2017 Regular Session

HOUSE BILL NO. 333

BY REPRESENTATIVE JEFFERSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE DEPARTMENT: Authorizes the secretary of the Dept. of Revenue to require the filing of electronic tax returns and the payment of taxes by electronic funds transfer

1	AN ACT
2	To amend and reenact R.S. 47:1519(B) and 1520(A)(1)(c), (e), and (g) and (2), (B), and (C)
3	and to enact R.S. 47:1519(D) and 1520(A)(3), relative to tax returns and payments;
4	to provide for the payment of taxes by electronic funds transfer; to authorize the
5	secretary to require the electronic filing of tax returns; to provide for exceptions; to
6	provide with respect to certain penalties; to require rulemaking; to provide for
7	effectiveness; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 47:1519(B) and 1520(A)(1)(c), (e), and (g) and (2), (B), and (C) are
10	hereby amended and reenacted and R.S. 47:1519(D) and 1520(A)(3) are hereby enacted to
11	read as follows:
12	§1519. Payment of taxes by electronic funds transfer; credit or debit cards; other
13	* * *
14	B. (1) For taxable periods beginning on or after January 1, 2004, and ending
15	on or before December 31, 2005, the secretary of the Department of Revenue may
16	require payments by electronic funds transfer under any of the following
17	circumstances:
18	(a) The tax due in connection with the filing of any return, report, or other
19	document exceeds fifteen thousand dollars.

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1	(b) A taxpayer files tax returns more frequently than monthly and during the
2	preceding twelve-month period, the average total payments exceed fifteen thousand
3	dollars per month.
4	(c) A company files withholding tax returns and payments on behalf of other
5	taxpayers and during the preceding twelve-month period, the average total payments
6	for all tax returns filed exceed fifteen thousand dollars per month.
7	(2) For taxable periods beginning on or after January 1, 2006, and ending on
8	or before December 31, 2007, the secretary of the Department of Revenue may
9	require payments by electronic funds transfer under any of the following
10	circumstances:
11	(a) The tax due in connection with the filing of any return, report, or other
12	document exceeds ten thousand dollars.
13	(b) A taxpayer files tax returns more frequently than monthly and during the
14	preceding twelve-month period, the average total payments exceed ten thousand
15	dollars per month.
16	(c) A company files withholding tax returns and payments on behalf of other
17	taxpayers and during the preceding twelve-month period the average total payments
18	for all tax returns filed exceed ten thousand dollars per month.
19	(3) (1) For taxable periods beginning on or after January 1, 2008, the
20	secretary of the Department of Revenue may require payments by electronic funds
21	transfer under any of the following circumstances:.
22	(a) The tax due in connection with the filing of any return, report, or other
23	document exceeds five thousand dollars.
24	(b) A taxpayer files tax returns more frequently than monthly and during the
25	preceding twelve-month period, the average total payments exceed five thousand
26	dollars per month.
27	(c) A company files withholding tax returns and payments on behalf of other
28	taxpayers, and during the preceding twelve-month period, the average total payments
29	for all tax returns filed exceed five thousand dollars per month.

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1	(4) (2) When a payment is required to be made within a prescribed period
2	or by a prescribed due date and the payment is delivered by electronic means after
3	the period or due date, for the purpose of imposing late payment penalties, the
4	payment date is the date of the transaction's confirmation time and date stamp.
5	However, if the payment is not timely paid, the date of receipt by the secretary shall
6	govern for purposes of determining the amount of any late payment penalties. A
7	separate transfer shall be made for each return.
8	(5) (3) In lieu of electronic funds transfer, full payment may be made in
9	investible funds delivered in person or by courier to the department on or before the
10	close of business on the date required by law to be paid.
11	(6) (4) If any taxpayer fails to comply with the electronic funds transfer
12	requirements, the tax payment will be considered delinquent and will be subject to
13	penalties and interest as provided under R.S. 47:1601 through 1602.
14	(7) (5) Notwithstanding any provisions of law to the contrary, the provisions
15	of this Section shall not apply to individual income tax returns.
16	* * *
17	D. In cases where the taxpayer can prove the payment by electronic funds
18	transfer would create an undue hardship, the secretary shall exempt the taxpayer
19	from paying by electronic funds transfer.
20	§1520. Electronically filed returns; signatures
21	A.(1) The secretary may require electronic filing of tax returns or reports
22	under any of the following circumstances:
23	* * *
24	(c) Individual income tax returns prepared by a tax preparer that prepares
25	and files more than one hundred state individual income tax returns during any
26	calendar year may be required to be filed electronically as follows:
27	(i) Thirty percent of the returns due on or after January 1, 2008.
28	(ii) Sixty percent of the returns due on or after January 1, 2010.

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1	(iii) Ninety percent of the returns due on or after January 1, 2012.
2	* * *
3	(e) Any return or report that a \underline{A} professional athletic team or professional
4	athlete is required to file with the Department of Revenue for the administration of
5	the Sports Facility Assistance Fund.
6	* * *
7	(g) Persons The person is required to file a report pursuant to R.S. 47:843 et
8	seq.
9	(2) With respect to all other tax returns or reports other than individual
10	income tax returns or reports, the secretary may require electronic filing of any tax
11	return or report.
12	(2) (3) The electronic filing requirement shall be implemented by
13	administrative rule adopted and promulgated with legislative oversight in accordance
14	with the Administrative Procedure Act, R.S. 49:950 et seq.
15	B. Failure to comply with the electronic filing requirements will result in the
16	assessment of a penalty of one hundred dollars or five percent of the tax, whichever
17	is greater. If it is determined that the failure to comply is attributable, not to the
18	negligence of the taxpayer, but to other cause set forth in written form and
19	considered reasonable by the secretary, the secretary may remit or waive payment
20	of the whole or any part of the penalty. However, in any case where the penalty
21	exceeds twenty-five thousand dollars, such penalty may be waived by the secretary
22	only after approval by the Board of Tax Appeals waiver shall be subject to oversight
23	by the House Committee on Ways and Means and the Senate Committee on Revenue
24	and Fiscal Affairs. This provision shall not apply to any penalty the secretary remits
25	or waives in accordance with rules and regulations promulgated pursuant to the
26	Administrative Procedure Act regarding the remittance or waiver of penalties under
27	the department's voluntary disclosure program.
28	C. The secretary may prescribe alternative methods for signing, subscribing,
29	or verifying a return, statement, or other document filed by electronic means that

1 shall have the same validity and consequence as the actual signature and/or written

2 declaration for such a return, <u>report</u>, statement, or other document.

- 3 * *
- 4 Section 2. This Act shall become effective upon signature by the governor or, if not
- 5 signed by the governor, upon expiration of the time for bills to become law without signature
- 6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

7 vetoed by the governor and subsequently approved by the legislature, this Act shall become

8 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 333 Reengrossed 2017 Regular Session

Jefferson

Abstract: Requires the electronic filing of certain tax returns and reports.

<u>Present law</u> provides generally regarding the payment of taxes by electronic funds transfer. The secretary of the Department of Revenue (secretary) is authorized to require tax payments be made by electronic funds transfers only for tax returns valued at certain amounts.

<u>Proposed law</u> repeals <u>present law</u> which limits the value of the return required to be paid by electronic funds transfer.

<u>Proposed law</u> authorizes an exemption from the requirement to make payments through electronic transfer if the taxpayer can prove the payment by electronic funds transfer would create an undue hardship.

<u>Present law</u> authorizes the secretary to require a certain percentage of individual income tax returns prepared by a tax preparer that prepares more than one hundred state individual income tax returns during any calendar year, <u>from</u> 30% of returns in 2008, <u>to</u> 90% of returns in 2012.

<u>Proposed law</u> authorizes the secretary the discretion to require electronic filing of tax returns, without specific limits or requirements, except as provided in <u>present law</u> concerning individual income tax returns.

<u>Present law</u> provides that failure to comply with the electronic filing requirements will result in the assessment of a penalty of \$100 or 5% of the tax, whichever is greater. If it is determined that the failure to comply is attributable, not to the negligence of the taxpayer, but to another cause set forth in written form and considered reasonable by the secretary, the secretary may remit or waive payment of the whole or any part of the penalty. If the penalty exceeds \$25,000, the penalty may be waived by the secretary only after approval by the Board of Tax Appeals.

<u>Proposed law</u> changes <u>present law</u> by removing the requirement for Board of Tax Appeals approval of a penalty waiver in excess of \$25,000 and instead provides that such penalty

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waivers shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs. However, the provisions of <u>proposed law</u> concerning the remittance or waiver of penalty shall not apply to any penalty the secretary remits or waives in accordance with departmental rules and regulations promulgated regarding the remittance or waiver of penalties under the department's voluntary disclosure program.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:1519(B) and 1520(A)(1), (c), (e), and (g) and (2), (B), and (C); Adds R.S. 47:1519(D) and 1520(A)(3))

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