
DIGEST

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HB 735 Original

2015 Regular Session

Stokes

Abstract: Requires the withholding of income tax on payments to all employees who are paid for the performance of services that are considered a production expenditure eligible for certification for purposes of the motion picture investor tax credit.

Present law allows a motion picture investor tax credit in an amount equal to a certain percentage of the "base investment" made in a state-certified production. The "base investment" is a cash or cash equivalent investment made and used for "production expenditures" in the state. "Production expenditures" includes compensation paid to employees for services related to the production.

Proposed law specifies that any individual receiving any payments for the performance of services used directly in a production activity, and claimed as a production expenditure for certification of a tax credit, is deemed to be receiving La. taxable income whether directly, or indirectly through an agent or agency, loan out company, a personal service company, an employee leasing company, or other entity.

Proposed law provides that any motion picture production company, payroll service provider, or other entity ("company") making or causing to be made such payments to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity is considered to be paying compensation taxable by the state. For purposes of eligibility of such payments for certification of motion picture investor tax credits, the company is required to withhold taxes from those payments at the rate of 6%.

Proposed law requires the company to electronically report and remit the withholdings made pursuant to proposed law to the Dept. of Revenue quarterly, and to annually electronically report a list of all payees in a format approved by the department. The report must contain the following information:

- (1) Name, address, ownership structure, and taxpayer identification number of the loan out company.
- (2) Identification of tax type: C Corp; S Corp; or L.L.C. with tax type specified.
- (3) Name, address, and social security number of the payee.
- (4) An estimated amount of what the loan out company will pay the payee.

- (5) An affirmative statement of whether or not the payee is a related party to the loan out company, and if so, provision of an affidavit stating under penalty of perjury that the transaction is valued at the same value that an unrelated party would value the same transaction.

Proposed law redefines "payroll" for purposes of the motion picture investor tax credit to include a requirement that taxes be withheld and remitted to the Dept. of Revenue in accordance with proposed law in order for the payroll to be qualified as "base investment" for purposes of the tax credit.

Proposed law authorizes the Department of Revenue to retain an amount equal to 30% of the credit transfer fee required by R.S. 47:6007 for the purpose of administering the provisions required by proposed law.

Proposed law is applicable to productions which receive initial certification on or after Jan. 1, 2016.

Effective Aug. 1, 2015.

(Amends R.S. 47:164(D) and 6007(B)(8) and (D)(5))