

State of Louisiana
Department of Revenue

JOHN BEL EDWARDS
Governor



KIMBERLY J. LEWIS
Secretary

August 5, 2021

Via e-mail (return receipt requested) to:

The Honorable Stuart J. Bishop
Chairman of the House Committee on Ways and Means
P.O. Box 94062
Baton Rouge, Louisiana 70804
apa.h-wm@legis.la.gov

The Honorable R.L. "Bret" Allain, II
Chairman of the Senate Committee on Revenue & Fiscal Affairs
P.O. Box 94183
Baton Rouge, Louisiana 70804
apa.s-r&f@legis.la.gov

Re: Proposed Amended Regulation LAC 61:I.4909 – Refund Claims

Chairman Bishop and Chairman Allain:

On June 10, 2021, a copy of the *Notice of Intent* issued by the Department of Revenue ("Department") for promulgation of the proposed amendment to regulation LAC 61:I.4909 – *Refund Claims* was sent to your committee for review. The purpose of the amendments reflected in the *Notice of Intent* 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.

The *Notice of Intent* was published in the June 2021 issue of the *Louisiana Register*. A public hearing was held in the LaSalle Building on Wednesday, July 28, 2021. No written or oral comments were received. No changes will be made to the text of the amended rule before it is finalized.

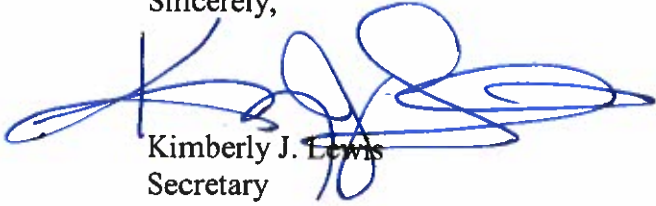
This report is being made in accordance with R.S. 47:968(D)(1)(b) of the Administrative Procedure Act. Unless otherwise directed, the proposed amendment will be submitted for publication as a final rule in the September 2021 edition of the *Louisiana Register*.

Contributing to a better quality of life.

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Should you have any questions or need additional information, please contact me at (225) 219-2700.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kimberly J. Lewis', with a large, stylized flourish extending to the right.

Kimberly J. Lewis
Secretary

Cc: The Honorable Patrick Page Cortez, President of the Senate, apa.senatepresident@legis.la.gov
Office of the State Register Reg.Submission@la.gov

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. Administrative and Miscellaneous Provisions 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 _____

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 Impact 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 9:00 AM in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

Kimberly J. Lewis
Secretary of Revenue

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 NON-GOVERNMENTAL 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 of Revenue

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office