

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Exemption for Digital Nomads (LAC 61:I.1357)

Under the authority of La. R.S. 47:297.18 and 1511, and in accordance with the provisions of the Administrative Procedures Act, La. R.S. 9:950 et seq., the Department of Revenue, Policy Services Division, (“the Department”) proposes to adopt LAC 61:I.1357 relative to the Louisiana individual income tax exemption for individual taxpayers who qualify as digital nomads.

La. R.S. 47:293(9)(a)(xxii) and 47:297.18, provide an individual income tax exemption for digital nomads, as defined therein. The digital nomad exemption authorizes individuals who qualify as a digital nomad to exempt up to 50 percent of their gross wages from state income tax, limited to \$150,000, for a period of up to two taxable years during taxable years 2022, 2023, 2024, and 2025. The primary purpose of this proposed regulation is to implement La. R.S. 47:293(9)(a)(xxii) and 47:297.18 as enacted by Act 387 of the 2021 Regular Session while providing guidance to taxpayers seeking to claim the Digital Nomad Exemption.

Title 61

REVENUE AND TAXATION

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

Chapter 13. Income: Individual

§1357. Income Exemption for Digital Nomads

A. General Description.

1. The Digital Nomads Exemption provides a state individual income tax exemption for digital nomads, as defined by La. R.S. 47:297.18, equal to 50 percent of their gross wages, limited to \$150,000, for a period of up to two taxable years during taxable years 2022, 2023, 2024, and 2025.

2. The exemption applies only to gross wages received for remote work performed as a digital nomad in Louisiana.

B. Definitions. For the purposes of this Section, the following terms shall have the meaning ascribed therein.

Coworking Space—A membership-based workspace where diverse groups of freelancers, remote workers, and other independent professionals work together in a shared, communal setting.

Department—The Louisiana Department of Revenue or its successor.

Employee—As defined in La. R.S. 47:111(A).

Employer—As defined in La. R.S. 47:111(B).

Full-Time Remote Worker—A remote worker employed on average for at least 30 hours of remote service per week.

Nonresident Business—Any business entity that has not filed nor is required to file any state tax return in Louisiana for taxable periods beginning on or after January 1, 2021; has no employees other than those who qualify as digital nomads working remotely, agents, or independent contractors within the state; is not registered to do business in the state; and is not transacting business with residents of the state or otherwise availing itself of Louisiana’s economic market.

Remote Work Agreement—An agreement signed by the employer and the participating employee that defines the terms of a remote working arrangement, including the number of days per year the participating employee will work remotely and any restrictions on the place from which the participating employee will work remotely.

Remote Work—Work performed within the ordinary course and scope of employment on a workday that ordinarily would be performed at the employer’s work location, from an approved worksite other than the employer’s work location.

C. Eligibility.

1. To qualify as a digital nomad for the purposes of this exemption, an individual must meet the following criteria:

a. establish residency in Louisiana after December 31, 2021;

b. be a policyholder, subscriber, enrollee, or other individual enrolled in or insured by a health insurance issuer for major medical health insurance coverage;

- c. work remotely full-time for a nonresident business;
- d. must have the intent to work remotely in Louisiana prior to establishing residency;
- e. must file a Louisiana resident or part-year resident individual income tax return for the taxable year in which they are claiming the exemption;
- f. must not have been a resident or domiciliary of Louisiana for any of the three years immediately preceding the establishment of residency or domicile after December 31, 2021;
- g. must not have been required to file a Louisiana resident or part-year resident individual income tax return for any of the three years prior to claiming the exemption and;
- h. performs the majority of employment duties in Louisiana either remotely or at a co-working space.

2. Any nonresident service member of the Armed Forces of the United States of America and any spouse of a nonresident service member of the Armed Forces of the United States of America who meets the eligibility requirements of Paragraph 1 of this Subsection may qualify for the digital nomads exemption if:

- a. The nonresident service member is present in Louisiana in compliance with the nonresident service member's military orders;
- b. the spouse is not a resident or domiciliary of Louisiana; and
- c. the spouse is present in Louisiana solely to be with the nonresident service member.

3. Illustrative Examples. For each of the examples below, it shall be assumed that the eligibility requirements of Paragraph 1 of this Subsection have been met unless otherwise stated and the taxpayer continues qualifying employment for the second consecutive year.

a. A nonresident taxpayer working remotely full-time for a nonresident business relocates to and establishes residency in Louisiana on January 15, 2023, and continues to work remotely for the same nonresident business. The taxpayer will qualify for the income exemption for digital nomads for tax year 2023.

b. A nonresident taxpayer working remotely full-time for a nonresident business relocates to and establishes residency in Louisiana on January 15, 2023, and continues to work remotely for the same nonresident business. However, the taxpayer failed to timely apply for the exemption. The taxpayer does not qualify for the income exemption for digital nomads for the second year because he was required to file a Louisiana resident or part-year resident individual income tax return for tax year 2023.

c. A nonresident taxpayer working remotely full-time for a nonresident business relocates to Louisiana on March 24, 2023, solely to reside with their spouse who is a nonresident member of the Armed Forces of the United States of America stationed in Louisiana. The nonresident taxpayer continues to work remotely for the same nonresident business. The taxpayer will qualify for the income exemption for digital nomads for tax year 2023.

d. A nonresident taxpayer working remotely full-time for nonresident business "A" relocates to and establishes residency in Louisiana on May 23, 2023. The taxpayer terminates employment with nonresident business "A" on July 2, 2023, and begins full-time remote employment with nonresident business "B" on July 3, 2023. The taxpayer will qualify for the income exemption for digital nomads for tax year 2023.

e. A nonresident taxpayer working remotely full-time for nonresident business "A" relocates to and establishes residency in Louisiana on May 23, 2023. The taxpayer terminates employment with nonresident business "A" on July 2, 2023, and begins full-time remote employment with a resident business on July 3, 2023. The taxpayer will qualify for the income exemption for digital nomads for the income earned while working for nonresident business "A" for tax year 2023. However, the taxpayer does not qualify for the exemption for the second year.

f. A nonresident taxpayer relocates to and establishes residency in Louisiana on September 22, 2023 and begins working in person full-time for a resident business. The taxpayer terminates employment with the resident business and begins full-time remote employment with a nonresident business on October 30, 2023. The taxpayer does not qualify for the income exemption for digital nomads because he relocated to Louisiana for in-person employment with a resident business not as a remote worker for a nonresident business.

g. A nonresident, unemployed taxpayer relocates to and establishes residency in Louisiana on January 15, 2023 with an offer of employment to begin

employment as full-time remote worker with a nonresident business on February 1, 2023. The taxpayer will qualify for the income exemption for digital nomads for tax year 2023.

h. A nonresident, unemployed taxpayer relocates to and establishes residency in Louisiana on January 15, 2023. Taxpayer subsequently finds and begins employment as full-time remote worker with a nonresident business on March 30, 2023. The taxpayer does not qualify for the income exemption for digital nomads because he had no intent to relocate to Louisiana to work remotely.

D. Limitations.

1. The Department may approve no more than 500 taxpayers for the life of the program. A taxpayer may be approved for the exemption for a second year after receiving recertification.

2. No exemption is authorized for any wages earned by a digital nomad after December 31, 2025.

E. Application.

1. Beginning January 1, 2023, taxpayers seeking to claim the digital nomad income tax exemption must apply each year by submitting Form R-90006, *Digital Nomad Exemption Application and Certification of Exemption Amount*. This annual application requirement applies to all taxpayers, including those who are applying for recertification for their second year of eligibility.

2. The application period for calendar year 2022 shall begin on February 1, 2023 and conclude on March 31, 2023. Thereafter, the application period shall begin on February 1 and conclude on March 31 of each subsequent calendar year for the prior year. If the start or end date falls on a weekend or holiday, the date will be the next business day. Applications may not be submitted and will not be accepted prior to, or subsequent to, the application period. Eligible applications shall be approved by the Department on a first-come, first-served basis as determined by the received date and time of a completed *Digital Nomad Exemption Application*. An application shall not be considered complete until all information requested by the Department has been received.

3. Taxpayers must electronically submit Form R-90006, *Digital Nomad Exemption Application and Certification of Exemption Amount* to the Department for review by submitting their application to DigitalNomadExemption@La.gov. A taxpayer is approved upon satisfactorily demonstrating that they have met the requirements of Subsection C of this Section during the calendar year.

4. Only applications concerning eligibility of gross wages earned for remote work performed by a digital nomad in the prior calendar year may be submitted and considered for purposes of the exemption.

5. Each application must contain an applicant's home mailing address, applicant's Social Security number, a copy of the applicant's remote work agreement, a copy of applicant's W-2 for the year for which the application is submitted, a copy of the first and last pay stub from applicant's employer for the year for which application is submitted, a copy of the first and last pay stub from applicant's employer for the dates that applicant worked remotely for the year for which application is submitted, and a copy of the applicant's Louisiana driver's license and voter registration card.

F. Certification.

1. After review and determination of qualification, the Department shall provide a copy of the completed Form R-90006 to the taxpayer no later than April 30 of each calendar year notifying them as to whether their application has been approved or denied. If approved, the form shall notify the taxpayer of the amount eligible for the exemption, not to exceed 50 percent of the taxpayer's gross wages earned as a digital nomad, limited to \$150,000. If denied, the form shall provide the reasons for denial.

G. Claiming the Exemption.

1. Resident individual taxpayers shall make a modification on Schedule E of their Louisiana Form IT-540, *Louisiana Resident Income Tax Return*, in accordance with La. R.S. 47:297.18. A 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*.

2. 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. 47:297.18 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49:

Family Impact Statement

The proposed rule to LAC 61:1.1357, regarding the digital nomad exemption, 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 rule 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

This proposed rule will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that this proposed rule 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 this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rule 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.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, 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., Tuesday, October 24, 2023.

Public Hearing

A public hearing will be held on Wednesday, October 25, 2023, at 9:00 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

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2. The exemption applies only to gross wages received for remote work performed as a digital nomad in Louisiana.

B. Definitions. For the purposes of this Section, the following terms shall have the meaning ascribed therein.

Coworking Space—A membership-based workspace where diverse groups of freelancers, remote workers, and other independent professionals work together in a shared, communal setting.

Department—The Louisiana Department of Revenue or its successor.

Employee—As defined in La. R.S. 47:111(A).

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Nonresident Business—Any business entity that has not filed nor is required to file any state tax return in Louisiana for taxable periods beginning on or after January 1, 2021; has no employees other than those who qualify as digital nomads working remotely, agents, or independent contractors within the state; is not registered to do business in the state; and is not transacting business with residents of the state or otherwise availing itself of Louisiana's economic market.

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Remote Work—Work performed within the ordinary course and scope of employment on a workday that ordinarily would be performed at the employer's work location, from an approved worksite other than the employer's work location.

C. Eligibility.

1. To qualify as a digital nomad for the purposes of this exemption, an individual must meet the following criteria:

a. establish residency in Louisiana after December 31, 2021;

b. be a policyholder, subscriber, enrollee, or other individual enrolled in or insured by a health insurance issuer for major medical health insurance coverage;

c. work remotely full-time for a nonresident business;
d. must have the intent to work remotely in Louisiana prior to establishing residency;

e. must file a Louisiana resident or part-year resident individual income tax return for the taxable year in which they are claiming the exemption;

f. must not have been a resident or domiciliary of Louisiana for any of the three years immediately preceding the establishment of residency or domicile after December 31, 2021;

g. must not have been required to file a Louisiana resident or part-year resident individual income tax return for any of the three years prior to claiming the exemption and;

h. performs the majority of employment duties in Louisiana either remotely or at a co-working space.

2. Any nonresident service member of the Armed Forces of the United States of America and any spouse of a nonresident service member of the Armed Forces of the United States of America who meets the eligibility requirements of Paragraph 1 of this Subsection may qualify for the digital nomads exemption if:

a. The nonresident service member is present in Louisiana in compliance with the nonresident service member's military orders;

b. the spouse is not a resident or domiciliary of Louisiana; and

c. the spouse is present in Louisiana solely to be with the nonresident service member.

3. Illustrative Examples. For each of the examples below, it shall be assumed that the eligibility requirements of Paragraph 1 of this Subsection have been met unless otherwise stated and the taxpayer continues qualifying employment for the second consecutive year.

a. A nonresident taxpayer working remotely full-time for a nonresident business relocates to and establishes residency in Louisiana on January 15, 2023, and continues to work remotely for the same nonresident business. The taxpayer will qualify for the income exemption for digital nomads for tax year 2023.

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4. Only applications concerning eligibility of gross wages earned for remote work performed by a digital nomad in the prior calendar year may be submitted and considered for purposes of the exemption.

5. Each application must contain an applicant's home mailing address, applicant's Social Security number, a copy of the applicant's remote work agreement, a copy of applicant's W-2 for the year for which the application is submitted, a copy of the first and last pay stub from applicant's employer for the year for which application is submitted, a copy of the first and last pay stub from applicant's employer for the dates that applicant worked remotely for the year for which application is submitted, and a copy of the applicant's Louisiana driver's license and voter registration card.

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2. 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. 47:297.18 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49:

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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

This proposed rule will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that this proposed rule 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 this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

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Public Comments

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Kevin J. Richard, CPA
Secretary, Department of Revenue

Fiscal and Economic Impact Statement
For Administrative Rules

Person preparing statement: Michelle Galland
Phone: 225-219-2180
Return Address: 617 North Third Street
Baton Rouge, LA 70802

Department: Revenue
Office: Policy Services Division
Rule Title: LAC 61:1.1357
Date Rule Takes Effect: December 20, 2023

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.

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

The purpose of the proposed rule is to implement the provisions of R.S. 47:293(9)(a)(xxii) and 47:297.18 enacted by Act 387 of the 2021 Regular Session of the Louisiana Legislature. Act 387 provides an individual income tax exemption for digital nomads. Individuals who meet the requirement of a digital nomad are allowed to exempt 50% of their gross wages, not to exceed \$150,000. The exemption only applies to gross wages resulting from services performed and earned from full-time remote work for a nonresident business. To qualify, the individual must have major medical insurance. The exemption applies for up to two taxable years during taxable years 2022, 2023, 2024, and 2025 and is limited to 500 eligible taxpayers. Louisiana Department of Revenue ("LDR") incurred one-time costs of \$25,680 in FY 23 for computer system development and modification, tax form redesign, and testing.

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

The proposed rule would cause an indeterminable decrease to the State General Fund beginning FY 23 and ending primarily in FY 26. The decrease to the state general fund is indeterminable because the number of individuals and the amount of income that may qualify for the program is speculative. The amount of income tax foregone cannot be determined. It is possible that some individuals qualifying for the exemption would relocate to the state regardless of the tax exemption. While the bill authorizes up to 500 participants for the life of the program, the number of actual participants may be materially lower than that with only small consequent state fiscal impacts.


There is no anticipated direct material effect on local governmental revenues as a result of this rule.

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

The proposed rule will reduce the income tax liability of qualifying taxpayers in the form of an exemption of income to arrive at taxable income under LA R.S. 47:293(9)(a)(xxii) and 47:297.18. Individuals seeking the exemption will need to establish residency in Louisiana and work remotely for a nonresident business. The individual may incur moving and job searching expenses which could be offset by the reduction in tax liability as a result of the exemption. Due to the availability of the exemption, some employers may experience an increase in employees requesting to relocate and associate paper work but that should also be minimum.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule incentivizes individuals to move to Louisiana to work remotely for a nonresident business. Since the program is limited to 500 individuals, the exemption may result in an immaterial increase in employment in Louisiana.


Signature of Agency Head or Designee
Kevin J. Richard, Secretary
Typed Name and Title of Agency Head or Designee

Date of Signature


Legislative Fiscal Officer Designee
Alan Boxberger, Fiscal Officer
Typed Name of Legislative Fiscal Officer Designee

Date of Signature 9/5/23