

NOTICE OF INTENT

Department of Revenue Tax Policy and Planning Division

Tax Credit Documentation Requirements (LAC 61:I.1001, and 1302)

Under the authority of R.S. 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, proposes to amend LAC 61:I.1001 and 1302.

R.S. 47:1624(F) authorizes the suspension of the accrual of interest during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required by statute or regulation. The purpose of these amendments is to set forth the information and documentation required to be provided by a taxpayer claiming the Pass-Through Entity Exclusion and nonresident individuals reporting a net operating loss.

Title 61

REVENUE AND TAXATION

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

Chapter 10. Income: Pass-Through Entities

§1001. Election of Pass-Through Entities

A. – C.4.c. ...

d. For calculation purposes, individual or fiduciary income taxpayers with an ownership interest in an entity making the election shall submit a copy of Form R-6981, Louisiana Statement of Owner's Share of Entity Level Tax Items, and 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. A nonresident individual shall submit a *pro forma* NPR Worksheet of the Louisiana Form IT-540B excluding 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 instead of a *pro forma* Federal Form 1040.

e. The accrual of interest shall be suspended during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required herein, as provided by La. R.S. 47:1624(F).

5. – D.3.b. ...

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), amended by the Department of Revenue, Tax Policy and Planning Division LR:50

§1302. Nonresident Net Operating Losses

A. – A.2. ...

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.

D. Documentation for claiming the deduction

1. When a year produces a Louisiana net operating loss, a *pro forma* Federal Form 1040 showing how the Louisiana NOL was calculated must be attached to the return at the time of filing.

2. When a net operating loss carryback or carryover is used you must mark the “NOL” box on the face of the return and the following documentation must be attached to the return at the time of filing:

a. a schedule showing:

i. the taxable year in which each loss that is being carried back or carried over occurred; and

ii. the amount of each loss applied to each taxable year to which it was carried over or carried back.

b. a *pro forma* Federal Form 1040 showing the utilization of the Louisiana net operating loss; and

c. a *pro forma* Federal Form 1040 for the year producing the Louisiana net operating loss if it was not provided for the year in which it was produced.

3. When federal law provides for the carryback of a net operating loss:

a. If an amended return is being filed to carryback a Federal net operating loss, you must mark the “Amended Return” box on the face of the return and attach an explanation of the change and a copy of the federal amended return, Federal Form 1040X, or Federal Form 1045 whichever was filed. ~~;~~ and

b. If an amended return is being filed to carryback a Federal and Louisiana net operating loss, you must mark the “Amended Return” and “NOL” box on the face of the return; attach the schedule required by Subparagraph (2)(a) of this Subsection, a copy of the federal amended return, Federal Form 1040X or Federal Form 1045 whichever was filed; and a *pro forma* Federal Form 1040 to show how the Louisiana net operating loss was utilized.

4. The accrual of interest shall be suspended during any period of time that a delay in the issuance of a refund is attributable to the taxpayer’s failure to provide information or documentation required herein, as provided by La. R.S. 47:1624(F).

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), amended by the Department of Revenue, Tax Policy and Planning Division, LR:50.

Family Impact Statement

The proposed amendments 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 this proposed amendment 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 Impact Statement

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

Small Business Analysis

It is anticipated that the proposed amendments 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.

Provider Impact Statement

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

1. The staffing level 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.

Public Comments

Any interested persons may submit written data, views, arguments, or comments regarding these proposed amendments to Danielle Daniels, Attorney, Tax Policy and Planning Division by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or email at Danielle.Daniels2@la.gov. All comments must be received no later than Monday, August 26, 2024, at 4:00 PM.

Public Hearing

A public hearing will be held on Tuesday, August 27, 2024, at 10:00 AM in the LaBelle Room, on the 1st Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Danielle Daniels at the address given above in the Public Comments section, by email at LDRadarequests@la.gov or by phone at (225) 219-1781.

Richard Nelson
Secretary, Department of Revenue

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 - a. a schedule showing:
 - i. the taxable year in which each loss that is being carried back or carried over occurred; and
 - ii. the amount of each loss applied to each taxable year to which it was carried over or carried back.
 - b. a *pro forma* Federal Form 1040 showing the utilization of the Louisiana net operating loss; and
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 - b. If an amended return is being filed to carryback a federal and Louisiana net operating loss, you must mark the “Amended Return” and “NOL” box on the face of the return; attach the schedule required by Subparagraph (2)(a) of this Subsection, a copy of the federal amended return, Federal Form 1040X or Federal Form 1045 whichever was filed; and a *pro forma* Federal Form 1040 to show how the Louisiana net operating loss was utilized.
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Richard Nelson
Secretary, Department of Revenue

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Ashley Joseph</u>	Dept.:	<u>Revenue</u>
Phone:	<u>225-219-2259</u>	Office:	<u>External Reporting Division</u>
Return Address:	<u>617 North Third Street</u>	Rule Title:	<u>LAC 61:I.1001 and 1302</u>
	<u>Baton Rouge, La 70802</u>	Date Rule Takes Effect:	<u>October 20, 2024</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 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 STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

The proposed amendments set forth the information and documentation required to be provided by taxpayers claiming the pass-through entity exclusion. The amendments also establish information and documentation required when nonresidents initially report a Louisiana net operating loss ("NOL") and when they utilize the NOL. The proposed amendments also allows for the suspension of interest as provided in R.S. 47:1624(F). R.S. 47:1624(F) authorizes the suspension of the accrual of interest due to a delay in the issuance of a refund that is attributable to the taxpayer's failure to provide information or documentation required by statute or regulation.

Implementation of the proposed amendments will not result in material additional costs or cost savings to the Department of Revenue (LDR).

Local governmental units are not affected.

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

To the extent the additional information required for the exclusion or deduction and the suspension of interest provisions reduce refund interest paid by the state to taxpayers, the proposed amendments will increase state revenue. According to R.S. 47:1624(A)(1)(a), interest shall be allowed from 90 days after the later of the due date of the return, the filing date of the return or claim for refund on which the overpayment is claimed, or the date the tax was paid. LDR is unable to provide an estimate as to how much interest has accumulated due to missing documentation for the aforementioned exclusion and deduction.

The proposed amendments are not anticipated to have any effect on revenue collections of local governmental units.

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

Taxpayers claiming the pass-through entity exclusion and nonresidents reporting or utilizing a Louisiana NOL will be affected by the proposed amendments. Taxpayers will be required to submit additional documentation when filing the return. However, the additional costs for completion and submission of the required information are expected to be minor.

To the extent taxpayers previously received interest in certain circumstances, the proposed amendments will decrease taxpayer income from the interest suspension when proper documentation is not provided.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition or employment.



Signature of Head or Designee

LUKE MORRIS, ASST SEC

Typed Name & Title of Agency Head or Designee

7.8.2024

Date of Signature



Legislative Fiscal Officer or Designee

7/9/24

Date of Signature