

RÉSUMÉ DIGEST

ACT 383 (SB 157)

2021 Regular Session

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

New law exempts nonresident employees who perform their employment duties in this state for 25 or fewer days during a calendar year.

New 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 25 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.

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

New law exempts employers from this requirement for employees who perform employment duties in this state for 25 or fewer days during the year if the employee is exempt from state individual income tax under new law.

New law provides that if a nonresident employee performs employment duties in this state for more than 25 days, that the employer is required to remit tax to this state for every day in that calendar year, including the first 25 days.

New 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 (June 16, 2021).

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