

2015 Regular Session

HOUSE BILL NO. 366

BY REPRESENTATIVE ADAMS

TAX CREDITS: Changes certain refundable tax credits to nonrefundable tax credits

1 AN ACT

2 To amend and reenact R.S. 47:297.6(A)(4), 6006(B), 6006.1(C) and (D), 6014(D) and
3 (E)(2), 6015(B)(1) and (2) and (D), 6030(F), 6032(A) and (E), 6034(C)(1)(a)(ii)(dd),
4 (D)(1), and (E)(1)(d)(iv), and 6035(E), and to repeal R.S. 47:6014(E)(4), relative to
5 income and franchise tax credits; to make certain tax credits which are refundable
6 in excess of tax liability nonrefundable; to make certain tax credits nontransferable;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:297.6(A)(4), 6006(B), 6006.1(C) and (D), 6014(D) and (E)(2),
10 6015(B)(1) and (2) and (D), 6030(F), 6032(A) and (E), 6034(C)(1)(a)(ii)(dd), (D)(1), and
11 (E)(1)(d)(iv) and 6035(E) are hereby amended and reenacted to read as follows:

12 §297.6. Reduction to tax due; rehabilitation of residential structures

13 A.

14 * * *

15 (4) ~~Any excess of the credit portion allowed in a taxable period over the~~
16 ~~individual income tax liability for that taxable period against which the credit can be~~
17 ~~applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the~~
18 ~~secretary shall make a refund of such overpayment from the current collections of~~
19 ~~the taxes imposed by Chapter 1 of Subtitle II of this Title, as amended. The right to~~
20 ~~a refund of any such overpayment shall not be subject to the requirements of R.S.~~

1 ~~refund or credit.~~ The total of all such credits taken in a tax year shall not exceed the
2 total tax liability for that tax year. Failure of the secretary to pay or disallow, in
3 whole or in part, any claim for a credit ~~or a refund~~ shall entitle the aggrieved
4 taxpayer to proceed with the remedies provided in R.S. 47:1625.

5 D.(1) For the purpose of allowing the credit ~~or refund~~ for ad valorem taxes
6 paid to political subdivisions as provided herein, the term "vessel" shall include
7 ships, oceangoing tugs, towboats, and barges. The term "Outer Continental Shelf
8 Lands Act Waters" as used herein shall have the meaning ascribed to it in R.S.
9 47:1702.

10 (2) The acceptance by the sheriff and ex officio tax collector of the ad
11 valorem taxes paid without protest by a taxpayer as certified under R.S. 47:1956(B)
12 shall conclusively establish: that such property was properly classified as a "vessel",
13 for purpose of this Section; that such vessel was "principally operated" in Outer
14 Continental Shelf Lands Act Waters during the applicable tax year; and that such
15 taxpayer shall be entitled to a credit ~~or refund~~ pursuant to this Section.

16 * * *

17 §6014. Credit for property taxes paid by certain telephone companies; fund

18 * * *

19 D. ~~The excess, if any, of the credit allowed by this Section over the aggregate~~
20 ~~tax liabilities against which such allowable credit may be applied, as provided in this~~
21 ~~Section, shall constitute an overpayment, as defined in R.S. 47:1621(A), and the~~
22 ~~secretary shall make a refund of such overpayment from the current collections of~~
23 ~~the taxes imposed under Chapter 2 of Subtitle II of this Title, together with interest~~
24 ~~as provided in R.S. 47:1624. The right to a refund of any such overpayment shall not~~
25 ~~be subject to the requirements of R.S. 47:1621(B). Any such refund, together with~~
26 ~~interest thereon, shall be paid by the secretary within ninety days of receipt by the~~
27 ~~secretary of the return on which the credit allowed by this Section is claimed. Failure~~
28 ~~of the secretary to pay such refund, in whole or in part, shall entitle the aggrieved~~

1 ~~taxpayer to proceed with the remedies provided in R.S. 47:1625. The total of all such~~
2 ~~credits taken in a tax year shall not exceed the total tax liability for that tax year.~~

3 E.

4 * * *

5 (2) The monies in the fund shall be ~~used solely and exclusively for the~~
6 ~~purpose of providing funds to pay the credits or refunds as provided in this Section~~
7 ~~appropriated as provided for by law.~~ The treasurer shall annually transfer to the state
8 general fund an amount equal to the credits taken and refunds issued pursuant to this
9 Section.

10 * * *

11 §6015. Research and development tax credit

12 * * *

13 B.(1) Any taxpayer who employs fifty or more persons and claims for the
14 taxable year a federal income tax credit under 26 U.S.C. 41(a) for increasing research
15 activities shall be allowed a refundable tax credit to be applied against income and
16 corporation franchise taxes due for applications approved and granted by the
17 Department of Economic Development until July 1, 2015. Applications of taxpayers
18 approved and granted on and after July 1, 2015, shall be allowed a nonrefundable tax
19 credit.

20 (2) Any taxpayer who employs less than fifty persons and claims for the
21 taxable year a federal income tax credit under 26 U.S.C. 41(a) for the taxable year,
22 or meets the requirements of Subparagraph (3)(i) of this Subsection, shall be allowed
23 a refundable tax credit to be applied against income and corporation franchise taxes
24 due for applications approved and granted by the Department of Economic
25 Development until July 1, 2015. Applications of taxpayers approved and granted on
26 and after July 1, 2015, shall be allowed a nonrefundable tax credit.

27 * * *

28 D. A taxpayer who receives a federal Small Business Innovation Research
29 Grant as created by the Small Business Innovation Development Act of 1982 (P.L.

1 97-219), reauthorized by the Small Business Research and Development
 2 Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business
 3 Reauthorization Act of 2000 (P.L. 106-554), shall be allowed a refundable tax credit
 4 in an amount equal to forty percent of the award received during the tax year for
 5 applications approved and granted by the Department of Economic Development
 6 until July 1, 2015. Applications of taxpayers approved and granted on and after July
 7 1, 2015, shall be allowed a nonrefundable tax credit.

8 * * *

9 §6030. Solar energy systems tax credit

10 * * *

11 F. Notwithstanding any other provision of law to the contrary, any excess of
 12 ~~allowable credit~~ tax credits allowed on systems purchased and installed before July
 13 1, 2015, over the aggregate tax liabilities against which such credit may be applied,
 14 as provided in this Section, shall constitute an overpayment, as defined in R.S.
 15 47:1621(A), and the secretary shall make a refund of such overpayment from the
 16 current collections of the taxes imposed by Chapter 1, Chapter 2, Chapter 2-A,
 17 Chapter 2-B, or Chapter 5 of Subtitle II of this Title, together with interest as
 18 provided in R.S. 47:1624. The right to a credit or allowed refund of any such
 19 overpayment shall not be subject to the requirements of R.S. 47:1621(B). No such
 20 refunds shall be allowed for excess tax credits on systems purchased and installed
 21 on or after July 1, 2015; the total of all such credits taken in a tax year for such
 22 systems shall not exceed the total tax liability for that tax year. All credits and
 23 allowed refunds, together with interest thereof, ~~must~~ shall be paid or disallowed
 24 within one year of receipt by the secretary of any such claim for refund or credit.
 25 Failure of the secretary to pay or disallow, in whole or in part, any claim for a credit
 26 or a an allowable refund shall entitle the aggrieved taxpayer to proceed with the
 27 remedies provided in R.S. 47:1625.

28 * * *

1 §6032. Tax credit for certain milk producers

2 A. A resident taxpayer engaged in the business of producing milk for sale
3 shall be allowed a ~~refundable~~ tax credit based on the amount of milk produced and
4 sold. The credit may be claimed against any Louisiana income tax and the
5 corporation franchise tax. The credit shall be allowed when the USDA Uniform
6 Price in Federal Order Number 7 drops below the announced production price any
7 time during the calendar year.

8 * * *

9 E. ~~If no taxes are due, or the credit exceeds the tax liability of the taxpayer~~
10 ~~for the taxable year, the amount of the credit or excess over the tax liability shall be~~
11 ~~refunded to the taxpayer.~~ The total of all such credits taken in a tax year shall not
12 exceed the total tax liability for that tax year. The Department of Health and
13 Hospitals shall certify to the Department of Revenue, by January 31 of the following
14 year, which milk producers have been permitted under Louisiana Administrative
15 Code, Title 51, Public Health Sanitary Code, Part VII, Milk, Milk Products, and
16 Manufactured Milk Products, and meet the requirements of the Grade A Pasteurized
17 Milk Ordinance of the 2005 revision of the Food and Drug Administration. Any
18 producer not certified by the Department of Health and Hospitals as provided by this
19 Section shall not be entitled to the credit provided for in this Section.

20 * * *

21 §6034. Musical and theatrical production income tax credit

22 * * *

23 C. Income tax credits for state-certified productions and state-certified
24 musical or theatrical facility infrastructure projects:

25 (1) There is hereby authorized the following types of credits against the state
26 income tax:

27 (a)(ii)

28 * * *

1 (dd) The initial certification may require the tax credits to be taken and/or,
2 if transferable, require them to be transferred in the tax period in which the credit is
3 earned or the tax credits may be structured in the initial certification of the project
4 to provide that only a portion of the tax credit be taken over the course of two or
5 more tax years.

6 * * *

7 D.(1) The credit shall be allowed against individual or corporate income tax
8 of the companies or financiers of the production or infrastructure project in
9 accordance with their share of the credit as provided for in the application for
10 certification for the production or infrastructure project. A company or financier
11 may, on a one-time basis, transfer ~~the~~ a credit or any refund of an overpayment for
12 a state-certified musical or theatrical production or infrastructure project or a higher
13 education musical or theatrical infrastructure project approved by the Department of
14 Economic Development prior to July 1, 2015, to an individual or other entity
15 including without limitation a bank or other lender, provided that the transfer shall
16 not be effective until receipt by the Department of Revenue of written notice of such
17 transfer. ~~Transferors~~ Such transferors and transferees shall submit to the Department
18 of Revenue, in writing, a notification of any transfer of the tax credit within ten
19 business days after the transfer. The credit shall be allowed for the taxable period
20 in which expenditures eligible for a credit are expended. Any excess of the credit
21 allowed for a state-certified musical or theatrical production or infrastructure project
22 or a higher education musical or theatrical infrastructure project initially certified by
23 the Department of Economic Development prior to July 1, 2015, over the income tax
24 liability against which the credit may be applied shall constitute an overpayment, as
25 defined in R.S. 47:1621(A), and the secretary of the Department of Revenue shall
26 make a refund of such overpayment from the current collections of the taxes imposed
27 by Chapter 1 of Subtitle II of this Title, as amended. The right to a such refund of
28 any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).
29 The tax credit provided for in this Section for state-certified musical or theatrical

- (6) Solar energy systems tax credit (R.S. 47:6030) - credit a portion of the cost of a solar energy system that is already installed in a newly constructed residence or which is purchased and installed at an existing residence.
- (7) Certain milk producers (R.S. 47:6032) - credit based on certain amounts of milk produced and sold
- (8) Musical and theatrical production income (R.S. 47:6034)- credit for state-certified musical or theatrical productions or infrastructure projects or for higher education musical or theatrical infrastructure projects certified by the Department of Economic Development.
- (9) Conversion of vehicles to alternative fuel usage (R.S. 47:6035) - credit for a portion of the cost of qualified clean-burning motor vehicle fuel property which operates on "alternative fuel", defined as natural gas, liquified petroleum gas, and any nonethanol based advanced biofuel and includes certain electric vehicles.

Proposed law changes credits provided for in present law from refundable credits to nonrefundable credits for which the taxpayer will not receive payment in excess of the tax liability for the taxable period.

Applicable to all income tax years beginning on and after January 1, 2015, and franchise tax years beginning on and after January 1, 2016.

Effective upon signature of the governor.

(Amends R.S. 47:297.6(A)(4), 6006(B), 6006.1(C) and (D), 6014(D) and (E)(2), 6015(B)(1) and (2) and (D), 6030(F), 6032(A) and (E), 6034(C)(1)(a)(ii)(dd), (D)(1), and (E)(1)(d)(iv) and 6035(E); repeals R.S. 47:6014(E)(4))