

**Revenue Information Bulletin No. 21-029**  
**October 26, 2021**  
**Corporation Income Tax**

**Louisiana Transfer Pricing Managed Audit Program**

Beginning November 1, 2021, the Louisiana Department of Revenue (“LDR”) invites eligible corporation income taxpayers to participate in a voluntary initiative aimed at proactively and efficiently resolving intercompany transfer pricing issues via the Louisiana Transfer Pricing Managed Audit Program (the “Program”). This initiative will utilize the managed audit program as established by LA R.S. 47:1541(D) and is subject to the Secretary’s authority to authorize adjustments pursuant to LA R.S. 47:287.480.

In addition to announcing this new initiative, the purpose of this bulletin is to explain the eligibility requirements for interested taxpayers and procedures for approved taxpayers.

Background

Louisiana corporate income taxpayers may engage in related party transactions between members of an affiliated group (“Intercompany Transactions”). If the Intercompany Transactions are not provided at an arm’s length price, or they lack economic substance, there is the possibility of income being incorrectly reported to Louisiana. Many corporate taxpayers have engaged economic and technical experts to prepare transfer pricing studies to demonstrate that their intercompany pricing policies, and all resulting Intercompany Transactions, are at arm’s length and have economic substance.

During the course of LDR field audits, Intercompany Transactions and transfer pricing related issues are reviewed, including any company provided transfer pricing study, for a determination of whether the taxpayer reported the amounts properly attributable to its business carried on in Louisiana. The complexity of these audits and the multiple periods at issue often require significant time and resources on the part of the taxpayer and LDR to reach resolution.

Purpose and Benefits

The purpose of this Program is to:

- Create an efficient and expedited resolution for corporate tax audits when transfer pricing issues exist; and
- Provide certainty and uniformity to taxpayers on the resolution of transfer pricing issues for open audit periods and a defined period of future tax years.

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Benefits to taxpayers in utilizing this managed audit process include:

- Increased understanding of how Louisiana tax laws apply to their business activity and Intercompany Transactions
- Less disruption to business operations because the taxpayer will manage their own resources in conducting the audit
- Waiver of penalties that would otherwise be due based on the results of the managed audit
- Abatement of interest during the course of the managed audit

### Eligibility

A taxpayer must meet the following requirements for eligibility in the Program:

- Established history of voluntarily tax compliance with LDR, if previously registered with LDR
- Certification that the taxpayer has available time and resources to dedicate as a participant in the Program
- Available and suitable records concerning Intercompany Transactions
- Reasonable expectation of ability to pay an expected liability

If eligibility requirements are met, the Secretary will authorize taxpayers to conduct a managed audit with respect to Intercompany Transactions under the supervision of an assigned Field Audit Income Tax (“FAIT”) Representative.

If a taxpayer desires to appoint a representative, such as a tax advisory firm, to assist with the managed audit, the taxpayer must provide written notice designating the representative, such as with the LDR Form R-7006, *Power of Attorney and Declaration of Representative*.

### Scope

Following an agreement, periods available for resolution include the current tax period (2021 tax year for calendar and fiscal year filers), any open tax periods that have not yet prescribed, and up to four future tax periods. Open tax periods include the 2020 tax year and those periods subject to assessment by LDR under LA R.S. 47:1565, including periods in which the taxpayer and LDR have entered into an Agreement to Suspend Prescription pursuant to LA R.S. 47:1580(B)(2). The applicability to open tax periods and future tax periods is contingent on the taxpayer’s facts, circumstances, ownership, and/or Intercompany Transactions. A taxpayer may participate in the Program if the taxpayer is newly incorporated or an existing registered taxpayer.

Taxpayers currently under audit may be eligible to participate in this Program; however, only transfer pricing matters are subject to resolution via the managed audit process under

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the Program. Other issues outside of transfer pricing may be resolved via the standard audit procedures.

Further, a taxpayer cannot participate anonymously through a representative.

### Program Procedures

1. Eligible taxpayers or their representatives interested in participating in the Program may send notice to LDR by email to [TPManagedAudit@la.gov](mailto:TPManagedAudit@la.gov).

The email should include the following or substantially similar statement:

*"I request consideration on behalf of [Taxpayer Legal Name and LDR Account Number, if previously registered with LDR] to participate in the Louisiana Transfer Pricing Managed Audit Program. I certify that [Taxpayer Legal Name] meets the eligibility requirements contained in LDR RIB 21-029 and, if approved, will engage in a managed audit under the supervision of LDR with respect to Intercompany Transactions."*

Include contact information of the designated representative who will be primarily responsible for conducting the managed audit.

2. LDR will contact the taxpayer or representative within 15 days with approval or denial of the request.

LDR will carefully consider the following in its review process:

- Complexity of the taxpayer's business
  - Tax reporting and payment history
  - Accounting system and internal controls
  - Taxpayer's time and resources available to perform the audit
  - Cost and benefit analysis to ensure efficient use of LDR resources
3. If approved, the assigned FAIT Representative will email a DocuSign link to digitally sign the Managed Audit ("MA") Agreement required by LA R.S. 47:1541(D). The MA Agreement will contain the Secretary's authorization for the taxpayer to conduct a managed audit for specific periods with respect to only Intercompany Transactions.
  4. Upon receipt of the fully executed MA Agreement, the taxpayer is accepted into the Program and must provide the following to the FAIT Representative within 30 days:
    - A. Complete federal tax returns for the last three years;
    - B. List of all Intercompany Transactions by type, amount, and entity, including journal entries;
    - C. Transfer pricing studies, including comparable methods used and any agreements from the IRS;

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- D. Organizational charts reflecting each subsidiary and its relationship to the parent company;
  - E. Financial statements on a GAAP basis for each party to an Intercompany Transaction. If these are not available, LDR and the taxpayer will jointly determine operating income using the federal return (Form 1120) and its accompanying Schedule M-3 schedules; and
  - F. Other invoices, checks, accounting records, or other documents or information, if requested by LDR, to determine the correct amount of tax.
5. The FAIT Representative will review the documentation provided and will issue a written determination as to whether LDR agrees or disagrees with the taxpayer's transfer pricing studies and methods used. LDR may utilize external consultants at its option. The taxpayer will have 30 days to accept the determination or offer modifications or adjustments.
  6. Following the 30 day period, LDR will review any comments from the taxpayer regarding modifications or adjustments.

If additional tax is due, LDR will proceed with collection of the tax due pursuant to LA R.S. 47:1561 *et seq.* and subject to the "Interest and Penalties" section below. Taxpayers are encouraged to voluntarily remit the tax and proceed with closing the managed audit as paid in full prior to the expiration of the 30 day period if there are no comments.

Exception to Program Procedures for Previously Audited Taxpayers:

This exception is applicable when:

1. The taxpayer has already been audited by LDR and transfer pricing matters were at issue in the audit;
2. The audit is in a review, protest, or legal status with the ARAD or Litigation Divisions;
3. The taxpayer disagrees with the audit adjustments related to transfer pricing matters; and
4. The taxpayer applies for approval to participate in this Program, then:

The taxpayer will follow the above Program Procedures' Item 1 (request approval to participate in the Program); Item 4 (if any required documentation has not been previously provided); and, if accepted into the Program, Item 5 (offer modifications or adjustments to the audit findings related to transfer pricing matters.) LDR will notify the taxpayer if accepted into the Program, and upon notification, the taxpayer has 30 days to offer comments to the transfer pricing adjustments previously made. Item 6 will apply and LDR will determine the correct amount of tax in consideration of the taxpayer's feedback.

### Interest and Penalties

Upon conclusion of the managed audit process (i.e. Item 6 above), LDR will proceed with collection of any tax amount that has been determined due. No penalty will be assessed on any tax due relating to the managed audit findings. Delinquency interest that accrues during the managed audit period will be abated, not to exceed 180 days. The managed audit period is the period of time from the date of LDR's notice of acceptance into the Program (Item 2) through the date of LDR's notice of the correct amount of tax due (Item 6).

### Limitation and Deadlines

No certification of whether economic nexus with Louisiana exists will be issued through the Program.

Requests for approval to participate in the Program must be received by LDR on or before April 30, 2022. All managed audits pursuant to this Program must be closed by June 30, 2022.

Questions on the Louisiana Transfer Pricing Managed Audit Program may be directed to the Field Audit Income Tax or Audit Review and Appeals Divisions.

**Kimberly J. Lewis**  
**Secretary**