

Regular Session, 2013

HOUSE BILL NO. 563

BY REPRESENTATIVE THIBAUT

TAX CREDITS: Changes eligibility and provides for administrative changes for the Research and Development Tax Credit

1 AN ACT

2 To amend and reenact R.S. 47:6015(B), (C)(2)(c), (G), (H), and (I) and to enact R.S.  
3 47:6015(J), relative to the research and development tax credit; to provide for  
4 eligibility for the credit; to provide with respect to administration of the credit; to  
5 provide for the examination of certain records; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:6015(B), (C)(2)(c), (G), (H), and (I) are hereby amended and  
8 reenacted and R.S. 47:6015(J) is hereby enacted to read as follows:

9 §6015. Research and development tax credit

10 \* \* \*

11 B.(1) Any taxpayer who employs fifty or more ~~than fifty~~ persons and claims  
12 for the taxable year a federal income tax credit under 26 U.S.C. §41(a) for increasing  
13 research activities shall be allowed a refundable tax credit to be applied against  
14 income and corporation franchise taxes due.

15 (2) Any taxpayer who employs ~~up to fifty~~ less than fifty persons and ~~incurs~~  
16 ~~qualified research expenses as defined in~~ claims for the taxable year a federal income  
17 tax credit under 26 U.S.C. §41(ba); for the taxable year, or meets the requirements of  
18 Subparagraph (3)(i) of this Subsection, shall be allowed a refundable tax credit to be  
19 applied against income and corporation franchise taxes due.

1           (3) Each taxpayer seeking the credits authorized in this Section shall apply  
2 to the Department of Economic Development for the credits. The taxpayer shall  
3 remit an application fee of two hundred fifty dollars with the application. The  
4 application shall include all of the following:

5           (a) ~~In cases where the taxpayer employs more than fifty persons, a~~ A federal  
6 income tax return and supporting documentation that shows the amount of the  
7 federal research credit for the same taxable year. ~~The supporting documentation for~~  
8 ~~a taxpayer who employs up to fifty persons shall show the amount of the qualified~~  
9 ~~research expenses for the same taxable year.~~ If claiming the credit under Subsection  
10 D of this Section, the taxpayer shall also remit supporting documentation for the  
11 federal Small Business Innovation Research Grant.

12           (b) The total amount of qualified research expenses and the qualified  
13 research expenses in this state.

14           (c) The total number of persons employed in Louisiana by the taxpayer and  
15 the number of those persons employed in Louisiana directly engaged in research and  
16 development.

17           (d) The average wages of the persons employed in Louisiana not directly  
18 engaged in research and development and the average wages of the persons  
19 employed in Louisiana directly engaged in research and development.

20           (e) The average value of benefits received by all persons employed in  
21 Louisiana.

22           (f) The cost of health insurance coverage offered to all persons employed in  
23 Louisiana.

24           (g) At the department's request, the taxpayer shall provide federal income tax  
25 information related to the research and development credit. This information shall  
26 include but shall not be limited to IRS forms 8821 and 4506.

27           (h) Any other information required by the Department of Economic  
28 Development.





1 only interest that may be assessed and collected on these recovered credits is interest  
2 at a rate three percentage points above the rate provided in R.S. 9:3500(B)(1), which  
3 shall be computed from the original due date of the return on which the disallowed  
4 credit was taken.

5 (2) The provisions of this Subsection are in addition to and shall not limit the  
6 authority of the secretary of the Department of Revenue to assess or to collect under  
7 any other provision of law. This includes the disallowance of any disallowed credit  
8 claimed by a taxpayer who received the credit through purchase or through a  
9 distribution by an entity not taxed as a corporation.

10 H.I. A taxpayer shall not receive any other incentive administered by the  
11 Department of Economic Development for any expenditures for which the taxpayer  
12 has received a credit pursuant to this Section.

13 H.J. No credit shall be allowed pursuant to this Section for research  
14 expenditures incurred or Small Business Innovation Research Grant funds received  
15 after December 31, 2019.

16 Section 2. This Act shall be applicable to tax years beginning on or after January 1,  
17 2012. This Act shall become effective on July 1, 2013; if vetoed by the governor and  
18 subsequently approved by the legislature, this Act shall become effective on July 1, 2013,  
19 or on the day following such approval by the legislature, whichever is later.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Thibaut

HB No. 563

**Abstract:** Revises various provisions of the research and development tax credit, including administrative provisions governing applications by businesses with less than 50 employees and eligibility for the credit for businesses which engage in custom manufacturing or fabricating.

Present law provides for research and development income tax credits for taxpayers (businesses) who employ a certain number of people and who are eligible for federal tax credits for certain qualified research and development expenditures. There is an application process through which a business submits documents to the Dept. of Economic Development (department).

Proposed law retains present law and requires that businesses seeking the tax credit provide certain federal income tax information as may be requested by the department.

Proposed law authorizes eligibility for businesses with less than 50 employees if the business can provide to the department a report by an independent certified public accountant relative to the taxpayer's expenditures qualifying for federal research and development tax credits and other information.

Proposed law further provides that unless the business has a U.S. patent issued or pending which is directly related to research expenditures for which the tax credit is sought, professional services firms and businesses primarily engaged in custom manufacturing and custom fabricating are not eligible for the tax credit.

Proposed law requires the department to perform a detailed examination of at least 10% of the tax credit applications, including a review and verification of documents to support qualified research expenditures.

Proposed law provides that the applicant shall bear the burden of proving that its research activities meet federal guidelines.

Proposed law provides that the department shall disallow tax credits not supported by documentation and may recover, recapture, or offset tax credits which had been previously issued.

Effective on July 1, 2013.

(Amends R.S. 47:6015(B), (C)(2)(c), (G), (H), and (I); Adds R.S. 47:6015(J))

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Added exceptions in the application process for businesses employing less than 50.
2. Added provisions regarding the report required from a certified public accountant relative to the taxpayer's expenditures qualifying for federal income tax credits.
3. Added provision allowing eligibility for professional services firms and businesses engaged primarily in custom manufacturing and fabrication if those businesses have a U.S. patent issued or pending which is directly related to research expenditures for which the tax credit is sought.