

## NOTICE OF INTENT

### Department of Revenue Tax Policy and Planning Division

#### Income: Corporation Income Tax (LAC 61:I.1135 and 1136)

Under the authority of R.S. 47:1511 and 287.95 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.1135 and 1136 relative to the sourcing and exclusion of certain sales for purposes of calculating Louisiana income.

The proposed Rule implements Act 430 of the 2023 Regular Session. Act 430 removes certain sales from the types of sales treated as apportionable income and eliminates the requirement to exclude unassignable sales from both the numerator and the denominator of the sales factor.

This proposed Rule is written utilizing plain language principles to ensure clarity and accessibility for all users. It has also been reviewed and tested for compliance with web accessibility standards.

### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 11. Income: Corporation Income Tax

#### §1135. Sourcing of Sales Other Than Sales of Tangible Personal Property

A.-B. ...

1. determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana, and
2. reasonably approximating the state or states of assignment where the state or states cannot be determined;
3. ~~excluding certain sales of intangible property from the numerator and denominator of the receipts factor pursuant to R.S. 47:287.95(L)(1)(e), and~~
4. ~~excluding sales from the numerator and denominator of the sales factor, pursuant to R.S. 47:287.95(M), where the state or states of assignment cannot be determined or reasonably approximated, or where the taxpayer is not taxable in the state to which the sales are assigned.~~

C.-F.3. ...

G. Rules with Respect to ~~Exclusion of Receipts from the Receipts~~ Sales Factor.

1. The sales factor only includes those amounts defined as sales under applicable statutes and regulations.
2. ~~Certain sales arising from the sale of intangibles are excluded from the numerator and denominator of the sales factor pursuant to R.S. 47:287.95 (L)(1)(e).~~
3. ~~In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95 (M).~~
4. ~~In a case in which a taxpayer can ascertain the state or states to which sales are to be assigned pursuant to this regulation, but the taxpayer is not taxable in one or more of those states,~~

~~the sales that would otherwise be assigned to those states where the taxpayer is not taxable must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).~~

~~H.-H.2.b.i.(d) ...~~

~~c. Rule of Reasonable Approximation. In an instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of sale from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. If the state to which the sales are to be assigned can be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that would otherwise be assigned to the state are excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).~~

~~H.3.-H.5.b. ...~~

~~I. Sale, Rental, Lease, or License of Immovable Property. In the case of the sale, rental, lease, or license of immovable property, the receipts are sourced to Louisiana if and to the extent that the immovable property is located in Louisiana.~~

~~J. Rental, Lease, or License of Tangible Personal Property. In the case of the rental, lease, or license of tangible personal property, the receipts are sourced to Louisiana if and to the extent that the tangible personal property is located in Louisiana.~~

~~K. Lease or License of Intangible Property. In the case of the lease or license of intangible property, the receipts are sourced to Louisiana if and to the extent that the intangible property is used in Louisiana.~~

~~L.-L.3.a. ...~~

~~4. Excluded Sales~~

~~a. Sales of intangible property not described by Paragraphs 2 and 3 of this Subsection shall be excluded from the numerator and the denominator of the sales factor. Excluded sales include, but are not limited to, the sale of a partnership interest, the sale of business "goodwill," the sale of an agreement not to compete, and sales of similar intangible property.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47: **287.95**

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 44:2218 December (2018); amended by the Department of Revenue, Tax Policy and Planning Division, LR 52:

### **§1136. ~~Exclusion Sourcing of Certain Sales of Tangible Personal Property from the Sales Factor~~**

~~A. ...~~

~~B. Exclusion. Pursuant to R.S. 47:287.95(M), sales, including sales of tangible personal property shall be excluded from both the numerator and the denominator of the sales factor if either of the following conditions apply:~~

~~1. the taxpayer is not taxable in a state to which a sale is assigned~~

~~2. the state of assignment cannot be determined or reasonably approximated pursuant to R.S. 47:287.95 and the regulations thereunder.~~

~~C. Taxable in Another State. A taxpayer is taxable within another state if it meets either one of two tests:~~

~~1. by reason of business activity in another state, the taxpayer is subject to one of the following types of taxes: A net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or~~

~~2.—by reason of such business activity, another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether or not the state imposes such a tax on the taxpayer.~~

~~D. ...~~

~~E.—Reasonable Approximation, Generally. In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).~~

~~F.-F.3. ...~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:287.95.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 44:2221 December (2018); Amended by the Department of Revenue, Tax Policy and Planning Division, LR 52:

#### **Family Impact Statement**

The proposed Rule 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 the 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 Statement**

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

#### **Small Business Analysis**

The proposed Rule is not expected to 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 Rule 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 Brad Blanchard, Attorney, Tax Policy and Planning Division, by email to [bradley.blanchard@la.gov](mailto:bradley.blanchard@la.gov). All comments must be received no later than 4:00 p.m., Monday, July 25, 2026.

#### **Public Hearing**

Interested persons may submit a written request for a public hearing no later than July 10, 2026, at 4:30 p.m. Requests may be submitted via email to [bradley.blanchard@la.gov](mailto:bradley.blanchard@la.gov) and reference Sourcing of Sales other than Sales of Tangible Personal Property; Exclusion of Certain Sales of Tangible Personal Property from the Sales Factor. Pursuant to R.S. 49:961(B)(1), a

public hearing will be held only if the statutory requirements are satisfied. If those requirements are met, the hearing will take place on Tuesday, July 26, 2026, at 11:00 a.m. in the River Room, located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, to receive oral and written comments from interested persons. If the requirements have been met and a public hearing will be held, notice of the hearing will be posted under the respective rule topic on the Department's website at <https://revenue.louisiana.gov/tax-policy/rules-regulations>, under "Types," then "Nonemergency Rulemaking." A posted notice confirms that the statutory hearing requirements have been met and that the hearing will be held. If no notice appears, a public hearing will not be conducted.

In accordance with the Americans with Disabilities Act, should individuals with a disability need an accommodation in order to participate, contact Brad Blanchard by email at [LDRadarequests@la.gov](mailto:LDRadarequests@la.gov) or by phone at (225) 219-2780.

Jarrold J. Coniglio  
Secretary, Department of Revenue