

## NOTICE OF INTENT

### Department of Revenue Policy Services Division

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

Under the authority of R.S. 47:164(D), R.S. 47:241 et seq., and R.S. 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 adopt LAC 61:I.1525 relative to income tax withholding on gaming winnings. The primary purpose of this regulation is to require anyone paying gaming winnings to withhold on those winnings if the IRS requires withholding on the winnings.

#### 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. Every person or business that pays gaming winnings won in Louisiana is required to withhold individual income taxes at a rate of six percent 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 should issue a form W2-G and withhold at a rate of 6 percent of the slot machine winnings regardless of the Internal Revenue Code withholding on such slot machine winnings.

##### B. Reporting Requirements for Gaming Winnings

1. Businesses that withhold income taxes on gaming winnings shall electronically report and remit the withholdings to the Louisiana Department of Revenue quarterly.

2. Businesses required to withhold and to submit income taxes on gaming winnings shall send the Department of Revenue a report electronically containing a list of all winners annually in a format approved by the department. The report shall contain the following information as printed on federal form W-2G:

a. the payor's name, address, and federal identification number;

b. the winner's name, address, social security number, gross winnings, amount of federal income taxes withheld, and amount of state income taxes withheld.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.71, R.S. 47:287.785, and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Service Division, LR 36:

#### Family Impact Statement

The adoption of LAC 61:I.1125 should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D).

#### Small Business Statement

In accordance with R.S. 49:965.6, the Department of Revenue has conducted a Regulatory Flexibility Analysis and found that the proposed adoption of this Rule will have negligible impact on small businesses.

#### Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Vanessa LaFleur, Director, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Tuesday, October, 26th, 2010.

#### Public Hearing

A public hearing will be held on Wednesday, October, 27th, 2010, at 10 a.m. in the River Room located 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: Income Tax Withholding on Gaming Winnings

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

This proposed rule requires every person or business that pays gaming winnings won in Louisiana to withhold individual income taxes if income taxes are required to be withheld for the Internal Revenue Service under 26 USC 3402 on the same winnings. In addition, the proposed rule requires casinos that pay slot machine winnings in excess of \$1,200 to issue a form W2-G and withhold income taxes at a rate of 6 percent of the slot machine winnings regardless of the Internal Revenue Code withholding requirements on slot machine winnings.

System modifications to implement this proposal will cost approximately \$17,500 for development and testing. However, this proposal will allow the reallocation of resources being used in the assessment and collection of delinquent taxes to other tax processing functions; thereby off setting a portion of the implementation costs.

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

This proposed rule, which requires every person or business that pays gaming winnings won in Louisiana to withhold individual income taxes if income taxes are required to be withheld for the Internal Revenue Service under 26 USC 3402 on the same winnings, will have no effect on revenue collections of state or local governmental units. This withholding is currently provided on a voluntary basis, and this rule will make the current practice mandatory.

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

Requiring every person or business to withhold from gaming winnings won in Louisiana may limit the need to assess the recipients of those winnings for delinquent income taxes; saving those recipients interest and penalty that would otherwise be due. The payor of gaming winnings will have to file a form electronically with the Department containing information about the winner. This rule makes electronic filing mandatory which may require an initiation expense for the payor, but it is expected to be minimal.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Cynthia Bridges  
Secretary  
1009#037

H. Gordon Monk  
Legislative Fiscal Officer  
Legislative Fiscal Office