

2016 Regular Session

HOUSE BILL NO. 737

BY REPRESENTATIVE ABRAMSON

1 AN ACT

2 To amend and reenact R.S. 47:114(E), 164(D)(2), and Section 2 of Act No. 425 of the 2015
3 Regular Session of the Legislature, relative to the Department of Revenue; to provide
4 with respect to deductions and withholdings by certain employers; to provide for the
5 submission of certain returns to the department; to change the deadline for the
6 submission of certain returns; to provide for applicability; to provide for an effective
7 date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:114(E) and 164(D)(2) are hereby amended and reenacted to read
10 as follows:

11 §114. Returns and payment of tax

12 * * *

13 E. Date for filing annual returns. ~~On or before the first business day~~
14 ~~following February twenty-seventh of each year for the preceding calendar year, an~~
15 An employer shall file an annual return with the secretary on or before January
16 thirty-first of each year for the preceding calendar year.

17 * * *

18 §164. Information at source

19 * * *

1 D. Withholding of tax at source.

2 (1)

3 * * *

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

14 (b) Any motion picture production company, motion picture payroll services
15 company, or other entity making or causing to be made payments as provided in
16 Subparagraph (a) of this Paragraph, to an individual, or to an agent or agency, loan-
17 out company, personal service company, employee leasing company, or other entity
18 is considered to be paying compensation taxable by the state of Louisiana. For
19 purposes of eligibility as a production expenditure, the company or other entity shall
20 withhold taxes from those payments at the highest individual rate of six percent, or
21 the highest individual rate in effect at the time and remit these payments to the
22 department quarterly, excluding any amount that would otherwise not be subject to
23 the withholding requirements imposed pursuant to state and federal law and
24 regulations.

25 (c) The motion picture production company, motion picture payroll services
26 company, or other entity required to withhold income taxes as required by this
27 Paragraph shall electronically report the information required by Items (i) through
28 (iv) of this Subparagraph and remit such the withholdings on all payments provided

1 for in Subparagraphs (a) and (b) of this Paragraph to the Department of Revenue
2 quarterly. The information reported as required by this Subparagraph may be
3 provided to the Department of Economic Development and if provided, shall be
4 subject to the confidentiality provisions of R.S. 47:1508(B)(20). The reports shall
5 contain the following information:

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

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

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

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

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

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

20 Section 2. Section 2 of Act No. 425 of the 2015 Regular Session of the Legislature
21 is hereby amended and reenacted to read as follows:

22 * * *

23 Section 2. The provisions of this Act shall be applicable to expenditures
24 occurring after January 1, 2016, for productions which receive initial certification on
25 or after January 1, 2016.

26 Section 3. The provisions of this Act shall be applicable to all taxable years
27 beginning on and after January 1, 2016.

28 Section 4. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____