

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the
Secretary of Revenue

Chapter 51. Tobacco Tax
§5105. Articles and Products Made of Tobacco and
Tobacco Substitutes

A. The definition of *smokeless tobacco* provided in R.S. 47:842(15) includes articles and products made of tobacco and tobacco substitutes.

B. Any product made with nicotine which is extracted from tobacco is considered an article or product made of tobacco. It is not necessary that tobacco leaves be present in the article or product. These products are smokeless tobacco for purposes of Louisiana tobacco tax.

C. As used in R.S. 47:842(15), for purposes of the tax due on smokeless tobacco, tobacco substitute includes any non-combustible product intended to be used or consumed as an alternative to tobacco. Examples of tobacco substitutes include, but are not limited to products made with nicotine extracted from tobacco or any other source, products made with synthetic nicotine, and products which simulate traditional smokeless tobacco regardless of the presence of nicotine. These products are smokeless tobacco for purposes of Louisiana tobacco tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:841(D) and 1511.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Revenue, Policy Services Division, LR 49:334 (February 2023).

Kevin J. Richard, CPA
Secretary of Revenue

2302#038

RULE

Department of Revenue
Policy Services Division

Mobile Workforce Exemption
(LAC 61:I.1923)

Under the authority of R.S. 47:112.2, R.S. 47:242(1)(g)(ii) and (2)(b), R.S. 47:248, and 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, Policy Services Division, adopts LAC 61:I.1923 relative to the Mobile Workforce Exemption.

Revised Statute 47:112.2 authorizes an individual income tax exemption for certain nonresident employees who perform their employment duties in Louisiana for 25 days or less. In turn, the statute relieves employers of such nonresident employees of the requirement to withhold Louisiana individual income tax on the nonresident employee's wages. If the nonresident employee performs employment related duties in Louisiana for a period in excess of 25 days in a calendar year, the employer is required to withhold and remit tax to Louisiana for the entire year, including the first 25 days. Wages paid to a nonresident individuals that are exempt pursuant to the mobile workforce provisions of Revised Statute 47:248 will not be considered an item of gross income. The purpose of this regulation is to

implement Act 383 of the 2021 Regular Session of the Louisiana Legislature relative to the Mobile Workforce Exemption. This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the
Secretary of Revenue
Chapter 19. Miscellaneous Tax Exemptions, Credits
and Deductions

§1923. Mobile Workforce Exemption

A. General Description

1. The Mobile Workforce Exemption allows certain nonresident mobile workers to exclude wages from Louisiana tax table income. The exemption further relieves employers of such nonresident employees of the requirement to withhold Louisiana individual income tax on the nonresident employee's wages.

2. To be eligible for the exemption, all of the following requirements must be met:

a. The compensation is paid for employment duties performed by the nonresident individual in this state for 25 or fewer days in the calendar year.

b. The nonresident individual performed employment duties in more than one state during the calendar year.

c. The wages are not paid for employment duties performed by the nonresident individual in the individual's capacity as a professional athlete, staff member of a professional athletic team, professional entertainer, public figure, or qualified production employee.

d. The nonresident individual's income is exempt from taxation by this state under the United States Constitution or federal statute or the nonresident individual's state of residence either provides a substantially similar exemption or does not impose an individual income tax.

e. The nonresident individual did not have any other income derived from sources within the state during the taxable year.

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

Day—an employee is considered present and performing employment duties within Louisiana for a day if the employee performs more of his or her duties within Louisiana than any other taxing jurisdiction for that day. Where an employee is present and performing more employment duties in Louisiana than another taxing jurisdiction on the same day, the employee will be considered to have performed the preponderance of his or her duties for that day in Louisiana. The portion of a day that an employee spends in Louisiana while in transit is not considered in determining whether he or she performed employment duties.

Department—the Louisiana Department of Revenue.

Employee—as defined in R.S. 47:111(A), with the exception of a professional athlete, staff member of a professional athletic team, professional entertainer, public figure, or qualified production employee.

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

Time and attendance system—a system through which an employee is required, on a contemporaneous basis, to record the employee's work location for every day worked

outside the state where the employee's employment duties are primarily performed and that is designed to allow the employer to allocate the employee's compensation for income tax purposes among all states in which the employee performs employment duties for the employer.

C. Filing Requirements.

1. Employees

a. Nonresident employees seeking to claim the exemption for income earned while performing employment duties within the state for less than 25 days are not required to file a Louisiana individual income tax return. If the nonresident employee has other income from Louisiana sources, the nonresident employee does not qualify for this exemption and thus all Louisiana income must be reported on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, *Louisiana Nonresident and Part-Year Resident Income Tax Return*.

b. Nonresident employees must file Form L-4E, *Exemption from Withholding Louisiana Income Tax* with their employer in order for their employer to refrain from withholding Louisiana income tax from their wages. Taxpayers must file a new L-4E annually in order to continue claiming the exemption and must revoke this exemption certificate by completing a Form L-4, *Employee Withholding Exemption Certificate*:

- i. within 10 days from the twenty-sixth day of performing employment duties within the state;
- ii. within 10 days from the day you anticipate you will incur Louisiana income tax liability for the current year; or
- iii. by the first day of the last month of your current taxable year if you anticipate you will incur Louisiana income tax liability for the following year.

2. Employers. If a nonresident employee performs employment duties in excess of 25 days within the state, the employer must begin withholding income tax and report such tax on Form L-1, *Employer's Quarterly Return of Louisiana Withholding Tax* beginning in the period in which the twenty-sixth day fell within.

D. Penalty for Failure to Deduct or Withhold Income Tax

1. The Department shall not require the payment of penalties or interest for failing to deduct and withhold income tax for a nonresident employee who does not qualify for the exemption, if the employer meets any of the following conditions:

a. The employer at its sole discretion maintained a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions in which the employee performs employment duties for the employer, and the employer relied on data from that system.

b. The employer did not maintain a time and attendance system, and the employer relied on either:

- i. its own records, maintained in the regular course of business, of the employee's location;
- ii. the employee's reasonable determination of the time the employee expected to spend performing employment duties in this state provided the employer did not have actual knowledge of fraud on the part of the employee in making the determination and provided that the employer and the employee did not collude to evade taxation in making the determination.

2. The department shall require the payment of penalties or interest for failing to deduct and withhold income tax if the employer fails to meet either of the conditions of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:112.2, R.S. 47:242(1)(ii), R.S. 47:248, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49:334 (February 2023).

Kevin J. Richard, CPA
Secretary

2302#006

RULE

Department of Transportation and Development Professional Engineering and Land Surveying Board

Incidental Practice and Work Experience
(LAC 46:LXI.105, 1505, 1527 and 2101)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.105, 1505, 1527 and 2101.

This is a revision of existing rules under which LAPELS operates. The revision (a) incorporates the new provision in the LAPELS licensure law on the incidental practice of engineering by architects, (b) clarifies the supervision requirements for work experience and (c) removes some duplicative language in the rule on the reactivation of expired licenses. The anticipated effective date of these Rule amendments is the date of promulgation. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXI. Professional Engineers and Land Surveyors Chapter 1. General Provisions §105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

Practice of Engineering—

a. practice of engineering is defined in R.S. 37:682. The board recognizes that an architect as defined in R.S. 37:141(B)(1) has a right to engage in certain activities that fall within the definition of the practice of engineering, but only to the extent such activities are necessarily incidental to the architect's practice of architecture as defined in R.S. 37:141(B)(3). Such incidental engineering work is limited to minor mechanical, electrical, or civil-structural engineering work necessarily incidental to the architect's practice of architecture. The incidental engineering work shall be of a secondary nature and shall be substantially less in scope and magnitude when compared to the architectural portion of the work. Incidental engineering work includes additions, renovations, or alterations that do not require significant adjustments to the engineering calculations for the changes