



LOUISIANA DEPARTMENT OF REVENUE PERFORMING LIMITED SCOPE SALES TAX AUDITS OF NATURAL GAS USAGE

The sale or use of natural gas has been fully exempt from Louisiana sales and use tax since July 1, 2009. The exemption (La.R.S.47:305(D)(1)(g)) had been suspended or partially suspended since 1987. Recently, the Louisiana Department of Revenue (the “Department”), eager to obtain any potential tax on the sale or use of natural gas, has been conducting sales tax audits focused solely on the consumption of natural gas by producers, operators, and transporters for any open periods up to June 30, 2009. These limited scope audits are often “desk audits” where the Department does not even contact the company, but instead reviews data filed with the Louisiana Department of Natural Resources (the “DNR”) regarding the volume of natural gas consumed in lease, gathering and pipeline operations. The Department multiplies the volumes by an artificial “sales price” crafted by the Department to determine the alleged tax liability. Typically, the Department then notifies the company that provided the information to the DNR that the Department intends to assess tax on the natural gas consumed.

If you receive notice from the Department that an audit has been conducted, your first action item is to determine whether you have received a “proposed” or “formal” assessment. Each has a different set of appeal opportunities and obligations. If you have received a “formal” assessment, you must (repeat **must**) take action within 60 days of receiving the notice. It is usually recommended that you contact counsel or your tax consultant when you receive a “formal” assessment. If you have received a “proposed” assessment, you have the right to petition the Department’s new Audit Protest Bureau.

Regardless of the type of assessment you receive, or the appeal procedure you choose to employ, there are many defenses to the assessment of sales tax on natural gas used in operations, including whether a taxable sale or use has occurred and to what extent, if any, consideration has been exchanged. There will likely also be an opportunity to challenge the “sales price” that the Department has used to calculate the alleged tax liability.

Companies that have reported any use of natural gas to the DNR and have not remitted sales or use tax on that natural gas to the Department, are likely targets for these “drive-by” audits. If you receive an assessment or even a request for information from the Department, be aware of your procedural and substantive rights before you respond.

If you have any questions regarding the foregoing, please contact Jesse R. “Jay” Adams, III, Andre B. Burvant or any member of the Jones Walker State and Local Tax Team.

—[Jesse R. “Jay” Adams, III](#) and [Andre B. Burvant](#)



Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:

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