

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 639

2017 Regular Session

Schexnayder

TAX CREDITS: Excludes compensation earned by certain out-of-state employees and nonresident businesses for disaster or emergency-related work performed during disaster periods from state income tax

### Synopsis of Senate Amendments

1. Requires, upon request of the Dept. of Revenue, La. registered businesses that request nonresident businesses to perform disaster or emergency-related work to provide written notice to the Dept. of Revenue within the disaster period. Provides for requirements for the written notice.
2. Includes salaries, wages or other compensation received for disaster or emergency-related work rendered during a declared state disaster or emergency when determining tax table income for nonresident individuals.
3. Excludes income received by a nonresident business for disaster or emergency-related work rendered during a declared state disaster or emergency in the calculation of gross income.

### Digest of Bill as Finally Passed by Senate

Proposed law excludes from the determination of gross income, all income earned by a nonresident business that performs disaster or emergency-related work in La. during a declared state disaster or emergency during the disaster period. Further provides that the nonresident business shall not be considered to have established a presence that requires the business to register, file, or remit income taxes imposed by present law.

Proposed law excludes from the determination of gross income, compensation for personal services rendered by a nonresident individual who is an out-of-state employee during a declared state disaster or emergency. The out-of-state employee shall not be considered to have established residency or a presence in the state that requires the filing or payment of income taxes or to be subject to tax withholdings.

Proposed law defines a "nonresident business" as a business entity whose services are requested by a registered business in La. or by a state or local government for purposes of performing disaster or emergency-related work. A nonresident business, prior to the declared state of emergency, must not have been registered to do business in La., must not have had employees, agents or independent contractors in La., was not transacting business in La., and had not filed or was not required to file any state or local tax return.

Proposed law defines an "out-of-state employee" as a nonresident individual who does not provide services or activities in this state, except for disaster or emergency-related work during a disaster period.

Proposed law defines a "declared state disaster or emergency" as a disaster or emergency event declared by executive order or proclamation by the governor, the president, or a state event that the governor or an appropriate local official declares a disaster or emergency.

Proposed law defines the "disaster period" as a period that begins within 10 days of the first day of the disaster declaration through 60 calendar days after the end of the declared disaster or emergency period.

Proposed law requires nonresident businesses and out-of-state employees to pay all

transaction taxes and fees on other purchases such as motor fuel taxes and hotel occupancy taxes during the disaster period.

Proposed law requires nonresident businesses or out-of-state employees that remain in La. after the disaster period to be subject to the state's normal standards for establishing presence, residency, or doing business in the state and be subject to any business or employee tax requirements that ensue.

Proposed law provides that any registered business in the state that requests any nonresident business to perform disaster or emergency-related work shall provide written notice to the Secretary of the Department of Revenue within the disaster period. The written notice shall include the following:

- (1) The name, address, and federal tax identification number of the nonresident business.
- (2) The date of the request to the nonresident business to perform disaster or emergency-related work.
- (3) The date and declaration number of the declared state disaster or emergency.
- (4) A general description of the disaster or emergency-related work requested.

Proposed law authorizes the promulgation of rules and regulations to develop and issue forms or establish online processes to implement the provisions of proposed law.

Present law defines "wages" for purposes of withholding income tax as all remuneration for services performed by an employee for an employer. Present law exempts certain types of remuneration from the definition of "wages" such as agricultural labor, domestic service in a private home, college club, or collegiate fraternity, and services by a U.S. citizen for a foreign government.

Proposed law retains present law but exempts remuneration for services performed by a nonresident individual during a declared state disaster or emergency from the definition of wages.

Present law provides for the determination of net income of a nonresident individual or a corporation for purposes of imposing corporate income tax. Proposed law further provides for the segregation of all items of gross income into either allocable income or apportionable income. Present law classifies salaries, wages or other compensation received by a nonresident individual for personal services and income from construction, repair, or other similar services as allocable income. Further classifies apportionable income as all items of gross income which are not properly includible in allocable income.

Proposed law retains present law but exempts salaries, wages, or other compensation received by a nonresident individual for personal services rendered during a declared state disaster or emergency and income from construction, repair, or other similar services received by a nonresident corporation for disaster emergency-related work rendered during a declared state disaster or emergency from being designated as either allocable income or apportionable income.

Present law defines "tax table income" for nonresident individuals as the amount of La. income allocated and apportioned under the provisions of present law, plus the total amount of the personal exemptions and deductions already included in the tax tables, less other specific exclusions and deductions such as the amount of federal income tax liability and excess federal itemized personal deductions, and the S Bank shareholder exclusion. The proportionate amount of deductions and exclusions is determined by the ratio of La. income to federal adjusted gross income.

Proposed law retains present law but also factors in salaries, wages or other compensation

received for disaster or emergency-related work rendered during a declared state disaster or emergency for the determination of tax table income.

Present law provides for the calculation of gross income for purposes of calculating state income tax liability. Further provide for certain income such as income for which the state is prohibited to tax, funds accrued by a corporation engaged in operating a public transportation system, interest obligations or securities issued by the state or a political subdivision that is exempted from the calculation of gross income.

Proposed law retains present law but exempts income received by a nonresident business for disaster or emergency-related work rendered during a declared state disaster or emergency from the calculation of gross income.

Proposed law is applicable to all tax years beginning on and after Jan. 1, 2018.

Effective July 1, 2017.

(Amends R.S. 47:242 and 293(10); Adds R.S. 47:53.5 and 111(A)(11) and 287.71(B)(8))