

2017 Regular Session

HOUSE BILL NO. 633

BY REPRESENTATIVES THIBAUT AND CHAD BROWN

TAX/INCOME-CREDIT: Provides for the carry forward rather than the refund of excess amounts of the solar energy systems tax credit under certain circumstances

1 AN ACT

2 To amend and reenact R.S. 47:6030(F) and to enact R.S. 47:6030(B)(1)(c)(v) and (2)(b)(iv),
3 relative to income tax credits; to provide with respect to the solar energy systems tax
4 credit; to provide for the carry forward of certain amounts of the credit; to provide
5 for certain limitations and requirements; to provide for effectiveness; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6030(F) is hereby amended and reenacted and R.S.
9 47:6030(B)(1)(c)(v) and (2)(b)(iv) are hereby enacted to read as follows:

10 §6030. Solar energy systems tax credit

11 * * *

12 B.(1) Purchased systems. The tax credit for the purchase and installation of
13 an eligible system at a Louisiana residence or for a system which is already installed
14 in a newly constructed home located in Louisiana shall be subject to the following
15 provisions:

16 * * *

17 (c) Beginning in Fiscal Year 2015-2016, the maximum amount of tax credits
18 for purchased systems which may be granted by the department on any return,
19 regardless of tax year, shall be as follows:

20 * * *

1 (v) Notwithstanding the provisions of Items (i) through (iv) of this
 2 Subparagraph, if the amount of the tax credit exceeds the taxpayer's tax liability for
 3 the year in which the credit is claimed and the credit is claimed on a return for a
 4 fiscal year in which the maximum amount of credits that can be paid in that year has
 5 been reached, the taxpayer may carry forward the amount of the excess credit as a
 6 credit against subsequent Louisiana income tax liability for a period not to exceed
 7 five years.

8 * * *

9 (2) Leased systems. Tax credits authorized under this Section for the
 10 purchase and installation of a system at a Louisiana residence by a third party
 11 through a lease with the owner of the residence shall be subject to the following
 12 provisions.

13 * * *

14 (b)

15 * * *

16 (iv) Notwithstanding the provisions of Items (i) through (iii) of this
 17 Subparagraph, if the amount of the tax credit exceeds the taxpayer's tax liability for
 18 the year in which the credit is claimed and the credit is claimed on a return for a
 19 fiscal year in which the maximum amount of credits that can be paid in that year has
 20 been reached, the taxpayer may carry forward the amount of the excess credit as a
 21 credit against subsequent Louisiana income tax liability for a period not to exceed
 22 five years.

23 * * *

24 F.(1) Except as provided for in Paragraph (2) of this Subsection,
 25 notwithstanding ~~Notwithstanding~~ any other provision of law to the contrary, any
 26 excess of allowable credit over the aggregate tax liabilities against which such credit
 27 may be applied, as provided in this Section, shall constitute an overpayment, as
 28 defined in R.S. 47:1621(A), and the secretary shall make a refund of such
 29 overpayment from the current collections of the taxes imposed by Chapter 1, Chapter

1 2, Chapter 2-A, Chapter 2-B, or Chapter 5 of Subtitle II of this Title, together with
2 interest as provided in R.S. 47:1624. The right to a credit or refund of any such
3 overpayment shall not be subject to the requirements of R.S. 47:1621(B). All credits
4 and refunds, together with interest thereof, must be paid or disallowed within one
5 year of receipt by the secretary of any such claim for refund or credit. Failure of the
6 secretary to pay or disallow, in whole or in part, any claim for a credit or a refund
7 shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S.
8 47:1625. However, the department may withhold payment of a solar energy systems
9 tax credit from a taxpayer if there are any existing state or federal liens, pending
10 charges or investigations, or third party claims against such taxpayer or any of its
11 affiliates or related parties. In such case, the department may withhold issuance of
12 the tax credit until the department has received documentation which satisfactorily
13 demonstrates that the matter has been resolved as determined by the secretary. For
14 purposes of administering the first-come, first-served requirement, the return of any
15 taxpayer whose claim for a tax credit is withheld for the aforementioned reasons
16 shall be treated as received on the date the secretary deems such matters resolved.
17 The secretary may exercise the right to withhold issuance of the tax credit for such
18 purposes for any return, regardless of tax year or date received. Further, the
19 secretary shall provide notice to the taxpayer upon determination that one or more
20 of the aforementioned factors is applicable and the taxpayer's claim for a tax credit
21 is being withheld.

22 (2) Any taxpayer whose claim for a credit for a purchased or a leased system
23 was denied based in whole or in part on the limitation on the amount of credits
24 granted in Fiscal Years 2015-2016, 2016-2017, or 2017-2018 in accordance with the
25 provisions of Subparagraphs (1)(c) and (2)(b) of Subsection (B) of this Section, shall
26 be allowed to carry forward the amount of the tax credit that exceeds the taxpayer's
27 tax liability for the year in which the credit is claimed as a credit against subsequent
28 Louisiana income tax liability for a period not to exceed five years.

29 * * *

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 633 Original

2017 Regular Session

Thibaut

Abstract: Authorizes the carry forward of any excess credit amount in cases where a taxpayer's claim for the credit was denied based on the credit cap for FYs 2015-2016, 2016-2017, and 2017-2018.

Present law provides for a state income tax credit for the purchase and installation of a solar energy system on a La. residence. The credit requirements and benefits differ based upon whether the system is purchased by the homeowner for installation at his residence, or if it is purchased by a third party for installation at another person's residence.

Present law establishes annual caps for both purchased systems and leased systems, beginning with FY 2015-2016, on the total amount of tax credits allowed on any return, regardless of tax year, as follows:

- (1) For tax credits claimed on returns filed on or after July 1, 2015, and before July 1, 2016, no more than \$10 million dollars.
- (2) For tax credits claimed on returns filed on or after July 1, 2016, and before July 1, 2017, no more than \$10 million dollars.
- (3) For tax credits claimed on a return filed on or after July 1, 2017, no more than \$5 million dollars.

Proposed law retains present law.

Present law provides that any excess amount of allowable credit over the taxpayer's aggregate tax liabilities shall constitute an overpayment, and the secretary shall make a refund of the overpayment, including interest within one year of receipt by the secretary of a claim for refund or credit. Further provides for specific circumstances in which the secretary may withhold payment of a solar energy systems tax credit.

Proposed law retains present law but authorizes an exception to the payment of refunds for cases in which the taxpayer's claim for a credit for a purchased or a leased system was denied based on the limitation on the amount of credits granted in FYs 2015-2016, 2016-2017, or 2017-2018. In these cases, a taxpayer shall be allowed to carry forward the amount of the tax credit that exceeds the taxpayer's tax liability for the year in which the credit is claimed as a credit against subsequent La. income tax liability for a period not to exceed five years.

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

(Amends R.S. 47:6030(F); Adds R.S. 47:6030(B)(1)(c)(v) and (2)(b)(iv))