

GREEN SHEET REDIGEST

HB 737

2016 Regular Session

Abramson

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

REVENUE DEPARTMENT: Changes the deadline for the submission of annual reports to the Department of Revenue regarding deductions and withholdings of employee wages.

DIGEST

Present law requires every employer who is required to deduct and withhold any tax under present law and every person who deducts and withholds any amount from any wage payments under the authority of present law to make a calendar quarterly return to the secretary. Further provides for the deadline for the filing of quarterly returns as well as the amount of the tax paid to the department by employers.

Present law additionally requires every employer to file an annual return with the secretary that reconciles all previously filed quarterly returns for the calendar year together with copies of the receipts required to be furnished under present law for that same period. The secretary is authorized to grant a reasonable extension of time, not in excess of 30 days, for filing of the annual return and to waive the filing requirement for an employer if the employer requests a waiver due to hardship.

Proposed law retains present law.

Present law requires employers to file the annual return with the secretary on or before the 1st business day following February 27th of each year for the preceding calendar year.

Proposed law changes the date for the filing of the annual return from on or before the 1st business day following February 27th of each year to on or before Jan. 31st of each year.

Present law provides that the motion picture investor tax credit pursuant to R.S. 47:6007 awards a tax credit for investments made and used for production expenditures in this state for state-certified productions. Therefore, any individual receiving any payments for the performance of services used directly in a production activity, which payments shall be claimed as a production expenditure for purposes of certification of tax credits, is deemed to be receiving Louisiana 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 retains present law and provides that these payments are subject to the withholding requirements of state and federal law and regulations.

Present law provides that any motion picture production company, motion picture payroll services company, or other entity making or causing to be made payments as provided in Subparagraph (a) of this Paragraph, 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 of Louisiana. For purposes of eligibility as a production expenditure, the company or other entity shall withhold taxes from those payments at the highest individual rate of six percent, or the highest individual rate in effect at the time.

Proposed law retains present law and provides that these payments shall be remitted to the department on a quarterly basis, excluding any amount that would otherwise not be subject to the withholding requirements imposed pursuant to state and federal law and regulations.

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

- (i) Name, address, and taxpayer identification number of the loan-out company or other entity.
- (ii) Identification of entity type: C Corporation, S Corporation, or Limited Liability Company with tax type specified.
- (iii) Name, address, and social security number of the payee.
- (iv) An affirmative statement of whether or not the production company is a related party to the loan-out company or other entity, and if so, provision of an affidavit stating under penalty of perjury that the transaction is valued at the same value that an unrelated party would value the same transaction. If the production company is a related party to the loan-out company, the report shall also include all of the following information:
 - (aa) The ownership structure of the loan-out company or other entity.
 - (bb) An estimate amount of what the loan-out company or other entity will pay the payee.

Proposed law retains present law and further provides relative to items to be reported.

Applicable to expenditures occurring after January 1, 2016 for productions which receive initial certification on or after January 1, 2016.

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

(Amends R.S. 47:114(E) and 164(D))

Summary of Amendments Adopted by House

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

1. Change the due date of the annual report from Jan. 31st of each year to on or before Jan. 31st of each year.

Summary of Amendments Adopted by Senate

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

1. Specifies that when an individual receives any payment classified as a production expenditure in Louisiana that payment shall be classified as Louisiana taxable income and thus subject to the withholding requirements of state and federal law.
2. Provides for quarterly payments to the Department of Revenue.
3. Provides for reporting requirements.
4. Provides for applicability.