RÉSUMÉ DIGEST

ACT 425 (HB 735) **2015 Regular Session** **Stokes**

Existing 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 and benefits paid to employees for services related to the production.

Existing law defines "payroll" for purposes of designation of payroll expenses as production expenditures eligible for receipt of tax credits. Prior law defined "payroll" as salary, wages, and other compensation of any kind, including benefits paid to an employee for services relating to the state-certified production, all as taxable in La.

New law expands the definition of "payroll" to include per diem, housing, box rentals, and any other type of benefit paid to an individual for the performance of services in a production and for which taxes have been withheld and remitted to the Dept. of Revenue in accordance with new law.

New law specifies, with regard to payments to individuals, that any individual receiving a payment for the performance of services used directly in a production activity for which the payment shall be 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, hereinafter ("individual").

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

New law requires the company to electronically report and remit the withholdings made pursuant to new law quarterly to the Dept. of Revenue. The Dept. of Revenue is authorized to share with the Dept. of Economic Development information contained in the report, in accordance with confidentiality requirements of existing law regarding the exchange of information between these two departments. The report shall contain the following information:

(1) Name, address, and taxpayer identification number of the loan-out company, if any.

(2) Identification of entity type: C Corp; S Corp; L.L.C; or other entity with tax type specified, if applicable.

(3) Name, address, and social security number of the payee.

(4) An affirmative statement of whether the production company is a related party to the loan-out company, and if so, provision of an affidavit stating that the transaction is valued at the same value that an unrelated party would value the same transaction. Further, if the production company is a related party to the loan-out company, the reports required relative to income withholding shall also contain information on the ownership structure of the loan-out company, and an estimate amount of what the loan-out company or other entity will pay the payee.

New law authorizes the Dept. of Revenue to collect a one-time fee of $200 per production for purposes of administering the reporting provisions required by new law.

Applicable to productions receiving 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))