

§164. Information at source

A. Payments of \$1,000 or more. All persons in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person of interest, rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, or other fixed or determinable gains, profits, and income, other than payments described in R.S. 47:165(A) or 166, of one thousand dollars (\$1,000.00) or more in any taxable year, or, in the case of such payments made by the United States, the state of Louisiana or any other state, or any political subdivision, agency or instrumentality of the foregoing, the officers or employees of the United States, the state of Louisiana, or any other state or of any political subdivision, agency or instrumentality thereof having information as to such payments and required to make returns in regard thereto under the regulations hereinafter provided for, shall render a true and accurate report to the collector, under such regulations and in such form and manner and to such extent as may be prescribed by him, setting forth the amount of such gains, profits, and income, the name and address of the recipient of such payment and such other information as the collector may require.

B. Returns, regardless of amount of payment. Such returns may be required by the collector regardless of amount, in case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and in the case of collections of items (not payable in Louisiana) of interest upon the bonds of a foreign state or country and interest upon the bonds of and dividends from foreign corporations by persons undertaking the collection of such foreign payments of interest or dividends by means of coupons, checks, or bills of exchange.

C. Recipient to furnish name and address. When necessary to make effective the provisions of this Section, the recipient of income shall, upon demand of the person paying income, furnish his full and correct name and address.

D. Withholding of tax at source. (1) The secretary, whenever it is deemed necessary to ensure compliance with the provisions of this Chapter, may require the United States, the state of Louisiana or any other state or any political subdivision, agency or instrumentality of the foregoing, or any person having control, receipt, custody, disposal or payment of interest, other than interest coupon payable to the bearer, rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, paid or payable to any person, to deduct and withhold as tax an amount determined by the secretary, to be payable from such person and make return thereof and pay the tax to the secretary.

(2)(a) The motion picture investor tax credit pursuant to R.S. 47:6007 awards a tax credit for investments made and used for production expenditures in this state for state-certified productions. Therefore, any individual receiving any payments for the performance of services used directly in a production activity, which payments shall be claimed as a production expenditure for purposes of certification of tax credits, is deemed to be receiving Louisiana taxable income whether directly or indirectly through an agent or agency, loan-out company, a personal service company, an employee leasing company, or other entity and therefore these payments are subject to the withholding requirements of state and federal law and regulations.

(b) Any motion picture production company, motion picture payroll services company, or other entity making or causing to be made payments as provided in Subparagraph (a) of this Paragraph, to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity is considered to be paying compensation taxable by the state of Louisiana. For purposes of eligibility as a production expenditure, the payor shall withhold taxes from those payments, excluding any amount that is otherwise not subject to the withholding requirements imposed pursuant to federal and state laws and regulations, at the rate determined in accordance with an employee's withholding allowance certificate, L-4, or the highest individual rate in effect at the time if there is no employee withholding allowance certificate, and shall remit these payments to the department quarterly.

(c) The motion picture production company, motion picture payroll services company, or other entity required to withhold income taxes as required by this Paragraph shall electronically report the information required by Items (i) through (iv) of this Subparagraph and remit the withholdings on all payments provided for in Subparagraphs (a) and (b) of this Paragraph to the Department of Revenue quarterly. The information reported as required by this Subparagraph may be provided to the Department of Economic Development and if provided, shall be subject to the confidentiality provisions of R.S. 47:1508(B)(20). The reports shall contain the following information:

(i) Name, address, and taxpayer identification number of the loan-out company or other entity.

(ii) Identification of entity type: C Corporation, S Corporation, or Limited Liability Company with tax type specified.

(iii) Name, address, and social security number of the payee.

(iv) An affirmative statement of whether or not the production company is a related party to the loan-out company or other entity, and if so, provision of an affidavit stating under penalty of perjury that the transaction is valued at the same value that an unrelated party would value the same transaction. If the production company is a related party to the loan-out company, the report shall also include all of the following information:

(aa) The ownership structure of the loan-out company or other entity.

(bb) An estimate amount of what the loan-out company or other entity will pay the payee.

Amended by Acts 1960, No. 342, §2; Acts 2015, No. 425, §1; Acts 2015, No. 425, §2; Acts 2016, No. 662, §§1, 2, eff. June 17, 2016; Acts 2017, No. 384, §1, eff. July 1, 2017.

NOTE: See Acts 2015, No. 425, §2, regarding applicability.

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