

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income: Withholding Tax (LAC 61:I.1515)

Under the authority of R.S. 47:114 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1515 to require certain employers to file the annual reconciliation of state tax withheld, Form L-3, and the employee's withholding tax receipts (W-2) electronically either via the Department's web site using the LaWage electronic filing application or other electronic means. Filings by magnetic media such as tapes, cartridges, and diskettes will no longer be allowed, which is consistent with the IRS and Social Security Administration's policies.

In 2001, R.S. 47:114(F) was amended to require employers who submit 250 or more withholding tax receipts (W-2) to file the annual reconciliation form, Form L-3, and Forms W-2, on magnetic media or other electronic means. Previously, filing on magnetic media was the only electronic means specified. The addition of the "other electronic means" language was made to reflect technology changes and new filing methods.

In 2006, Act 452 amended R.S. 47:114(F) to reduce the number of W-2 filings required for the electronic filing mandate. The reduction will be phased in 2008 to 2016 when employers who file 50 W-2s will be required to file their annual reconciliation of state income tax withheld and their receipts, Forms W-2, electronically.

LAC 61:I.1515 was adopted in 2002 to provide for magnetic media labeling requirements. These proposed amendments will provide for the electronic filing mandate phase-in and provide the acceptable electronic filing methods.

Title 61

REVENUE AND TAXATION

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

Chapter 15. Income: Withholding Tax

§1515. Withholding Tax Annual Reconciliation And Employee Withholding Statements—Electronic Filing Requirements

A. Employers are required to file an annual reconciliation of state income tax withheld, Form L-3, with copies of the employee withholding statements, Form W-2s.

1. The reconciliation and employee withholding statements must be filed on or before the first business day following February 27 for the preceding calendar year.

2. If a business terminates during the year, the reconciliation and employee withholding statements must be filed within 30 days after the last month in which the wages were paid.

3. If the due date falls on a weekend or holiday, the report is due the next business day and becomes delinquent the next day.

B. The following employers are required to file the annual reconciliation, Form L-3, and the employee withholding statements, Form W-2s, electronically:

1. Employers that file 250 or more employee withholding statements due on or after January 1, 2008.

2. Employers that file 200 or more employee withholding statements due on or after January 1, 2010.

3. Employers that file 150 or more employee withholding statements due on or after January 1, 2012.

4. Employers that file 100 or more employee withholding statements due on or after January 1, 2014.

5. Employers that file 50 or more employee withholding statements due on or after January 1, 2016.

C. Electronic Filing Options—The annual reconciliation, Form L-3, and the employee withholding statements, Form W-2, may be filed electronically as follows:

1. Electronic filing using the LaWage electronic filing application via the LDR website, www.revenue.louisiana.gov.

2. Submission on CD or DVD.

a. Records must be submitted using a record layout that is consistent with the Internal Revenue Code requirements.

b. CDs and DVDs must be labeled with the following information:

i. File name;

ii. Employer's Louisiana account number;

iii. Employer's name;

iv. Employer's mailing address;

v. Tax year; and

vi. The CD or DVD number and total number of CDs or DVDs for multi-volume submissions (example: 1 of 3, etc.).

3. Submissions by magnetic media including tapes and tape cartridges are no longer allowed.

D. Separate submissions must be made for each employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:114.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 28:1489 (June 2002), amended LR 35:

Family Impact Statement

This proposed Rule, LAC 61:I.1515, which requires certain employers to file withholding tax receipts (W-2s) electronically, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this amended Rule will have 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 budgets;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform this function.

Interested persons may submit written data, views, arguments or comments regarding this proposed rule to Leonore Heavey, Senior Policy Consultant, Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to 225-219-2759. All comments must be received no later than 4:30 p.m., Wednesday August 26, 2009. A public hearing will be held on Thursday August 27, 2009 at 2:30 p.m. in the River room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Income: Withholding Tax**

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

This amended rule requires certain employers submitting the annual reconciliation (L-3s) and withholding tax receipts (W-2s) to file the forms electronically, either via the Department's LaWage electronic filing application, via the Louisiana Department of Revenue (LDR) web site (www.revenue.louisiana.gov) or via CD or DVD consistent with the Internal Revenue Code requirements. R.S. 47:114(F) authorizes the secretary to require employers to file withholding tax receipts electronically as follows:

1. Employers that file 250 or more employee withholding statements, due on or after January 1, 2008.
2. Employers that file 200 or more employee withholding statements, due on or after January 1, 2010.
3. Employers that file 150 or more employee withholding statements, due on or after January 1, 2012.
4. Employers that file 100 or more employee withholding statements, due on or after January 1, 2014.
5. Employers that file 50 or more employee withholding statements, due on or after January 1, 2016.

This will allow the reallocation of some resources and staff used in the collection, processing and maintenance of magnetic media to perform other tax processing activities. Since these employees will be reassigned in other areas of the agency, there are no anticipated monetary savings to the state. Local government units will not be impacted by this amended rule.

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

This amended rule, which requires certain employers submitting annual reconciliations (L-3s) and withholding tax receipts (W-2s) to file the forms electronically, will have no impact on the revenue collections of state or local governmental units.

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

Employers required to file annual reconciliations (L-3s) and withholding tax receipts (W-2s) electronically, can do so without charge through the LDR web site using the LaWage electronic filing application. Those electing to file using CDs and DVDs may incur minimal costs related to the creation of the product. All electronic filers will be responsible for adapting the data into an acceptable format in preparation for submission and the means necessary to accomplish that task may have associated costs. The cost of printing, packaging and mailing may be alleviated for those not currently filing electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
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Robert E. Hosse
Staff Director
Legislative Fiscal Office