

DECLARATION OF EMERGENCY

Workforce Commission Office of Workers' Compensation

Emergency Rule—State Income Tax Withholding from
Unemployment Insurance Benefits (LAC 40:IV.383)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address the withholding of state income taxes.

This Emergency Rule is necessary to implement Act 33 of the 2020 First Extraordinary Session that created R.S. 23:1693(J), which addresses the withholding of state income taxes from unemployment insurance benefits when a temporary increase in federal emergency unemployment insurance is in effect. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for federal funding because R.S. 23:1693(J) is not in conformity with 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA) as required under R.S. 23:1664(2). It is imperative that the LWC proceed expediently with this Rule because of the precarious position of the immense number of recently unemployed workers due to COVID-19, which is an imminent peril to public health, safety, and welfare that requires immediate action to provide benefits. Failure to adopt this Rule on an emergency basis may imperil LWC's ability to receive federal funding for failure to meet conformity requirements, which would affect the ability of unemployed workers to receive benefits.

This declaration of emergency is effective August 29, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until adoption of the final Rule, whichever occurs first.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§383. Voluntary State Income Tax Withholdings from Unemployment Insurance Benefits

A. Pursuant to R.S. 23:1693(J), which was created by Act 33 of the 2020 First Extraordinary Session, withholding of state income taxes was made mandatory. However, under 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA), withholding from unemployment insurance must be voluntary in order to conform with federal requirements. R.S. 23:1664(2) requires that the administrator take such actions as may be necessary to meet the requirements of FUTA as interpreted by the U.S. Department of Labor. Therefore, whenever additional federal benefits are in effect, a claimant may voluntarily elect to have state income taxes withheld at a rate of 4 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1664(2), R.S. 23:1693(J), and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

Ava M. Dejoie
Secretary