
DIGEST

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Montoucet

HB No. 696

Abstract: Reduces the amount of the motion picture investor tax credit by 10% and the wind or solar energy systems tax credit by 15% beginning July 1, 2013, through June 30, 2016.

Present law authorizes a tax credit against state income tax for La. taxpayers for investment in state-certified productions. The tax credit shall be earned by investors at the time expenditures are made; however, credits cannot be applied against a tax or transferred until the expenditures are certified. For state-certified productions, expenditures shall be certified no more than twice during the duration of a state-certified production unless the motion picture production company agrees to reimburse the office for the costs of any additional certifications. The tax credit shall be calculated as a percentage of the total base investment dollars certified per project.

Proposed law retains present law but changes the certification of expenditures from no more than twice during the duration of a state-certified production unless the production company agrees to reimburse the office for additional certifications to once per calendar year.

Proposed law defines a "motion picture" as a nationally or internationally distributed feature-length film, video, television pilot, television series, television movie of the week, animated feature film, animated television series, or commercial made in La., for theatrical or television viewing. The term "motion picture" shall not include the production of television coverage of news and athletic events.

Proposed law retains present law but adds that a motion picture can include films, videos, pilots, series, movies, or commercials made for any digital online platform as approved by the office.

Present law defines "payroll" as all salary, wages, and other compensation, including benefits paid to an employee for services relating to a state-certified production and taxable in this state. However, "payroll" for purposes of the additional tax credit for La.-resident payroll shall exclude any portion of an individual salary in excess of \$1 Million.

Proposed law changes present law relative to applications received on or after Aug. 1, 2013. For such applications, payroll expenditures shall be limited to \$3 Million per person, per state-certified production for each employee reported on a W2 form. Additionally, payments made to loan out companies or independent contractors reported on a Form 1099 shall also be subject to a limitation of \$3 Million per person, per state-certified production.

Present law defines "production expenditures" as preproduction, production, and postproduction

expenditures in this state directly relating to a state-certified production, including set construction and operation; wardrobes, makeup, accessories, and related services; costs associated with photography and sound synchronization, lighting, and related services and materials; editing and related services; rental of facilities and equipment; leasing of vehicles; costs of food and lodging; digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects; and payroll. Production expenditures shall not include expenditures for marketing and distribution, non-production related overhead, amounts reimbursed by the state or any other governmental entity, costs related to the transfer of tax credits, amounts that are paid to persons or entities as a result of their participation in profits from the exploitation of the production, the application fee, or state or local taxes.

Proposed law retains present law but adds box rentals to the list of expenditures approved as production expenditures. Proposed law further provides that production expenditures shall not include the cost of customization or custom development of a tangible good specifically designed for use by a state-certified production in La., unless the customization services are performed in La. Further provides that for applications received on or after Aug. 1, 2013, production expenditures shall not include expenditures for airfare, finance fees, bond fees, loan interest, or insurance premiums.

Proposed law defines a "related party transaction" as a transaction between parties deemed to be related by common ownership or control, under generally accepted auditing principles. Related party transaction expenditures may be subject to limitations, as provided for by rules promulgated by the department, in accordance with the APA.

Proposed law defines a "special event" as an event that occurs irrespective of filming, such as Mardi Gras, music festivals, concerts, or other similarly situated events. Further defines "special event production expenditures" as only costs directly related to filming the special event. Costs indirectly related to filming shall not qualify for tax credits, including artist compensation for festival or concert appearances and costs associated with the usual activities of a reality show or documentary.

Present law provides for the transferability of the tax credits not previously claimed by any taxpayer against its income tax. Transferors and transferees shall submit, in writing, a notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include information such as the transferor's tax credit balance prior to transfer, a copy of any tax credit certification letters and, the transferor's remaining tax credit balance after transfer.

Proposed law retains present law but additionally requires the submission of the name of both the transferor and the transferee. Additionally prohibits a transfer from becoming effective against third parties until all required transfer documents are submitted.

Present law provides for the payment of a processing fee of up to \$200 per transferee.

Proposed law changes present law by changing the amount of the processing fee from up to \$200

per transferee to \$200 per transferee.

Present law provides for the processing fee to be deposited in the state treasury. After compliance with the requirements of present constitution, an amount equal to the amount of the processing fees shall be deposited into the La. Filmmakers Grant Fund to be used solely for the support of La.'s independent filmmakers through the La. Filmmakers Grant Program. Further requires the office to administer the La. Filmmakers Grant Program and to award grants to filmmakers domiciled in La. who make a film in La., the total cost of which film shall not exceed \$300,000.

Proposed law repeals present law.

Present law provides that prior to any final certification of the state-certified production, the motion picture production company shall submit to the office and the secretary an audit of the production expenditures certified by an independent certified public accountant as determined by rule. Further provides that auditor shall be a certified public accountant licensed in the state of La. and shall be an independent third party, not related to the producer.

Proposed law retains present law but specifies that the office shall approve the independent certified public accountant. Further requires that the auditor's opinion shall disclose all non-audit services provided for a state-certified production and independence shall be comprised, and an audit rejected, if either consulting services or tax credit assessments are performed, in addition to an audit of expenditures.

Present law provides for the recapture and recovery of credits. Further provides that if the office finds that monies for which an investor received tax credits are not invested in and expended with respect to a state-certified production within 24 months of the date that such credits are earned then the investor's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit.

Proposed law changes present law to provide that if the office finds that a taxpayer has obtained a tax credit in violation of present law, including but not limited to fraud or misrepresentation, then any tax liability of the taxpayer shall be increased by such amount necessary for the recapture of credit.

Present law provides that credits previously granted to a taxpayer, but later disallowed, may be recovered by the Dept. of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within 3 years from Dec. 31 of the year in which the 24 month investment period specified in present law ends.

Proposed law changes present law to provide that credits previously paid, but later disallowed, may be recovered by the Dept. of Revenue through any collection remedy authorized by present law and initiated within the latter of either two years from Dec. 31 of the year in which the tax credit or rebate was paid or three years from Dec. 31 of the year in which the taxes for the filing period were due.

Proposed law provides that any tax credit certified by the office and the secretary according to the provisions of present law on or after July 1, 2013, through June 30, 2016, shall be reduced by 10%, which shall become the face value of such credits. Beginning July 1, 2016, any tax credit, including tax credits certified by the office and the secretary on or after July 1, 2013, and before June 30, 2016, shall be given their full value.

Present law provides for the establishment of an income tax credit for the cost of purchase and installation of a wind energy system or a solar energy system. The amount of the credit shall be equal to 50% of the first \$25,000 of the cost of each wind energy or solar energy system, including installation costs.

Proposed law retains present law but requires, beginning July 1, 2013, any wind or solar energy system tax credit which is presented to the Dept. of Revenue or claimed by a taxpayer as an offset against corporate tax liability on a taxpayer's tax return to be reduced by 15%.

Effective July 1, 2013, and shall take effect and become operative only if the proposed amendments of the Const. of La. contained in the Joint Resolutions which originated as HB Nos. 434, 435, and 436 of this 2013 R.S. are concurred in by both houses of the legislature and HB Nos. 1, 437, 456, 474, 571, 620, and 653 of this 2013 R. S. are enacted into law.

Effective Jan. 1, 2014.

(Amends R.S. 47:6007(B), (C)(1), (4)(b), (e), and (f), and (7), (1)(a) and (b), (D)(2)(a)(i)(cc), (c), and (d)(intro. para.) and (i), (E), and (F)(1); Adds R.S. 47:6007(G) and 6030(G); Repeals R.S. 47:6007(D)(2)(a)(i)(ee))

Summary of Amendments Adopted by House

House Floor Amendments to the original bill.

1. Deletes the uniform 5% reduction of the tax credits in R.S. 47:6004 through 6037 and the school readiness tax credits beginning on or after Jan. 1, 2014, for income tax credits, and for taxable periods beginning on Jan. 1, 2015, for corporation franchise tax credits.
2. Deletes repeal of the tax incentives for university research and development parks, exemptions for manufacturing establishments, the Corporate Tax Apportionment Program, "green jobs industries", and urban revitalization.
3. Adds provision that any tax credit for state-certified productions certified on or after July 1, 2013, through June 30, 2016, shall be reduced by 10%, which shall become the face value of such credits. Further provides that beginning July 1, 2016, any tax credit, including tax credits certified on or after July 1, 2013, and before June 30, 2016, shall be given their full value.

4. Changes the certification of expenditures for state-certified productions from no more than twice during the duration of a state-certified production to once per calendar year.
5. Adds provision that payroll expenditure applications received on or after Aug. 1, 2013, shall be limited to \$3 Million per person, per state-certified production for each employee reported on a W2 form. Additionally, extends the cap to payments made to loan out companies or independent contractors reported on a Form 1099.
6. Prohibits a transfer from becoming effective against third parties until all required transfer documents are submitted.
7. Changes the amount of the processing fee from up to \$200 per transferee to \$200 per transferee.
8. Adds requirement that beginning July 1, 2013, any wind or solar energy system tax credit which is presented to the Dept. of Revenue or claimed by a taxpayer as an offset against corporate tax liability on a taxpayer's tax return to be reduced by 15%.
9. Changes the effective date from Jan. 1, 2014, to July 1, 2013, and shall take effect and become operative only if the proposed amendments of the Const. of La. contained in the Joint Resolutions which originated as HB Nos. 434, 435, and 436 of this 2013 R. S. are concurred in by both houses of the legislature and HB Nos. 1, 437, 456, 474, 571, 620, and 653 of this 2013 R. S. are enacted into law.