

NOTICE OF INTENT

Department of Revenue Policy Services Division

Requirement for Tax Preparers to File Income Tax Returns Electronically (LAC 61:III.1501)

Under the authority of R.S. 47:1511 and 47:1520 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:III.1501 to provide for the waiver of the electronic filing requirement for tax preparers to file certain individual income tax returns electronically.

The proposed amendment to LAC 61:III.1501 defines "undue hardship", and clarifies that the penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

Title 61

REVENUE AND TAXATION

Part III. Administrative Provisions and Miscellaneous

Chapter 15. Electronic Filing and Payments

§1501. Requirement for Tax Preparers to File Income Tax Returns Electronically

A. Definitions

Authorized Individual Income Tax Return—any individual tax return that can be filed electronically.

Filed Electronically—filing a tax return by electronic means using software that has been approved for electronic filing by the Louisiana Department of Revenue.

Individual Income Tax Return—any tax return required to be filed by R.S. 47:101.

Tax Preparer—a person or entity that prepares for compensation or employs one or more persons to prepare for compensation any Louisiana individual income tax return.

a. A tax preparer is an entity that is assigned a Tax Identification Number and includes all of the entity's locations.

b. The combined total of the returns prepared at all of the tax preparer's locations will be used to determine whether or not the tax preparer is subject to the electronic filing mandate.

B. Individual income tax returns prepared by a tax preparer that prepares more than 100 Louisiana individual income tax returns during any calendar year are required to be filed electronically as follows.

1. For returns due on or after January 1, 2008, 30 percent of the authorized individual income tax returns must be file electronically.

2. For returns due on or after January 1, 2010, 60 percent of the authorized individual income tax returns must be filed electronically.

3. For returns due on or after January 1, 2012, 90 percent of the authorized individual income tax returns must be filed electronically.

C. A tax preparer that is subject to the electronic filing mandate must be accepted in the IRS e-file Program and have an electronic filer identification number (EFIN) and use software that has been approved for e-file by the Louisiana Department of Revenue.

D. Once a tax preparer is subject to the electronic filing mandate, the tax preparer must continue to e-file the required percentage of authorized individual income tax returns in future years regardless of the number of returns filed.

E. Waiver of Electronic Filing Requirement

1. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.

2. For the purpose of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where the tax returns are prepared will be considered an undue hardship and waiver of the requirement will be granted.

F. The penalty imposed by R.S. 47:1520(B) for failure to comply with the electronic filing requirement does not apply to the requirement for tax preparers to file income tax returns electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:1520.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 33:2463 (November 2007), amended LR 34:

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to our legislative oversight committees. Implementation of this proposed Rule will have no 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.

Interested persons may submit data, views, or arguments, in writing to Leonore Heavey, Senior Policy Consultant, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be submitted by 4:30 p.m., Monday, May 26, 2008. A public hearing will be held on Tuesday, May 27, 2008, at 10 a.m. in the River Room Conference Room on the Seventh Floor of the LaSalle Building at 617 North Third Street, Baton Rouge, LA 70802-5428.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Requirement for Tax Preparers to File Income Tax Returns Electronically

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

There are no implementation costs or savings to state or local government units from the proposed rule changes. The proposed rule defines the term "undue hardship" and explicitly states that penalties imposed by R.S. 47:1520(B) for failure to comply with the electronic filing do not apply to tax preparers.

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

There are no effects on revenue collections of state or local governmental units from the proposed rule changes. The proposed rules define the term "undue hardship" and explicitly state that penalties imposed by R.S. 47:1520(B) for failure to comply with the electronic filing do not apply to tax preparers. The Department of Revenue has not collected these penalties on preparers with significant internet limitations and never intended to do so.

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

The proposed rule will allow tax preparers without broadband access who obtain a hardship waiver to file paper returns and avoid costs for technology purchases and services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges
Secretary
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