

JOHN BEL EDWARDS
Governor



KIMBERLY J. LEWIS
Secretary

October 7, 2021

Via E-mail/R.R.R. to: apa.s-r&f@legis.la.gov
The Honorable R.L. Bret Allain
Chairman of the Senate Committee on Revenue and Fiscal Affairs
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: Proposed LAC 61:III.1547 and 1548, Consolidated Filer Mandatory Electronic Filing of Sales Tax Returns and Payments

Dear Chairman Allain and Committee Members:

On August 10, 2021, a copy of the Notice of Intent for the above-referenced proposed rules was electronically mailed to you for review. The purpose of these proposed rules is to allow for targeted tracking and distribution of sales tax revenues while maintaining convenience for consolidated filers.

The Notice of Intent was published on page 1188 in the August 2021 issue of the Louisiana Register. A public hearing was held at the LaSalle building on Thursday, September 30, 2021. There were no attendees other than the one Department attorney assigned to the promulgation of these proposed rules. Additionally, we received no comments from the public on the proposed rules. As a result, no changes have been made.

This report is being made in accordance with R.S. 49:968(D)(1)(b) of the Administrative Procedure Act. Unless otherwise directed, our rules will be submitted for publication in the November 2021 issue of the Louisiana Register. Should you have any questions or need additional information, please contact Mia Strong via email at mia.strong@la.gov or via phone at (225) 219-0845.

Sincerely,



Kimberly J. Lewis
Secretary

NOTICE OF INTENT

Department of Revenue Policy Services Division

Consolidated Filer Sales Tax Returns, Form R-1029—
Electronic Filing and Payment Requirement
(LAC 61.III.1547 and 1548)

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 consolidated filers who are filing the Louisiana Sales Tax Return, Form R-1029.

R.S. 47:1519(B)(1) authorizes the secretary to require payments by electronic funds transfer, and R.S. 47:1520(A)(2) 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 regulation is to require consolidated filers to electronically file all sales tax returns and electronically submit all related sales and use tax payments. Recent legislative changes have required more specific tracking of sales tax revenues. Requiring consolidated filers to file returns and make payments electronically allows for targeted tracking while maintaining convenience for consolidated filers.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1547. Consolidated Filers – Electronic Filing Requirements

A. Definitions

Consolidated Filer—taxpayers approved, according to LAC 61:I.4351.A.1.a, to file consolidated sales tax returns to report sales from multiple locations on one consolidated monthly return

B. For tax periods beginning on or after December 1, 2021, consolidated filers shall be required to file the Form R-1029, Louisiana Sales Tax Return, electronically.

C. Consolidated filers may not file paper versions of any required returns.

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).

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 47:

§1548. Consolidated Filers - Electronic Payment Required

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

B. Effective for all taxable periods beginning on or after December 1, 2021, all payments by any consolidated filer 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(E).

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.

E. If a consolidated filer 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(E), 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, consolidated filers 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 consolidated filer 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 47:

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 Impact Statement

The proposed Rule has no 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 Mia Strong at P.O. Box 44098, Baton Rouge, LA 70804. Written comments will be accepted until 4:30 p.m., Wednesday, September 29, 2021.

Public Hearing

A public hearing will be held on Thursday, September 30, 2021 at 2 p.m. in the Griffon Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Consolidated Filer Sales Tax Returns, Form R-1029—Electronic Filing and Payment Requirement

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

The proposed rules require electronic filing of Form R-1029, *Louisiana Sales Tax Return*, for sales tax reported by consolidated filers. The proposed rules require taxpayers who file consolidated tax returns to submit returns and payments electronically. The proposed rules also provide for the assessment and waiver of penalties for non-compliance.

Implementation of the proposed rules will result in \$30,000 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 and state general fund collections from penalties by an indeterminable amount beginning FY 2022. Beginning July 1, 2022, penalties and fees, except compensatory fees, levied by the Department will accrue to the state general fund per R.S. 47:1608, rather than to self-generated revenue for the department.

A modest and temporary increase in revenue from penalties may occur as the proposed rules are implemented, although the department cannot predict non-compliant behavior. For returns

that are currently required to be filed electronically, the department has collected the following amounts in penalties; \$7,000 in FY 2017, \$1,000 in FY 2018, \$6,000 in FY 2019, and \$45,000 in FY 2020. 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.

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

The department 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. Online access and activity by businesses have become standard practice. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. The department cannot estimate the additional penalty amount as it is dependent upon taxpayer violations and liabilities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules are not anticipated to affect competition or employment.

Kimberly J. Lewis
Secretary
2108#042

Alan M. Boxberger
Staff Director
Legislative Fiscal Office