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DIGEST

Martiny (SB 165)

Present law provides for motion picture investor tax credits for certain state-certified productions by a motion picture production company.

Proposed law defines a " production audit report" as an audit report issued by a qualified accountant who is unrelated to the motion picture production company and that is a report of the qualified accountant's audit of the motion picture production's cost report of production expenditures. The production audit report shall contain an opinion from the qualified accountant stating that the production's cost report of production expenditures presents fairly, the production expenditures expended in Louisiana. The production audit shall require:

- (1) The production audit report be performed in accordance with the auditing standards generally accepted in the United States of America.
- (2) The production audit report is addressed to the party which has engaged the qualified accountant.
- (3) The production audit report contains the qualified accountant's name, address, and telephone number.
- (4) The production audit report to contain a certification that the qualified accountant is unrelated to the motion picture production company.
- (5) The production audit report be dated as of the date of completion of the qualified accountant's field work.
- (6) The production audit report contains a statement of acknowledgment by the qualified accountant that the state is relying on the qualified cost report in the issuance of the tax credits.

With respect to the transferability of motion picture tax credits, present law authorizes any credits not previously claimed by any taxpayer against its income tax to be transferred or sold to another La. taxpayer or to the office.

Proposed law retains present law.

Present law requires transferors and transferees to submit to the office and to the Dept. of Revenue in writing, a notification of any transfer or sale of tax credits within 30 days after the

transfer or sale of such tax credits.

Proposed law changes the time frame for providing such notification from 30 days to seven days.

Present law requires the office of entertainment industry development and the secretary of the Department of Economic Development (DED) submit their initial certification of a project as a state-certified production to investors and to the secretary of the Department of Revenue indicating the total base investment which is to be expended in the state on the state-certified production. Proposed law retains these provisions but requires that the initial certification be submitted within 60 days of receipt of all required information.

Present law requires that prior to any final certification of the state-certified production, the motion picture production company submit to the office of entertainment industry development and the secretary of DED an audit of the production expenditures certified by an independent certified public accountant. Requires that the office and the secretary review the audit, the production expense details, and may require additional information needed to make a determination.

Proposed law requires a production audit report by a qualified accountant.

Present law requires that upon approval of the audit, that a final tax credit certification letter be sent to the investors indicating the amount of tax credits certified for the state-certified production. Proposed law requires that this letter be issued within 120 days after receipt of the qualified cost report and that it indicate the credits certified which are uncontested and if there is a contested amount, then the office and the secretary of DED are required to diligently work to resolve the outstanding issues in a timely manner.

Proposed law requires DED and the office to promulgate rules in accordance with the APA not later than Jan. 1, 2014, for the allowance of tax credits for production expenditures made in related party transactions.

Proposed law requires that when producing the production audit report, the qualified accountant perform certain minimum sampling and verification procedures enumerated in proposed law.

Proposed law requires authorization of additional sampling and verification of any transaction if an auditor believes it is necessary in order to render an audit opinion. Authorizes DED and the office to require additional sampling and verification procedures, and authorizes DED to promulgate rules, in accordance with the Administrative Procedure Act, in order to implement the provisions of proposed law.

Effective August 1, 2013.

(Amends R.S. 47:6007(B)(9), (10), (11), (12), (13), (14), (C)(4)(b), (D)(2)(c) and (d); adds R.S. 47:6007(B)(15) and (16), (D)(9) and 6007.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Changed "qualified cost report" to "production audit report" and provided for definition.
2. Removed requirements of qualified cost report and added requirements of production audit reports.
3. Changed qualifications for a "qualified accountant", requiring the accountant to be authorized to practice instead of licensed.
4. Changed the number of individual payroll disbursements needed for an additional sample from the lesser of 60 to the lesser of 120 disbursements, or 50 percent of the payroll disbursements, not already selected for further testing.

Senate Floor Amendments to engrossed bill

1. Make technical changes.
2. Require the production audit report to contain a certification specifying that the qualified accountant is unrelated to the motion picture production company.
3. Require transferors and transferees to provide written notification to the Dept. of Revenue and the office of any transfer or sale of tax credits within 7 days after such transfer or sale.
4. Require the secretary of DED and the office to promulgate rules in accordance with the Administrative Procedure Act not later than Jan. 1, 2014, for the allowance of tax credits for production expenditures in related party transactions.
5. Remove requirements prohibiting motion picture investor tax credits from being used for financing fees, interest, or payments of a similar nature paid to related parties.
6. Remove requirement that motion picture investor tax credits be allowed only if received by investors who own 20% or less of the financial rewards based on certain criteria.
7. Remove requirement that motion picture investor tax credits not be allowed for any percentage of the financial awards, but only be allowed for actually paid financing fees and interest.

8. Change the time frame for submission of the initial certification of a project as a state-certified production from within 30 days to within 60 days of receipt of all required information.
9. Change the time frame for issuance of a final tax credit certification letter to investors from 60 days to 120 days after receipt of the qualified cost report.