



Revenue Information Bulletin
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Individual Income Tax
Filing Requirements of Individuals Displaced by Hurricanes Katrina or Rita

Individuals who have been displaced by Hurricanes Katrina or Rita may have different filing requirements depending upon their circumstances. The purpose of this Revenue Information Bulletin is to explain the filing requirements for the more common circumstances of those displaced by hurricanes Katrina and Rita.

There are two major Louisiana individual income tax returns, the Resident Return IT-540 and the Nonresident and Part-year Resident Return IT-540B. The primary difference between these returns is that on the Resident Return individuals are taxed by Louisiana on all their income, no matter the source. On the Nonresident and Part-year Resident return only income earned in Louisiana or while residing in Louisiana is taxed.

Who is required to file a Resident Return?

Individuals domiciled, residing, or having a permanent place of abode in Louisiana are required to file the Resident Return IT-540. Louisiana statutes consider individuals residing within the state for more than six months residents of the state for the entire year.

Who may file a Nonresident and Part-year Resident Return?

Individuals not required to file a Resident Return may file a Nonresident and Part-year Resident Return.

What this means for the 2005 tax year.

The provision treating individuals who reside within the state for over six months as residents for the entire year is an important provision for those displaced by hurricanes Katrina or Rita. If an individual resided in Louisiana for more than six months prior to the hurricanes and left the state at the time of the hurricanes, they are required to file a Resident Return reporting all their income no matter where or how it was earned.

What this means for the 2006 tax year.

Individuals who left Louisiana at the time of the hurricanes and who remain out of the state may be required to file a Resident Return or a Nonresident and Part-year Resident Return depending upon their circumstances.

- Individuals who return to Louisiana prior to July 2006 and reside in Louisiana the remainder of the year will reside in Louisiana for more than six months of 2006 and will be required to file a Resident Return for 2006.

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- Individuals who remain outside Louisiana in 2006 but who do not establish a new domicile will be domiciled in Louisiana for the entire year and are required to file a Resident Return for 2006.
- Individuals who do not establish a new domicile outside Louisiana in 2006 and who return to Louisiana at any time in 2006 will be domiciled in Louisiana for the entire year and are required to file a Resident Return for 2006.
- Individuals who do not return to Louisiana in 2006 and who establish a new domicile outside Louisiana in 2006 should file a Nonresident and Part-year Resident Return reporting to Louisiana all income earned until the time they establish the new domicile.
- Individuals who established a new domicile in 2005 and do not return to Louisiana in 2006 will not be required to file a 2006 Louisiana income tax return unless they have income, such as rents, royalties and gains from sales of assets in Louisiana. If they have any such Louisiana income they should file a Nonresident and Part-year Resident Return reporting these items and any wages earned in Louisiana.

Who is domiciled in Louisiana?

The Louisiana Civil Code provides in part that, “The domicile of each citizen is in the parish wherein he has his principal establishment.” It further provides, “A change of domicile from one parish to another is produced by the act of residing in another parish, combined with the intention of making one’s principal establishment there.”

What does this mean for displaced persons?

An individual with a Louisiana domicile maintains it until a new domicile is established in another state. A new domicile is produced by actually residing in the other state combined with the intention of making the other state one’s home. Simply residing in another state will not change domicile. The intent to change domicile is necessary. Intent is not something that can be objectively observed. However, it can be inferred from a person’s actions. For example, claiming a homestead exemption in Louisiana is expression of the intent to make Louisiana one’s home. Voting in Louisiana is expression of a claim to a Louisiana domicile. Domicile is inferred from the totality of a person’s actions. The determination of domicile can, at times, be very complex. For a person who actually moves and intends to make their new location their home, the answer is usually obvious.

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