DIGEST

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HB 748 Reengrossed | 2015 Regular Session | Stokes

Abstract: Numerous procedural changes to the motion picture *investor* tax credit program, also includes addition of eligibility for online productions, and requirements specific to final certifications of project expenditures for motion picture *infrastructure* investor tax credits.

Present law authorizes a tax credit against state income tax based on motion picture production expenditures for state-certified productions. The tax credit is calculated as a percentage of the total base investment dollars certified per project.

Present law authorizes an income tax credit equal to 30% of production expenditures for all state-certified productions approved after July 1, 2009. Also provides an additional tax credit equal to 5% of the base investment expended on payroll for La. residents employed in connection with all state-certified productions.

Proposed law for productions granted initial certification on or after Jan. 1, 2016, makes several changes regarding the procedures and time periods involved with initial certification of expenditures.

Proposed law changes the present law definition for motion picture to include eligibility for motion pictures developed for viewing online, and adds a definition for "taxpayer".

Present law provides that the tax credit is earned when production expenditures are "certified" by the office of entertainment industry development within the Dept. of Economic Development (DED). Expenditures may be certified no more than twice during the duration of a state-certified production, unless the motion picture production company agrees to reimburse DED for the cost of additional certifications.

Proposed law changes present law by reducing the number of times expenditures can be certified and changes the timing of certifications for expenditures from twice during the production to once after the project is completed.

Proposed law specifies that the initial certification shall be effective for qualifying expenditures made within 12 months before and 24 months after the date of initial certification.

Proposed law adds a requirement that no later than six months after the expiration of the initial certification period for the applicable state-certified production, a taxpayer is required to submit to the office all requests and required documentation for final certification of all tax credits or the claims to such tax credits shall be deemed waived.

Proposed law changes the time period within which the Dept. of Revenue may recapture credits which were granted and then disallowed, providing for specific time periods based upon whether the credit was paid, claimed, or registered with the La. Tax Credit Registry.
Present law with respect to the transfer of tax credits from one owner to another, provides that in the event the transferor did not have rights or claim to use the credit at the time of transfer, the Dept. of Revenue shall either disallow or recapture the credit from the transferee. The transferee's recourse is against the transferor.

Proposed law changes present law by providing that in such case the Dept. of Revenue shall have recourse against the transferror.

Present law authorizes the recapture of the value of any tax credits if DED finds that the credits were obtained through fraud or misrepresentation. The Dept. of Revenue is authorized to assess the taxpayer in an amount equal to the value of the tax credits. Present law further provides for the collection of amounts associated with credits which have been disallowed by DED.

Proposed law prohibits the disallowance or recapture of a tax credit that is claimed by a good faith purchaser who acquired the credit through a transfer authorized by present law.

Prior law sunsets the motion picture *infrastructure* investor tax credit on Dec. 31, 2008, by repealing the authority to issue credits for any state-certified project for which less than 50% of the base investment provided for in the initial certification had been expended by Dec. 31, 2008.

Proposed law adds requirements regarding submission and consideration of audit reports for final certification of state-certified expenditures for the motion picture *infrastructure* investor tax credits.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:6007(B)(5), (10)-(16), (C)(1)(intro. para.), (a)(iii) and (b)(iii), and (4)(e), (D)(2)(d)(i), (E), and (F)(1); Adds R.S. 47:6007(B)(17) and (18), (C)(1)(c)(iii) , (D)(1)(d)(iv) and (v) and (2)(d)(iii), (F)(4) (G), and (H))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add a starting date for provisions of proposed law with regard to the motion picture investor tax credit.

2. Add a definition for "taxpayer" for purposes of the motion picture investor tax credit.

3. Add provisions governing the time period authorized for the recovery of disallowed tax credits by the Dept. of Revenue.

The House Floor Amendments to the engrossed bill:

1. Change provisions governing transfers of tax credits when a credit is sold by a transferor with no right to claim or use the credit.

2. Add prohibition on the disallowance or recapture of a tax credit claimed by a good faith purchaser.