

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Election of Pass-Through Entities
(LAC: 61:I.1001)**

Under the authority of R.S. 47:1511 and 287.732.2 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1001.

The primary purpose of the proposed regulation is to implement Act 396 of the 2021 Regular Session of the Louisiana Legislature as it concerns the repeal of the deduction for federal taxes paid and the amendment of rates for taxpayers making a pass-through entity election pursuant to R.S. 47:287.732.2.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of the Department of Revenue

Chapter 10. Income: Pass-Through Entities

§1001. Election of Pass-Through Entities

A. ...

1. For taxable periods beginning on or before December 31, 2021, the income of entities that make the election under LA R.S. 47:287.732.2 shall be taxed at the following rates:

- a. two percent upon the first \$25,000 of Louisiana taxable income;
- b. four percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. six percent upon the amount of Louisiana taxable income above \$100,000.

2. For taxable periods beginning on or after January 1, 2022, the income of entities that make the election under LA R.S. 47:287.732.2 shall be taxed at the following rates:

- a. one and eighty-five one hundredths percent upon the first \$25,000 of Louisiana taxable income;
- b. three and one-half percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. four and one-quarter percent upon the amount of Louisiana taxable income above \$100,000.

B.-C.3. ...

a. A *pro forma* Federal Form 1120 completed as if the entity had filed as a C corporation for federal income tax purposes;

C.3.b.-D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.732.2 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 46:43 (January 2020), amended by the Department of Revenue, Policy Services Division, LR 48:

Family Impact Statement

The proposed amendment of LAC 61:I1123, regarding the repeal of the deduction for federal income taxes paid, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of these proposed rules will have no known or foreseeable effect on:

- 1. The stability of the family.
- 2. The authority and rights of parents regarding the education and supervision of their children.
- 3. The functioning of the family.
- 4. Family earnings and family budget.
- 5. The behavior and personal responsibility of children.
- 6. The ability of the family or a local government to perform this function.

Poverty Statement

The proposed amendments and proposed regulation will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed amendments and proposed regulation will have no known or foreseeable effect on:

- 1. The staffing levels requirements or qualifications required to provide the same level of service.
- 2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
- 3. The overall effect on the ability of the provider to provide the same level of service.

Small Business Statement

It is anticipated that the proposed amendments and proposed regulation should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting

these proposed amendments to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding the proposed amendments and/or regulation to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4:00 p.m., Wednesday, October 26, 2022.

Public Hearing

A public hearing will be held on Thursday, October 27, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin J. Richard, CPA
Secretary, Department of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Election of Pass-Through Entities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The purpose of this proposed amendment is to amend LAC 61:1.1001 to implement the portion of Act 396 of the 2021 Regular Session related to personal income tax of pass-through entities. Act 396 repeals the deduction of federal income taxes (“FIT”) paid and reduces income tax rates for personal income taxpayers, including those making a pass-through entity election as provided in R.S. 47:287.732.2. The proposed rule amendment standardizes the tax rates in the Administrative Code with those enacted into the Revised Statutes by Act 396. No material impacts on expenditures are anticipated due to this proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 396 reduces income tax rates for certain pass-through entities while removing a major deduction for federal income tax (FIT). The rate reduction would serve to reduce tax liabilities, and the repeal of the FIT deduction would serve to increase the tax base and thus liabilities. The effects of these provisions would offset to a varying extent for each entity, resulting in a net tax liability change that would also vary by entity. The net state revenue impact of these changes for certain pass-through entities in particular is negligible. However, the aggregate effects of the 2021RS income tax reforms were designed to approximately be revenue neutral in the aggregate. The rule addressing pass-through entities are thus a component of a larger set of reforms that are approximately revenue-neutral as a whole, though may or may not be revenue neutral as a standalone. For informational purposes, at the end of FY 21, 202 eligible entities had made the election to file at the entity level, and 140 tax returns were filed by such entities for a total tax liability of \$6.6 million. As of August 18, 2022, 458 eligible entities had made the election. Personal income tax collections in FY 21 were \$4 billion. No impact on revenue collections of local governmental units is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NON-GOVERNMENTAL GROUPS (Summary)

No material aggregate impacts on costs or economic benefits are anticipated for affected personal, small business or non-governmental groups due to this proposed rule change. The rate reductions and federal income tax (FIT) deduction would be in effect even in the absence of this proposed rule but are considered in conjunction with Act 396 for purposes of this impact statement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated.

Kevin J. Richard, CPA
Secretary of Revenue

Alan Boxberger
Interim Fiscal Officer

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B.-C.3. ...

a. ~~A pro forma Federal Form 1120 completed as if the entity had filed as a C corporation for federal income tax purposes including all necessary federal schedules to compute the amount of federal tax that would have been due;~~

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Kevin J. Richard, CPA
Secretary of Revenue

Alan Boxberger
Interim Fiscal Officer

**Fiscal and Economic Impact Statement
For Administrative Rules**

Person preparing
statement:
Phone:
Return Address:

Benjamin Vincent
(225) 219-4007
617 North Third Street
Baton Rouge, LA 70802

Department: Revenue
Office: Policy Services Division
Rule Title: LAC 61:I.1923
Date Rule
Takes Effect: December 20, 2022

Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

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Signature of Agency Head or Designee

Kevin J. Richard, Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature

9/9/22

Legislative Fiscal Officer Designee

Alan Boxberger, Interim Fiscal Officer

Typed Name of Legislative Fiscal Officer Designee

Date of Signature

9/9/22