

2018 Second Extraordinary Session

SENATE BILL NO. 18

BY SENATOR MORRELL

TAX/TAXATION. Creates a tax credit registry for tax credits with carryover provisions.
(Item #21) (gov sig)

1 AN ACT

2 To enact R.S. 47:1524.1, relative to tax credits; to create a registry for tax credits with
3 carryforwards; to provide for administration of the registry; and to provide for
4 related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:1524.1 is hereby enacted to read as follows:

7 **§1524.1. Tax credit carryforward registry; requirements; limitations**

8 **A. Purpose. The intent of this Section is to provide for a centralized**
9 **registration and recordation system for outstanding carryforwards of tax**
10 **credits granted, issued, and authorized by the state of Louisiana to provide**
11 **certainty to the state regarding the amount of outstanding tax credits.**

12 **B. Definitions. For purposes of this Section, the following words shall**
13 **have the following meanings unless the context clearly indicates otherwise:**

14 **(1) "Department" means the Department of Revenue.**

15 **(2) "Secretary" means the secretary of the Department of Revenue.**

16 **(3) "Tax credit" means any tax credit granted, issued, or authorized by**
17 **the state applied against taxes collected by the department that has a**

1 carryforward balance that will not be fully utilized on a tax return filed on or
2 before January 1, 2019. For purposes of this Section, "tax credit" shall not
3 include any transferable tax credits required to be registered pursuant to R.S.
4 47:1524.

5 (4) "Tax credit carryforward schedule" means the schedule that will be
6 assigned to each tax credit registered in the registry. A tax credit's
7 carryforward schedule shall remain associated with the tax credit from the time
8 the credit is originally entered into the registry through any claim of the credit,
9 until such time as the tax credit is fully redeemed.

10 (5) "Tax credit certificate" means any document granting tax credits
11 issued by a state agency administering a tax credit program that provides for
12 carryforward of credits that are not refundable or cannot be utilized within the
13 year the credit is issued, including but not limited to tax credit certification
14 letters which shall include the name of the individual or entity issued the tax
15 credit, the amount of the tax credit, and any other identifying information
16 regarding the tax credit.

17 C. Administration. (1) There is hereby established a tax credit registry,
18 hereinafter referred to as "registry", within the department for the registration
19 and recordation of tax credits granted, issued, or authorized by the state that
20 have a carryforward balance that will not be fully utilized in the year in which
21 the credit is earned.

22 (2) Beginning January 1, 2019, all state agencies issuing tax credits with
23 a carryforward provision in the statute authorizing the credit and which are to
24 be applied against taxes collected by the department shall promptly send a copy
25 of any newly granted, issued, or authorized tax credit certificates to the
26 department. Upon receipt of this information, the department shall record the
27 tax credit into the registry along with the name of the individual or entity issued
28 the tax credit, the amount of the tax credit, and any other information deemed
29 necessary by the secretary.

1 **(3) Any state agency that issues or authorizes tax credits shall remit an**
2 **electronic report on forms prescribed by the secretary no later than January 31,**
3 **2019, of all tax credits issued prior to January 1, 2019. The department shall**
4 **endeavor to record all tax credits issued prior to January 1, 2019, into the**
5 **registry.**

6 **(4)(a) Any taxpayer who earned a tax credit before January 1, 2018, that**
7 **is not granted by contract or for which no tax credit certificate is issued and for**
8 **which there is a carryforward balance and time remaining in the carryforward**
9 **period, shall either claim the remaining tax credit balance or register the credit**
10 **with the department on or before November 15, 2019. If the tax credit**
11 **carryforward balance is not claimed or registered on or before November 15,**
12 **2019, the carryforward shall not be available to be claimed on a subsequent tax**
13 **return without an express exception provided by administrative rules**
14 **promulgated by the department.**

15 **(b) Any taxpayer who earns a tax credit on or after January 1, 2018, that**
16 **is not granted by contract or for which no tax credit certificate is issued, shall**
17 **register the credit with the department on the first return claiming the credit.**
18 **If the entire credit balance is exhausted on the first return and there is no**
19 **balance to carry forward, no registration is required. If the tax credit**
20 **carryforward balance is not claimed or registered as provided in this**
21 **Subparagraph, the carryforward shall not be available to be claimed on a**
22 **subsequent tax return without an express exception provided by administrative**
23 **rules promulgated by the department.**

24 **(5) The secretary shall prescribe the form required by the provisions of**
25 **this Subsection to be submitted by a tax credit holder to certify the record**
26 **owner of tax credits and the remaining amount of tax credits available for**
27 **carrying forward.**

28 **D. A tax credit shall be disallowed and recaptured if the department or**
29 **state agency issuing the tax credit finds that an individual or entity obtained a**

1 tax credit in violation of the provisions of the statute authorizing issuance of the
 2 tax credit, including but not limited to fraud or misrepresentation. Any tax
 3 credit previously granted to an individual or entity but later disallowed may be
 4 recovered by the secretary pursuant to the provisions of R.S. 47:1561. The
 5 provisions of this Subsection are in addition to and shall not limit the authority
 6 of the secretary of the department to assess, collect, or recapture under any
 7 other provision of law.

8 E. Registry access. Information contained in the registry and in the
 9 possession of the department regarding the ownership of tax credits and the
 10 amount of tax credits shall be deemed privileged and confidential under the
 11 provisions of R.S. 47:1508 and shall not be available to the public.

12 F. Rules. The secretary of the department may promulgate rules and
 13 regulations in accordance with the Administrative Procedure Act as may be
 14 necessary to implement the provisions of this Section. The rules shall include a
 15 provision to provide for exceptions to Paragraph (C)(4) of this Section.

16 Section 2. This Act shall become effective upon signature by the governor or, if not
 17 signed by the governor, upon expiration of the time for bills to become law without signature
 18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 19 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 20 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 18 Original

2018 Second Extraordinary Session

Morrell

Present law provides for tax credits that include a carryforward provision that may be used if the taxpayer is unable to use the entire credit against tax for the year the tax credit was earned.

Present law provides for a tax credit registry for transferrable tax credits.

Proposed law provides for a tax credit registry for tax credits that are issued or earned for which the statute authorizing the tax credit provides for the carryforward of any tax credit balance that the taxpayer cannot use to offset tax on the return for the year in which the credit is earned.

Proposed law requires agencies issuing tax credits with carryforward provisions to remit information about the credit to the Department of Revenue when the credits are issued beginning January 1, 2019, and also requires issuing agencies to remit information regarding credits issued in prior years by January 31, 2019.

Proposed law requires taxpayers holding tax credits issued before January 1, 2018, that have a remaining carryforward balance and that were not granted by contract or for which no tax credit certificate was issued to register their tax credits on or before November 15, 2019, or the remaining tax credit carryforward balance will no longer be available to be claimed.

Proposed law requires taxpayers holding tax credits issued on or after January 1, 2018, that were not granted by contract or for which no tax credit certificate was issued and that have a remaining carryforward balance after being claimed on a return filed for the tax year in which they are earned to register their tax credits when they file the return for the tax year in which the credits are earned.

Proposed law authorizes the department of revenue to make exceptions to the taxpayer registration requirements.

Proposed law provides that the information in the tax credit registry is confidential.

Proposed law authorizes the department of revenue to issue rules pursuant to the Administrative Procedure Act.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:1524.1)