RÉSUMÉ DIGEST

ACT 134 (HB 829) **2015 Regular Session** **Robideaux**

Existing law provides for an income tax credit for La. taxpayers for investment in state-certified productions for certain expenditures made by a motion picture production company. The amount of the credit is equal to 30% of the base investment made by the investor if the total base investment is more than $300,000. Further provides that the credit shall be allowed against the income tax for the taxable period in which the credit is earned or for the taxable period in which initial certification authorizes the credit to be taken.

Prior law provided that credits were earned by investors at the time expenditures were made by the motion picture production company in a state-certified production.

New law provides that credits shall be earned by investors at the time expenditures are certified by the office of entertainment industry development and the secretary of the Dept. of Economic Development.

Prior law provided for an additional tax credit equal to 5% of base investment expended on payroll for La. residents employed in connection with a state-certified production. However, this additional credit did not apply to the payroll of any one person that exceeded $1 million.

New law increases the amount of the additional tax credit for expenditures on payroll for La. residents from 5% to 10% and increases the income limitation from the salary of any person that exceeds $1 million to the salary of any person that exceeds $3 million.

New law caps the maximum amount of credits available for any single state-certified production at $30 million.

New law adds credits for the following:

(1) If the total base investment is greater than $50,000 but less than $300,000, each state-certified production shall be allowed a credit of 30% of the total base investment made by that investor. However, a condition for earning this tax credit includes requirements that no less than 90% of the total amount of the applicant's expenditures for above the line services be expended on La. residents and that 90% or more of the total number of jobs in the production be filled by La. residents. Failure to comply with these requirements voids the certification and no tax credits shall be earned by the applicant.

(2) If the total base investment is greater than $300,000 and the state-certified production is based on a screenplay, the copyright or the right of use of the copyright of which, is owned or optioned to own for a minimum of 12 months prior to production by a La. resident company or a La. company with its principal place of business in the state which employs a minimum of three full-time La. residents for a minimum of 12 months prior to production, each investor shall be allowed an additional tax credit of 15% of the base investment. However, if the office determines that the expenditure is a related party transaction, the expenditure shall not qualify for the additional tax credit.

(3) To the extent that the base investment is expended on music, the sound recording copyright or musical copyright of which, is owned in whole or in part at no less than 25% by a La. resident or a La. company headquartered in the state with a majority ownership of La. residents, each investor shall be allowed an additional tax credit of 15% of the base investment.

New law caps the total aggregate amount of claims against state income tax allowed on returns for tax credits or transfers of tax credits to the office at $180 M each fiscal year for FY 15-16, 16-17, and 17-18. Claims for credits or transfers shall be allowed on a first-come, first-served basis.

New law suspends authorization for tax credits to be transferred back to the office from July 1, 2015, through June 30, 2016.

New law defines "above the line services" for purposes of defining expenditures eligible for the credit, as services of a producer, executive producer, line producer, co-producer, assistant producer, actor, director, casting director, screenwriter, and other services performed by personnel of the production which are associated with the creative or financial control of a production and customarily considered above the line services in the film and television industry.

New law defines a "Louisiana resident company" as a company licensed to conduct business in this state, with its principle place of business in this state which is owned 100% by a natural person who is a legal resident and who has been domiciled in this state and has maintained a permanent home in this state for no less than 12 consecutive months. A Louisiana resident company is required to file a La. income tax return and maintain a physical location in the state.

New law defines "principal place of business" as the state where the administrative or management activities of a business are conducted. A company claiming that its principal place of business is in La. must be a motion picture production company headquartered in La., shall not have any fixed locations outside of this state in which administrative or management activities are conducted, and the company shall be required to maintain a physical location in the state. Furthermore, the company shall be licensed to conduct business in this state and shall be required to file a La. income tax return.

Existing law defines a "motion picture" to include nationally or internationally distributed feature-length film, video, television pilot, and television series made in La. The term "motion picture" shall not include the production of television coverage of news and athletic events.

New law expands a "motion picture" to include short films, animated short films, and documentaries made in this state. Additionally, new law expands the viewing requirement to include any online digital platform viewing approved by the office.

Existing law defines "production expenditures" to include preproduction, production, postproduction, and distribution expenditures in this state directly relating to a state-certified production.

Prior law prohibited expenditures for marketing to be included in calculation of production expenditures.

New law adds eligibility for marketing and promotion expenses of the state-certified production directly related to the development of advertising and marketing campaigns for the production. The amount of these eligible expenses must be included in the production budget but shall not exceed 15% of the total state-certified tax credits for the production or $1 M, whichever is less.

New law defines a "slate of productions" as an aggregation of motion picture production projects with a combined total of qualified expenditures that exceed $300,000 for activities occurring over a maximum of 24 months within the state. A slate shall not include more than three state-certified productions and no single state-certified production in a slate can exceed $300,000.

Existing law requires an application fee to be submitted with a tax credit application. The amount of the fee shall be based on two-tenths of 1% multiplied by the estimated total of the credit. The minimum amount of the fee shall be $200 and the maximum amount of the fee shall be $5,000. Further requires the application fee to be deposited into the Entertainment Promotion and Marketing Fund to be used solely for promotion and marketing of Louisiana's entertainment industry.

New law expands the uses of the monies deposited into the Entertainment Promotion and Marketing Fund to include costs associated with the administration of the motion picture investor tax credit program.

Effective July 1, 2015.

(Amends R.S. 47:6007(B), (C)(1)(intro. para.), (c), and (d) and (2), and (4)(intro. para.), and (D)(4)(ii)(aa); Adds R.S. 47:6007(C)(1)(e) and (4)(f)(iii))