LOUISIANA DEPARTMENT of REVENUE
TAX POLICY & PLANNING
Revenue Information Bulletin

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**Individual Income Tax**

# Louisiana Income Tax Deduction for Terminal Illness Hardship Distributions

## Purpose

Act 251 of the 2025 Regular Session created a Louisiana income tax deduction for certain retirement plan hardship distributions. The deduction is available to Louisiana residents who have a terminal illness. This Bulletin explains who qualifies, which distributions qualify, and how to claim the deduction. It applies to taxable periods beginning on or after January 1, 2026.

## Qualifying for the Deduction

A qualifying Louisiana resident may deduct the part of a hardship distribution that is included in Louisiana tax table income.[1]

A "qualifying taxpayer" is a taxpayer diagnosed with a terminal illness by a licensed physician.[2] For a married couple filing jointly, a spouse with a terminal illness also qualifies. Louisiana uses a different definition of "terminal illness" than federal law. Under Louisiana law, the illness must be expected to cause death in the near future without life-sustaining procedures, or to cause permanent unconsciousness from which recovery is unlikely.[3] A second board-certified physician in an appropriate specialty must independently confirm the diagnosis.[4]

To qualify for the deduction, the hardship distribution must be withdrawn from the retirement plan participant's "elective deferral account."[5] Louisiana law does not define that term. Generally, elective deferrals are amounts that an employee elects to have contributed to a retirement plan instead of receiving the amounts as current compensation. Examples include elective deferrals made to certain 401(k), 403(b), and SIMPLE IRA plans.

[1] La. R.S. 47:297.26(A).
[2] La. R.S. 47:297.26(B)(2).
[3] La. R.S. 40:1169.3(3).
[4] La. R.S. 40:1169.3(3).
[5] La. R.S. 47:297.26(B)(1).

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The distributed money does not have to come only from the employee's own elective deferrals. If the money is held in an elective deferral account and the distribution otherwise qualifies, it may be deducted.

## Examples of Elective Deferral Accounts

Example 1: An employee chooses to put part of each paycheck into a 401(k) plan. Those contributions are elective deferrals, and the 401(k) account is an elective deferral account.

Example 2: An employee contributes part of each paycheck to a SIMPLE IRA, and the employer makes matching contributions. Both amounts are held in the same elective deferral account. A qualifying hardship distribution from that account may include either the employee contributions or the employer match.

Example 3: Bob is a Louisiana public school teacher. He chooses to put two percent of his pay into a 403(b) plan. His contributions are elective deferrals, and his 403(b) account is an elective deferral account.

## The Hardship Distribution Standard

Louisiana's rules for this deduction are different from the federal hardship withdrawal rules. Eligibility for the Louisiana deduction is determined under Louisiana law.

A distribution qualifies only if it was made because of an immediate and serious financial need under the retirement plan's policies[6] and the taxpayer meets the terminal illness requirements.[7]

Accordingly, a taxpayer should rely on the determination of the retirement plan that the distribution was made because of an immediate and serious financial need in accordance with the plan's policies.

## Required Documentation

To claim the deduction, the taxpayer must include the following documents with the Louisiana individual income tax return:

- IRS Form 1099-R, *Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.;* and
- A statement signed by the taxpayer's physician confirming the terminal illness. The statement must include:
    - A statement that the taxpayer's illness or physical condition is reasonably expected to result in death in the near future or permanent unconsciousness from which

[6] La. R.S. 47:297.26(B)(1).
[7] La. R.S. 47:297.26(B)(2).

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recovery is unlikely;
- The physician's name and contact information;
- The date the physician examined the taxpayer or reviewed the taxpayer's medical information; and
- The physician's signature and date, with a statement that the information is based on an examination or review of the taxpayer's medical information.
- Proof that a second board-certified physician in an appropriate specialty independently evaluated and confirmed the diagnosis, as required by R.S. 40:1169.3.

The taxpayer will claim the deduction on Schedule E of the IT-540 Resident Individual Income Tax Return using code 34E.

## Treatment of Hardship Distributions

Only the part of the hardship distribution included in Louisiana tax table income may be deducted.

A qualifying taxpayer may receive hardship distributions from more than one retirement account.[8] Each distribution must come from an elective deferral account[9] and must be made because of an immediate and serious financial need under the plan's policies.[10]

Federal law may allow a taxpayer to repay a hardship distribution to the elective deferral account. The repaid amount is excluded from federal gross income to the extent of the repayment.[11] Because that amount is no longer included in federal adjusted gross income, it does not qualify for the Louisiana deduction. If the taxpayer already claimed the Louisiana deduction, the taxpayer must file an amended Louisiana return and reduce the deduction by the amount repaid.

Questions about completing returns or filing amended returns should be sent to Income.Tax@la.gov. Questions regarding this Bulletin should be sent to Policy.Income@la.gov. Please include RIB 26-0XX in the subject line of any emails sent to LDR regarding this Bulletin.

**Jarrod J. Coniglio**
**Secretary**

[8] La. R.S. 47:297.26(A).
[9] La. R.S. 47:297.26(B)(1).
[10] La. R.S. 47:297.26(B)(1).
[11] 26 U.S.C. § 72(t)(2)(L)(iv); 26 U.S.C. § 72(t)(2)(H)(v).

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