

1 **CONFIDENTIAL – FOR S.R. 22 TASK FORCE DISCUSSION PURPOSES ONLY**

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**ORIGINAL**

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8 Regular Session, 2021

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10 HOUSE/SENATE BILL NO. \_\_\_\_\_

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12 BY REPRESENTATIVE/SENATOR \_\_\_\_\_

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16 TAX, STATE, LABOR:

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20 AN ACT

21 In order to facilitate voluntary resolution of worker classification issues and achieve the  
22 benefits of increased tax compliance and certainty for taxpayers, t[T]o enact the  
23 Fresh Start Proper Worker Classification Initiative to provide relief from  
24 Louisiana withholding taxes and unemployment taxes for eligible taxpayers that  
25 agree to prospectively treat workers as employees; to provide for definitions; to  
26 require the Louisiana Department of Revenue and Louisiana Workforce  
27 Commission to establish a program as provided for in this Act; to provide for  
28 terms and conditions of the program; to provide for the disposition of the monies  
29 collected from the program; to provide for an effective date; and to provide for  
30 related matters.

31 Be it enacted by the Legislature of Louisiana:

32 Section 1. This Act shall be known as and may be cited as the “Fresh Start Proper  
33 Worker Classification Initiative”.

34 Section 2. Definitions. As used in this Act, the following terms have the meaning  
35 ascribed to them in this Section, except when the context clearly indicates otherwise:

36 (1)

37 (2)

38 (3)

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Section 3. Fresh Start - Withholding Taxes and Unemployment Taxes. The Fresh Start Proper Worker Classification Initiative is optional and provides taxpayers with an opportunity to voluntarily reclassify their workers as employees for future tax periods with no withholding or unemployment tax liability for the past nonemployee treatment. To participate, the taxpayer must meet certain eligibility requirements, apply to participate in the Fresh Start Proper Worker Classification Initiative, and enter into a joint closing agreement with the Department of Revenue and Louisiana Workforce Commission.

(A) Eligibility. The Fresh Start Proper Worker Classification Initiative is available for taxpayers who want to voluntarily change the prospective classification of their workers. The program applies to taxpayers who are currently treating their workers (or a class of workers) as independent contractors or other nonemployees and want to prospectively treat the workers as employees unless the taxpayer is ineligible under Subsection \_\_\_\_\_. To be eligible, a taxpayer must have consistently treated the workers as nonemployees, and must have filed all required Forms 1099-NECs with the Internal Revenue Service with respect to those workers, consistent with the nonemployee treatment, for the previous three years with respect to the workers to be reclassified.

(B) An eligible taxpayer who participates in the Fresh Start Proper Worker Classification Initiative agrees to prospectively treat the class or classes of workers identified in the application as employees for future tax periods and is not liable for any withholding tax, unemployment tax, interest or penalties with respect to any amounts paid any workers prior to the date on which the taxpayer is accepted for participation in the Fresh Start Proper Worker Classification Initiative is filed [unless the taxpayer is ineligible under Subsection \_\_\_\_\_].

(C) Application Process. Eligible taxpayers who wish to participate in the Fresh Start Proper Worker Classification Initiative must submit an application for participation in the program using Form \_\_\_\_\_, Application for Fresh Start Proper Worker Classification

1 Initiative, to the Department of Revenue. The Department of Revenue will contact the  
2 taxpayer or authorized representative to complete the process once it has reviewed the  
3 application and verified the taxpayer's eligibility. Taxpayers whose application has been  
4 accepted enter into a joint closing agreement with the Department of Revenue and  
5 Louisiana Workforce Commission whereby the taxpayer confirms the agreement to treat  
6 the class or classes of workers identified in the application as employees on the date on  
7 which the taxpayer's receives notice from the Department of Revenue that the taxpayer's  
8 application for participation in the Fresh Start Proper Worker Classification Initiative has  
9 been accepted and is not liable for any withholding tax, unemployment tax, interest or  
10 penalties with respect to any amounts paid to any the class or classes of workers  
11 identified in the application as employees prior to the date on which notice of acceptance  
12 is received by the taxpayer.

13 (D) Ineligible employers. The following employers, as that term is defined in  
14 R.S. 47:\_\_\_\_\_, shall not be eligible to participate in the program:

15 1) Employers who are currently under audit concerning the classification of the  
16 classes of workers by the Internal Revenue Service, the U.S. Department of Labor  
17 or by a state government entity.

18 2) Employers who are contesting in court the classification of the class or classes of  
19 workers from a previous audit by the IRS, the U.S. Department of Labor, the  
20 Department of Revenue or the Louisiana Workforce Commission;

21 3) For the purposes of subparagraphs (A) and (B), above, a taxpayer that is a member  
22 of an affiliated group within the meaning of section 1504(a) of the Internal  
23 Revenue Code is considered to be under employment, withholding or  
24 unemployment tax audit for purposes of the Fresh Start Proper Worker  
25 Classification Initiative if any member of the affiliated group is under such tax  
26 audit.

27 4) Employers who have withheld Louisiana state income taxes from the amounts  
28 paid to any worker, and who have not remitted such tax to the Louisiana  
29 Department of Revenue.

1       Section 4.       This Act shall become effective upon signature by the governor or, if  
2 not signed by the governor, as provided by Article III, Section 18 of the Constitution of  
3 Louisiana. If vetoed by the governor and subsequently approved by the legislature, this  
4 Act shall become effective on the day following such approval.