



## Nonresident Contractor Determination and Bond Information

The requirement to be a resident contractor in Louisiana is established by Louisiana Revised Statute 47:9 for the different types of business structures. In order to be considered a resident, an individual proprietor must have maintained their permanent domicile in Louisiana for at least one year prior to bidding on the contract. Businesses other than individual proprietors, such as corporations and partnerships, must have operated a permanent business facility in Louisiana for at least one year prior to bidding on the contract, or have at least 50% ownership by individuals or entities that have established a one year Louisiana residence or business facility prior to bidding on the contract. **All companies that have not met these requirements will be considered a nonresident contractor and must follow the requirements as a nonresident contractor.**

If you disagree with the determination that your company is a nonresident, please contact the Taxpayer Services Division, telephone number (225) 219-7656.

As a nonresident contractor or subcontractor, you are subject to requirements under R.S. 47:9 on the registration of each contract where the total contract price is \$3,000 or more. The Department of Revenue is required to collect a registration fee of \$10 per contract. The nonresident contractor or subcontractor is required to execute and file bonds or deposit other sureties with the Department of Revenue in such amount, but not less than \$1000, to insure that all taxes will be paid to the state and its political subdivisions when due. The bond must be an amount equal to 5% of the contract price for lump-sum contracts or 5% of the estimated contract price for cost-plus contracts. The minimum required bond is \$1,000.

Failure to obtain the required bond may result in the filing of an injunction by this Department to stop any activity in the performance of the contract.

Nonresident contractors and subcontractors are also authorized and required by R.S. 47:9 to withhold payments from their nonresident subcontractors so as to guarantee that all state and local taxes due from the subcontractors will be paid. This provision is not intended to change the normal procedure under which subcontractors pay state sales and use taxes to their vendors, or remit taxes directly to the state, in cases where vendors fail to collect taxes. However, the provisions do place nonresident general contractors and nonresident higher-level subcontractors in positions of contingent liability, in cases where subcontractors' tax liabilities to the Department are uncollectible directly from the nonresident subcontractors or their bonding companies. Nonresident contractors can minimize the possibility of having to remit the state and local taxes owed by their nonresident subcontractors by reasonably assuring that the state and local taxes owed by the subcontractors have been paid, and that the subcontractors have been bonded, as required by the statute. The bond(s) that you must have will not be released or reduced until you have submitted a "contract completion form" for each contract, certifying that all taxes due to the State of Louisiana and its political subdivisions have been paid.

Once your company has established themselves as a resident contractor, you will no longer be subject to the contract registration fees and bonding requirements. You will be allowed to receive a certificate from the Department of Revenue that will be renewed periodically.

The following is a list of taxes that you may be subject to in Louisiana. A brief summary of who is subject to the tax and the filing requirements is also included. Please note that this is not intended as an all-inclusive summary; there may be other taxes for which you may also be liable.

### Taxes

#### A. Louisiana State Sales and Use Tax

Four percent (4%) upon the sale or use of equipment, materials, and specified services obtained within or brought into the state. Tax is paid directly to the seller of the property or services. If the seller is not obligated to collect the tax, or otherwise fails to charge this tax, the tax must be paid directly to this Department. Tax returns with payment must be filed by the twentieth of the month following the month in which the transaction occurred. An application for registration is enclosed.

#### B. State Income Tax Withholding

If you employ one or more persons at a salary of \$375 per month or more, you must register for withholding tax. If the total Louisiana income tax withheld from all employees is \$500, but less than \$2,000 per month, you are required to report and remit such amounts monthly. If the amount withheld is less than \$500 per month, you must report and remit quarterly.

If the total Louisiana income tax withheld from all employees is \$2,000 or more per month, you are required to report and remit such withholdings semimonthly. Unless otherwise specified on the application, all new withholding accounts are registered to file on a quarterly basis. For information concerning State Income Tax Withholding, contact the Department of Revenue at (225) 219-0102.

**C. Income Tax**

Corporation—4% of first \$25,000 of net income attributable to Louisiana, 5% of next \$25,000, 6% of next \$50,000, 7% of next \$100,000, and 8% of excess over \$200,000. Individual—Graduated rates on Louisiana net income less personal exemption. Federal income taxes paid on Louisiana income are deductible in computing Louisiana net income.

**D. Corporation Franchise Tax**

Corporations compute their franchise tax liability based upon the portion of the total taxable base employed in Louisiana. The total taxable base is composed of capital stock, surplus, undivided profits, and borrowed capital as reflected on the corporation's books. To determine the portion employed in Louisiana, the total taxable base is multiplied by the arithmetical average of: (1) the ratio of Louisiana sales and other revenue to total sales and other revenue, and (2) the ratio of Louisiana tangible and intangible assets to total tangible and intangible assets. The franchise tax rate is \$1.50 per \$1,000 of the first \$300,000 of taxable base employed in Louisiana, plus \$3 per \$1,000 of taxable base employed in Louisiana in excess of \$300,000. The minimum franchise tax is \$10, which is also the initial franchise tax that accrues immediately upon the corporation becoming subject to the tax.

If you have any questions concerning the income or franchise taxes, please contact Income and Corporation Franchise Taxes Division, telephone number (225) 219-0067.

**E. Unemployment Insurance Tax**

All employers are required to register with the Louisiana Department of Labor, Office of Employment Security with regard to possible liability for unemployment insurance taxes under the provisions of Louisiana Employment Security Law. Request for information and forms necessary to register should be addressed as follows: Louisiana Department of Labor, Office of Employment Security, Post Office Box 94186, Baton Rouge, Louisiana 70804-9186, telephone number (225) 342-2944.

**F. Local Sales and Use Tax**

Most parishes and some municipal authorities throughout the state have sales and use tax ordinances (1% to 5%). These are in addition to State of Louisiana requirements. You should contact the taxing authority for the area in which the project is located for filing requirements.

**G. Local Occupational License Tax**

Many cities and parishes levy this privilege tax. The tax amount varies on the basis of gross receipts or earnings. For lump-sum contractors, the tax amount ranges from \$12.50 on gross annual receipts of less than \$10,000, to \$350 on gross annual receipts of \$1,000,000 or more. For cost-plus contractors, the tax ranges from \$30 per year on gross annual earnings of less than \$5,000, to \$4,000 on gross annual earnings of \$500,000 or more. Additional information is available from local taxing authorities.

For each contract performed in Louisiana that was awarded on or after July 6, 1984, which had a contract price greater than \$3,000 and is not completed, a bond must be obtained. This bond must be for an amount equal to 5% of the contract price for lump-sum contracts, or 5% of the estimated contract price for cost-plus contracts. The minimum bond amount is \$1,000.

Failure to obtain the required bond may result in the filing of an injunction by this Department to stop any activity in the performance of the contract.

Copies of all applicable forms are enclosed for your convenience.

Taxpayer Services Division  
(225) 219-7656

Enclosures