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

DIGEST

Claitor (SB 135)

Present law grants refundable and transferable research and development tax credits for expenditures incurred or Small Business Innovation Research Grant funds received through December 31, 2013.

Proposed law changes the credit to a "rebate" payable by the Department of Revenue upon receipt of a rebate certification from the Department of Economic Development from the current collections of income taxes and extends the program through December 31, 2019.

Present law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(a) of 8% of the "state's apportioned share" of the taxpayer's expenditures for increasing research activities, if the taxpayer employs 100 or more Louisiana residents; 25% if he employs 50 to 99 Louisiana residents.

The "state's apportioned share" was defined as the excess of the taxpayer's qualified research expenses for the taxable year over the base amount as defined in the federal law, multiplied by a percentage equal to the ratio of the qualified research expenses in the state for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

Proposed law grants a "rebate" of 8% of the difference of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year minus the "base amount", if the taxpayer employs 100 "persons" in the state; 20% if he employs 50 to 99 "persons".

"Base amount" is defined as 70% of the average annual "qualified research expenses within Louisiana" during the three years preceding the taxable year.

Present law grants a credit if a taxpayer claims for the taxable year a federal income tax credit under 26 U.S.C. §41(b) of 40% of the "state's apportioned share" of the taxpayer's qualified research expenses conducted in this state if the taxpayer employs fewer than 50 Louisiana residents.

Proposed law grants a rebate of 40% of the "Louisiana qualified research expenses" as defined in 26 U.S.C. §41 for the taxable year if the taxpayer employs fewer than 50 "persons".

Present law granted a further credit of 25% of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claimed the alternative incremental tax credit under 26 U.S.C. §41.

Proposed law deletes this provision.

Present law authorizes a taxpayer who receives a federal Small Business Innovation Research Grant a credit in an amount equal to 40% of the award received during the tax year.

Proposed law retains present law but changes the credit to a rebate.

Proposed law requires the size of the "entity" for purposes of determining the amount of the rebate earned to be determined by the total number of employees based on the aggregate of all affiliated companies.

Proposed law prohibits a taxpayer from receiving any other incentive administered by DED for any expenditures for which he receives a rebate.

Proposed law specifically grants DED the authority to audit all relevant records and accounts of applicants for the rebate and authorizes the Department of Revenue to require an applicant to submit additional information before a rebate is paid.

Applicable to tax years beginning on and after January 1, 2011.

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

(Amends R.S. 47:6015)

Summary of Amendments Adopted by Senate

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

1. Changes the wording of the prohibition on a taxpayer/recipient from receiving any other tax credits, exemptions, etc. on expenditures for which he receives a rebate to a prohibition from receiving any other incentive administered by DED.
2. Changes the date from which interest may be assessed on credits recovered by the Department of Revenue from the due date of the return on which the disallowed rebate was taken to the date on which the rebate was issued.