

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Income Exemption for Digital Nomads (LAC 61:I.1357)

In accordance with the emergency provisions of the Administrative Procedures Act, La. R.S. 49:953.1 and Act 211 of the 2021 Regular Session of the Louisiana Legislature, and R.S. 47: 239(9)(a)(xxii), 297.18, and 1511, the Department of Revenue, Policy Services Division, (“the Department”) is, by emergency rule, adopting LAC 61:I.1357 relative to the Louisiana individual income tax exemption for individual taxpayers who qualify as digital nomads. Act 387 of the 2021 Regular Session enacted La. R.S. 47:239(9)(a)(xxii) and 47:297.18, created an individual income tax exemption for digital nomads, as defined therein. The exemption provides that an individual who qualifies as a digital nomad may exempt 50 percent of their gross wages from state income tax, limited to \$150,000, for a period of up to two taxable years during taxable years 2022, 2023, 2024, and 2025. This Emergency Rule clarifies which taxpayers are eligible for the digital nomads income exemption and further provides the administrative requirements for applying for and claiming such exemption.

This Emergency Rule is effective January 1, 2023, and will remain in effect for 180 days, unless renewed or revoked, or until the adoption of the final Rule, whichever comes first. The promulgation of this regulation on an emergency basis is necessary to expeditiously instruct taxpayers on the administrative requirements for claiming the digital nomads exemption for tax year 2022 and subsequent tax years. A delay in the adoption of this Rule could hinder the effective administration of the digital nomads exemption for the 2022 tax year.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 13. Income: Individual

§1357. Income Exemption for Digital Nomads

A. General Description

1. The digital nomads exemption provides a state individual income tax exemption for digital nomads, as defined by R.S. 47:297.18, equal to 50 percent of their gross wages, limited to \$150,000, for a period of up to two taxable years during taxable years 2022, 2023, 2024, and 2025.

2. The exemption applies only to gross wages received for remote work performed as a digital nomad in Louisiana.

B. Definitions. For the purposes of this Section, the following terms shall have the meaning ascribed therein.

Coworking Space—a membership-based workspace where diverse groups of freelancers, remote workers, and other independent professionals work together in a shared, communal setting.

Department—the Louisiana Department of Revenue or its successor.

Employee—as defined in R.S. 47:111(A).

Employer—as defined in R.S. 47:111(B).

Full-Time Remote Worker—a remote worker employed on average for at least 30 hours of remote service per week.

Gross Wages—any amount that meets the definition of “wages” contained in R.S. 47:111(E) received as payment by an employee from an employer for remote work performed. Gross wages also includes wages used to pay benefits not taxed under an IRC Section 125 plan.

Nonresident Business—any business entity that has not filed nor is required to file any state or local tax return in Louisiana prior to its first approved digital nomad employee; has no employees other than those who qualify as digital nomads working remotely, agents, or independent contractors within the state; is not registered to do business in the state; and is not transacting business with residents of the state or otherwise availing itself of Louisiana’s economic market.

Remote Work Agreement—an agreement signed by the employer and the participating employee that defines the terms of a remote working arrangement, including the number of days per year the participating employee will work remotely and any restrictions on the place from which the participating employee will work remotely.

Remote Work—work performed within the ordinary course and scope of employment on a workday that ordinarily would be performed at the employer’s work location, from an approved worksite other than the employer’s work location.

C. Eligibility

1. To qualify as a digital nomad for the purposes of this exemption, an individual must meet the following criteria:

a. establish residency in Louisiana after December 31, 2021;

b. is a policyholder, subscriber, enrollee, or other individual enrolled in or insured by a health insurance issuer for major medical health insurance coverage;

c. work remotely full-time for a nonresident business;

d. file a Louisiana resident or part-year resident individual income tax return for the taxable year in which they are claiming the exemption;

e. must not have been a resident or domiciliary of Louisiana for any of the three years immediately preceding the establishment of residency or domicile after December 31, 2021;

f. must not have been required to file a Louisiana resident or part-year resident individual income tax return for any of the three years prior to claiming the exemption and;

g. performs the majority of employment duties in Louisiana either remotely or at a co-working space.

2. Any nonresident service member of the Armed Forces of the United States of America and any spouse of a nonresident service member of the Armed Forces of the United States of America who meets the eligibility requirements of Subsection B Paragraph 1 of this Section may qualify for the digital nomads exemption if:

a. The nonresident service member is present in Louisiana in compliance with the nonresident service member’s military orders;

b. the spouse is not a resident or domiciliary of Louisiana; and

c. the spouse is present in Louisiana solely to be with the nonresident service member.

D. Limitations

1. For applications submitted on or after January 1, 2023, the department may approve no more than 500 taxpayers for the life of the program. A taxpayer may be approved for the exemption for a second year after receiving recertification.

2. No exemption is authorized for any wages earned by a digital nomad after December 31, 2025.

E. Application

1. Beginning January 1, 2023, taxpayers seeking to utilize the digital nomad income tax exemption for up to two taxable years between 2022 and 2025 must annually submit a Form R-90006, Digital Nomad Exemption Application and Certification of Exemption Amount, and be approved for the exemption for the dollar amount as calculated by the department. This annual application requirement applies to all taxpayers, including those who apply for recertification for the second year.

2. The application period for calendar year 2022 shall begin on February 1, 2023 and conclude on March 31, 2023. Thereafter, the application period shall begin on February 1 and conclude on March 31 of the subsequent calendar year. If the start or end date falls on a weekend or holiday, the date will be the next business day. Applications may not be submitted and will not be accepted prior, or subsequent to, the application period. Eligible applications shall be approved by the department on a first-come, first-served basis as determined by the received date and time of a completed digital nomad exemption application. An application shall not be considered complete until all information requested by the department has been received.

3. Taxpayers must electronically submit Form R-90006, Digital Nomad Exemption Application and Certification of Exemption Amount to the Department for review by submitting their application to DigitalNomadExemption@La.gov. A taxpayer is approved upon satisfactorily demonstrating that they have met the requirements of Subsection C of this Section during the calendar year.

4. Only applications concerning eligibility of gross wages earned for remote work performed by a digital nomad in the prior calendar year may be submitted and considered for purposes of the exemption.

5. Each application must contain an applicant's home mailing address, applicant's Social Security number, a copy of the applicant's remote work agreement, a copy of applicant's W-2 for the year for which the application is submitted, a copy of the first and last pay stub from applicant's employer for the year for which application is submitted, a copy of the first and last pay stub from applicant's employer for the dates that applicant worked remotely for the year for which application is submitted, and a copy of the applicant's Louisiana driver's license and voter registration card.

F. Certification

1. After review and determination of qualification, the department shall provide a copy of Form R-90006 to the taxpayer no later than April 30 of each calendar year notifying them as to whether their application has been approved or denied. If approved, the form shall notify the taxpayer of the amount eligible for the exemption, not to exceed 50 percent of the taxpayer's gross wages earned as a digital nomad, limited to \$150,000. If denied, the form shall so provide the reasons for denial.

G. Claiming the Exemption

1. Resident individual taxpayers shall make a modification on Schedule E of their Louisiana Form IT-540, Louisiana Resident Income Tax Return, in accordance with R.S. 47:297.18. A part-year resident shall make the modification on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, Louisiana Nonresident and Part-Year Resident Income Tax Return.

2. The accrual of interest shall be suspended during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required herein, as provided by La. R.S. 47:1624(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:293(9)(a)(xxii), R.S. 47:297.18, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 49:

Kevin J. Richard, CPA
Secretary

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