

NOTICE OF INTENT

Department of Revenue Policy Services Division

Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises (LAC 61:I.1305)

Under the authority of R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1305 relative to penalties associated with the failure to use the proper Nonresident Professional Athlete tax return IT-540B-NRA.

Problems have occurred with nonresident professional athletes filing incorrect returns. This Rule will impose a penalty on nonresident athletes if they fail to file the proper return, IT-540B-NRA.

The full text of this proposed Rule may be viewed in the Emergency Rule portion of this edition of the *Louisiana Register*. (NOTE: For purposes of this Department of Revenue Web posting, the Emergency Rule has been reproduced below.)

Family Impact Statement

The proposed amendment of LAC 61:I.1305, relative to penalties associated with the failure to use the proper Nonresident Professional Athlete tax return IT-540B-NRA 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. 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 budgets.
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments, or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs, by mail to P.O. Box 44098, Baton Rouge, LA 70804. All comments must be submitted no later than 4:30 p.m., January 24, 2008. A public hearing will be held on January 25, 2008, at 1 p.m. in the Calcasieu Room located on the second floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
Implementation costs to the Department of Revenue for the proposed rule will be negligible. Implementation of the proposed rule will have no costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
State general fund revenues will increase by an unknown amount in Fiscal Year 2007-2008 and thereafter due to penalties in the proposed rule. There is no way to estimate how many nonresident professional athletes file incorrect returns. There should be no effect on revenue collections of local governmental units as a result of this proposed regulation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed penalties will effectively increase the costs associated with improperly filing for nonresident professional athletes.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed regulation should have a negligible effect on competition or employment in Louisiana because nonresident professional athletes are employed by sports franchises outside the state.

Cynthia Bridges
Secretary
0712#064

Robert E. Hosse
Staff Director
Legislative Fiscal Office

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises (LAC: 61:I.1305)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1, the Secretary of the Department of Revenue hereby adopts emergency rule LAC 61:I.1305 pertaining to the imposition of penalties on nonresident athletes if they fail to file the proper return, IT-540B-NRA. This Emergency Rule shall be effective January 1, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final Rule, whichever comes first.

Title 61

REVENUE AND TAXATION

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

Chapter 13. Income: Individual

§1305. Income Tax Schedule Requirement for Certain Nonresident Professional Athletes and Professional Sports Franchises

A. - B. ...

C. Nonresident professional athletes, if required to file an individual income tax return, must utilize Louisiana Nonresident Professional Athlete form IT-540B-NRA.

D. Based on R.S. 47:1602.1, the failure to timely make and file any return or schedule required by the secretary to administer the provisions of the Sports Facility Assistance Fund will result in a penalty of \$500 for the first such failure, \$1,000 for the second such failure within a three year period beginning on the due date of the first delinquent return, and \$2,500 for each subsequent failure within the three year period beginning on the due date of the first delinquent return.

E. Based on R.S. 47:1604.1, if any taxpayer fails to make any return or makes an incorrect return, under circumstances indicating willful negligence or intentional disregard of rules and regulations, but with no intent to defraud, shall cause a penalty to be imposed, in addition to any other penalties provided, of 5 percent of the tax or deficiency found to be due, or \$10 whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:100.1, R.S. 47:101(A)(3), R.S. 47:295, R.S. 47:1511, R.S. 47:1602.1, and R.S. 47:1604.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 28:98 (January 2002), amended LR 34: