

POTPOURRI

Department of Revenue

Policy Services Division

Notice of Public Hearing

Substantive Changes to Proposed Rule

Mandatory Electronic Filing of Certain Excise Tax Returns and Payment of Taxes (LAC 61.III.1539-1546)

The department published a Notice of Intent to promulgate §1539-1546, Mandatory Electronic Filing of Certain Excise Tax Returns and Payment of Taxes in the August 20, 2020 edition of the *Louisiana Register* (LR 46:1178-1181). No written comments were received and no one appeared at the public hearing held on September 28, 2020. Since publication of the Notice of Intent, various events have impacted the taxpayers of Louisiana, including Hurricanes Marco and Laura. These events have also impacted the operations of the department. Therefore, the department is amending the proposed rule to delay the effective date until April 1, 2021.

As amended, the proposed rule requires the electronic filing of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision Fee returns and reports and electronic payment of all Alcoholic Beverage, Hazardous Waste Disposal, Transportation and Communication Utilities, and Inspection and Supervision taxes and fees for periods beginning on or after April 1, 2021. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

§1539. Alcoholic Beverage Tax Returns – Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every manufacturer and wholesale dealer handling beverages of high and low alcoholic content and every out-of-state wine producer, manufacturer and retailer who sells and ships wine directly to a consumer in Louisiana shall be required to file all alcoholic beverage tax returns and reports electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Manufacturers, wholesale dealers, and out-of-state wine producers, manufacturers, and retailers may not send paper versions of any returns or reports required to be filed.

C. 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. 26:354(F), 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

§1540. Alcoholic Beverage Taxes - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of taxes on all alcoholic beverages by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the tax on alcoholic beverages shall be electronically transferred to the Department of Revenue on or before the fifteenth of the month following the close of the reporting period for beverages of high alcoholic content, and the twentieth day of the month following the close of the reporting period for beverages of low alcoholic content and wine shipped directly to a consumer in Louisiana using the electronic format provided by the department.

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.

E. If a taxpayer 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, taxpayers 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 taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall 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. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1539.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:354(F), 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

§1541. Hazardous Waste Disposal Tax Return – Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every generator and disposer of hazardous waste subject to the tax levied in Chapter 7-A of Subtitle II of Title 47 of the Louisiana Revised Statutes shall be required to file all Hazardous Waste Disposal Tax Returns and Schedules electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Generators and disposers of hazardous waste may not send paper versions of any returns or schedules required to be filed.

C. 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. 47:831, 47:1511, and 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR

§1542. Hazardous Waste Disposal Tax - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the tax on disposal and storage of hazardous waste by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the tax on disposal and storage of hazardous waste shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period using the electronic format provided by the department.

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.

E. If a taxpayer 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, taxpayers 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 taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall 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. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1541.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831, 47:1511, and 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

§1543. Transportation and Communication Utilities Tax Return – Electronic Filing Requirements

A. For taxable periods beginning on or after April 1, 2021, every public utility as defined by R.S. 47:1003 shall be required to file the Transportation and Communication Utilities Tax Return electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Public utilities may not send paper versions of any returns required to be filed.

C. 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, Policy Services Division, LR 46:

§1544. Transportation and Communication Utilities Tax - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the transportation and communication utilities tax by electronic funds transfer.

B. Effective for all taxable periods beginning on or after April 1, 2021, all payments of the transportation and communication utilities tax shall be electronically transferred to the Department of Revenue on or before the twentieth day following the close of the reporting period for monthly filers and the thirtieth day following the close of the reporting period for quarterly filers using the electronic format provided by the department.

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.

E. If a taxpayer 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, taxpayers 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 taxpayer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall 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. Specific requirements relating to the mandatory electronic filing of the return required by the Department of Revenue are set forth in LAC 61.III.1543.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

§1545. Report of Inspection and Supervision Fee – Electronic Filing Requirements

A. For fee periods beginning on or after April 1, 2021, every common carrier and public utility required to file the Quarterly Report of Inspection and Supervision Fee shall file the report electronically with the Department of Revenue using the electronic format prescribed by the department.

B. Common carriers and public utilities may not send paper versions of any reports required to be filed.

C. 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, Policy Services Division, LR

§1546. Inspection and Supervision Fee - Electronic Payment Required

A. R.S. 47:1519(B)(1) allows the secretary to require payment of the Inspection and Supervision Fee by electronic funds transfer.

B. Effective for all reporting periods beginning on or after April 1, 2021, all payments of the Inspection and Supervision Fee shall be electronically transferred to the Department of Revenue on or before the last day of the third month following the close of the reporting period using the electronic format provided by the department.

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 fee payment being considered delinquent and subject to penalties and interest as provided under R.S. 47:1601 and 1602.

E. If a fee-payer 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, taxpayers 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 fee-payer can prove payment by electronic funds transfer would create an undue hardship, the secretary shall exempt the fee-payer from the requirement to transmit funds electronically.

G. The reports must be filed electronically separately from the electronic transmission of the remittance. Specific requirements relating to the mandatory electronic filing of the report required by the Department of Revenue are set forth in LAC 61.III.1545.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:

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., December 18, 2020.

Public Hearing

A public hearing will be held on December 21, 2020 at 9:00AM in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana. Masks are required to enter the LaSalle Building.

Kimberly Lewis Robinson
Secretary of Revenue