
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Danielle Doiron.

DIGEST

Proposed law establishes the Rapid Response to Declared Disasters Income Tax Exclusion Act to exclude from gross income certain monies received for services rendered by nonresidents in response to a disaster or emergency.

Proposed law defines the following terms:

- (1) "Registered business in the state" means a business entity that is currently registered to do business in the state and was registered prior to a declared state of emergency.
- (2) "Nonresident business" means a business entity whose services are requested by a registered business in the state or by a state or local government for purposes of performing disaster or emergency related work in the state and that prior to the declared state of emergency:
 - (a) Is not qualified or registered to do business in this state;
 - (b) Has no employees, agents or independent contractors in this state;
 - (c) Is not transacting business in this state; and
 - (d) Has not filed and is not required to file any state or local tax return in this state.

Provides that a "nonresident business" includes a business entity that is affiliated with a registered business in this state solely through common ownership.

- (3) "Out-of-state employee" means a nonresident individual who does not provide services or activities in this state, except for disaster or emergency related work during a disaster period.
- (4) "Infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission and distribution systems, gas distribution systems, water pipelines, and public roads and bridges and related support facilities that services multiple customers or citizens including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment.
- (5) "Declared state disaster or emergency" means a disaster or emergency event declared by any of the following:
 - (a) A disaster or emergency has been declared by executive order or proclamation by

the governor.

- (b) A disaster or emergency for which a federal declaration of disaster or emergency has been issued by the president.
 - (c) An event within the state for which a good faith response is required and for which a registered business notifies the governor or appropriate local official of the event and the governor or local official declares a disaster or emergency as provided by law.
- (6) "Disaster period" means a period that begins within ten days of the first day of the governor's proclamation, the president's declaration or designation by any other authorized official of the state whichever occurs first, and that extends for a period of 60 calendar days after the end of the declared disaster or emergency period, or any longer period authorized by the designated state official or agency.
- (7) "Disaster or emergency-related work" means repairing, renovating, installing, building, rendering services or other business activities that relate to infrastructure that has been damaged, impaired or destroyed by the declared disaster or emergency.

Proposed law requires that operations of a "nonresident business" conducted in the state for work or services related to a declared state disaster or emergency shall not be considered to have a level of presence that would require it to register or remit taxes to the department as required by law and excludes income derived from such operations from gross income.

Proposed law requires that "out-of-state-employees" not be considered to have established residency or presence in the state that would require that person or person's employer to file and pay income taxes or be subjected to tax withholdings or to file and pay any other state or local tax or fee during the disaster period, including any related state or local employer withholding and remittance obligations.

Proposed law provides that "nonresident businesses" and "out-of-state employees" shall be required to pay transaction taxes and fees including but not limited to fuel taxes or sales and use taxes on materials or services subject to sales and use tax, hotel taxes, car rental taxes or fees that the nonresident business or out-of-state employee purchases for use or consumption in the state during the disaster period, unless such taxes are otherwise exempted during a disaster period.

Proposed law provides that any "nonresident business" or "out-of-state employee" that remains in the state after the disaster period will become subject to the state's normal standards for establishing presence, residency, or doing business in the state and will therefore become responsible for any business or employee tax requirements that ensue.

Proposed law authorizes the secretary of the Department of Revenue to promulgate necessary rules and regulations, develop and issue forms or online processes to implement the tax credit program.

Present law provides for definitions for "wages" with regard to the income tax for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash and provides for terms excluded from remuneration.

Proposed law retains present law and adds an exclusion for services by a nonresident individual during or in response to a declared state of emergency.

Present law provides for a class of gross income designated as "allocable income".

Proposed law excludes salaries, wages and other compensation received by a "nonresident individual" for personal services rendered during a declared disaster from gross "allocable income".

Proposed law excludes income from construction, repair, or other similar services received by a "nonresident corporation" for disaster or emergency related work rendered during a declared disaster from gross "allocable income".

Present law provides for a class of gross income designated as "apportionable income".

Proposed law excludes salaries, wages and other compensation received by a nonresident individual for personal services rendered during a declared disaster and income from construction, repair, or other similar services received by a nonresident corporation for disaster or emergency related work rendered during a declared disaster from gross "apportionable income".

Proposed law provides that the definition of "Louisiana net income" does not include income received by a "nonresident corporation" for construction, repair, or other similar services for disaster or emergency related work rendered during a declared disaster.

Proposed law is applicable to all tax years beginning on or after January 1, 2013.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:242 and 287.67(1)(g), (h), and (2); adds R.S. 47:53.5 and 111(A)(11))