

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

JOHN DOWD AND EVELYN DOWD

VERSUS

NO. 13841A

LOUISIANA DEPARTMENT OF REVENUE

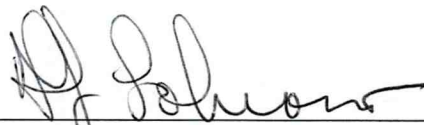
JUDGMENT AND REASONS

On July 10, 2025, this matter came before the Board for hearing on the Motion for Summary Judgment filed by the Louisiana Department of Revenue ("Department"). Presiding at the hearing were Chairman Francis J. "Jay" Loblano and Vice-Chair Judge Lisa Woodruff-White (Ret.). Appearing before the Board in person was Bernetta Bryant, attorney for the Department. Appearing before the Board by Zoom was Barry Dowd, attorney for John Dowd and Evelyn Dowd (collectively "Taxpayers"). At the conclusion of the hearing, the Board took the matter under advisement. The Board now rules as follows for the reasons set forth in the attached Written Reasons for Judgment

IT IS HEREBY ORDERED that the Department's Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED that the Assessment appealed from is Affirmed and the Taxpayers' Petition be and is hereby dismissed.

Judgment rendered and signed in Baton Rouge, Louisiana, this day
September 11, 2025.



FRANCIS J. "JAY" LOBRANO, CHAIRMAN
LOUISIANA BOARD OF TAX APPEALS

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WRITTEN REASONS FOR JUDGMENT

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Background:

Taxpayers filed their Petition as an appeal from the Department’s Notice of Assessment and Notice of Right to Appeal issued on December 11, 2023 (“Assessment”). In the Assessment, the Department assessed Taxpayers with individual income tax, penalties, and interest in the aggregate amount of \$1,787.97 for the 2022 Tax Year. Taxpayers timely filed their Petition with the Board on February 5, 2024. The Department filed an Answer to the Petition on April 11, 2024. On April 28, 2025, the Department filed the instant Motion for Summary Judgment.

John Dowd was employed by the State of Louisiana, Department of Public Safety. As a state employee, Mr. Dowd participated in the Louisiana State Employees’ Retirement System (“LASERS”). Mr. Dowd participated in the Louisiana Deferred Retirement Option Plan (“DROP”) for three years and ultimately retired from state service in 2002. On or around December 31, 2003, Mr. Dowd requested a rollover of

the balance of his DROP account, \$99,416.44, into an Edward Jones Individual Retirement Account ("IRA"). The rollover occurred in 2004. There is no dispute that the rollover was not a taxable event and the treatment of rollover is not at issue in this appeal.

After the rollover, Taxpayers deposited no other funds into the IRA. In 2022, Taxpayers received a gross distribution from the IRA in the amount of \$67,447.00. On their 2022 Louisiana individual income tax return, Taxpayers claimed an exemption for "other retirement income" in the amount of \$61,447.00. The Department denied exempt treatment for the \$61,447.00. The Department proceeded to issue the Assessment, calculating tax in the amount of \$1,672.00, interest in the amount of \$99.25, and penalties in the amount of \$16.72, for a total assessed amount of \$1,787.97. The Department now moves for Summary Judgment, arguing that the Taxpayers are not entitled to treat the \$61,447.00 claimed on their return as exempt LASERS retirement benefits under La. R.S. 11:405.

Summary Judgment Standard:

The question presented is one of statutory interpretation. The procedural vehicle by which the issue is put to the Board for decision is a motion for summary judgment. Summary judgment is an appropriate mechanism for resolving questions of statutory interpretation when there are no material issues of fact in dispute and the sole issue is a question of law as to the correct interpretation of the statutory language at issue. *See Pernici v. City of Shreveport*, 54,474, p. 12 (La. App. 2 Cir. 9/21/22), 348 So.3d 878, 885, *writ denied*, 2022-01578 (La. 12/20/22), 352 So.3d 84.

La. C.C.P. art. 966(D)(1) states that the burden of proof on summary judgment rests with the mover. Nevertheless, when the motion is made and supported as provided in Art. 966, an adverse party may not rest on the mere allegations or denials of his pleadings, but must set forth specific facts showing there is a genuine issue for trial. La. C.C.P. art. 967 (B); *Latour v. Brock*, 23-00262 (La. 6/21/23), 362 So. 3d 405. A genuine issue is one about which reasonable persons could disagree. *King v. Town of Clarks*, 21-01897 (La. 2/22/22), 345 So. 3d 422. Any doubt as to a dispute regarding

a material issue of fact must be resolved against granting the motion and in favor of trial on the merits. *Id.*

La. R.S. 11:405:

The statutory provisions providing for LASERS are found in Chapter 1 of Subtitle of Title 11 of the Louisiana Revised Statutes. Therein, La. R.S. 11:405 provides an Exemption for LASERS retirement benefits, stating:

Any annuity, retirement allowance or benefit, or refund of contributions, or any optional benefit or any other benefit paid or paid to any person under the provisions of this Chapter is exempt from any state or municipal tax and is exempt from levy and sale, garnishment, attachment, or any other process whatsoever, except as provided in R.S. 11:292, and is unassignable.

There is no dispute that the funds were exempt while in the DROP account. There is also no dispute that the transfer of the funds from the DROP account to the IRA was not a taxable event. The problem for the Taxpayers, and the linchpin of the Department's argument, is that the distribution from the IRA to the Taxpayers in 2022 was not paid "under the provisions" of the LASERS statutes.

The starting point in the interpretation of any statute is the language of the statute itself. *City of Shreveport v. Shreveport Mun. Fire & Police Civil Serv. Bd.*, 52,410 (La. App. 2 Cir. 1/16/19), 264 So. 3d 643. Words and phrases shall be read in context and shall be construed according to the common and approved usage of the language. La. R.S. 1:3. When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. La. C.C. art. 9. Likewise, when the wording of a section is clear and free of ambiguity, the letter of it shall not be disregarded under the pretext of pursuing its spirit. La. R.S. 1:4.

However, when the language of the law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. C.C. art. 10. When the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole. La. C.C. art. 12. In addition, our jurisprudence dictates that "[t]ax exemptions,

being an exceptional privilege, must be expressly and clearly conferred in plain terms, and accordingly are strictly construed against the taxpayer.” *Showboat Star P’ship v. Slaughter*, 2000-1227, p. 10 (La. 4/3/01), 789 So.2d 554, 560.

Construing the statute by its plain language, the exemption applies to the 2022 distribution if that payment was made under the provisions of Chapter 1 of Subtitle of Title 11 of the Louisiana Revised Statutes. However, the Taxpayers have not directed the Board’s attention to any provision in the LASERS statutes that would bear upon the 2022 distribution. Nor has the Board found such a provision in its own research. Further, nothing in the Taxpayers’ evidence shows any documentation of the withdrawal of funds from the IRA that mentions or purports to implicate the LASERS statutes. To the contrary, the documentation provided by the Taxpayer concerning the rollover of the funds from the DROP account to the IRA shows that that transfer was “irrevocable.” In other words, there is nothing in the statutory law or the competent summary judgment evidence that suggests that the LASERS governed or had any bearing on the 2022 distribution from the IRA to the Taxpayers.

Furthermore, the jurisprudence guides the Board to strictly construe the La. R.S. 11:405 inasmuch as it provides an exemption from tax. Additionally, none of the reported cases citing La. R.S. 11:405 have considered the question presented here. Most frequently, the statute has come up in the context of community property disputes. See. e.g. *Walker v. Walker*, 463 So.2d 912 (La. Ct. App. 1985); *Kennedy v. Kennedy*, 391 So.2d 1193 (La. Ct. App. 1980), *writ denied*, 396 So.2d 883 (La. 1981), *overruled by McCoy v. McCoy*, 460 So.2d 641 (La. Ct. App. 1984); *Roberts v. Roberts*, 325 So.2d 674 (La. Ct. App. 1976), *overruled by Walker v. Walker*, 463 So.2d 912 (La. Ct. App. 1985). In *Moore v. Whitney National Bank*, a debtor attempted to raise the protections of La. R.S. 11:405 against a creditor in bankruptcy proceedings, but failed to do so in a timely manner and so the effect of the statute was not considered. *Moore v. Whitney Nat. Bank*, 2001 WL 755401 (E.D. La. July 3, 2001). Consequently, there is no jurisprudential authority that permits the Board to bend the statutory language at issue in the Taxpayers’ favor.

Based on the plain statutory language and the absence of contrary authority, the Board will grant the Department's Motion for Summary Judgment. Additionally, the Board notes that a ruling in the Taxpayers' favor would likely foist an unmanageable administrative burden on the Department. In particular, the Department would be compelled to devise some method for tracing a retiree's LASERS benefits once the exempt funds were transferred to independently managed private retirement accounts. Money is fungible, and transfers between retiree accounts would present problems of commingling, possibly with funds subject to entirely different tax treatments. If the legislature intended for the Department to take on that kind of administrative burden, then it would have provided for the continuation of tax-exempt status of funds withdrawn from an account managed under the provisions of LASERS.

Conclusion:

The Board holds that the 2022 distribution from the IRA to the Taxpayers was a taxable event. The Board reaches its decision based on the plain statutory language of La. R.S. 11:405. The exemption does not apply to a payment not made under the provisions of Chapter 1 of Subtitle of Title 11 of the Louisiana Revised Statutes. There is no law or competent summary judgment evidence showing that the 2022 distribution from the IRA to the Taxpayers was made under the LASERS statutory provisions. Therefore, the Board grants the Department's Motion for Summary Judgment finding the Taxpayers are not entitled to treat the IRA distribution of \$61,447.00 as tax exempt under La. R.S. 11:405.

Signed this day, September 11, 2025.

FOR THE BOARD:



**FRANCIS J. "JAY" LOBRANO, CHAIRMAN
LOUISIANA BOARD OF TAX APPEALS**