

1 the Louisiana Revised Statutes of 1950, as amended, any excess of allowable credit
 2 established by this Section over the aggregate **individual income** tax liabilities
 3 against which such credit can be applied, as provided in this Section, shall constitute
 4 an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a
 5 refund of such overpayment from the current collections of the taxes imposed by
 6 Chapter 1 ~~or Chapter 5~~ of Subtitle II of Title 47 of the Louisiana Revised Statutes of
 7 1950, as amended, together with interest as provided in R.S. 47:1624. The right to
 8 a credit or refund of any such overpayment shall not be subject to the requirements
 9 of R.S. 47:1621(B). All credits and refunds, together with interest thereon, must be
 10 paid or disallowed within ninety days of receipt by the secretary, of any such claim
 11 for refund or credit. Failure of the secretary to pay or disallow, in whole or in part,
 12 any claim for a credit or a refund shall entitle the aggrieved taxpayer to proceed with
 13 the remedies provided in R.S. 47:1625. **Notwithstanding any other provision of**
 14 **law to the contrary, the allowable credits established by this Section that are**
 15 **applied against corporate income and corporate franchise taxes shall be**
 16 **nonrefundable.**

17 D.(1) For the purpose of allowing the credit ~~or refund~~ for ad valorem taxes
 18 paid to political subdivisions as provided herein, the term "vessel" shall include
 19 ships, oceangoing tugs, towboats, and barges. The term "Outer Continental Shelf
 20 Lands Act Waters" as used herein shall have the meaning ascribed to it in R.S.
 21 47:1702.

22 (2) The acceptance by the sheriff and ex officio tax collector of the ad
 23 valorem taxes paid without protest by a taxpayer as certified under R.S. 47:1956(B)
 24 shall conclusively establish: that such property was properly classified as a "vessel",
 25 for purpose of this Section; that such vessel was "principally operated" in Outer
 26 Continental Shelf Lands Act Waters during the applicable tax year; and that such
 27 taxpayer shall be entitled to a credit ~~or refund~~ pursuant to this Section.

28 * * *

29 §6014. Credit for property taxes paid by certain telephone companies; fund

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D. The excess, if any, of the credit allowed by this Section over the aggregate **individual income** tax liabilities against which such allowable credit may be applied, as provided in this Section, shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from the current collections of the taxes imposed under Chapter 2 of Subtitle II of this Title, together with interest as provided in R.S. 47:1624. The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B). Any such refund, together with interest thereon, shall be paid by the secretary within ninety days of receipt by the secretary of the return on which the credit allowed by this Section is claimed. Failure of the secretary to pay such refund, in whole or in part, shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625. Notwithstanding any other provision of law to the contrary, the allowable credits established by this Section that are applied against corporate income and corporate franchise taxes shall be nonrefundable.

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§6018. Tax credits for purchasers from "PIE contractors"

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E. Notwithstanding any other law to the contrary, any excess of allowable credit over aggregate **individual income** tax liabilities against which such credit can be applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary of the Department of Revenue may make a refund of such overpayment from the current collections of the taxes imposed by Chapter 1 ~~or Chapter 5~~ of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, together with interest as provided in R.S. 47:1624. The right to a credit or refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B). All credits and refunds, together with interest thereon, shall be paid or disallowed within ninety days of receipt by the secretary of any such claim for refund or credit. Failure of the secretary to pay or disallow the credit or refund in whole or in part

1 shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S.
 2 47:1625. Notwithstanding any other provision of law to the contrary, the
 3 allowable credits established by this Section that are applied against corporate
 4 income and corporate franchise taxes shall be nonrefundable.

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6 §6022. Digital interactive media and software tax credit

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8 E. Use of tax credits.

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10 (2) For tax credits earned for expenditures made on or after January 1, 2012,
 11 and on or before December 31, 2016:

12 * * *

13 (3) Notwithstanding any other provision of law to the contrary, for tax
 14 credits earned for expenditures made on or after January 1, 2017, the allowable
 15 credits established by this Section that are applied against corporate income
 16 and corporate franchise taxes shall be nonrefundable.

17 * * *

18 §6030. Solar energy systems tax credit

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20 F. Notwithstanding any other provision of law to the contrary, any excess of
 21 allowable credit over the aggregate individual income tax liabilities against which
 22 such credit may be applied, as provided in this Section, shall constitute an
 23 overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund
 24 of such overpayment from the current collections of the taxes imposed by Chapter
 25 1, ~~Chapter 2, Chapter 2-A, Chapter 2-B, or Chapter 5~~ of Subtitle II of this Title,
 26 together with interest as provided in R.S. 47:1624. The right to a credit or refund of
 27 any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).
 28 All credits and refunds, together with interest thereof, must be paid or disallowed
 29 within one year of receipt by the secretary of any such claim for refund or credit.

1 Failure of the secretary to pay or disallow, in whole or in part, any claim for a credit
 2 or a refund shall entitle the aggrieved taxpayer to proceed with the remedies
 3 provided in R.S. 47:1625. However, the department may withhold payment of a solar
 4 energy systems tax credit from a taxpayer if there are any existing state or federal
 5 liens, pending charges or investigations, or third party claims against such taxpayer
 6 or any of its affiliates or related parties. In such case, the department may withhold
 7 issuance of the tax credit until the department has received documentation which
 8 satisfactorily demonstrates that the matter has been resolved as determined by the
 9 secretary. For purposes of administering the first-come, first-served requirement, the
 10 return of any taxpayer whose claim for a tax credit is withheld for the
 11 aforementioned reasons shall be treated as received on the date the secretary deems
 12 such matters resolved. The secretary may exercise the right to withhold issuance of
 13 the tax credit for such purposes for any return, regardless of tax year or date
 14 received. Further, the secretary shall provide notice to the taxpayer upon
 15 determination that one or more of the aforementioned factors is applicable and the
 16 taxpayer's claim for a tax credit is being withheld. **Notwithstanding any other**
 17 **provision of law to the contrary, the allowable credits established by this Section**
 18 **that are applied against corporate income and corporate franchise taxes shall**
 19 **be nonrefundable.**

20 * * *

21 §6032. Tax credit for certain milk producers

22 A. A resident taxpayer engaged in the business of producing milk for sale
 23 shall be allowed a ~~refundable~~ tax credit based on the amount of milk produced and
 24 sold. The credit may be claimed against any Louisiana income tax and the
 25 corporation franchise tax. The credit shall be allowed when the USDA Uniform Price
 26 in Federal Order Number 7 drops below the announced production price any time
 27 during the calendar year.

28 * * *

29 E. If no taxes are due, or the credit exceeds the tax liability of the taxpayer

1 for the taxable year, the amount of the credit or excess over the **individual income**
 2 tax liability shall be refunded to the taxpayer. The **Louisiana** Department of Health
 3 ~~and Hospitals~~ shall certify to the Department of Revenue, by January 31 of the
 4 following year, which milk producers have been permitted under Louisiana
 5 Administrative Code, Title 51, Public Health Sanitary Code, Part VII, Milk, Milk
 6 Products, and Manufactured Milk Products, and meet the requirements of the Grade
 7 A Pasteurized Milk Ordinance of the 2005 revision of the Food and Drug
 8 Administration. Any producer not certified by the **Louisiana** Department of Health
 9 ~~and Hospitals~~ as provided by this Section shall not be entitled to the credit provided
 10 for in this Section. **Notwithstanding any other provision of law to the contrary,**
 11 **the allowable credits established by this Section that are applied against**
 12 **corporate income and corporate franchise taxes shall be nonrefundable.**

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14 §6034. Musical and theatrical production income tax credit

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16 D.(1) The credit shall be allowed against individual or corporate income tax
 17 of the companies or financiers of the production or infrastructure project in
 18 accordance with their share of the credit as provided for in the application for
 19 certification for the production or infrastructure project. A company or financier
 20 may, on a one-time basis, transfer the credit or any refund of an overpayment to an
 21 individual or other entity including without limitation a bank or other lender,
 22 provided that the transfer shall not be effective until receipt by the Department of
 23 Revenue of written notice of such transfer. Transferors and transferees shall submit
 24 to the Department of Revenue, in writing, a notification of any transfer of the tax
 25 credit within ten business days after the transfer. The credit shall be allowed for the
 26 taxable period in which expenditures eligible for a credit are expended. Any excess
 27 of the credit over the income tax liability against which the credit may be applied
 28 shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary of
 29 the Department of Revenue shall make a refund of such overpayment from the

1 current collections of the taxes imposed by Chapter 1 of Subtitle II of this Title, as
 2 amended. The right to a refund of any such overpayment shall not be subject to the
 3 requirements of R.S. 47:1621(B). Notwithstanding any other provision of law to
 4 the contrary, the allowable credits established by this Section for a
 5 state-certified musical or theatrical production or infrastructure project or a
 6 higher education musical or theatrical production or infrastructure project
 7 approved by the Department of Economic Development on or after January 1,
 8 2017, that are applied against corporate income and corporate franchise taxes
 9 shall be nonrefundable.

10 * * *

11 §6035. Tax credit for conversion of vehicles to alternative fuel usage

12 * * *

13 E. If the tax credit allowed pursuant to the provisions of this Section exceeds
 14 the amount of individual income taxes due or if the taxpayer owes no state
 15 individual income taxes, any excess of the tax credit over the income tax liability
 16 against which the credit can be applied shall constitute an overpayment, as defined
 17 in R.S. 47:1621(A), and the secretary shall make a refund of the overpayment from
 18 the current collections of the taxes imposed by Chapter 1 of Subtitle II of this Title,
 19 as amended. The right to a refund of any overpayment shall not be subject to the
 20 requirements of R.S. 47:1621(B). Notwithstanding any other provision of law to
 21 the contrary, the allowable credits established by this Section that are applied
 22 against corporate income and corporate franchise taxes shall be nonrefundable.

23 * * *

24 §6105. Child care provider tax credit

25 * * *

26 C. Notwithstanding any other provision of law to the contrary, the
 27 allowable credits established by this Section that are applied against corporate
 28 income and corporate franchise taxes shall be nonrefundable.

29 * * *

1 §6107. Business-supported child care

2 A.(1) There shall be a ~~refundable~~ credit against any Louisiana individual or
3 corporation income tax or corporation franchise tax for the eligible business child
4 care expenses supported by a business. The credit shall be the following percentages
5 of such eligible business child care expenses depending upon the quality rating of the
6 child care facility to which the expenses are related or the quality rating of the child
7 care facility the child attends:

Quality Rating of Child Care Facility	Percentage of eligible business child care expenses
Five star	20%
Four star	15%
Three star	10%
Two star	5%
One star or non-participating facility	-0-

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14 (2) There shall be an additional ~~refundable~~ credit against any Louisiana
15 individual or corporation income tax or corporation franchise tax for the payment by
16 a business of fees and grants to child care resource and referral agencies not to
17 exceed five thousand dollars per tax year.

18 B. The credits provided for in this Section shall be allowed against income
19 tax or corporate franchise tax for the taxable period in which the credit is earned. If
20 the tax credit exceeds the amount of ~~such~~ **individual income** taxes due, then the
21 unused credit shall be refunded as provided for in R.S. 47:6108. **Notwithstanding**
22 **any other provision of law to the contrary, the allowable credits established by**
23 **this Section that are applied against corporate income and corporate franchise**
24 **taxes shall be nonrefundable.**

25 * * *

26 §6108. Refundable tax credits

27 A. Notwithstanding any other provision of law to the contrary, any excess of
28 allowable credit provided in R.S. 47:6105, 6106, and 6107 and the refundable
29 portion of the credit as provided for in R.S. 47:6104 over the aggregate **individual**
30 **income** tax liabilities against which such credit may be applied, as provided in this

1 Section, shall constitute an overpayment, as defined in R.S. 47:1621(A), and the
 2 secretary shall make a refund of such overpayment from the current collections of
 3 the taxes imposed by Chapter 1 ~~or Chapter 5~~ of Subtitle II of this Title, together with
 4 interest as provided in R.S. 47:1624. The right to a credit or refund of any such
 5 overpayment shall not be subject to the requirements of R.S. 47:1621(B). All credits
 6 and refunds, together with interest thereof, must be paid or disallowed within one
 7 year of receipt by the secretary of any such claim for refund or credit. Failure of the
 8 secretary to pay or disallow, in whole or in part, any claim for a credit or a refund
 9 shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S.
 10 47:1625.

* * *

12 **C. Notwithstanding any provision of this Chapter or other law to the**
 13 **contrary, the allowable credits established by this Section that relate to**
 14 **contracts entered into on or after January 1, 2017, shall be nonrefundable as**
 15 **applied against corporate income taxes.**

16 Section 2. R.S. 51:1807(F) is hereby enacted to read as follows:

17 §1807. Incentives

* * *

19 **F. Notwithstanding any provision of this Chapter or other law to the**
 20 **contrary, the allowable credits established by this Section that relate to**
 21 **contracts entered into on or after January 1, 2017, shall be nonrefundable as**
 22 **applied against corporate income and corporate franchise taxes.**

23 Section 3. The provisions of this Act shall be applicable to all income tax years
 24 beginning on and after January 1, 2017, and franchise tax years beginning on and after
 25 January 1, 2018.

26 Section 4. This Act shall take effect and become operative if and when the Act
 27 which originated as Senate Bill No. ____ of this 2017 Regular Session of the Legislature is
 28 enacted into law and becomes effective.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 136 Original

2017 Regular Session

Ward

Present law provides for the payment of certain credits in excess of the tax liability for the taxable period, also known as refundable credits, including the following credits:

- (1) Vessels in Outer Continental Shelf Lands Act Waters (R.S. 47:6006.1) - credit against income or corporation franchise tax for ad valorem property taxes paid to political subdivisions on vessels in Outer Continental Shelf Lands Act Waters.
- (2) Property taxes paid by certain telephone companies (R.S. 47:6014) - credit against income corporation franchise tax for certain ad valorem property taxes paid to political subdivisions by a telephone company.
- (3) Prison Industry Enhancement contractors (R.S. 47:6015) - credit against income or corporation franchise tax for businesses that utilize inmate labor in producing items for sale and then pay 30% of the salary paid to such inmates back to the state.
- (4) Digital interactive media and software tax credit (R.S. 47:6022) - credit against income or corporation franchise tax for investment in the production of digital interactive media products and platforms in this state.
- (5) Solar energy systems tax credit (R.S. 47:6030) - credit against income or corporation franchise tax for a portion of the cost of a solar energy system that is already installed in a newly constructed residence or which is purchased and installed at an existing residence.
- (6) Certain milk producers (R.S. 47:6032) - credit against income or corporation franchise tax based on certain amounts of milk produced and sold.
- (7) Musical and theatrical production income (R.S. 47:6034) - credit against income or corporation franchise tax for state-certified musical or theatrical productions or infrastructure projects or for higher education musical or theatrical infrastructure projects certified by the Department of Economic Development.
- (8) Conversion of vehicles to alternative fuel usage (R.S. 47:6035) - credit against income or corporation franchise tax for a portion of the cost of qualified clean-burning motor vehicle fuel property which operates on "alternative fuel", defined as natural gas, liquified petroleum gas, and any nonethanol based advanced biofuel and includes certain electric vehicles.
- (9) Child care provider tax credit (R.S. 47:6105) - credit against income or corporation franchise tax for a child care provider who operates a facility or facilities where care is given to foster children in the custody of the Department of Children and Family Services or to children who participate in the Child Care Assistance Program administered by the Department of Education.
- (10) Business-supported child care tax credit (R.S. 47:6107) - credit against income or corporation franchise tax for a taxpayer who incurs eligible business-supported child care expenses and for the payment by a business of fees and grants to child care resource and referral agencies.
- (11) Urban Revitalization tax credit (R.S. 51:1807) - credit against income or corporation franchise tax for a taxpayer who invests in certain economically depressed areas of

the state.

Proposed law changes credits provided for in present law from refundable credits to nonrefundable credits for which the taxpayer will not receive payment in excess of the tax liability for the taxable period but only as applied against corporate income and corporate franchise tax liabilities, with the exception of the tax credit for ad valorem taxes paid on inventory which shall remain refundable as currently provided in R.S. 47:6006.

Applicable to all income tax years beginning on and after January 1, 2017, and franchise tax years beginning on and after January 1, 2018.

Act takes effect and is operative if and when the Act which originated as SB ___ of the 2017 Regular Session is enacted and becomes effective.

(Amends R.S. 47:6006.1(C) and (D), 6014(D), 6018(E), 6022(E)(2)(intro para), 6030(F), 6032(A) and (E), 6034(D)(1), 6035(E), 6107(A) and (B), and 6108(A); adds R.S. 47:6022(E)(3), 6105(C), and 6108(C) and R.S. 51:1807(F))