

**Revenue Information Bulletin No. 19-009**

**June 20, 2019**

**Individual Income Tax**

**Restore Louisiana Recovery Grants Qualify as a Hurricane Recovery Benefit**

On October 5, 2018, Public Law 115-254, also known as the FAA Reauthorization Act of 2018, was enacted into federal law. The FAA Reauthorization Act of 2018 includes the Disaster Recovery Reform Act of 2018 that amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170, 5191).

These changes relate to grants issued by the Restore Louisiana Homeowner Assistance Program and address the duplication of benefits issue that previously prevented some victims of the Great Floods of 2016 from receiving Restore Louisiana recovery grants. The purpose of this bulletin is to provide taxpayers with guidance on the state tax implications of Restore Louisiana Recovery Grants in light of these federal changes.

**Overview of Federal Guidance**

The Restore Louisiana Homeowner Assistance Program

The U.S. Department of Housing and Urban Development (“HUD”) has appropriated Community Development Block Grant-Disaster Recovery funds to Louisiana for recovery from the Great Floods of 2016. The Disaster Recovery Unit within the Division of Administration's Office of Community Development administers the Restore Louisiana Homeowner Assistance Program to help Louisiana residents recover from the Great Floods of 2016.

The “Duplication of Benefits” Issue

Prior to the enactment of the Disaster Recovery Reform Act of 2018, victims of the Great Floods of 2016 that were approved for Small Business Administration loans were unable to make full use of grant funding available through the Restore Louisiana Homeowner Assistance Program. The reason for this problem was that the full-approved amount of the loan was considered to be the same as a grant and therefore was treated as a duplication of benefits.

On June 14, 2019, HUD released a notice titled “Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees”. The notice describes the requirements to prevent duplication of benefits applicable to Community Development Block Grant disaster recovery grants received in response to a disaster declared between 2015 and 2021. The notice provides that the requirements contained within the notice will apply “once it is made applicable to a grant by a Federal Register notice or grant

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agreement.” Taxpayers should continue to monitor updates from HUD and the Restore Louisiana Program on the effective date of this federal guidance.

### The Disaster Recovery Reform Act of 2018

Section 1210 of the Disaster Recovery Reform Act of 2018 prohibits a determination that a federal disaster relief loan is a duplication of assistance, provided that all federal assistance is used toward a loss suffered because of the major disaster or emergency. Therefore, a Small Business Administration loan will not count toward an applicant’s eligibility for Restore Louisiana recovery grants.

### **Taxability of Restore Louisiana Recovery Grants**

#### Federal Tax Treatment of Restore Louisiana Recovery Grants

Pursuant to IRC Section 139, qualified disaster relief payments are excluded from gross income. The definition of qualified disaster relief payments includes amounts paid by a federal, state, or local government in connection with a qualified disaster. The definition of qualified disaster includes a federally declared disaster.

On March 13 and August 14, 2016, President Obama declared major disasters existed in Louisiana relative to the Great Floods of 2016. As a result of the federal declarations, Restore Louisiana recovery grants are excluded from gross income as qualified disaster relief payments.

However, qualified disaster relief payments for losses previously reimbursed by insurance or previously deducted in a prior tax year will be included in gross income.

#### Louisiana Conformity with Federal Individual Income Tax Law

For individual income tax purposes, Louisiana conforms to the federal adjusted gross income calculation. As provided by LA R.S. 47:293(1), Louisiana adjusted gross income means the federal adjusted gross income that is reportable on the individual’s federal individual income tax return. Therefore, if the qualified disaster relief payments are excluded from federal gross income, these funds will not be subject to Louisiana individual income tax.

#### Deduction for Hurricane Recovery Benefits

LA R.S. 47:293(9)(a)(i) provides for a deduction for residents to arrive at tax table income for “any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity if such benefit was included in federal adjusted gross income.” LA R.S. 47:293(10) provides a similar individual income tax deduction for nonresident individuals. A hurricane recovery entity is defined by LA R.S. 47:293(5) as “...the Road Home Corporation..., the Louisiana Recovery Authority..., the disaster recovery unit within the office of community development, division of administration, or the Louisiana Family Recovery Corps.”

The Office of Community Development's Disaster Recovery Unit administers the Restore Louisiana Program, and as such, Restore Louisiana payments would qualify as a payment from a "hurricane recovery entity" under LA R.S. 47:293(5). If the qualified disaster relief payments for losses was previously reimbursed by insurance or previously deducted in a prior tax year, those payments will be included in gross income for federal tax purposes but would be deducted from individual income tax for state tax purposes. Refer to Revenue Ruling 08-001 for whether insurance settlement proceeds have similar treatment.

### Example

Taxpayer sustained a casualty loss in the Great Floods of 2016. In the case of federally declared disasters, taxpayers may elect to deduct their personal casualty loss for the taxable year immediately preceding the taxable year in which the disaster occurred.

Taxpayer amended her 2015 federal individual income tax return to claim a \$40,000 casualty loss caused by the Great Floods of 2016. In 2019, Taxpayer receives a \$40,000 Restore Louisiana recovery grant. On Taxpayer's 2019 federal individual income tax return, the \$40,000 Restore Louisiana recovery grant is taxable because Taxpayer previously deducted the \$40,000 disaster casualty loss.

Since Louisiana conforms to the federal adjusted gross income calculation, the \$40,000 Restore Louisiana recovery grant is included in Louisiana adjusted gross income. However, the \$40,000 is considered a hurricane recovery benefit, and \$40,000 would be allowed as a deduction on the Louisiana individual income tax return. In other words, Taxpayer must pay federal individual income tax on the \$40,000 Restore Louisiana recovery grant, but will not owe any Louisiana individual income tax on the same \$40,000.

### Instructions for Taxpayers

For the 2018 tax year, taxpayers may claim the deduction for Hurricane Recovery Benefits on the individual income tax return (Schedule E, Code 11E, on Form IT-540, *2018 Louisiana Resident Income Tax Return* or Line 26 of the Nonresident and Part-Year Resident Worksheet on Form IT-540B, *2018 Louisiana Nonresident and Part-Year Resident Income Tax Return*).

For other tax years, refer to the instructions to individual income tax returns as published by the Department of Revenue.

Questions concerning this publication may be submitted by e-mail to [Policy.Publications@La.gov](mailto:Policy.Publications@La.gov).

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