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Louisiana legislation creates managed audit program

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Enacted Louisiana legislation provides that the Secretary of the Department of Revenue may, in a written agreement, authorize a taxpayer to conduct a managed audit. The agreement must specify the period to be audited and the procedures to be followed, and must be signed by an authorized representative of the Secretary and the taxpayer. The legislation took effect upon enactment. [H.B. 209 (Act 171), enacted 6/24/11]

A "managed audit" is defined as a review and analysis of invoices, checks, accounting records, or other documents or information to determine the correct amount of tax. A managed audit may be limited to certain categories of liability under the law, including tax on:

- Sales of one or more types of taxable items
- Purchases of assets
- Purchases of expense items
- Purchases under a direct payment permit
- Any other category specified in an agreement authorized by the law

The decision to authorize a managed audit rests completely with the Secretary. In making the decision as to whether to authorize a managed audit, the Secretary may consider in addition to any other facts and circumstances the taxpayer's history of tax compliance, time and resources the taxpayer has available to dedicate to the audit, the extent and availability of the taxpayer's records, and the taxpayer's ability to pay any expected liability.

The Secretary may examine records and perform reviews deemed necessary before the audit is finalized to verify the results of the audit.

Unless the audit or information reviewed by the Secretary discloses fraud or willful evasion of the tax, the Secretary may not assess a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit. The waiver of penalties and interest does not apply to any amount collected by a taxpayer that was a tax or represented to be a tax, but that was not remitted to the State. The taxpayer is entitled to a refund of any tax overpayments disclosed as a result of a managed audit.

PwC Observes. "Traditionally, managed audits were only permitted in certain cases where potential refunds were identified that required extensive work to document and quantify. In these cases the Secretary would request the taxpayer to gather the documentation supporting the refund claim, which was subject to review by the Department," explains Robin Sigur SALT Director with PwC in Houston.

"The Department is currently drafting a regulation that details the process and procedures of the managed audit program," Sigur adds.

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