

NOTICE OF INTENT

Department of Revenue Policy Services Division

Exemption from Tax on Corporations (LAC 61:I.1140)

Under the authority of R.S. 47:287.501, R.S. 47:1511, R.S. 47:287.785 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.1140 to disallow the exemption of unrelated business taxable income of organizations meeting the qualification of I.R.C. Sections 501 and 401(a) and to remove the requirement that certain banks be organized under the laws of the state of Louisiana.

Due to the exclusive error of the Department of Revenue, non-profit organizations with unrelated business taxable income in Louisiana have not been taxed on that income. The department proposes to begin taxing this unrelated business taxable income as required by R.S. 47:287.501 beginning January 1, 2008. The department also proposes, in keeping with proper statutory construction, to remove the requirement that banks subject to the "shares tax" be organized under the laws of the state of Louisiana to qualify for the exemption.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax §1140. Exemption from Tax on Corporations

A. Generally, organizations meeting the qualifications included under I.R.C. Sections 501 and 401(a) are exempt from federal and Louisiana income tax liability.

B. However, organizations meeting the qualifications under I.R.C. Sections 501 and 401(a) are not exempt from taxation on unrelated business taxable income or income not included under I.R.C. Sections 501 and 401(a) for federal income tax purposes. Since unrelated business taxable income is not exempt from federal income tax, it is not exempt from Louisiana income tax. The Department of Revenue will begin enforcing this requirement of R.S. 47:287.501 for all taxable periods beginning on and after January 1, 2008.

C. Exceptions

1. Mutual savings banks, national banking corporations, building and loan associations, and savings and loan associations are wholly exempt from the tax imposed by this Chapter regardless of where they are organized.

2. Banking corporations, regardless of where they are organized, which are required by other laws of this state to pay a tax for their shareholders, or whose shareholders are required to pay a tax on their shares of stock are also wholly exempt. Banking corporations, other than those described above, are not exempt from the corporation income tax.

D. An organization claiming a total or partial exemption under R.S. 47:287.501(A) as an organization described in I.R.C. Sections 501 or 401(a) is required to file an income tax return in the same manner as any other corporation. To claim a partial exemption, the organization must submit a copy of the Internal Revenue Service ruling establishing its exempt status under I.R.C. Sections 501 or 401(a) with its

return, report any income subject to federal income tax on its Louisiana return, and include with the return a statement that all income not reported on the Louisiana return is exempt from federal income tax under I.R.C. Sections 501 or 401(a). To claim a total exemption the organization must submit a copy of the Internal Revenue Service ruling establishing its exempt status under I.R.C. Sections 501 or 401(a) with its return and include with its return a statement that none of its income was subject to federal income tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.501.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:108 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:485 (March 2004), amended LR 33:

Family Impact Statement

The proposed amendment of LAC 61:I.1140, regarding the disallowance of an exemption for unrelated business taxable income of organizations meeting the qualification of I.R.C. Sections 501 and 401(a) and to remove the requirement that certain banks be organized under the state of Louisiana should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. The implementation of this proposed Rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 5 p.m., Wednesday, March 28, 2007. A public hearing will be held on Thursday, March 29, 2007, at 11 a.m. in the Magnolia Room, on the Seventh Floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemption from Tax on Corporations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed corporation income tax regulation, relative to exemption from tax on corporations, will have no impact on the agency's costs.

The implementation of this proposed regulation will have no impact upon any local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Due to the exclusive error of the Department of Revenue, non-profit organizations with unrelated business taxable income in Louisiana have not been taxed on that income. The department proposes to begin taxing this unrelated business

income as required by R.S. 47:287.501 beginning January 1, 2008.

State General Fund revenues are expected to increase due to the proposed change. The information is not available which would allow a measure of the increase. However, the increase is expected to be small.

There will be no effect on revenue collections of local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Beginning January 1, 2008, non-profit organizations with unrelated business income in Louisiana will be taxed on that income. Costs associated with return preparation and the tax liability will be incurred.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
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