

a training program for the licensure of Class C Pyrotechnic Operators. A license may be granted upon demonstration that the applicant has a satisfactory understanding of the handling and use of Class C fireworks, equipment used for Class C public displays, and the operations of the display as defined herein.

B. Applicants for Class C Pyrotechnic operator licenses are required to meet the certification requirements pursuant to R.S. 51:655, et seq., and these rules. Upon completion of the pre-license training, an applicant is eligible to take the required examination. An applicant for a Class C Pyrotechnic Operator license shall pass an examination prescribed and administered by the Office of State Fire Marshal. Correctly answering 70 percent or more of the questions will be considered a passing score. If the applicant fails on the first attempt, he is eligible to immediately take the examination a second time. If, however, a passing score is not achieved on the second attempt the applicant may only attempt the examination once every 30 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S.51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:1605 (November 2019).

#### **§1904. Adoption of NFPA Standard 1123, Code for Fireworks Display**

A. For the purpose of establishing the criteria for a Class C Public Display and the associated Class C Public Display Operator license, the state fire marshal adopts the following sections of the 2018 edition of NFPA 1123, *Code for Fireworks Display*:

1. NFPA 1123, Chapter 3, Definitions;
2. NFPA 1123, Chapter 4, Requirements for Display Fireworks Aerial Shells and Equipment;
3. NFPA 1123, Chapter 5, Display Site Selection;
4. NFPA 1123, Chapter 8, Operation of the Display;
5. NFPA 1123, Chapter 10, Qualifications (10.1.2 excepted); and
6. NFPA 1123, Annex D.3, Requirements for Consumer Fireworks, Novelties, and Theatrical Pyrotechnics.

B. All Class C Pyrotechnic Operators shall maintain a copy of the currently adopted edition of NFPA 1123 at all Class C public displays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Fire Marshal, LR 45:1606 (November 2019).

#### **§1905. Retail Fireworks Sales**

A. In addition to the requirements of Louisiana Revised Statutes including but not limited to Louisiana Revised Statutes 51:650, et seq., and more specifically sections 653 and 654, as well as Louisiana Revised Statutes 40:1563, et seq., and more specifically sections 1578.6 and 1605, licensed retail sellers of fireworks are required to comply with the following requirements.

1. There shall be no open flame heating devices in any location from which the sale of fireworks is made at retail.

2. There shall be no sleeping within the facility in which fireworks are sold, offered for sale or stored.

3. In any place where retail fireworks sales are made or offered or retail fireworks are stored there shall be a minimum of one unobstructed exit.

4. The physical facility, such as a fireworks stand, retail fast food outlet or any other similar facility out of which fireworks are sold, offered for sale or stored shall not be located less than 75 feet from any facility or mechanism in which flammable liquids are dispensed and/or stored above ground. Additionally, no fireworks shall be exploded within 75 feet from any facility or mechanism where flammable liquids are dispensed and/or stored above ground.

5. In any retail outlet except those which sell only fireworks, no fireworks shall be stored, displayed, or offered for sale within 10 feet of any required exit unless the fireworks are stored or contained within a container which will resist fire from any outside source.

6. No facility for the retail sale or storage of fireworks shall be located less than 25 feet from a public roadway.

7. All of the wiring in any facility for the retail sale or storage of fireworks shall be in accordance with the National Electric Code.

8. Any facility for the retail sale or storage of fireworks shall have available one serviceable fire extinguisher in accordance with NFPA 10 and L.A.C. 55:V:3001, et seq.

9. In accordance with LAC 55:V:3015.A, all portable fire extinguishers maintained on the premises of any retail location, storage facility, or public display site shall be inspected annually by a contractor who holds a current and valid license from the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1563(F) and R.S. 51:650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of the State Fire Marshal, LR 9:691 (October 1983), amended LR 45:1606 (November 2019).

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#### **RULE Department of Revenue Policy Services Division**

Prescription of Refunds Claimed Pursuant to the Federal  
Combat-Injured Veterans Tax Fairness Act of 2016  
(LAC 61:I.4914)

Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:1623(G) and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:I.4914.

The primary purpose of this regulation is to implement R.S. 47:1623(G), which was enacted by Act 367 of the 2019 Regular Session of the Louisiana Legislature. 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 49. Tax Collection**

**§4914. Prescription of Refunds Claimed Pursuant to the  
Federal Combat-Injured Veterans Tax Fairness  
Act of 2016**

A. General. R.S. 47: 1623(G) provides for an extension of the prescriptive period applicable to certain individual income tax refunds. Taxpayers who received a federal income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 are entitled to an extension of prescription on the corresponding Louisiana income tax refund. The extension of prescription only applies to refunds allowed pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016.

B. Combat-Injured Veterans Tax Fairness Act of 2016. On December 16, 2016, the President signed the Combat-Injured Veterans Tax Fairness Act of 2016 into law as Public Law 114-292. Public Law 114-292 provides an extension of the federal statute of limitations for refunds of income tax erroneously paid on lump-sum disability severance payments made by the U.S. Department of Defense. For tax years 1991 through 2016, the Department of Defense erroneously withheld income tax from lump-sum disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code.

1. Erroneous Withholding. Federal income tax was erroneously withheld from the following Department of Defense payments:

- a. lump-sum disability severance payments for combat-related injuries; and
- b. lump-sum disability severance payments that would qualify as disability compensation from the Department of Veterans Affairs.

2. Required Notice. Public Law 114-292 requires the Department of Defense to provide notice to affected taxpayers whose exempt payments were subjected to erroneous withholding.

3. Federal Extension. Public Law 114-292 provides an extension of the three-year period for claiming a tax refund pursuant to Section 6511(a) of the Internal Revenue Code. The extension is one year after the date the required notice is provided to the taxpayer.

4. Amended Return or Standard Refund Amount

a. Pursuant to IR-2018-148, the Internal Revenue Service allows affected taxpayers, including the surviving relative of a deceased taxpayer, the option of either:

- i. filing an amended federal income tax return for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from gross income; or
- ii. claiming a standard refund amount.

b. The standard refund amounts are as follows:

- i. \$1,750 for tax years 1991 through 2005;
- ii. \$2,400 for tax years 2006 through 2010;
- iii. \$3,200 for tax years 2011 through 2016.

C. Louisiana conformity with federal adjusted gross income. Pursuant to R.S. 47:293(1), Louisiana adjusted gross income means the adjusted gross income that is reportable on the federal income tax return. Thus, lump-sum

disability severance payments that are exempt from federal income tax pursuant to Section 104(a)(4) of the Internal Revenue Code are likewise exempt from Louisiana income tax. Because Louisiana conforms to federal adjusted gross income, exempt lump-sum disability severance payments that were included in a taxpayer's federal adjusted gross income were by default also included in Louisiana adjusted gross income.

D. Prescription of Refunds. Act 367 of the 2019 Regular Session of the Louisiana Legislature enacted R.S. 47: 1623(G), which provides for an extension of the prescriptive period applicable to certain refunds of Louisiana individual income tax. If a taxpayer receives a federal individual income tax refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016, prescription is extended for the corresponding Louisiana income tax refund.

1. Length of Extension. The prescriptive period does not expire until after two years from the date of the taxpayer's receipt of the U.S. Department of Defense notice issued pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016. The U.S. Department of Defense notice is deemed to be received on the last day of the month that is printed on the notice. For example, if the date of the U.S. Department of Defense notice is July 20, 2018, then the taxpayer has until July 31, 2020 to request a refund. Taxpayers that did not receive a U.S. Department of Defense notice but received a federal refund pursuant to the Combat-Injured Veterans Tax Fairness Act of 2016 have until July 31, 2020 to request a Louisiana refund.

2. Amended Return or Standard Refund Amount

a. Pursuant to R.S. 47: 1623(G), eligible taxpayers have the option of either:

i. filing an amended Louisiana individual income tax return (Form IT-540) for the tax period in which the lump-sum disability severance payments were received to remove the exempt income from adjusted gross income, or

ii. claiming a standard refund amount by submitting a completed Form R-6185, *Individual Income Tax Refund Claim Pursuant to the Federal Combat-Injured Veterans Tax Fairness Act of 2016*. However, taxpayers are required to make the same election as was made for federal purposes except as provided in paragraph E. For example, if a taxpayer elected to claim the standard refund amount for federal purposes, the taxpayer is required to claim the standard refund amount for Louisiana purposes.

b. The Louisiana standard refund amounts are as follows:

- i. \$326 for tax years 1991 through 2002;
- ii. \$592 for tax years 2003 through 2008;
- iii. \$543 for tax years 2009 through 2010;
- iv. \$637 for tax years 2011 through 2016.

3. Interest. The general provision on interest on refunds provided by R.S. 1624(A)(1) shall apply to refunds issues pursuant to R.S. 47: 1623(G). Pursuant to R.S. 1624(A)(1), interest is allowed on refunds from ninety 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.

E. Documentation Required. Taxpayers must attach a copy of the federal form 1040X and a copy of the Department of Defense notice (Letters 6060-A and 6060-D) or other documentation required by the IRS for taxpayers

that did not receive a Department of Defense notice. For the 1991 through 2003 tax periods, taxpayers filing an amended Louisiana individual income tax return (Form IT-540) must attach a copy of the original Louisiana individual income tax return (Form IT-540). Taxpayers who are unable to provide a copy of their original Louisiana return are required to claim the standard refund amount for Louisiana purposes.

F. Survivors of Deceased Veterans. Survivors of veterans who received notice from the Department of Defense that their relative qualified for a tax refund due to the Combat-Injured Veterans Tax Fairness Act of 2016 may submit a claim for refund. Survivors have the option of either filing an amended individual income tax return (Form IT-540) or claiming a standard refund amount. Survivors

must also file Form R-6642, *Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer* unless the person filing the claim is the surviving spouse of the veteran and filed a joint tax return with the veteran for the year the veteran received the lump-sum disability severance payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 45:1607 (November 2019).

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