

**Revenue Ruling
No. 04- 002
March 18, 2004
Individual Income Tax**

Taxpayer Claim of Rights for Repayments of Income in Excess of \$3,000

Purpose: This Revenue Ruling explains an additional deduction allowed certain taxpayers who have reduced their federal income tax using the provisions of I.R.C. § 1341.

Analysis/Discussion: Federal tax law allows an individual taxpayer who has to pay back over \$3,000 of previously reported income two options to recover the tax paid on the income. The option to be chosen is the lesser of: 1) deducting the repaid amount in the year of repayment, or 2) reducing the tax for the year of repayment by the amount of tax for the previous year which was attributed to inclusion of the income amount.

The first option allows for a deduction of the income for the year in which the repayment occurs and by virtue of the “piggy back” of the federal tax return, benefit is derived on the Louisiana return. No special adjustment is necessary on the Louisiana return in this case.

Under the second option, the credit is taken by noting “I.R.C. Section 1341” on the appropriate line in the “Payment” section of the federal Form 1040. This option does not change the adjusted gross income amount on the federal tax return, therefore the taxpayer will have paid Louisiana income tax on income no longer subject to taxation. An adjustment is necessary in order to prevent Louisiana taxation of income not taxed for federal income tax purposes.

Conclusion: To ensure that Louisiana taxpayers are treated in a fair and equitable manner, in accordance with La. Rev. Stat. Ann. § 47:295 and with approval of the Board of Tax Appeals, the Department has devised a manner in which affected taxpayers may obtain relief. Individual taxpayers, who for federal income tax purposes use the second option noted above, may file their tax returns for the same period that the credit is taken on the federal return and use Schedule E to deduct the amount of repayment. The amount should be identified as “IRC 1341 Income”, “Claim of Right Doctrine” or similar wording.

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Secretary

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A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.