

**General Tax Administration**

Prior law authorized the secretary of the Dept. of Revenue (secretary) and (department) to waive various taxes, fees, and penalties under certain amounts, and to waive liens, privileges, and mortgages in certain specific circumstances, all of which required approval by the Board of Tax Appeals (board).

New law changes thresholds for actions requiring approval by the board as follows:

- (1) Penalty for failure to file an annual tax return by a person who withholds wages for purposes of individual income tax, from \$5,000 to \$25,000.
- (2) Penalties generally with regard to income tax, from all waivers to waivers in excess of \$25,000.
- (3) Penalties generally with regard to delinquent filing or delinquent payment of any tax subject to collection by the department under certain circumstances, from \$5,000 to \$25,000.
- (4) Cancellation of a lien, privilege, or mortgage under certain circumstances, from board approval for all to no board approval.

Prior law required the filing of La. corporation income tax returns when there were I.R.S. adjustments to or an extension of time for the filing of a federal corporation income tax return. If a federal return was adjusted by the I.R.S., the taxpayer was required to furnish a statement to the secretary disclosing the nature and amount of the adjustment within 60 days of the date of the adjustment. Further, the secretary was authorized to provide for an automatic extension of time for the filing of a state return of up to seven months when there had been an extension of time for the filing of the federal tax return.

New law requires that the taxpayer file an amended tax return rather than a statement to the secretary, and increases the time from the date of the federal adjustment for the filing of the amended state tax return from 60 days to 180 days. New law adds authority for the secretary to grant an extension of time equal to that allowed for the federal return.

Prior law required the secretary to notify a taxpayer by certified mail of an offset to his tax refund due to either amounts owed to a state agency or outstanding child or spousal support payments.

New law changes the method of notification from certified mail to mail.

Existing law authorizes the secretary to file suit by ordinary process for the collection of taxes.

Prior law further authorized collection by expedited summary court proceeding for the purpose of facilitating and expediting the determination and trial of all claims for taxes, penalties, interest, attorney fees, and other costs relating to taxes collected and administered by the department.

New law adds a limitation on the use of expedited summary court proceedings to the following instances:

- (1) The proceeding is for collection of a tax assessment that has become final or is for an assessment of a tax that is shown on the face of a tax return, or an assessment and claim in a bankruptcy or receivership proceeding.
- (2) A jeopardy assessment that has been or could be issued against a defendant.
- (3) A rule to cease business has been or is concurrently brought against the defendant.

- (4) The matter involves the special authority to enforce collection of taxes where a corporation, limited liability company, or limited partnership fails to file a return or remit income taxes withheld from the wages of its employees.

Existing law provides procedures for the payment of tax under protest, which include the taxpayer notifying the department of an intention to file suit to recover their payment.

New law adds the filing of a petition with the board as an option for a taxpayer who pays under protest and seeks to recover their payment.

New law adds authority for the secretary to promulgate rules and regulations in accordance with the Administrative Procedure Act concerning the waiver of penalties, including the establishment of a voluntary disclosure program.

### **Board of Tax Appeals - General provisions**

Existing law allows the board to issue subpoenas and order depositions.

New law adds authorization for the board to compel written discovery.

Existing law allows the board to assign a single board member to serve as a hearing officer for a case and report back to the entire board regarding the proceeding.

New law adds authority for a single member to report back to the entire board regarding the law at issue in the proceeding.

Existing law requires that the board's decisions, orders, and judgments be published.

New law designates the board's internal deliberative communications on its cases to be judicial proceedings for purposes of existing law governing public records.

New law authorizes the board and the secretary to enter into an agreement for a fixed annual interagency transfer to the board as payment in lieu of filing fees owed by the secretary for cases heard by the board.

### **Board of Tax Appeals - Appeals of decisions of the board**

Existing law establishes procedures for appeal of a decision of the board to a district court regarding notices, timing of the appeal, and the posting of a bond.

New law adds a limitation on the requirement for the posting of a bond to exclude from such requirement any taxpayer who has paid under protest. Further, provisions are added specifying that the nature of the bond and procedures for posting bond shall be consistent with those required for a suspensive appeal in a civil matter under the Code of Civil Procedure.

Prior law provided that the venue for appellate review of a decision of the board was a district court which could modify, reverse, or remand a decision of the board.

New law changes the venue for appellate review of board decisions from a district court to a court of appeal. New law adds provisions for the respective court of appeal to exercise supervisory jurisdiction over a case pending before the board in the same manner as provided for in a civil matter pending in a district court within its circuit. New law authorizes the appellate court to order that a case be immediately transferred to a district court for consideration of issues of constitutionality.

Prior law provided for a myriad of time lines for a decision of the board to become final, some of which were obsolete as some steps and terms do not exist under the contemporary allocation of appellate court authority.

New law provides that a decision of the board becomes final under the following two circumstances: if the decision is not appealed within 30 days, or, if it is timely appealed, then the decision of the appellate court is final under the same rules and timing as is provided for in civil matters under the Code of Civil Procedure.

Prior law required that a party seeking to appeal a decision of the board in a claim against the state must petition the legislature for permission to do so.

New law deletes prior law requiring a petition to the legislature, and instead authorizes a suit on a claim against the state if that cause of action is otherwise allowed by law.

Authorizes the La. State Law Institute to revise the La. Revised Statutes of 1950, as amended to change certain references.

Effective July 1, 2014.

(Amends R.S. 47:15(14), 114(F)(3), 287.614(C) and (D)(3), 295(C), 299.9, 299.39, 1407(1), 1408, 1409, 1414(C), 1416, 1433 through 1435, 1438, 1486, 1508.1(B), 1561, 1565(C)(3), 1574(intro. para.), 1576(A)(1) and (2), (C), and (E), 1578(B)(2), (3), and (4)(a)(intro. para.), 1603(A), and 1688; Adds R.S. 47:1574(5))