Regular Session, 2011

ACT No. 171

HOUSE BILL NO. 209

1

BY REPRESENTATIVE ROBIDEAUX

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

AN ACT

2	To amend and reenact R.S. 47:1541(B) and to enact R.S. 47:1541(D) and 1601(A)(2)(e),
3	relative to the Department of Revenue; to provide relative to the audit of taxpayer
4	records by the department; to provide the purposes for which sampling audits may
5	be utilized; to authorize the use of managed audits at the secretary's discretion under
6	certain circumstances; to authorize agreements regarding managed audits; to provide
7	for definitions; to provide for limitations; to authorize the discretionary waiver of
8	interest; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 47:1541(B) is hereby amended and reenacted and R.S. 47:1541(D)
11	and 1601(A)(2)(e) are hereby enacted to read as follows:
12	§1541. Secretary's duty to determine correct tax
13	* * *
14	B. The taxpayer and the secretary or his designee may enter into a binding
15	agreement to use a sampling procedure as a basis for projecting audit findings, which
16	may result in either an underpayment or overpayment of tax. Sampling audit
17	methods are appropriate if:
18	(1) The taxpayer's records are so detailed, complex, or voluminous that an
19	audit of all detailed records would be unreasonable or impractical.
20	(2) The taxpayer's records are inadequate or insufficient to the extent that
21	a competent audit of the period in question is not otherwise possible.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

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1	(3) The cost to the taxpayer or the state for an audit of all detailed records
2	will be unreasonable in relation to the benefits derived, and sampling procedures are
3	expected to produce a reasonable result.
4	* * *
5	D.(1) The secretary may, in a written agreement, authorize a taxpayer to
6	conduct a managed audit pursuant to this Subsection. The agreement shall specify
7	the period to be audited and the procedure to be followed, and shall be signed by an
8	authorized representative of the secretary and the taxpayer.
9	(2) For purposes of this Subsection, the term "managed audit" shall mean a
10	review and analysis of invoices, checks, accounting records, or other documents or
11	information to determine the correct amount of tax. A managed audit may be limited
12	to certain categories of liability under this Chapter, including tax on:
13	(a) Sales of one or more types of taxable items.
14	(b) Purchases of assets.
15	(c) Purchases of expense items.
16	(d) Purchases under a direct payment permit.
17	(e) Any other category specified in an agreement authorized by this
18	Subsection.
19	(3) The decision to authorize a managed audit rests solely with the secretary.
20	In determining whether to authorize a managed audit, the secretary may consider, in
21	addition to other facts the secretary may consider relevant, any of the following:
22	(a) The taxpayer's history of tax compliance.
23	(b) The amount of time and resources the taxpayer has available to dedicate
24	to the audit.
25	(c) The extent and availability of the taxpayer's records.
26	(d) The taxpayer's ability to pay any expected liability.
27	(4) The secretary may examine records and perform reviews that he
28	determines are necessary before the audit is finalized to verify the results of the
29	audit. Unless the audit or information reviewed by the secretary discloses fraud or
30	willful evasion of the tax, the secretary may not assess a penalty and may waive all

HB NO. 209 **ENROLLED** 1 or a part of the interest that would otherwise accrue on any amount identified to be 2 due in a managed audit. This Paragraph does not apply to any amount collected by 3 the taxpayer that was a tax or represented to be a tax, but that was not remitted to the 4 state. 5 (5) The taxpayer is entitled to a refund of any tax overpayment disclosed by 6 a managed audit under this Subsection and in accordance with R.S. 47:1621. 7 8 §1601. Interest on unpaid taxes 9 A. 10 11 (2) 12 13 (e) Waiver of interest when a managed audit is performed as agreed to by the 14 secretary and the taxpayer. The secretary may waive all or a part of the interest that 15 would otherwise accrue on any amount identified to be due in a managed audit 16 performed under the provisions of R.S. 47:1541(D). 17 18 Section 2. This Act shall become effective upon signature by the governor or, if not 19 signed by the governor, upon expiration of the time for bills to become law without signature 20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 21 vetoed by the governor and subsequently approved by the legislature, this Act shall become 22 effective on the day following such approval. SPEAKER OF THE HOUSE OF REPRESENTATIVES PRESIDENT OF THE SENATE

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APPROVED: ___

GOVERNOR OF THE STATE OF LOUISIANA