

Overview of Gift, Inheritance, Estate, Selected Excise, & Miscellaneous Taxes

Presentation to

Revenue Study Commission

*Created by SCR 103 of the 2012 Regular Legislative
Session*

October 2, 2012



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- Part II: Selected Excise Taxes & Miscellaneous Taxes
 - Excise Taxes: Liquors-Alcoholic Beverages, Tobacco
 - Miscellaneous: Public Utilities and Carriers, Telecommunications, Hazardous Waste Disposal

Part I: Louisiana's Gift, Inheritance and Estate Taxes


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Overview of Louisiana's Inheritance and Gift Tax Structure

- Inheritance Tax
 - Phase out began in 1998
- Gift Tax
 - Repealed in 2008 for all gifts made after June 30, 2008
- Estate Transfer Tax
 - In effect, but no collections since 2004 due to 2001 federal law changes

The Estate Transfer Tax

- No current collections of the tax
- Equal to the maximum tax **credit** for state estate or inheritance tax allowed on the federal estate tax return  “Pick-up tax”
- Since 2004, federal law allows only a **deduction** for state inheritance taxes (IRC § 2058), not a credit
- But, if the Economic Growth and Tax Relief reconciliation Act of 2001 (as amended by the 2010 Tax Relief Act) is allowed to expire on 12/31/2012
 - The federal **credit** will be back in effect
 - Louisiana’s estate transfer tax revives

The Estate Transfer Tax Example

- If federal taxable estate is valued at \$500,000:
 - Federal estate tax = \$185,000
 - Maximum allowable state tax credit = \$12,400 = Louisiana's estate transfer tax
 - With the transfer tax in place, the \$185,000 is split between Louisiana and the IRS , \$12,400 to Louisiana and \$172,600 to the IRS
 - If Louisiana had no estate transfer tax, the estate would pay the entire \$185,000 to the IRS
- Louisiana's estate transfer tax does not increase total estate tax paid

Inheritance Tax

The Long Goodbye Part I

- 1997 Regular Session, Act 818
 - Phase in of rate reduction begins in 1998
 - Repeal of tax for deaths after June 30, 2004 **only if** succession opened within 9 months
 - 20% of tax due if succession not opened timely
- Phase out schedule:
 - For deaths prior to July 1, 1998, 100%
 - for deaths after June 30, 1998, 82%
 - for deaths after June 30, 2001, 60%
 - for deaths after June 30, 2002, 40%
 - for deaths after June 30, 2003, 20%

Inheritance Tax

Pre-1998 Rates

Classification of heirs or legatees	Exemption	Rate of tax
Direct descendants by blood or affinity, ascendant, or surviving spouse of decedent	Deaths in calendar year: 1983 and prior years - \$5,000 each 1984 - \$10,000 each 1985 - \$15,000 each 1986 - \$20,000 each 1987 and thereafter - \$25,000 each 1992 and thereafter – surviving spouse totally exempt	2% of the actual value on the first \$20,000 taxable, plus 3% of the actual value in excess of \$20,000
Collateral relations (including brothers or sisters by affinity)	\$1,000 each	5% of the actual value on the first \$20,000 taxable, plus 7% of the actual value in excess of \$20,000
Strangers or nonrelated persons	\$500 each	5% of the actual value on the first \$5,000 taxable, plus 10% of the actual value in excess of \$5,000
Charitable, religious, or educational organizations	Totally exempt	

Inheritance Tax

The Long Goodbye Part II

- Summer 2005—Hurricanes Katrina and Rita
 - Successions could not be opened timely and no relief provision available from the 20% inheritance tax
- 2007 Regular Session, Act 371
 - Eliminated the tax for all deaths after June 30, 2004 *even if a succession was never opened*

Inheritance Tax

The Long Goodbye Part III

- 2008 Regular Session, Act 822
 - Under prior law, if an inheritance tax return was never filed, the tax would never prescribe.
 - Provided for a final prescription date for inheritance taxes for dates of death before July 1, 2004.
 - On January 1, 2012, all inheritance taxes *where no return was ever filed* prescribed

Inheritance Tax Questions

If the tax has been repealed, why were \$80,000 of inheritance tax exemptions reported in the 2011-2012 Tax Exemption Budget?

And, why were \$900,000 of collections reported in the 2011 Annual Report?

Inheritance Tax – Remaining Collections

- Still in effect for dates of death ***before June 30, 2004*** *if* either
 1. A partial return was filed while the tax was still in effect and a final return has not yet been filed.
 2. A final return was filed while the tax was still in effect, but the IRS adjusts the federal return and additional Louisiana tax is due.

Inheritance Tax Exemptions

- Still available for open inheritance tax returns
 - Direct Descendants by Blood or Affinity, Ascendants, or Surviving Spouses (prior to 1992) of Decedent
 - Surviving Spouse
 - Collateral Relations; \$1,000 Exemption
 - Strangers or Nonrelated Persons; \$500 Exemption
 - Bequests to Charitable, Religious, or Educational Institutions in Louisiana
 - Bequests to the State, Incorporated Municipalities, or Political Subdivisions for Exclusive Public Use
 - Bequests to Out-of-State Charitable, Religious, or Educational Institutions
 - Proceeds of Life Insurance Paid to Named Beneficiaries
 - Qualified Retirement or Pension Plans

Gift Tax

- A gift tax is traditionally a backstop for the inheritance tax
 - To prevent donors from giving away property during their lifetime that would be subject to inheritance tax after their death.
- Once inheritance tax was repealed, gift tax no longer needed as a backstop
- Gift tax repealed by Acts 2007, No. 371, effective July 1, 2008.

Gifts Made Before July 1, 2008

- Unlike the inheritance tax, no final prescription date has been enacted for gift tax returns that were never filed.
- Under current law if gift tax was due, but a gift tax return was never filed, *the tax will never prescribe*.
- The first \$15,000 of taxable gifts during a calendar year was taxed at 2%; the amount in excess of \$15,000 was taxed at 3%.

Gift Tax

- FY 2011 Collections
 - \$120,000 total collections
 - \$26,000 total exemptions
- Exemptions still available for gifts made before July 1, 2008:
 - Specific Lifetime Exemption
 - Gifts Made to Charitable, Religious, or Educational Institutions Located in Louisiana
 - Gifts Made to the United States, the State of Louisiana, or Its Political Subdivisions or Civic Organizations
 - Gifts to Spouse
 - Annual Exclusion Per Donee

End of Part I – Questions?

Part II: Selected Excise and Miscellaneous Taxes in Louisiana

Excise Taxes: Liquors-Alcoholic Beverages, Tobacco

Miscellaneous: Public Utilities and Carriers,
Telecommunications, Hazardous Waste Disposal

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What is an Excise Tax?

- A tax usually on a particular commodity and often levied per unit.
- An indirect tax that is paid by the producer or seller and recovered by its inclusion in the price of the item paid by subsequent buyers.
- Usually imposed on items such as tobacco products, alcohol, gasoline.
- Items are often also subject to a sales tax paid by the ultimate purchaser at time of sale

Tax Collections

Tax	Statutory Cite	Collections FY 10-11
Liquors – Alcoholic Beverage	RS 26:341-423	Total \$ 56.1 M
High alcohol beverages – liquor, sparkling wines, still wines over 6%	RS 26:341(A)(1), (2), (3)	\$20.5 M
Low alcohol beverages – beverages with 6% or less alcohol content; malt beverages	RS 26:341(A)(4), 342	\$35.6 M
Tobacco Taxes	RS 47:841-869	Total \$142.8 M
Cigarette Tax	RS 47:841(B)(1)-(5)	\$118.6 M
Other tobacco products – cigars, smoking and smokeless tobacco	RS 47:841(A), (C)	\$24.2 M
Public Utilities and Carriers:		
Inspection and Supervision Fee	RS 45:1177-1179	\$8.1 M
Transportation & Communication Utilities Tax	RS 47:1001-1010	\$12.3 M
Telecommunication Tax For Deaf	RS 47:1061	\$1.0 M
Hazardous Waste Disposal Tax	RS 47:821-832	\$3.3 M

Selected Excise Taxes

- Liquors – Alcoholic Beverage Taxes
- Tobacco Taxes

Both of these taxes require that businesses handling any of the respective products:

- Register and obtain a permit from ATC
- Submit a bond to the Special Programs Division of the tax collection side of the Department of Revenue

Liquors – Alcoholic Beverage Taxes

RS 26:341-423

- Base: Quantity of alcoholic beverages handled in Louisiana
- Rates:
 - High alcohol beverages – based on number of liters and type of beverage
 - Low alcohol beverages – based on number of barrels
 - Malt beverages – based on number of barrels
- Imposed on dealer who first handles the beverages in Louisiana, usually wholesalers, who must be permitted by ATC
- High alcohol returns are filed monthly, due the 15th day of following month
- Low alcohol and malt beverage returns [also known as beer] are filed electronically on monthly basis, due by the 20th day of following month; return also includes column for Parish and Municipal tax

Alcoholic Beverage Tax Rates

- High Alcohol beverages = beverages with more than 6% alcohol by volume
 - Liquors @ \$.66 per liter
 - Sparkling Wines /still wine >24% @ \$.42 per liter
 - Still Wines >14% and ≤24% @ \$.06 per liter
 - Still Wines >6% and ≤14% @ \$.03 per liter
- Low alcohol beverages = beverages with not more than 6% alcohol by volume @ \$10 per 31-gallon barrel
- Malt beverages @ \$10 per 31-gallon barrel

Tobacco Taxes

RS 47:841-869

- Base: Cigarettes and other tobacco products such as cigars, smoking and smokeless tobacco
- Rates:
 - Cigarettes @ \$.018 per stick or \$.36 on a pack of 20 cigarettes
 - Cigars invoiced at \leq \$120/thousand @ 8% of invoice price
 - Cigars invoiced at $>$ \$120/thousand @ 20% of invoice price
 - Smoking tobacco @ 33% of invoice price
 - Smokeless tobacco @ 20% of invoice price
- Collected from first handler in state, usually a wholesaler, who must be permitted by ATC
- Cigarette tax is paid by purchase of tax indicia based on packaging; i.e., stamps for 20-packs or 25-packs
- Tobacco tax returns are filed monthly; due by the 20th of the following month

Dedications of Tax on Cigarettes

Some of the taxes levied on cigarettes are dedicated:

4/20 of \$.01 per stick or 4¢/20-pack to Health Excellence Fund (LA Constitution Article VII, §10.8(A)(2)(c)) [FY 2011 = \$13 M]

7/20 of \$.01 per stick or 7¢/20-pack to Tobacco Tax Health Care Fund (RS 47:841.1(A)) [FY 2011 = \$23 M]

5/20 of \$.01 per stick or 5¢/20-pack to Tobacco Tax Health Care Fund (RS 47:841.1(A)) [FY 2011 = \$16 M]

1/4 of 1/20 of \$.01 per stick or .25¢/20-pack to Tobacco Regulation Enforcement Fund (RS 47:841(F) and RS 11:544(B)(3)) [FY 2011= \$.8 M]

Other Miscellaneous Taxes

- Public Utilities and Carriers [regulated by PSC]
 - Inspection and Supervision Fee
 - Transportation and Communication Utilities Tax
- Telecommunication Tax For the Deaf
- Hazardous Waste Disposal Tax [entities registered with DEQ]

Public Utilities and Carriers

Inspection & Supervision Fees

RS 45:1177-1180

- Base: Gross receipts from intrastate business of carriers and utilities identified by Public Service Commission
- Rates: Decreasing rates based on cumulative gross receipts for calendar year not to be less than \$80 annually
- Total receipts are to match receipts reported on annual reports to Public Service Commission
- Reports are filed quarterly, due by the end of the next calendar quarter
- Monies intended for the Utility and Carrier Inspection and Supervision Fund

Public Utilities and Carriers

Transportation & Communication Utilities

RS 47:1001-1010

- Base: Gross receipts from intrastate business of carriers and utilities as identified by Public Service Commission
- Rate: 2% of gross receipts, as defined
- Legislation passed in 1990 repealed provision related to telecommunication services and made them subject to sales tax instead
- Reports are filed:
 - Quarterly by motor freight carriers
 - Monthly by all others

Telecommunications Tax For Deaf

RS 47:1061

- Base: Each residence and business customer telephone access line
- Rate: \$.05 per line per month
- Collected from customers on their monthly phone bills by the local exchange telephone companies
- Reports are filed tax quarterly by the 30th day after the calendar quarter
- Tax is not considered revenue to the local exchange companies
- Monies are intended for the Telecommunications for the Deaf Fund to provide accessibility services and assistive technology for persons who are deaf, deaf/blind, hard of hearing, speech impaired or others similarly handicapped

Hazardous Waste Disposal Tax

RS 47:820-832

- Base: Disposal of hazardous or extremely hazardous waste in Louisiana or the storage of waste stored for more than 90 days for eventual incineration at sea
- Tax rates are per dry weight ton and vary depending on:
 - the type of hazardous waste disposed
 - whether it is created in Louisiana
 - method of disposal
- DEQ identifies the disposers and generators for purpose of registration
- Tax collected and remitted by disposer or generator who disposes of own waste
- Tax due quarterly by the 20th day of the next calendar quarter
- LDR began administering in 1984; previously collected by DEQ
- Monies intended for the Hazardous Waste Site Cleanup Fund

Hazardous Waste Disposal Rates

- \$30/dry weight ton of hazardous waste disposed of or stored at the site of generation
- \$40/dry weight ton of hazardous waste disposed of or stored at a site other than where generated
- \$100 per dry weight ton of extremely hazardous waste disposed of in LA
- Out-of-state waste imported for disposal is at the rate that would have been charged in the state where generated but not less than Louisiana's rate for type of waste and method of disposal

Questions?