

Legislative Relief for Taxpayers Involved in Disputes with the Tax Collector where the Collector Employs Outside Counsel

September 20, 2009

Effective July 10, 2009, the statutes that authorize the State Department of Revenue (La. Rev. Stat. §47:1512) and local tax collectors (La. Rev. Stat. §47:337.13.1) to employ private counsel to assist in the collection of any taxes, penalties, or interest, or to represent the collector in proceedings have been amended.

The Department is now authorized to pay its counsel reasonable attorneys fees and reasonable expenses out of current collections of the tax at issue. The attorney fees may not exceed ten percent of the taxes, penalties, and interest at issue. This represents a change in the law in that, previously, the Department's outside attorneys were to be paid by the taxpayer. On the other hand, if the Department contracts with an attorney to collect a delinquent account after an assessment has become final, the taxpayer may still be liable for an additional charge to cover the Department's attorneys fees in the amount of ten percent of the taxes, penalties and interest due.

Local collectors are now authorized to employ private counsel to assist in the collection of taxes, penalties and interest or to represent the collector and to collect ten percent of the tax, penalties and interest due, except with respect to amounts timely paid under protest with a return that is not delinquent (or paid under protest to a vendor), from the taxpayer. The law now makes clear that the amount paid to the local collectors' attorneys are subject to the discretion of the court as to reasonableness.