

2015 Regular Session

HOUSE BILL NO. 735

BY REPRESENTATIVE STOKES

1 AN ACT

2 To amend and reenact R.S. 47:164(D) and 6007(B)(8) and (D)(5), relative to individual
3 income tax; to provide with respect to the motion picture investor tax credit; to
4 provide for employee compensation eligible as a production expense for purposes
5 of the tax credit; to require withholding for purposes of individual income tax; to
6 authorize the imposition of a fee by the Department of Revenue for purposes of
7 administration of reporting related thereto; to authorize the exchange of certain
8 specific information between the Department of Revenue and the Department of
9 Economic Development; to require the reporting of certain payments and other
10 information; to provide for applicability; to provide for effectiveness; and to provide
11 for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:164(D) and 6007(B)(8) and (D)(5) are hereby amended and
14 reenacted to read as follows:

15 §164. Information at source

16 * * *

17 D. Withholding of tax at source. (1) The ~~collector~~ secretary, whenever it is
18 deemed necessary to ~~insure~~ ensure compliance with the provisions of this Chapter,
19 may require the United States, the state of Louisiana or any other state or any
20 political subdivision, agency or instrumentality of the foregoing, or any person

1 having control, receipt, custody, disposal or payment of interest, other than interest
2 coupon payable to the bearer, rent, salaries, wages, premiums, annuities,
3 compensation, remunerations, emoluments, or other fixed or determinable annual or
4 periodical gains, profits, and income, paid or payable to any person, to deduct and
5 withhold as tax an amount determined by the ~~collector~~ secretary, to be payable from
6 such person and make return thereof and pay the tax to the ~~collector~~ secretary.

7 (2)(a) The motion picture investor tax credit pursuant to R.S. 47:6007 awards
8 a tax credit for investments made and used for production expenditures in this state
9 for state-certified productions. Therefore, any individual receiving any payments for
10 the performance of services used directly in a production activity, which payments
11 shall be claimed as a production expenditure for purposes of certification of tax
12 credits, is deemed to be receiving Louisiana taxable income whether directly or
13 indirectly through an agent or agency, loan-out company, a personal service
14 company, an employee leasing company, or other entity.

15 (b) Any motion picture production company, motion picture payroll services
16 company, or other entity making or causing to be made payments as provided in
17 Subparagraph (a) of this Paragraph, to an individual, or to an agent or agency, loan-
18 out company, personal service company, employee leasing company, or other entity
19 is considered to be paying compensation taxable by the state of Louisiana. For
20 purposes of eligibility as a production expenditure, the company or other entity shall
21 withhold taxes from those payments at the highest individual rate of six percent, or
22 the highest individual rate in effect at the time.

23 (c) The motion picture production company, motion picture payroll services
24 company, or other entity required to withhold income taxes as required by this
25 Paragraph shall electronically report and remit such withholdings to the Department
26 of Revenue quarterly. The information reported as required by this Subparagraph
27 may be provided to the Department of Economic Development and if provided, shall
28 be subject to the confidentiality provisions of R.S. 47:1508(B)(20). The reports shall
29 contain the following information:

1 (i) Name, address, and taxpayer identification number of the loan-out
2 company or other entity.

3 (ii) Identification of entity type: C Corporation, S Corporation, or Limited
4 Liability Company with tax type specified.

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

6 (iv) An affirmative statement of whether or not the production company is
7 a related party to the loan-out company or other entity, and if so, provision of an
8 affidavit stating under penalty of perjury that the transaction is valued at the same
9 value that an unrelated party would value the same transaction. If the production
10 company is a related party to the loan-out company, the report shall also include all
11 of the following information:

12 (aa) The ownership structure of the loan-out company or other entity.

13 (bb) An estimate amount of what the loan-out company or other entity will
14 pay the payee.

15 * * *

16 §6007. Motion picture investor tax credit

17 * * *

18 B. Definitions. For the purposes of this Section:

19 * * *

20 (8) "Payroll" means all salary, wages, and other compensation of any kind
21 whatsoever, including ~~benefits paid to an employee~~ but not limited to services,
22 benefits, per diem, housing, box rentals and any other type of benefit paid, provided,
23 or rendered to an individual for services relating to a state-certified production ~~and~~
24 taxable in this state and for which taxes are withheld and remitted to the Department
25 of Revenue in accordance with R.S. 47:164(D)(2). However, "payroll" for purposes
26 of the additional tax credit for Louisiana-resident payroll shall exclude any portion
27 of an individual salary in excess of one million dollars.

28 * * *

29 D. Certification and administration.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 (5) A motion picture production company applying for ~~the additional~~ a tax
2 ~~credit for the employment of Louisiana residents~~ based upon payroll for any
3 individuals must remit a schedule to the Department of Revenue, in a machine-
4 sensible format approved by the secretary of the Department of Revenue, that
5 includes the following information: ~~the names of all persons who received salary,~~
6 ~~wages, or other compensation for services performed in Louisiana in connection with~~
7 ~~the state-certified production, and the address, taxpayer identification number,~~
8 ~~permanent address of, and the amount of compensation for services performed in~~
9 ~~Louisiana received by each such person.~~

10 (a) Name, address, and taxpayer identification number of the loan-out
11 company or other entity, if any.

12 (b) Identification of entity type: C Corporation, S Corporation, Limited
13 Liability Company, or other entity type with tax type specified, if applicable.

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

15 (d) An affirmative statement of whether or not the production company is
16 a related party to the loan-out company or other entity, and if so, provision of an
17 affidavit stating under penalty of perjury that the transaction is valued at the same
18 value that an unrelated party would value the same transaction. If the production
19 company is a related party to the loan-out company, the schedule shall also include
20 all of the following information:

21 (i) The ownership structure of the loan-out company or other entity.

22 (ii) An estimate amount of what the loan-out company or other entity will
23 pay the payee.

24 (e) The secretary of the Department of Revenue shall, for purposes of
25 administering the reporting provisions required under this Subsection, collect an
26 administrative fee in the amount of two hundred dollars per motion picture
27 production for which reports and payroll withholding information are mandated.

28 * * *

1 Section 2. The provisions of this Act shall be applicable to productions which
2 receive initial certification on or after January 1, 2016.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____