LOUISIANA UNIFORM LOCAL SALES TAX BOARD

Informal Policy Advice No. 22-002
August 11, 2022
Sales and Use Tax
Delinquent Penalty Calculation Changes Pursuant to Act 87 of 2022 Regular Session

<u>Purpose</u>

The purpose of the Louisiana Uniform Local Sales Tax Board is to promote uniformity and efficiency in the imposition, collection and administration of local sales and use taxes. This informal policy advice has been issued to inform collectors, taxpayers, and dealers of changes made to the calculation of delinquency penalties under Louisiana Revised Statute 47:337.70 by Act 87 of the 2022 Legislature.

<u>Changes to Penalty Calculation by Act 87 of 2022 Legislature</u>

Prior to Act 87, La. R.S. 47:337.70(A)(1) required that a penalty be added to the tax when a taxpayer or dealer fails to timely file a sales and use tax return or fails to timely remit the total amount of tax due, but the statute did not set an amount for the required penalty. Act 87 added a provision to La. R.S. 47:337.70(A)(1) that the penalty shall be "five percent of the tax owed for each and every thirty-day period after the return was required to be filed or the tax was required to be remitted." The amended statutory provision specifically notes that the five percent penalty is "subject to the limitations of this Paragraph," a reference to the five-month limitation for penalties that remains present in La. R.S. 47:337.70(A)(3). The net effect is that delinquent penalties are now uniformly set in statute at five percent for each thirty-day period with an overall cap of 25%.

In addition to specifying the delinquency rate, Act 87 also added a provision regarding how the delinquency penalty periods are to be calculated. Newly added La. R.S. 47:337.70(A)(4) provides "[t]he penalties for delinquent returns and failure to remit the total amount of tax due

shall accrue beginning the day after the due date subject to the limitations of this Subsection." Pursuant to La. R.S. 47:337.18(A)(1)(a), sales and use taxes are due and payable on the first day of the month following the month of the transaction giving rise to the tax and returns are due on or before the twentieth day of the month following the month of the transaction giving rise to the tax. Taxes that are not remitted with the return on or before the twentieth day of the month become delinquent. La. R.S. 47:337.18(A)(1)(a). This means that under the newly added La. R.S. 47:337.70(A)(4), the first thirty-day delinquency penalty does not attach to the unpaid taxes until the twenty-first of the month but are deemed to have started accruing on the second day of the month (the day after the due date for taxes). The second five-percent period for the delinquency penalty will then begin thirty days from the second day of the first month, with each subsequent penalty period following every thirty days until the taxes are paid or the statutory cap of twenty-five percent (five thirty-day periods) are met.

By way of example, the below table assumes a taxpayer or dealer fails to timely remit sales and use taxes due in August of 2022.[1]

Date	Penalty Imposed	Total Penalty
August 23, 2022	5%	5%
September 1, 2022	5%	10%
October 1, 2022	5%	15%
October 31, 2022	5%	20%
November 30, 2022	5%	25%
All periods thereafter	0%	25% (capped)

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[1] Note that August 20th and 21st, 2022 fall on legal holidays (Saturday and Sunday) making returns and remittances due on or before August 22, 2022, and untimely if filed and remitted on or after August 23, 2022.

Act 87 is effective as of August 1, 2022, meaning these changes apply to sales and use taxes starting for July 2022 transactions that are due on August 1, 2022 and which are delinquent if not remitted on or before August 22, 2022.

Collectors with any questions regarding this informal policy advice or Act 87 are encouraged to contact their parish's sales and use tax counsel or Louisiana Uniform Local Sales Tax Board Executive Director Clarence Lymon at clarencel@localtaxboard.com.