

Louisiana Income Tax and Taxpayers

An income tax is imposed on individuals who are residents, part-year residents, and nonresidents of Louisiana who earn income that originates in Louisiana. Partnerships and LLC's are not subject to a such tax, but the partners are taxed on their share of taxable partnership income.

Corporations are subject to income and franchise tax. However, corporations electing subchapter S status are generally exempt from income tax, but the shareholders are taxed on their distributive shares of the corporation's income.

Table A: Income Tax Returns Which May Be Required (for calendar year end taxpayers)		
Taxpayer	Louisiana Form	Due Date
Individual		
a. Resident	IT-540	May 15
b. Part-year resident	IT-540B	May 15
c. Non-resident	IT-540B	May 15
d. Non-resident alien	IT-540	May 15
Estates or Trusts (Fiduciary)	IT-541	May 15
Partnership	IT-565	May 15
Corporation		
a. Regular C Corporation	CIFT-620	April 15
b. S Corporation	CIFT-620	April 15
Limited Liability Company	See page 9	

Individual Income Tax Filing Requirements

Whether you must file a Louisiana income tax return is determined by your filing status and income.

Residents

An individual is generally considered a resident of Louisiana if he/she is domiciled in this state. Domicile is the place where you have a permanent residence and where you intend to return if you are living or working temporarily in another state or country. When determining domicile, each case is decided on its own facts, including:

- Habits of the individual
- Business and domestic relations
- Declarations and registrations
- Exercise of political rights
- Community activities
- Payment of taxes
- Ownership of property
- Intent

A temporary absence from Louisiana does not automatically change your domicile for income tax purposes. The intention to change one's domicile to another state must be shown by the actions taken. Examples include registering to vote, registering and titling vehicles, obtaining a driver's license, changing children's school attendance, obtaining homestead exemption as well as any other actions that show intent.

Part-Year Residents

If you are a resident of Louisiana for less than 12 months during the year and move into or out of Louisiana with the intent to establish or relinquish residency, you are subject to tax on:

- Any income you earned during the year while you were a Louisiana resident; and
- Any income you earned from a Louisiana source before moving to (or after leaving) the state.

Non-resident

Any non-resident with income from Louisiana sources, who is required to file a federal individual income tax return, must file a Louisiana return and report the income from Louisiana sources.

Married Filing Separate – Community Property Issues

Louisiana is one of nine states that has community property laws. If spouses file married filing separate, each spouse will pick up one-half of the community property items on their respective returns.

Louisiana and Federal Income Tax Differences

Overview and Objectives of Louisiana Income Tax

The basis of Louisiana income tax is Title 47 of the Louisiana Revised Statutes. The intent of the legislature by the adoption of this act was to accomplish the following objectives:

- To adopt the provisions of the federal Internal Revenue Code relating to the measurement of adjusted gross income for individuals. The adjusted gross income reported each taxable year by an individual to the Internal Revenue Service shall be the identical sum reported to this state, subject only to modifications contained in the law.
- To adopt the provisions of the federal Internal Revenue Code relating to the measurement of taxable income for corporations, trusts, estates and partnerships. The taxable income reported each taxable year by a corporation, trust, estate or partnership to the Internal Revenue Service shall be the identical sum reported to this state, subject only to modifications contained in this law.
- To achieve the results listed above by the application of the various provisions of the federal Internal Revenue Code relating to the definitions of income, exceptions, deductions, accounting methods, taxation of individuals, corporations, trusts, estates and partnerships, basis and other pertinent provisions relating to gross income as defined, resulting in an amount called adjusted gross income for individuals and taxable income for corporations, trusts, estates, and partnerships in the Internal Revenue Code.
- To impose on each resident of this state a tax measured by taxable income wherever derived.
- To impose on each non-resident and each corporation with a business status in this state a tax measured by taxable income which is the result of activity within or derived from sources within this state.

Nothing contained above shall be construed to require a taxpayer to include an item of income or permit a taxpayer to deduct an expense item more than once in computing Louisiana taxable income.

Federal and State Differences

Additions to Federal Adjustment Gross Income

- Interest and dividend income, not reported on a federal return, that is taxable to Louisiana.
- Income from flow-through entities, if there is a difference between federal and Louisiana distributable income.

Subtraction from Federal Adjusted Gross Income

- Interest on U.S. obligations such as savings bonds and treasury bills or notes.
- Louisiana state employees' retirement benefits, Louisiana state teachers' retirement benefits, federal retirement benefits, and some other retirement benefits.
- Six thousand dollars (\$6,000) of annual retirement income that is received by persons 65 or over.
- Social Security benefits included on the federal return as income.
- Certain Native American income.

Other Notable Differences

Itemized Deductions

Effective for 2003, Louisiana no longer allows itemized deductions.

Tax Rates

Louisiana income is taxed at rates ranging from 2% to 6%. The top rate, 6%, is charged on taxable income over \$50,000 for married persons filing jointly and \$25,000 for single taxpayers.

Estimated Tax Payments

Individual taxpayers whose Louisiana income tax liability can reasonably be expected to exceed \$1,000, after deducting all credits and income tax withheld, are liable for the declaration of estimated tax.

Tax Credits

The following tax credits are provided to Louisiana taxpayers:

- A credit for the net income taxes properly paid to another state is allowed if you were a resident of Louisiana for the entire year.
- A credit of \$100 is permitted for the taxpayer, spouse, or dependent who is blind, deaf, mentally incapacitated or has lost the use of a limb. Only one credit is allowed per person. A physician's statement must be attached to the return in the first year of claiming the credit.
- For taxpayers who donate computer equipment to educational institutions, a credit of 40% of the value of the property donated is allowed.
- A credit of 10% of the credits taken on federal form 1040 plus 10% of any investment tax credit or jobs credit computed on federal form 3800 is allowed.
- Several other credits available to Louisiana tax payers for certain incentive investments.

Inheritance/Estate Tax

Louisiana Revised Statute 47:2401(B)(1) provides that, for deaths occurring after June 30, 2004, no inheritance tax is due and no inheritance tax return or any other succession related documentation is required to be filed with the Department of Revenue, provided application is filed with the court no later than the last day of the ninth month following the death of a decedent for either the judicial opening of the succession or the rendering of a judgment of possession.

Revocable Inter Vivos Trusts

Louisiana Revised Statute 47:2401(B)(2) provides that for deaths occurring after June 30, 2004, no inheritance tax is due, and no inheritance tax return or any other succession related documentation is required to be filed with the Department of Revenue, provided a trust declaration is filed with the secretary of Department of Revenue in accordance with the provisions of R.S. 47:2426 no later than the last day of the ninth month following the death of the decedent.

Gift Tax

Every individual, association, partnership or corporation that makes a gift to a single donee, totaling more than the amount of \$12,000 annually, must file a Gift Tax Return of Donor (Form R-3302). If a gift exceeds the annual exclusion, a return must be filed although no tax is due, either because an exempt transfer is allowed or because the taxpayer elects to allocate a portion of his \$30,000 specific lifetime exemption to the gift. A separate return must be filed for each calendar year that property is transferred by gift.

Due date and payment of tax

The return must be filed with the Louisiana Department of Revenue on or before April 15 immediately following the calendar year in which the gift was made. Payment of tax must accompany the return.

The tax is calculated on the total of all taxable gifts made by a donor during his/her lifetime. The first \$15,000 in taxable gifts is taxed at 2%, and all taxable gifts in excess of \$15,000 are taxed at 3%.

Corporate Income Tax

Corporations doing business in Louisiana are classified as either domestic corporations or foreign corporations. An income tax return (Form CIFT-620) is due on or before the 15th day of the fourth month following the close of the corporation's year end.

A corporation which has made the S corporation election is also due on the 15th day of the fourth month following the close of the corporation's year end. An extension may be filed to obtain an additional six months of time. If any tax is owed by the corporation, it is due by the 15th day of the fourth month following the close of the corporation's year end in order to avoid penalties and interest.

Note: There are numerous filing requirements for domestic and foreign corporations. Please refer to the Appendix for more information.

S corporations filing Form CIFT-620 are excluded from Louisiana income tax. The exclusion is determined by multiplying Louisiana net income by a calculated ratio. This ratio is calculated by dividing the number of issued and outstanding shares of the S corporation's capital stock owned by Louisiana residents on the last day of the S corporation's taxable year by the total number of issued and outstanding shares of capital stock on the last day of the S corporation's taxable year.

Net Income	Tax Rate
\$1—\$25,000 of net income	4%
Next \$25,000	5%
Next \$50,000	6%
Next \$100,000	7%
Over \$200,000	8%

Due Dates and Estimated Payments

Corporations are required to make estimated payments if the tax due for the year is expected to be \$1,000 or more. Estimated tax payments are generally due quarterly.

Franchise Tax

In addition to income tax, Louisiana also has a franchise tax for C corporations and S corporations. The franchise tax is based on total capital stock, surplus, undivided profits and borrowed capital. Borrowed capital is being phased out of the franchise tax base through 2010. If business is conducted in other states. An allocation and apportionment form must be completed to obtain a percentage for a taxable franchise base. The minimum franchise tax is \$10.

Taxable Capital	Tax Rate
\$0-\$300,000	\$1.50 per \$1,000
Over \$300,000	\$3.00 per \$1,000

Credit for Ad Valorem Taxes

Louisiana provides a credit against income and franchise tax for ad valorem taxes paid to political subdivisions in Louisiana on inventory held by manufacturers, distributors and retailers. Any allowable credit that exceeds the tax liability shall be refunded to the taxpayer.

Partnerships and LLC's

Partnerships Not Required To File A Return

A partnership is not required to file a return if all partners are residents of Louisiana (R.S. 47:201).

Partnerships That Must File A Return

Partnerships, including syndicates, groups and other ventures doing business in Louisiana or deriving any income from sources therein, regardless of the amount and regardless of the residence of the partners, shall make a return of income on Form IT-565 if any partner is a non-resident of Louisiana or any partner is a business or corporation rather than an individual. If the partnership has income that is derived from sources partly within and partly outside Louisiana, Form IT-565B must be filed with Form IT-565.

Income Tax Returns of Partners

Each partner must include the distributive share of the net income of a partnership on his/her individual return. The distributive share is based on the partnership's accounting period (whether fiscal or year end) that ended during the partner's taxable year, whether or not such share is distributed. Form IT-540 is for resident individuals. A non-resident member of a partnership must include his/her distributive share of that portion of the partnership income that was derived from sources within Louisiana on Form IT-540-B. In lieu of this, the partnership may file a composite return and pay the tax on the non-resident income.

Individuals should use the information reported on the federal partnership return instead of the amounts shown in the partners' allocation schedule. Corporations should refer to R.S. 47:287.93A(7).

When And Where The Return Must Be Filed

The return for the calendar year must be filed on or before May 15 of the year following the close of the calendar year. Returns for fiscal years must be filed on or before the fifteenth day of the fifth month after the close of the fiscal period.

Period to be Covered by Return

The return must be filed for a calendar year, or for a fiscal year of twelve months, ending on the last day of any month other than December. The dates for which the period covered by the return begins and ends must be clearly indicated at the top of the return. Under Louisiana law, the accounting period established on the first return must be adhered to for subsequent years, unless permission to make a change is received from the Secretary of Revenue.

Property Tax

Property tax is imposed at the local level. The property tax applies not only to real estate and tangible personal property, but also to certain intangible property. Under Louisiana law, the property tax is generally assessed on a percentage of the fair market value of property subject to tax. Local assessors determine the fair market value of immovable property. The percentages of fair market value which apply to the various classifications of property are:

- Land 10%
- Improvements for residential purposes 10%
- Electric cooperative properties, excluding land 15%
- Public service properties, excluding land 25%
- Other property 15%
- Agricultural and horticultural lands, marsh and timberlands are taxed at 10% of their use value, rather than their fair market value.

Property taxes are assessed on an annual basis, generally on January 1 of each year, except in Orleans Parish (New Orleans), where the assessment is made each August 1 to determine property tax liability for the following year. While property tax assessment and collection is a local matter, the Louisiana Tax Commission generally oversees the local assessors and must approve and can modify local assessments.

Assessment

Property is assessed on the basis of its condition as of January 1 of each year (August 1 in Orleans Parish). Real property (land and improvements) is reassessed at least every four years and personal property (inventory, equipment, furniture and fixtures) is reassessed every year. Public service property is assessed annually (by September 1) by the Louisiana Tax Commission (LTC) and all other property by the assessor in each parish. The LTC also assesses taxable intangibles (bank stocks and credits and insurance premiums).

Due Dates and Payments

Taxes are due by December 31.

Rate

The rate is an aggregate of the millages levied by all taxing jurisdictions in which the taxable property is located. (One mill equals \$1 tax on \$1,000 assessed value.)

Homestead Exemption

Homesteads up to 160 acres that are primary residences are allowed an exemption of \$75,000 on the assessed value of the home.

Sales and Use Tax

Businesses domiciled in Louisiana are required to pay sales taxes to the state of Louisiana and to the parish in which the sale occurs. The current state sales tax rate is 4%. Each parish rate varies depending on current tax legislation. For more information regarding sales taxes, please call taxpayer assistance & information at (225) 925-7356.

Consumer Use Tax

Under Louisiana law, you are required to report your consumer use tax. This is an 8% tax owed on any taxable purchases of goods from out-of-state that have not been subject to sales tax. Many catalog and internet purchases could be subject to this tax.

Retention of Records

Generally, records must be kept as long as they are important for any federal or Louisiana tax law. Records that support an item of income or deduction on a return should be kept at least until the period of limitations expires for that return. A period of limitations is the limited period of time after which no legal action can be brought.

There are times that records should be kept longer than the period of limitations. For example, records relating to the basis of any asset (property) should be kept until you are sure they are no longer needed. (See Table D or the Appendix.)

Type	Federal	Louisiana
Original return	Usually this is three years from due date of the date the return was filed, or two years from the date the tax was paid, whichever is later. Six years if gross income is understated by more than 25% of the gross income shown on the return.	Same as Federal
False or fraudulent return	No time limit	Same as Federal
Change in federal return by IRS not reported to Louisiana	No time limit	Same as Federal
Protest period	Not applicable	Same as Federal
Statute extensions	May be extended upon mutual agreement of taxpayer	Same as Federal

Complete records will show the date an asset or property was acquired, the percentage of its business use (if any) and any changes in the basis of each asset. This information is required to figure and report any gain or loss if the asset is later sold, traded or destroyed.

Considerations in Operating a Business

Licenses

If you engage in the operation of a business, almost every business will need a city or parish business license or both. The state of Louisiana imposes license fees or taxes on a wide

range of businesses, occupations and professions. These fees range from nominal amounts to substantial amounts of rates, depending upon the activity.

Legal Form of the Business

Choosing the legal form of a business is very important. The law classifies businesses that fall into one of the following categories:

- a. Sole proprietorship
- b. Partnership
- c. Corporation
- d. Limited liability company

Note: For limited liability companies, Louisiana follows the federal law for income tax purposes. If the limited liability company is taxed as a partnership and files Federal form 1065, the LLC will follow the state rules for a partnership. If the LLC is taxed as a corporation, the LLC will follow the state rules for a corporation.

You should familiarize yourself with the advantages and disadvantages of the legal forms of doing business before you make your choice.

P&N Invitation

If you need additional information, we invite you to contact one of our offices or visit us online at www.pncpa.com. Our website contains valuable resources that may assist you in your transition including forms and links to the IRS, Louisiana Department of Revenue & Taxation, Louisiana Department of Labor, and parish (county) governmental units. We look forward to discussing specific issues with you.

Appendix

Louisiana New Business Checklist

1. Has a business plan been obtained/implemented?
2. Have you determined the type of legal entity your company will assume?
 - A corporation
 - A subchapter S corporation
 - A partnership
 - A sole proprietorship
 - A limited liability company
3. Have you registered your business?
4. Have you registered any trademarks or trade names?
5. Has a parish sales tax license been obtained?
6. Have you researched your local city-parish code to verify if you are required to pay a city-parish sales tax?
7. Has a state sales tax license been obtained?
8. Have you researched state sales tax laws to verify if you are required to pay a state sales tax?
9. Are you familiar with the use tax and how it affects your business?

10. Have you determined if your business requires a special permit or license?
11. Have you applied for a federal employer identification number by filing Form SS-4?
12. Have you reviewed the Fair Labor Standards Act?
13. Have you checked on local zoning ordinances, regulations and other land use restrictions?
14. Have you determined whether any federal permit or license is required?
15. Have you considered your need for insurance regarding fire, accident, liability, theft and other types of commercial coverage?
16. Are required sales and use tax returns being filed timely with state and/or city agencies?
17. Have you secured worker compensation coverage?
18. Have you acquired the necessary knowledge to enter into lease/rental agreements?
19. Have you tested/reviewed your accounting system for accuracy and completeness?
20. Have you reviewed your payroll system to verify the accuracy and timing of:
 - Federal withholding
 - State withholding (Have you applied for a number?)
 - FICA/Medicare withholding
 - FICA/Medicare employer payments
21. Have you reviewed employee compensation status (i.e.: hourly vs. salaries)?
22. If a corporation, have you scheduled your required annual meeting?
23. Have you kept accurate meeting minutes?
24. If an S corporation, have you maintained all the requirements for S election?
25. Are you in compliance with fire safety codes?
26. Are related party transactions properly disclosed?
27. If a corporation, are all shareholder loans recorded and accruing interest?
28. Have you made provisions for federal unemployment tax?
29. Have you made provisions for state unemployment tax?
30. Have you performed any tax planning?
31. If a corporation, has a board of directors been elected?
32. Have you reviewed compliance with environmental regulations?

Appendix

Records Retention Schedule

It is important to hold onto your business records in case of an IRS audit or other examination. Retaining unnecessary records will soon exceed the storage space available for most businesses. Therefore, you may wish to establish a retention schedule that takes into account state and federal regulations, as well as industry standards. The retention periods are intended as a general guideline only. If you have questions about destroying any tax or accounting records, please contact a Postlethwaite & Netterville professional immediately.

<u>Document</u>	<u>Retention Period</u>
Accident reports/claims (<i>settled cases</i>).....	7 years
Accounts payable ledgers and schedules.....	7 years
Accounts receivable ledgers and schedules	8 years
Audit reports	Permanently
Bank statements	3 years
Capital stock and bond records	Permanently
Cash books.....	Permanently
Charts of accounts.....	Permanently
Checks (<i>anceled checks for important payments, special contracts, purchase of assets, payment of taxes, etc. Checks should be filed with the papers pertaining to the underlying transaction</i>).....	Permanently
Checks (<i>anceled except those noted above</i>).....	7 years
Contracts and leases (<i>expired</i>).....	7 years
Correspondence, general	2 years
Correspondence (<i>legal and tax related</i>).....	Permanently
Deeds, mortgages and bills of sale.....	Permanently
Deposit slips	3 years
Depreciation schedules.....	Permanently
Employee personnel records (<i>after termination</i>).....	7 years
Employee applications.....	3 years
Expense reports.....	7 years
Financial statements (<i>year end</i>).....	Permanently
General ledgers, year end trial balance	Permanently
Insurance policies (<i>expired</i>).....	3 years

<u>Document</u>	<u>Retention Period</u>
Insurance records, accident reports, claims, policies, etc.	Permanently
Internal audit reports (<i>miscellaneous</i>).....	3 years
Inventory records	7 years
Invoices to customers or from vendors	7 years
IRA/Keogh plan contributions, rollovers, transfers and distributions.....	Permanently
Minute books of directors, stockholders, bylaws and charter	Permanently
Payroll records, summaries and tax returns	7 years
Petty cash vouchers.....	3 years
Purchase orders	3 years
Receiving sheets	1 year
Retirement plan records.....	Permanently
Safety records.....	6 years
Sales records.....	7 years
Subsidiary ledgers	7 years
Tax returns, revenue agents' reports and other documents relating to determination of income tax liability	Permanently
Time cards and daily reports.....	7 years
Trademark registration, patents and copyrights.....	Permanently
Trial balances (<i>monthly</i>).....	3 years
W-2 Forms	7 years

Note: Guidelines for maintaining records are based on a taxing authority's statutory power and limitations on auditing these records.

Louisiana Tax Guide

A Resource for Individuals and Businesses

Developed by the
P&N Tax Services Group



Postlethwaite & Netterville

www.pncpa.com

Baton Rouge • Donaldsonville • Gonzales • Mandeville
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Introduction

The *Louisiana Tax Guide* is provided by Postlethwaite & Netterville, Louisiana's leading accounting and business advisory firm. This guide is intended to serve as a resource for individuals and businesses who are interested in moving to Louisiana or starting a business in our state. The *Louisiana Tax Guide* provides a brief overview of the basics of Louisiana individual and corporate tax laws. If you need additional information regarding tax issues or business planning, please contact the P&N Tax Services Group.

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