

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

#### Income Tax Withholding on Gaming Winnings (LAC 61:I.1525)

Under the authority of Act 80 of the 2021 Regular Session of the Louisiana Legislature, R.S. 47:32(A), R.S. 47:164(D), R.S. 47:241 et seq., and 47:1511 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.1525 relative to income tax withholding on gaming winnings. The purpose of this regulation is to require any person paying gaming winnings under the provisions of Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature to withhold Louisiana income tax.

Act 141 of the 2020 Regular Session of the Louisiana Legislature and Act 80 of the 2021 Regular Session of the Louisiana Legislature respectively authorize fantasy sports and sports wagering gaming. This proposed amendment requires income tax withholding from every person or business that pays sports betting and fantasy sports winnings in excess of \$1,200 at the highest rate provided for by R.S. 47:32(A). This proposed amendment clarifies that any person paying gaming winnings is required to conform to the electronic filing requirements for LDR Form L-3 and accompanying IRS Form W-2G.

#### Title 61

#### REVENUE AND TAXATION

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

#### Chapter 15. Income: Withholding Tax

#### §1525. Income Tax Withholding on Gaming Winnings

##### A. Withholding Requirement for Gaming Winnings

1. Any ~~Every~~ person or ~~business~~ that pays gaming winnings won in Louisiana is required to withhold individual income taxes at ~~a rate of six percent~~ the highest rate provided for by R.S. 47:32(A) if income taxes are required to be withheld for the Internal Revenue Service under 26 USC 3402 on the same winnings.
2. Additionally following current Department of Revenue practice, casinos that pay slot machine winnings in excess of \$1,200 shall issue an IRS Form W-2G and withhold at ~~a rate of 6 percent~~ the highest rate provided for by R.S. 47:32(A) of the slot machine winnings regardless of the *Internal Revenue Code* withholding on such slot machine winnings.
3. Any person that pays sports betting and fantasy sports winnings in excess of \$1,200 shall issue an IRS Form W-2G and withhold at the highest rate provided for by R.S. 47:32(A) regardless of the Internal Revenue Code withholding requirements on such sports betting and fantasy sports winnings.

##### B.1.-2.(b.) ...

3. Effective for taxable periods beginning on or after January 1, 2021, persons required to withhold and to remit income taxes on gaming winnings shall electronically file the LDR Form L-3 transmittal and accompanying IRS Form W-2G. Pursuant to the authority of R.S. 47:114(D)(2) and to provide simplicity on related federal filing requirements, the secretary grants an extension of time to file to February 28th to coincide with the federal due date.
  - a. Electronic Filing Options. The LDR Form L-3 and IRS Form W-2G shall be filed electronically in one of the manners as follows:
    - i. electronic filing using the LaWage electronic filing application via the LDR website, [www.revenue.louisiana.gov](http://www.revenue.louisiana.gov); or
    - ii. any other electronic method authorized by the secretary.
4. Tax Preparer Undue Hardship Waiver of Electronic Filing Requirement
  - a. The secretary may waive the electronic filing requirement if it is determined that complying with the requirement would cause an undue hardship.
  - b. For the purposes of waiver of the electronic filing requirement, inability by the tax preparer to obtain broadband access at the location where LDR Forms L-3 and IRS Forms W-2G are prepared shall be considered an undue hardship and waiver of the requirement will be granted.

AUTHORITY NOTE: Promulgated in accordance with Act 80 of the 2021 Regular Session of the Louisiana Legislature, R.S. 47:32(A), R.S. 47:164, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:2877 (December 2010), amended by the Department of Revenue, Policy Services Division, LR 47:

#### **Family Impact Statement**

The proposed adoption of LAC 61:I.1525, regarding Louisiana Income Tax Withholding on Gaming Winnings, 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. Specifically, 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 budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

#### **Poverty Statement**

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

It is anticipated that this proposed amendment should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Provider Impact Statement**

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Christina Junker, Attorney, 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 4:00 p.m., Wednesday, October 27, 2021.

#### **Public Hearing**

A public hearing will be held on Thursday, October 28, 2021, at 3:00 p.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

**Kimberly J. Lewis**  
**Secretary, Department of Revenue**

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2. Additionally following current Department of Revenue practice, casinos that pay slot machine winnings in excess of \$1,200 shall issue an IRS Form W2-G and withhold at the highest rate provided for by R.S. 47:32(A) of the slot machine winnings regardless of the *Internal Revenue Code* withholding on such slot machine winnings.
3. Any person that pays sports betting and fantasy sports winnings in excess of \$1,200 shall issue an IRS Form W2-G and withhold at the highest rate provided for by R.S. 47:32(A) regardless of the *Internal Revenue Code* withholding requirements on such sports betting and fantasy sports winnings.

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**Kimberly J. Lewis**  
**Secretary, Department of Revenue**

## Fiscal and Economic Impact Statement For Administrative Rules

Person preparing  
statement:

Ed Landry

Department:

Revenue

Phone:

(225) 219-2780

Office:

Policy Services Division

Return Address:

617 North Third Street  
Baton Rouge, LA 70802

Rule Title:

LAC 61.I.1525

Date Rule

Takes Effect:

December 20, 2021

### Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

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

The proposed rule change will not result in any additional costs or savings to the LA Department of Revenue (LDR) or any state governmental units. Local governments are not affected by this proposal.

Act 80 of the 2021 Regular Session of the Louisiana Legislature authorized sports wagering to be conducted by casinos and certain businesses licensed by the Louisiana Lottery Corporation, and levies a tax on sports wagering gaming. This proposal amends the Income Tax Withholding on Gaming Winnings rule to provide withholding at the highest tax rate (currently 6%) requirement on sports betting and fantasy sports winnings in excess of \$1,200, and mandatory electronic filing requirements for Form L-3 and accompanying forms W-2G.

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


The proposed rule change provides for tax-withholding rates for winnings generated from sports betting and fantasy sports wagering as authorized in Act 80. SGF revenues are anticipated to increase by an indeterminable amount, as the amount of future sports betting and fantasy sports winnings is unknown.


III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

People and establishments engaging in sports wagering and fantasy sports gaming will be affected by this proposal. Additional costs, workload adjustments, and paperwork of the withholding, remitting, and reporting required by this proposed amendment are expected to be relatively minor. People who win money from sports wagering or fantasy sports gaming will have their winnings receipts reduced by the withholding required by this proposed amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change implements the provisions of Act 80 with regard to the expansion of sports betting and fantasy sports wagering in Louisiana. This expansion will result in an indeterminable impact on competition and employment in the gaming sector and/or other industries that compete for the disposable income of Louisiana residents.

  
\_\_\_\_\_  
Signature of Agency Head or Designee  
**Kimberly Lewis, Secretary**  
\_\_\_\_\_  
Typed Name and Title of Agency Head or Designee  
9/10/21  
\_\_\_\_\_  
Date of Signature

  
\_\_\_\_\_  
Legislative Fiscal Officer Designee  
**Greg Albrecht, Chief Economist**  
\_\_\_\_\_  
Typed Name of Legislative Fiscal Officer Designee  
9/10/21  
\_\_\_\_\_  
Date of Signature  
*Alan Buxberger*  
*Deputy Fiscal Officer*