

proper approval or any disposer found not charging the tax may be assessed the fine outlined in R.S. 47:827.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:826.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Excise Taxes Section, LR 13:105 (February 1987).

§915. Returns and Payment

A. The tax due for each quarter shall be remitted to the secretary, by the person responsible for remitting the tax, on or before the twentieth day of the subsequent quarter. All generators and disposers doing business in Louisiana are required to file a tax return quarterly, unless otherwise provided, on forms prescribed by the secretary. Forms are available from the secretary; and although forms are usually mailed to each taxpayer, failure to receive a form will not relieve the taxpayer of the necessity of filing and remitting the tax currently due.

B. Corporations that violate the provisions of R.S. 47:827 shall be fined an amount not to exceed \$100,000. Individuals who violate the provisions of R.S. 47:827 shall be fined an amount not to exceed \$10,000, or imprisoned for not more than one year, or both.

C. When any taxpayer fails to pay any tax, penalty, and interest assessed, as provided in this Chapter, the secretary of the Department of Revenue and Taxation may proceed to enforce the collection thereof by distraint and sale under the provisions of R.S. 47:1570-1573.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:827.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Excise Taxes Section, LR 13:105 (February 1987).

§917. Records Requirements

A. Every person required to pay, collect, or remit the tax imposed under this Chapter shall keep a permanent record of all production, handling, storage, disposal, shipment, and receipt of hazardous waste by him in sufficient detail to be of value in determining the correct tax liability under this Chapter. These records must be kept whether or not the person believes the tax imposed by this Chapter is applicable.

B. Whenever the dry-weight of a waste is used as the basis for computing the tax on a return, full documentation of the facts and methodology used in calculating the dry-weight must be maintained. This documentation includes, but is not limited to, testing procedures followed, test results obtained, assumptions made, and the basis for assumptions made.

C. Where required records are voluminous, they must be kept in chronological order or in some other systematic order compatible with the taxpayer's regular bookkeeping system which will enable the secretary to verify the accuracy of information contained in tax returns.

D. Records kept on punched cards, magnetic tape, or other mechanical or electronic record-keeping devices are permissible provided the taxpayer makes available all

necessary codes and equipment to enable the secretary to audit such records, or provides the secretary with written transcripts of those parts of the records which the secretary wishes to examine.

E. The books and records must contain complete information pertaining to both taxable and non-taxable items which are the subject of taxes imposed herein, and must be retained until the tax period to which they relate has prescribed. Records required by this Section must be available at all times during the regular business hours of the day for inspection by the secretary or duly authorized agents of the secretary.

F. For the purpose of computing, collecting, or auditing the tax imposed by this Chapter, the secretary shall have access to all manifests and records which are required by the Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:831.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Excise Taxes Section, LR 13:105 (February 1987).

Chapter 10. Income: Pass-Through Entities

§1001. Election of Pass-Through Entities

A. Act 442 of the 2019 Regular Session of the Louisiana Legislature, allows S corporations, and other entities taxed as partnerships for federal income tax purposes, to make an election to be taxed in the same manner as if the entity was required to file a tax return with the Internal Revenue Service as a C corporation.

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

- a. 2 percent upon the first \$25,000 of Louisiana taxable income;
- b. 4 percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. 6 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. 1.85 percent upon the first \$25,000 of Louisiana taxable income;
- b. 3.5 percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. 4.25 percent upon the amount of Louisiana taxable income above \$100,000.

B. Requirements to Make the Election

1. Shareholders, members or partners holding more than one-half of the ownership interest in the entity based

upon capital account balances on the day the election is made shall approve the election.

2. The entity shall provide the Department of Revenue at the time of making the election either:

a. a resolution signed by secretary of the corporation or equivalent officer or manager verifying that more than one-half of the ownership interest in the entity based upon capital account balances approved the election, or

b. other written proof that more than one-half the ownership interest in the entity approved the election.

3. An entity shall make the election on Form R-6980, *Tax Election for Pass-Through Entities* and the form shall be submitted to the Department of Revenue by email to Section732.2election@la.gov.

a. The following documentation shall be attached to Form R-6980:

i. a list of all owners, their addresses and their tax identification numbers as of the last day of the taxable year to which the election is effective;

ii. federal returns for the entity for the preceding three taxable years if applicable, including form K-1s and pass-through or disregarded entity forms such as Schedules C, E, and F;

iii. formation documents of the entity such as the Articles of Incorporation, Partnership Agreement or Operating Agreement which specifically set forth how profits, losses and other tax items are distributed to the owners; and

iv. a list of all unused Louisiana net operating losses, tax credit balances and other tax items earned at the entity level prior to the election.

4. Any entity who files a composite partnership return pursuant to LA R.S. 47:201.1 is prohibited from making the election.

5. Elections are timely if made: at any time during the preceding taxable year of the year in which the election is first effective; at any time during the taxable year in which the election is first effective or on or before the 15th day of the fourth month after the close of the taxable year in which the election is first effective.

a. The department will begin accepting elections on February 1, 2020 for taxable years beginning on or after January 1, 2019.

b. The secretary has the discretion to treat an election made after the fifteenth day of the fourth month after the close of the taxable year in which the election is first effective as timely if reasonable circumstances exist for the entity's failure to make a timely election.

i. The secretary shall consider whether to treat applications filed after the fifteenth day of the fourth month after the close of the taxable year as filed timely on a case-by-case basis.

ii. Reasonable circumstances may include, but are not limited to, death or serious illness of owners, death or serious illness of the entity's tax preparer, or federally declared natural disasters or emergencies.

iii. A determination that the entity and its owners will pay less total tax under the election shall not be a reasonable circumstance to consider a late election timely.

c. An election, once made, is effective for the entire taxable year for which it was made as well as all subsequent taxable years until the election is terminated.

C. Filing Tax Returns after Election

1. Each entity making the election shall file Louisiana Form CIFT-620, *Corporation Income Tax and Franchise Tax Return*, for the applicable taxable year for which the election was made and all taxable years thereafter unless the election is terminated.

2. Each entity making the election and filing the Louisiana Form CIFT-620 with all supporting documentation as required by the Department shall be required to file the return electronically in accordance with LAC 61:III.1505. Failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

3. The following documents shall be attached to the Louisiana Form CIFT-620 when filed:

a. Schedule K-1s as actually issued to the owners of the entity for the taxable year as well as Louisiana Form R-6981, *Statement of Owner's Share of Entity Level Tax Items*, reflecting any income that remains taxable to the entity's owners in Louisiana after the election such as dividends and interest; and

b. Louisiana Form R-6982, *Schedule of Tax Paid if Paid by Owner*, calculating how much tax would have been due if the entity had passed the income through to its owners and the tax had been paid at the owner level.

4. Modification of Income and Loss

a. Taxpayers with an ownership interest in an entity making the election shall make a modification, as follows:

i. Resident individual taxpayers shall make a modification on Schedule E of their Louisiana Form IT-540, *Louisiana Resident Income Tax Return*, in accordance with R.S. 47:297.14. A non-resident or part-year resident shall make the modification on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, *Louisiana Nonresident and Part-Year Resident Income Tax Return*.

ii. Resident and nonresident trusts or estates shall make a modification on Lines 2D and 3D and Schedule A, respectively, of their Louisiana Form IT-541, *Fiduciary Income Tax Return*.

b. The modification shall be made for all income or loss of the entity that was included by the individual or fiduciary owners in the calculation of federal adjusted gross

income or federal taxable income, respectively, but which is being taxed at the entity level for Louisiana income tax purposes after the election is made.

c. The modification shall not be made for any income or loss that remains taxable for Louisiana individual or fiduciary income tax purposes to the entity's owners, such as interest income and dividend income.

d. For calculation purposes, individual or fiduciary income taxpayers with an ownership interest in an entity making the election shall submit a *pro forma* Federal Form 1040 or 1041, respectively, that excludes any income, deductions or other tax items that were included in the calculation of Louisiana net income on the entity's Louisiana Form CIFT-620.

5. Net Operating Losses

a. Louisiana net operating losses recognized in taxable years prior to the election that have previously been passed through to the owners are tax items of the owners and any such losses are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana net operating losses for any taxable year to which the election applies are tax items of the entity and any such losses shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

6. Tax Credits Granted to Pass-Through Entities

a. Louisiana tax credits earned in taxable years prior to the election that have previously passed through to the owners are tax items of the owners and any such credits are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana tax credits earned for any taxable years to which the election applies are tax items of the entity and any such credits shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

D. Termination of the Election. Entities who make the election pursuant to R.S. 47:287.732.2, may apply to the secretary of the Department of Revenue to terminate the election. Any such termination request requires the written approval of more than one-half of the ownership interest based upon capital account balances on the date the request is submitted. A taxpayer may request a termination of the election by electronic submission of Louisiana Form R-6983, *Termination of the Pass-Through Entity Tax Election*, and satisfying the requirements of either method of termination, as follows:

1. The secretary may terminate the election if the entity shows a material change in circumstances.

a. A significant change in federal law may be considered a material change in circumstances.

b. A tax increase resulting from the decision to make the election, in and of itself, shall not be considered a material change in circumstances.

c. The request to terminate the election shall include a written explanation of the material change which warrants termination.

d. Once the entity has filed a Louisiana income tax return for a taxable year for which the election has been made or a subsequent taxable year, the secretary shall not grant a termination of the election to apply to such taxable year for which a return has already been filed.

2. A taxpayer may terminate the election by filing an application for prospective termination.

a. For purposes of this Paragraph, an application shall be considered timely and complete when all required documentation has been submitted on or before November 1 prior to the close of the taxable year for calendar year filers or sixty days prior to the close of the taxable year for fiscal year filers.

3. An entity applying for termination under either method provided in this Subsection must provide the Department either:

a. A resolution signed by secretary of the corporation or equivalent officer manager verifying that more than one-half the ownership interest in the entity based upon capital account balances approved the election, or

b. Other written proof that more than one-half the ownership interest in the entity based upon capital account balances approved the request for termination.

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 48:2991 (December 2022), amended by the Department of Revenue, Tax Policy and Planning Division, LR:50:407 (March 2024).

Chapter 11. Corporation Income Tax

§1114. Modifications of Federal Gross Income

A. In order to calculate Louisiana gross income, R.S. 47:287.71 requires modifications be made to federal gross income. R.S. 47:287.71(B)(7) provides that exclusions from Subpart F must be taken into account when computing Louisiana gross income. Included in the exclusions from gross income required by R.S. 47:287.71(B)(7) are those modifications provided for in R.S. 47:287.738(C) through (F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:261 (February 2006).

§1115. Corporate Deductions; Add-Back of Certain Intangible Expenses; Interest and Management Fees

A. General. R.S. 47:287.82 provides that otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid to

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of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

iii. If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

D. Information that must be submitted with the return in order to properly claim the credit:

1. statement that health insurance has been offered to at least 85 percent of the employees;
2. copy of the health insurance coverage plan from the insurance company;
3. number of full-time employees working for the contractor or subcontractor; and
4. amount of the contract for public work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.759, R. S. 47:1601, R.S. 47:1603, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 32:864 (May 2006).

Chapter 13. Income: Individual

§1301. Requirements for Submitting Claims for Offset of Individual Income Tax Refunds against Debts Owed Certain State Agencies

A. The responsible official for each claimant agency will provide to the secretary of revenue and taxation a certified listing of all offset claims. The listing of offset claims must be made in writing or on magnetic tapes in a format specified by the secretary of revenue and taxation which will permit a written listing to be generated.

B. The responsible official must also furnish certification in writing that the debts for which the offset claims are made are legally collectible, liquidated sums due and owing the claimant agency or due and owing a person and collectible by the claimant agency. The certification must include the name and address of the claimant agency and the manner in which each offset claim arose.

C. For each offset claim, the agency must include the following information:

1. the name of the individual;
2. the amount of offset claimed;
3. the Social Security number of the debtor;
4. the most current address available to the claimant;
5. any additional information requested by the secretary which will facilitate identification and processing of the offset claim.

D. Prior to participation in the program and each year thereafter, each claimant agency participating in the garnishment program must furnish to the Department of Revenue and Taxation by October 1:

1. a statement that the agency intends to submit offset claims for the next year;
2. the anticipated number of offset claims to be certified to the department;
3. the estimated total amount of claims due;
4. any additional information requested by the Secretary of Revenue and Taxation to facilitate the economical and efficient administration of this program.

E. The Secretary of Revenue and Taxation may establish a minimum number of offset claims which will be accepted from each claimant agency.

F. The Secretary of Revenue and Taxation will determine the date each agency will be required to furnish the listing of offset claims.

G. The Secretary of Revenue and Taxation will determine the frequency and method of making remittances to the claimant agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:299.4.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, LR 10:804 (October 1984).

§1302. Nonresident Net Operating Losses

A. Nonresident individuals may carry back or carry over Louisiana net operating losses. Louisiana net operating losses may be carried and used in the same manner that would be allowed for federal purposes if the nonresident individual's federal returns consisted of only the Louisiana items of income and loss.

B. Application

1. The years to which Louisiana net operating losses may be carried are the same as they are for federal personal income tax purposes.

2. Net operating loss carrybacks and carryovers are considered an adjustment to Louisiana income and must be applied against total Louisiana income before applying any deductions.

3. When a net operating loss carryback or carryover is used a schedule must be attached to the return in which it is used for each carryback or carryover showing:

- a. the taxable year in which each loss that is being carried back or carried over occurred; and
- b. the amount of each loss applied to each taxable year to which it was carried over or carried back.

4. A separate schedule showing how each Louisiana net operating loss was determined may also be required.

C. Limitations

1. A Louisiana net operating loss carryback or carryover cannot include any amount that has already been deducted for Louisiana purposes.

2. Nothing in this Section authorizes a federal income tax deduction for income that did not bear Louisiana personal income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:293, R.S. 47:295, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:101 (January 2002).

§1303. Application of the Louisiana Individual Income Tax to Native Americans

A. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources on that reservation shall be exempted from Louisiana individual income tax. The determination of the sources of gross allocable income shall be consistent with R.S. 47:243.

B. The income of an enrolled member of a federally recognized Indian tribe residing on that tribe's reservation that is derived from sources outside of that reservation is taxable for Louisiana individual income tax purposes. This includes income derived from sources outside of the state.

C. The income of an enrolled member of a federally recognized Indian tribe residing in Louisiana off of that tribe's reservation is taxable for Louisiana individual income tax purposes regardless of source.

D. If an enrolled member of a federally recognized Indian tribe resides on that tribe's reservation for a portion of the year and resides off of that tribe's reservation for a portion of the year such enrolled member shall be taxed based upon where such enrolled member resided when the income in question was earned.

E. Compensation from military sources paid to an enrolled member of a federally recognized Indian tribe shall be exempted from Louisiana individual income tax if:

1. such enrolled member was residing on that tribe's reservation at the time of entering the armed forces of the United States; and

2. such enrolled member has not elected to abandon his or her residence on that tribe's reservation.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:293(6)(a)(iii) and R.S. 47:295.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:2261 (December 2001).

§1304. Nonresident Apportionment of Compensation from Personal Services Rendered in Louisiana

A. For purposes of this Section, nonresident means any individual not domiciled, residing in, or having a permanent place of abode in Louisiana.

B. Nonresidents are taxed on all income from sources within Louisiana. Income from sources within Louisiana includes compensation for personal services rendered within Louisiana.

C. The purpose of this rule is to apportion to Louisiana, in a fair and equitable manner, a nonresident's total compensation for personal services performed in the state. It is presumed that application of the provisions of this rule

will result in a fair and equitable apportionment of that compensation.

1. When the department demonstrates that the method provided under this rule does not fairly and equitably apportion that compensation, the department may require the nonresident service provider to apportion that compensation under an alternative method the department prescribes, as long as the prescribed method results in a fair and equitable apportionment.

2. If a nonresident service provider demonstrates that the method provided under this rule does not fairly and equitably apportion compensation, the nonresident may submit a proposal for an alternative method to apportion compensation. If approved, the proposed method must be fully documented and explained in the nonresident service provider's nonresident personal income tax return for the state.

3. Nonresident service providers shall keep adequate records to substantiate their determination or to permit a determination by the department of the part of their adjusted gross income that was derived from or connected with sources in this state.

D. Compensation of Salaried Employees with a Constant Rate of Pay. The Louisiana income from personal services is the proportion of total compensation from services rendered, which the total number of working days in the state bears to the total number of working days both within and without the state.

1. The total number of working days is determined by subtracting all nonworking days from the total number of days in the year or contract period, if the contract period is less than a year.

2. Nonworking days include, but are not limited to, Saturdays and Sundays not worked, holidays, days off for religious observance, days of absence due to illness or personal injury, vacation days, days of leave without pay, days off for any personal reason, and sabbatical days.

3. Days spent in travel, if the travel is at the direction of the employer, are considered working days even if the travel is on a day that would usually be considered a nonworking day.

E. Compensation Based on Volume of Business. The Louisiana income from commissions earned by a nonresident traveling salesman, agent or other employee for services performed or sales made, whose compensation depends directly on the volume of business transacted by him, includes that proportion of the compensation received which the volume of business transacted by such employee within Louisiana bears to the total volume of business transacted by him within and without the state.

F. Compensation from Continuous Employment in Louisiana for Part of the Year. If a nonresident employee (including officers of corporations, but excluding employees, mentioned in Subsection D above) is employed continuously in this state for a definite portion of any taxable year, that