

GREEN SHEET REDIGEST

HB 604

2015 Regular Session

Stokes

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

TAX CREDITS: Requires verification of qualified expenditures for certification of certain tax credits by the Dept. of Economic Development.

DIGEST

Abstract: Requires a verification of expenditures by an independent CPA or tax attorney before certification of expenditures for purposes of receiving the entertainment industry tax credits and the research and development tax credit, all administered by the Dept. of Economic Development.

General Provisions

Present law establishes the following four tax credit programs for the entertainment industry, and the research and development tax credit, all of which provide for tax credits based on expenditures which are eligible for "certification" by the Dept. of Economic Development ("DED"). The amount of the tax credit is derived from the amount of eligible expenditures.

- (1) Motion picture investor tax credit program, R.S. 47:6007.
- (2) Digital interactive media and software tax credit program, R.S. 47:6022.
- (3) Sound recording investor tax credit program, R.S. 47:6023.
- (4) Musical and theatrical production income tax credit program, R.S. 47:6034.
- (5) Research and development tax credit program, R.S. 47:6015.

Present law requires that cost reports of expenditures be submitted to DED for consideration for the granting of tax credits based on "certification" of the expenditures as eligible for the tax credit.

Proposed law changes present law by requiring the preparation and submission of a verification report prepared by a CPA who is engaged and assigned by DED to provide independent verification of the cost reports of expenditures submitted by a production company or a business seeking for purposes of certification of tax credits.

Proposed law establishes certain requirements for a CPA or tax attorney engaged by DED, including licensing and continuing education.

Proposed law authorizes DED to impose and collect a verification report fee to reflect the actual cost of the report. The amount of the fee shall be established by rule promulgated in accordance with the Administrative Procedure Act, it shall not exceed \$25,000, and shall be based upon either an hourly rate not to exceed \$250 per hour for contract services, or the pro rata cost of salary and benefits for an internal CPA.

Proposed law requires that an applicant seeking certification of expenditures for tax credits shall be responsible for and assessed the fee, and further requires an up-front deposit of the fee, not to exceed \$15,000.

Proposed law requires that an applicant seeking tax credits make all records related to the tax credit application available to the CPA or tax attorney assigned by the department to prepare and submit to the department the verification report on the applicant's cost report of expenditures.

Proposed law defines "verification report" as any agreed upon procedure, tax opinion, attestation, or other report required by statute or department rule. Further, prior to submission to DED, a verification report shall require two levels of review either within a CPA firm or through a cooperative endeavor with another CPA.

Proposed law provides that only those expenditures which are confirmed verified within the verification report shall be eligible for certification for tax credit purposes.

Motion picture investor tax credit and Digital media and software development tax credits

Proposed law provides, for purposes of the motion picture investor tax credit and the digital interactive media and software tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$7,500 and a maximum report fee of \$10,000 for verification of a cost report reflecting qualified production expenditures between \$300,000 and \$25,000,000.
- (2) A deposit of \$15,000 and a maximum report fee of \$15,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$25,000,000.

Present law requires that for certification of motion picture investor tax credits, the tax credit applicant shall submit to DED a production audit report issued by a "qualified accountant". The report is an audit of the motion picture production's cost report of production expenditures.

Present law defines "qualified accountant" as an independent CPA authorized to practice in La. with sufficient knowledge of accounting principals and practices generally recognized in the film and television industry.

Proposed law substitutes the expenditure verification report for the production audit report as the basis for DED's review of a production's cost report of production expenditures.

Proposed law expands the definition of "qualified accountant" provided in present law by establishing specific requirements as to peer reviews, continuing education, and ability to conduct a two level review of a verification report.

Sound recording investor tax credit and Musical and theatrical production tax credit

Proposed law provides, for purposes of the sound recording investor tax credit program and the musical and theatrical production income tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$2,500 and a maximum report fee of \$5,000 for verification of a cost report reflecting qualified production expenditures between \$5,000 and \$50,000.
- (2) A deposit of \$5,000 and a maximum report fee of \$15,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$50,000.

Research and development tax credit

Proposed law provides, for purposes of the research and development tax credit program, the following amounts required for the deposit and maximum fee for a verification report as follows:

- (1) A deposit of \$5,000 and a maximum report fee of \$10,000 for verification of a cost report reflecting qualified production expenditures of up to \$1,000,000.

- (2) A deposit of \$7,500 and a maximum report fee of \$15,000 fee for verification of a cost report reflecting qualified production expenditures in excess of \$1,000,000.

Proposed law restricts the requirement for a verification report to certain business that employ less than 50 persons and who are not participants in certain federal programs or a recipient of the federal research and development tax credit.

Provisions of this Act shall be applicable for all projects and productions receiving initial certification on or after Jan. 1, 2016.

Effective Aug. 1, 2015.

(Amends R.S. 47:6007(B)(9)-(11), (D)(2)(c)-(e), 6015(B)(3)(i)(i), (4) and (5)(intro. para.) and (F)(5), 6022(C)(10)(b)(vii), (F)(2) and (3)(b) and (c), 6023(B)(1), (D)(2)(c) and (d) and (4), and (5), and 6034(B)(4) and (7)(b), and (E)(1)(e) and (f); adds R.S. 36:104(B)(9) and 104.1, R.S. 47:6007(C)(1)(e) and (D)(2)(f), 6015(B)(6), 6023(D)(2)(e), and 6034(E)(2)(c))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Change the definition of "qualified accountant" for purposes of the motion picture investor tax credit.
2. Add a limitation on the requirement for a verification report for purposes of a research and development tax credit regarding certain small businesses.
3. Technical amendments.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Establish certain requirements for a tax attorney engaged by DED, including licensing and continuing education.
2. For the report of an application with claimed qualified research expenditures of up to one million dollars, change the maximum fee from fifteen thousand dollars to ten thousand dollars and change the deposit required at the time of application from fifteen thousand dollars to seven thousand five hundred dollars.
3. For the report of an application with claimed qualified research expenditures in excess of one million dollars, change the maximum fee from twenty-five thousand dollars to fifteen thousand dollars and change the deposit required at the time of application from seven thousand five hundred dollars to five thousand dollars.