



LAC 72:I.119
Audit Protocols
June 29, 2021



Purpose of Regulations in General

- Statement , guide or requirement for conduct or action of taxing authorities
- Implement or interpret substantive law or policy
- Identify procedures or practice requirements of such authorities



What laws are affected by this regulation

- R.S. 47:337.35 states, “As soon as practicable after each return or report is filed ... the collector shall cause it to be examined and may make such further audit or investigation as he may deem necessary for the purpose of determining the correct amount of tax
- R.S. 47:337.36 adds, “For the purpose of administering the provisions of the local ordinance and this Chapter, the collector, whenever he deems it expedient, may make or cause to be made ... an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any taxpayer.”



Why this Regulation?

- Recognizes the value of the LATA's Audit Best Practices
- Provides for permanency and force of law



Audit Selection and Assignment

- . Collectors may identify possible accounts for audit by researching public information, confidential information contained in the collector's records, confidential information received from other collectors under written reciprocal exchange agreements in accordance with R.S. 47:1508(B)(5) and recommendations from private auditing firms, individuals, businesses or organizations.
- Private auditing firms that have entered into agreements with a collector under the provisions of R.S. 47:337.26 may identify potential audits on behalf of that collector by researching public information and reviewing prior audits the private auditing firm performed on behalf of that collector.



Audit Selection and Assignment, continued

- Private audit firms may not identify leads for or request audit assignments from collectors based on confidential information disclosed by the records of a taxpayer under audit or previously audited for a different collector under the provision of R.S. 47:337.26(C)(2)(a).
- However, nothing herein shall prohibit a collector from providing confidential information disclosed through an audit of the records of a taxpayer with another collector when the collectors have entered into a written reciprocal exchange agreement in accordance with R.S. 47:1508(B)(5).



Audit Selection and Assignment

- Requests for audits submitted to a collector by private auditing firms should include the following information: See subsection B.4., which includes-
- evidence of the taxpayer's nexus within the jurisdiction as such is defined in R.S. 47:301(4);
- a statement of assurance that the lead was developed in compliance with R.S. 47:1508 and R.S. 47:337.26(C);
- the reason the collector might want to audit this taxpayer



Notice of Intent to Audit

- A notice of intent to audit shall be sent by certified mail from the collector's office. If the audit will be performed by a private auditing firm, the firm is prohibited from contacting the taxpayer before mailing of the notice of intent to audit.
- the notice of intent to audit shall be sent in a timely manner so the taxpayer can make preparations for the audit.



Notice of Intent to Audit, continued

- The notice of intent to audit shall include the following items:
- the nature of the audit;
- the name, office, address and contact phone number of the auditor or the private auditing firm that will perform the audit;
- a summary of the remedies available to the taxpayer should the taxpayer elect to contest the audit findings; and
- any interest, penalties, fees or other costs for which the taxpayer may be liable if taxes are determined to be due.



Notice of Intent to Audit

- If the audit is to be performed by a private auditing firm, the notice of intent to audit shall include the following statements:
 - a. that the taxpayer may receive a copy of the audit agreement between the collector and the private auditing firm; and
 - b. how the private auditing firm shall be compensated, whether contingent upon the actual collection of tax or in any other way dependent on the outcome of the audit.



Protocols for Performing the Examination

1. Under R.S. 47:337.36, the taxpayer shall exhibit to the collector the place of business, tangible personal property, all books, records, papers, vouchers, accounts, and documents.
2. R.S. 47:337.38 provides, wherever possible, the taxpayer must provide reports and other documents in electronic (i.e., machine-sensible) format to expedite the auditor's selection and review process
3. Sampling agreements between the collector and the taxpayer



Performing the Examination, continued

- Audit sampling methods must be approved by the collector (either on a case-by-case or blanket approval basis) before they are presented to the taxpayer for consideration.
- The auditor or private auditing firm, under the authority of the collector, and taxpayer may then agree to sampling procedures that comply with the provisions of R.S. 47:337.35.
- The auditor or private auditing firm, under the authority of the collector, shall send written notice to the taxpayer of the sampling procedure to be used, including how the tax will be computed, the population to be sampled, and the type of tax for which the tax liability will be established.
- Claims by the taxpayer or auditor regarding non-representative transactions shall be addressed prior to submission of the work papers to the collector. If the auditor and taxpayer disagree regarding transactions disputed as non-representative of the sample, they shall be so noted in the work papers.



Performing the Examination, continued

- 4. Unless otherwise agreed, the auditor's schedules shall include credits for overpayment of taxes. However, the auditor and taxpayer may agree in writing prior to the start of the field work that the taxpayer shall identify credit transactions subject to review and inclusion in the preliminary audit findings.
- 5. In accordance with R.S. 47:337.78, a collector may authorize the tax balance method to prepare audit schedules whenever it is determined that overpayments exist within an audit period that may be offset by a liability. The taxpayer must be notified whenever this method is used.



Performing the Examination, continued

- 6. If a taxpayer fails or refuses to provide some or all of the documents requested for an audit, the following actions will be taken:
 - a. The collector shall determine which documentation a taxpayer is refusing or failing to provide and determine if the failure or refusal is reasonable.
 - b. If appropriate, the collector may contact the taxpayer to discuss the taxpayer's refusal or failure before making the determination.
 - c. The collector may take measures allowed by statute in order to compel the taxpayer to provide the records, including....



Performing the Examination, continued

- advise the taxpayer of the requirements to maintain records in accordance with R.S. 47:337.29, the collector's authority to determine the tax in R.S. 47:337.28 and the collector's obligation to perform an audit under R.S. 47:337.35;
- subpoena the records and request the appropriate court to compel the taxpayer to provide the records in accordance with R.S. 47:337.41, 42, and 43; or
- estimate the assessment in accordance with R.S. 47:337.28.



Additional Protocols for Private Audit Firms

- See R.S. 47:337.26 (Act 2010 No. 1029, eff. 7/8/2010)
- So-called “reform measure” advocated by LABI
- Qualifications, Confidentiality, Record retention, Transparency
- Administrators must assure their contract audit firms are compliant