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 DIGEST

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SB 157 Reengrossed

2021 Regular Session

Allain

Present law requires nonresident individuals to pay individual income tax to the state for all income earned within or derived from sources in the state.

Proposed law exempts nonresident employees who perform their employment duties in this state for twenty-five or fewer days during a calendar year.

Proposed law provides that this exemption for employees only applies if all of the following are true:

- (1) The nonresident individual performed employment duties in this state for twenty-five or fewer days during the year.
- (2) The nonresident individual performed employment duties in more than one state.
- (3) The nonresident individual did not receive the wages for performing duties as a professional athlete, staff member of a professional athletic team, professional entertainer, public figure, or qualified production employee.
- (4) The nonresident individual's state of residence either provides a substantially similar exemption or does not impose an individual income tax.
- (5) The nonresident individual did not have any other La. source income.

Present law requires every employer paying wages to an employee performing services in the state to deduct and remit withholding tax.

Proposed law exempts employers from this requirement for employees who perform employment duties in this state for twenty-five or fewer days during the year if the employee is exempt from state individual income tax under proposed law.

Proposed law provides that if a nonresident employee performs employment duties in this state for more than twenty-five days, that the employer is required to remit tax to this state for every day in that calendar year, including the first twenty-five days.

Proposed law does not allow the Dept. of Revenue to impose penalties or charge interest for failure to withhold by an employer with nonresident employees if the employer relied on:

- (1) Data from a time and attendance system specifically designed to allocate employee wages for income tax purposes among all taxing jurisdictions.
- (2) In the absence of a time and attendance system, on its own records maintained in the regular course of business or on the employee's determination of the time the employee performed employment duties in this state provided that the employer did not have actual knowledge of fraud on the part of the employee.

Effective upon the signature of the governor.

(Amends R.S. 47:242(1)(g) and (2) and 293(10); adds R.S. 47:111(A)(12), 112.2, and 248)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes the number of days that nonresident employees are exempt from 30 to 25.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the reengrossed bill:

1. Make technical changes.