

Operator	Field	District	Well Name	Well Number	Serial Number
R C Operating LLC	Sandy Lake	M	Cater-Ajk	009	189575
Reunion Titan, Inc.	Gillis-English Bayou	L	Cal Drew Mts et al	003	58318
The Tec Company	Golden Meadow	L	Delgrandile	001	67717

Richard P. Ieyoub
Commissioner

2209#064

POTPOURRI

**Department of Revenue
Policy Services Division**

Notice of Public Hearing for Changes to
Proposed Rule—Mobile Workforce Exemption
(LAC 61:I.1923)

The Department of Revenue published a Notice of Intent to promulgate LAC 61:I.1923, Mobile Workforce Exemption in the July 20, 2022 edition of the *Louisiana Register* (LR 48:2019-2020). One written comment was received and no one appeared at the public hearing held on August 25, 2022. Based on this written comment, the Department of Revenue is amending the proposed Rule to remove a procedural element previously required in §1923.C.

As amended, the proposed rule no longer requires nonresident employees to file Form L-4E, *Exemption from Withholding Louisiana Income Tax* with their employer for their employer to refrain from withholding Louisiana income tax from their wages.

**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.

Department—the Louisiana Department of Revenue.

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.

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 that exceeds the twenty-five-day threshold must complete 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 for every day worked in that calendar year, including the first 25 days, 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 48:

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., Monday, November, 28, 2022.

Public Hearing

A public hearing will be held on Tuesday, November, 29, 2022, at 2:30 p.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin J. Richard, CPA
Secretary

2209#007