

## **RULE**

### **Department of Revenue and Taxation Sales Tax Division**

#### **Alternate Filing Period (LAC 61:I.4351)**

Under the authority of R.S. 47:306 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Sales Tax Division, has amended LAC 61:I.4351 pertaining to the payment of tax, the filing of returns, and the penalty for absorption of the tax.

This rule has been amended in order to inform the public of the procedures that must be used in order to request an alternate filing period method to be used to file sales tax returns.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation**

#### **Chapter 43. Sales and Use Tax Exemptions**

#### **§4351. Returns and Payment of Tax, Penalty for Absorption of Tax**

A. General. All persons and dealers who are subject to the tax under this Chapter are expected and required to file a tax return monthly, unless otherwise provided, and to remit the amount of tax due to the secretary. Forms will be provided by the secretary, and although the forms are usually mailed to each dealer, failure to receive same will not relieve the dealer of the necessity of filing and remitting the tax due currently. For the purpose of collecting and remitting to the state the tax imposed by this Chapter, the dealer is hereby declared to be the agent of the state.

1. After a dealer is properly registered for sales and use tax purposes, an identifying sales tax number is assigned to that dealer. The assignment of a regular sales tax number requires a dealer to file a monthly return and failure to do so will cause the secretary to send an estimated proposed assessment. For months when the dealer has no taxable sales or amounts to report, the return should be marked "no sales or taxable amounts," signed by the dealer and filed with the secretary. Monthly returns are required to be filed with the secretary on or before the 20th day of the month following the month in which the tax becomes effective.

2. The secretary, for good cause, may extend, for a period not to exceed 30 days, the time for making any returns required under the provisions of this Chapter. Failure of the dealer to abide by the agreement and file returns and remittances as required will result in an immediate cancellation of the extension agreement by the secretary.

3. The tax computed to be due by the dealer is payable at the time the return is due, and failure to do so will cause the secretary to issue a 10-day demand assessment. Failure to file the returns on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation and other charges as provided by law. See R.S. 47:1519 for information on electronic funds transfers (EFT).

4. Gross proceeds from rentals or leases shall be reported on the appropriate line of the return, and the tax shall be paid with respect thereto, unless an exemption is specifically authorized and explained on the return. Rental and lease proceeds shall be reported on the 20th day of the month following the monthly or quarterly reporting period in which the proceeds were actually collected by the dealer, regardless of the period in which the lease or rental occurred.

5. The dealer is compensated for accounting for and remitting the tax levied by this Chapter at the rate established by R.S. 47:306. The amount of compensation is computed by multiplying the rate by the amount of tax due and deducting that amount from the total tax accounted for and payable to the secretary, before taking credit for taxes already paid to a wholesaler.

6. As stated under the regulation pertaining to R.S. 47:304, the dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser, and the absorption of said tax as defined in this section by any retailer, wholesaler, manufacturer, or other supplier shall be punished by a fine of not more than \$2,000 or by imprisonment in the parish jail for not more than two years.

B. Exceptions. Not all dealers are required to file returns on a monthly basis.

1. Upon registration, all dealers are required to file monthly returns. After the dealer has operated for a few months, and it is determined that the amount of tax liability averages less than \$100 per month, the dealer will be notified and permitted to file quarterly returns. Application to file quarterly is not necessary as

notification is automatic once a determination is made by the secretary that such a filing procedure is in order. Quarterly returns should be filed on or before the 20th day of the first month of the next succeeding quarter. Irregular sales tax returns and use tax returns should be filed on or before the 20th day of the month following the month in which the tax becomes effective. The returns should be prepared in a manner that will enable the secretary to ascertain the correctness of the tax computed to be due. Accordingly, each line of the tax return should be completed, and all amounts not taxable should be identified.

2. A dealer may file returns using alternate filing periods. The method for filing shall be approved by the secretary before the method is used to file a return. If an alternate period filing method is approved for use, the number of short periods during a year must be greater than or equal to the number of long periods during that same year. At the beginning of each year the dealer must, after obtaining approval for the alternate period filing method, file with the secretary a calendar for the year showing the alternative filing periods for that year. Amendments to approved calendars must be submitted for approval prior to the affected periods. The taxpayer's account shall be reviewed to determine if the taxpayer has correctly filed returns, according to the calendar submitted at the beginning of the year. If the taxpayer does not follow the approved alternate filing method, the returns for the year under review shall be converted to a calendar month basis and the taxpayer's request to use an alternate period filing method for the subsequent year will be denied. Alternate period returns shall be filed on or before the 20th day following the close of the alternate filing period. Failure to file on or before the due date, will subject the dealer to delinquency charges, loss of vendor's compensation, and other charges as prescribed by law.

C. Advance Sales Tax. The Louisiana sales tax law was amended in 1965, to require all manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property to collect an advance payment of sales taxes on sales of all tangible personal property, and such payment is required only as a means of facilitating collection of the sales tax. Previous to this amendment, such sales of tangible personal property were considered exempt for taxation since under the statute, wholesale sales were not taxable. Accordingly, these new dealers were required to register with the secretary in order to collect and remit an advance sales tax from the sale of all tangible personal property made to retail dealers who resell the property to final users and consumers. The advance payment of the Louisiana sales tax is required upon all sales of tangible personal property to other dealers unless, specifically exempted by statute, or Form LGST-9 is obtained and kept on file by the dealer making the sale. Exemption certificate LGST-9 will only be recognized if the dealer making the purchase of tangible personal property states that the purchases are for resale or further processing by wholesale dealers and manufacturers. Those businesses purchasing property for resale that qualify as "wholesale dealers" can be exempted from the payment of the advance tax.

1. A *Wholesale Dealer* is defined as one where 50 percent or more of his sales do not constitute retail sales as defined in the sales tax law. Sales made in interstate commerce (sales where property is delivered by the seller outside the state) do not constitute retail sales. R.S. 47:306 also provides exemptions for dealers in motor vehicles subject to license and title; lumber dealers; farm implement dealers; and mobile, motorized, self-propelled, earth moving and construction equipment dealers. Sales made to industrial users and/or to contractors are also added towards the 50 percent criteria for qualification as a wholesale dealer.

2. Manufacturers, wholesalers, jobbers, suppliers, and brokers of tangible personal property are required under this Section to report all sales made within the period of a calendar month or approved alternative filing period, and to remit the advance retail dealers' sales tax on their returns filed with the department. The department is not concerned with credit terms extended by manufacturers, wholesalers, jobbers, suppliers and brokers to their customers. The question of when the wholesaler should collect the advance sales tax is dependent upon the policy of the seller.

3. All dealers who have paid advance sales tax to a manufacturer, wholesaler, jobber, or supplier shall deduct from the total tax collected by them upon the retail sale of the commodity, the amount of advance sales tax paid, provided tax paid invoices evidencing the payments are retained by the dealer claiming the refund or credit. If the advance tax so paid during any reporting period amounts to more than the tax collected by him for that period, the excess so paid shall be reported on the return as a credit. Each such credit return shall be accounted for independently by the Department of Revenue and Taxation, and a refund shall be issued to the dealer for each such credit return. In no case may the credit be applied against the taxes due for any other period, unless the credit is applied under the direction of the secretary.

4. Manufacturers, wholesalers, jobbers, and suppliers collecting advance sales taxes are entitled to vendor's compensation at the rate established by R.S. 47:306. The amount of compensation is computed as a percentage of the taxes so collected and remitted to the secretary, provided the return and payment are timely

filed.

5. Parishes, municipalities, school boards, and other local governing bodies, except hereinafter set forth, which levy a sales tax are hereby prohibited from requiring manufacturers, wholesalers, jobbers, or suppliers to collect such taxes in advance from dealers to whom they sell.

6. The parish, municipal, school board or other local governing bodies of the parish in which the state capitol is located, Caddo Parish or any other parish having a population in excess of 200,000 are authorized to require manufacturers, wholesalers, jobbers, and suppliers to collect the taxes levied by them in advance from dealers to whom they sell provided the dealers and wholesalers, manufacturers, jobbers, and suppliers are domiciled in said parish. Such advance collections shall be subject to the same laws, rules, and regulations as are applicable to advance collections of state sales taxes; provided, however, that the taxes so collected shall be remitted to the parish, municipal, school board, or other local governing authority imposing the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:306.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, LR 13:107 (February 1987), amended LR 22:852 (September 1996).

John Neely Kennedy  
Secretary

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