronic format provided.

C. For purposes of this Rule, 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. 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 and 1602, beginning on November 20, 2024.

E. If an aviation fuel dealer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910 but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be

considered, aviation fuel dealers must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

F. In any case where the aviation fuel dealer can prove payment by electronic funds transfer would create an undue hardship, the secretary may exempt the taxpayer from the requirement to transmit funds electronically.

G. The tax returns must be filed electronically; separately from the electronic transmission of the remittance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR:

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 Mia Strong at P.O. Box 44098, Baton Rouge, Louisiana, 70804. Written comments will be accepted until 4:30 p.m., Wednesday, July 24, 2024.

Public Hearing

A public hearing will be held on Thursday, July 25, 2024 at 2:00 p.m. in the River Room, located on the seventh 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 Mia Strong at the address given above in the Public Comments section, by email at LDRadarequests@la.gov or at by phone at (225) 219-2784.

Richard Nelson
Secretary
Department of Revenue

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2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B).

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§1550. Aviation Fuel Dealers - Electronic Payment Required

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B. Effective for all filing periods beginning on or after October 1, 2024, all payments by any aviation fuel dealer shall be electronically transferred to the department on or before the twentieth day following the close of the reporting period using the electronic format provided.

C. For purposes of this Rule, 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. 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 and 1602, beginning on November 20, 2024.

E. If an aviation fuel dealer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519, this Rule, and LAC 61.I.4910 but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be

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Richard Nelson
Secretary
Department of Revenue

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

Person Preparing Statement:	<u>Erica Spears</u>	Dept.:	<u>Louisiana Dept. of Revenue</u>
Phone:	<u>(225) 219-3580</u>	Office:	<u>External Reporting Division</u>
Return Address:	<u>617 North Third Street</u> <u>Baton Rouge, LA 70802</u>	Rule Title:	<u>LAC 61.III.1549 and 1550</u>
		Date Rule Takes Effect:	<u>October 1, 2024</u>

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)

The proposed rules require aviation fuel dealers to submit returns and payments electronically on Form R-1029E, *Electronic Sale Tax Return*. 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).

Implementation of this proposed rule will result in \$25,200 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.

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 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 \$188,000 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, \$0 in FY 23, and \$0 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 to 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 aviation fuel dealers to file their returns and reports electronically on Form R-1029E, *Electronic Sales Tax Return*, and remit the tax and payment by electronic funds transfer for reporting periods beginning on or after October 1, 2024. Electronic filing of the sales tax returns will be available directly through LDR's LaTAP portal that 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 has 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.

 (Designee)
Signature of Head or Designee

LUKE MORRIS, Asst. Secretary
Typed Name & Title of Agency Head or Designee

6/6/2024
Date of Signature


Legislative Fiscal Officer or Designee

6/16/24
Date of Signature