

GREEN SHEET REDIGEST

HB 735

2015 Regular Session

Stokes

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

**TAX/INCOME TAX.** Requires the withholding of individual income taxes from income earned by certain individuals for purposes of the motion picture investor tax credit.

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DIGEST

**Abstract:** Requires the withholding of income tax on payments to all individuals who are paid for the performance of services that are considered a production expenditure eligible for motion picture investor tax credits.

Present law allows a motion picture investor tax credit in an amount equal to a certain percentage of the "base investment" made in a state-certified production. The "base investment" is a cash or cash equivalent investment made and used for "production expenditures" in the state. "Production expenditures" includes compensation paid to employees for services related to the production.

Proposed law specifies that any individual receiving any payments for the performance of services used directly in a production activity, and claimed as a production expenditure for certification of a tax credit (individual), is deemed to be receiving La. taxable income whether directly, or indirectly through an agent or agency, loan-out company, a personal service company, an employee leasing company, or other entity.

Proposed law provides that any motion picture production company, motion picture payroll services company, or other entity (company) making or causing to be made payments to an individual, or to an agent or agency, loan-out company, personal service company, employee leasing company, or other entity is considered to be paying compensation taxable by the state. For purposes of eligibility of payments for certification of tax credits, the company is required to withhold taxes from those payments at the rate of 6%.

Proposed law requires the company to electronically report and remit the withholdings made pursuant to proposed law to the Dept. of Revenue quarterly. The Dept. of Revenue is authorized to share with the Dept. of Economic Development information contained in the report, in accordance with confidentiality requirements of present law regarding the exchange of information between these two departments. The report shall contain the following information:

- (1) Name, address, and taxpayer identification number of the loan-out company, if any.
- (2) Identification of entity type: C Corp; S Corp; L.L.C; or other entity with tax type specified, if applicable.
- (3) Name, address, and social security number of the payee.
- (4) An estimated amount of what the loan-out company will pay the payee, if applicable.
- (5) An affirmative statement of whether the payee is a related party to the loan-out company, and if so, provision of an affidavit stating that the transaction is valued at the same value that an unrelated party would value the same transaction, the ownership structure of the loan-out company, and an estimated amount of what loan-out company or other entity will pay the payee.

Proposed law authorizes the Dept. of Revenue to collect a one-time fee of \$200 per production for purposes of administering the reporting provisions required by proposed law.

Proposed law redefines "payroll" for purposes of the motion picture investor tax credit to include per diem, housing, box rentals, and any other type of benefit paid to an individual for the performance of services in a production. Proposed law further requires taxes to be withheld and remitted to the Dept. of Revenue in accordance with proposed law in order for the payroll to be qualified as "base investment" for purposes of the tax credit.

Applicable to productions receiving initial certification on or after Jan. 1, 2016.

Effective Aug. 1, 2015.

(Amends R.S. 47:164(D) and 6007(B)(8) and (D)(5))

#### Summary of Amendments Adopted by House

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

1. Add authority for the Dept. of Revenue to share with the Dept. of Economic Development certain information contained in reports regarding income tax withholding for certain persons.
2. Change the amount of the fee to be charged by the Dept. of Revenue for administration of the reporting requirements relative to income tax withholding for certain persons from 30% of the tax credit transfer fee to \$200 per production.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.

#### Summary of Amendments Adopted by Senate

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

1. Make changes with regard to business entities.
2. Require the report to include the ownership structure of the loan-out company or other entity and an estimated amount of what the loan-out company or other entity will pay the payee, if applicable.
3. Make technical changes.