

inaccurate or incomplete tobacco monthly returns or schedules with either department, the secretary may revoke the waiver and require the dealer to furnish a bond in the amount required in R.S. 47:848(A). If a bond waiver is revoked, the dealer shall not be eligible for a bond waiver for a period of three years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:848 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Tax Policy and Planning Division, LR 50:1672 (November 2024).

§5115. Refunds/Credits and Destruction of Products

A. A dealer may be refunded or credited the cost of stamps affixed to goods when:

1. by reason of damage the goods become unfit for sale and are destroyed by the dealer or returned to the manufacturer or jobber; or

2. the goods were listed on the state directory at the time the stamps were affixed but have subsequently been removed from the state directory and the goods have been destroyed.

B. A dealer seeking a refund or credit of the cost of stamps affixed to goods which, because of damage were unfit for sale and have been returned to the manufacturer, must claim the refund or credit in the manner prescribed by the secretary and provide the following documentation:

1. a notarized affidavit containing the product brand name, the quantity returned to the manufacturer or jobber, the date of return of the product and the location to which the product was returned; and

2. a copy of the credit memo received from the manufacturer.

C. A dealer who intends to destroy goods which have been affixed with a tax stamp because they have either been damaged and are unfit for sale or have been removed from the state directory shall notify the department prior to the destruction and comply with the following requirements:

1. The destruction shall be witnessed by a representative of the Department of Revenue and/or the Office of the Attorney General.

2. Goods shall be destroyed by cutting in half and saturating the product with bleach.

3. The Department of Revenue shall provide the dealer with a certification of the destruction which shall be submitted with the claim for credit or refund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:857 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Legal Affairs, Tax Policy and Planning Division, LR 50:1673 (November 2024).

Richard Nelson
Secretary

2411#010

RULE

Department of Revenue Tax Policy and Planning Division

Net Capital Gains Deduction (LAC 61:I.1312)

Under the authority of R.S. 47: 293.2 and 1511, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, adopts LAC 61:I.1312 to effectively administer R.S. 47:293.2 relative to the net capital gains deduction.

Revised Statutes 47:293(9)(a)(xvii) and (10) provide an individual income tax deduction for net capital gains resulting from the sale or exchange of an equity interest in or substantially all of the assets of a non-publicly traded corporation, partnership, limited liability company, or other business organization commercially domiciled in Louisiana.

Act 242 of the 2023 Regular Legislative Session (“Act 242”) requires the department to promulgate regulations relative to the net capital gains deduction and outlines minimum rule requirements. Act 242 provides that the regulations must contain: 1) documentation requirements applicable to taxpayers claiming the deduction; 2) a de minimis exception to documentation requirements for small transaction eligible for the deduction; 3) restrictions on eligibility for transactions where the majority of the physical assets are located outside of Louisiana; and 4) restrictions on eligibility for transactions between related parties. The primary purpose of this Rule is to conform to these regulation requirements.

This Rule is written in plain language with a readability score of 11.11. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

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

Chapter 13. Income: Individual

§1312. Net Capital Gains Deduction

A. General. R.S. 47:293(9)(a)(xvii) and (10) provide a deduction for resident individuals and nonresident individuals (“taxpayers”), respectively, for net capital gains resulting from the sale or exchange of an equity interest in, or from the sale or exchange of substantially all of the assets of a non-publicly traded corporation, partnership, limited liability company, or other business organization (“business”) commercially domiciled in Louisiana.

B. Definitions

Capital Gains from the Sale or Exchange of the Assets of a Business—capital gains from sales and exchanges that are reported on Federal Form 4797—Sales of Business Property, the gains from which are reportable on Schedule D of Federal Form 1040.

Commercial Domicile—the principal place from which the business is directed or managed.

Controlled Entities—with respect to a business or taxpayer

a. a corporation in which more than 50 percent of the value of the outstanding stock is owned (directly or indirectly) by or for the taxpayer or business,

b. a partnership in which more than 50 percent of the capital interest or profits interest is owned (directly or indirectly) by or for the taxpayer or business, and

c. any entity which is a related person to the taxpayer or business pursuant to paragraph (3), (10), (11), or (12) of 26 U.S.C § 267(b).

Equity Interest—an ownership interest in a business that is not publicly traded, such as stock in a corporation, a partnership interest in a partnership, or a membership interest in a limited liability company.

Net Assets—the total value of gross assets after deducting liabilities reportable or would be reportable on the Federal Form 1120, Schedule L if the form was required to be filed at time of sale as total assets at the end of the year.

Net Capital Gains—the amount reported as capital gains on the Federal Form 1040.

Gross Assets—the total value of assets reportable or would be reportable on the Federal Form 1120, Schedule L if the form was required to be filed at time of sale as total assets at the end of the year without regard to location of the assets and excluding any negative values reported on Lines 1-13.

Related Party—

a. a business or taxpayer and all entities which are controlled entities with respect to such business or taxpayer;

b. a business or taxpayer and any trust in which such business or taxpayer (or his spouse) is a beneficiary, unless such beneficiary's interest in the trust is five percent or less of the value of the trust property; and

c. except in the case of a sale or exchange in satisfaction of a pecuniary bequest, a taxpayer who is an executor of an estate and a beneficiary of such estate.

Sale or Exchange of an Equity Interest—a sale or exchange of an equity interest that is reportable on Schedule D of Federal Form 1040—Capital Gains and Losses.

Sale or Exchange of Substantially all of the Assets of a Business—a sale or exchange of assets that leaves the entity unable to carry-on its business. A sale or exchange of assets is presumed to be a sale or exchange of substantially all of the assets of the business if the selling business transfers at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets that it held immediately before the transfer.

C. Documentation Requirements

1. Taxpayers claiming the deduction shall submit the following documentation at the time of filing their Louisiana individual income tax return claiming the deduction:

a. a completed Louisiana Form R-6180, Net Capital Gains Deduction Worksheet;

b. documentary evidence of the date the taxpayer acquired an equity interest in the business, such as articles of

incorporation or organization, acts of sale or exchange, or donative instruments;

c. a copy of the taxpayer's federal Schedule K-1, if applicable, from the entity from which the gain was derived; and

d. a complete copy of the taxpayer's Federal Form 1040 filed with the IRS for the period in which the gain was recognized, including the Schedule D and any corresponding schedules and forms.

2. In addition to the documentation required by Paragraph 1 above, when the capital gain for which a deduction is being claimed is greater than \$250,000, taxpayers shall also submit the following at the time of filing their Louisiana individual income tax return claiming the deduction:

a. copies of the last two returns on which the income from the business was reported. If the gain is derived from a partnership, provide Form IT-565, Louisiana Partnership Return of Income, for the last two years.

b. If the gain is derived from a pass-through entity, provide detailed information on the pass-through structure, such as a complete organizational chart showing each tier between the taxpayer and the entity from which the gain is derived.

c. If the gain is from the sale of assets, the taxpayer shall also provide the following:

i. a depreciation schedule or fixed asset schedule showing a calculation of gross to net asset values; and

ii. an allocation of purchase price among assets as required by IRC Section 1060, and generally reportable on IRS Form 8594.

D. Eligibility Restrictions

1. Net capital gains resulting from the sale or exchange of real property or other immovable assets may qualify for the deduction if more than 50 percent of the real property or other immovable assets are located within Louisiana, provided however, that the income from the related business was subject to Louisiana income tax prior to the sale or exchange.

2. Net capital gains resulting from the sale or exchange of tangible movable assets may qualify for the deduction if during the three years immediately preceding the sale or exchange, the tangible movable assets are located within Louisiana for at least 50 percent of the time in which the assets are in service, provided however, that the income from the related business was subject to Louisiana income tax prior to the sale or exchange. "In service" shall have the same meaning as it does for the purposes of calculating depreciation.

3. Net capital gains from the sale or exchange of an equity interest or from the sale or exchange of substantially all assets shall not qualify for the deduction if the transaction transfers ownership of the interest or assets to a related party.

E. The accrual of refund interest shall be suspended during any period of time that a delay in allowance or approval of the deduction is attributable to the taxpayer's failure to provide information or documentation required herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:293(9)(a)(xvii) and (10), 47:293.2 and 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Policy and Planning Division, LR 50:1673 (November 2024).

Richard Nelson
Secretary

2411#013

RULE

**Workforce Commission
Plumbing Board**

Plumbers—Licenses and
Continuing Professional Education Programs
(LAC 46:LV.101, 301, 309, 310, 312,
508, 901, and 1001)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Plumbing Board (board), hereby amends LAC 46:LV.101, 301, 309, 310, 508, 901, and 1001 to be in compliance with recent legislative changes designated as Act No. 721. These Rules, §§101, 301, 309, 310, 312, 508, 901 and 1001 substitute residential plumber in place of tradesman plumber. These Rules will be effective upon final publication in the *Louisiana Register*. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

* * *

Repair—as that term is used in R.S. 37:1367(A), shall mean and be limited to the performance of repairs to existing plumbing, the clearing of stoppages, or repairing leaks.

Residential Plumber—a natural person who possesses the necessary qualifications and knowledge to install, alter, repair, and maintain plumbing systems and is issued a residential plumber limited license by the board to install, alter, repair, and maintain plumbing systems in one- and two-family dwellings at the direction of a master plumber, without the supervision of a journeyman plumber.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 44:633 (March 2018), amended by the Workforce Commission, Plumbing Board, LR 44:1915 (October 2018), amended by the Workforce Commission, Plumbing Board LR 44:274 (February 2021), LR 49:914 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:41 (January 2024), amended by the Workforce Commission, Plumbing Board, LR 50:1675 (November 2024).

Chapter 3. Licenses

§301. Licenses Required

A. - W. ...

X. No natural person shall engage in doing the work of a residential plumber unless he possesses a tradesman residential plumber limited license or renewal thereof issued by the board. At the direction of a master plumber licensed by the board, a residential plumber may independently install, alter, repair, and maintain plumbing in one- and two-family dwellings without the supervision of a journeyman plumber.

Y. The board shall issue a limited license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a residential plumber if he passes a written and manual residential plumber's examination given by the board and pays the fees established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:541 (March 2017), LR 43:972 (May 2017), LR 47:274 (February 2021), LR49:915 (May 2023), amended by the Workforce Commission, Plumbing Board, LR 50:41 (January 2024), amended by the Workforce Commission, Plumbing Board, LR 50:1675 (November 2024).

**§309. Requirements to Take Exam for Residential
Plumber Limited License**

A. Requirements

1. An applicant for residential plumber's examination shall be a registered apprentice with the board and have performed 4,000 hours as an unindentured apprentice or 3,000 hours as an indentured apprentice of manual labor of plumbing under the direct, constant, on-the-job supervision of a licensed plumber as defined in §101, by way of official payroll documentation or W-2's with an accompanying paycheck stub.

2. - 5. ...

6. No residential plumber certificate shall permit any residential plumber to do the work of a journeyman plumber.

B. - F.1. ...

2. These applicants will be granted provisional licenses. This provisional and limited license shall permit any such applicant to engage in the work of a residential plumber, upon passing the special examination described herein, within the geographic areas to which the Louisiana plumbing law has been made applicable. However, the license issued by the board shall state that the license was issued pursuant to these provisions.

3. Applicants under these special provisions will not be relieved of any other requirements or conditions associated with the issuance of a residential plumber's license by this board as established under the board's revised rules and regulations and the Louisiana plumbing laws, R.S. 37:1365-37:1378.

G. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within three years of being cited by the board or its agents for engaging in the work of a residential plumber at a time when he did not possess a license or renewal thereof issued by the board, or was otherwise subject to civil or criminal prosecution for