

RÉSUMÉ DIGEST

ACT 412 (HB 604)

2015 Regular Session

Stokes

Existing law establishes the following four tax credit programs for the entertainment industry, as well as the research and development tax credit, all of which provide for tax credits based on expenditures or expenses ("expenditures") which are eligible for certification by the Dept. of Economic Development ("DED"). The amount of the tax credit is derived from the amount of certified expenditures.

- (1) Motion picture investor tax credit program, R.S. 47:6007.
- (2) Digital interactive media and software tax credit program, R.S. 47:6022.
- (3) Sound recording investor tax credit program, R.S. 47:6023.
- (4) Musical and theatrical production income tax credit program, R.S. 47:6034.
- (5) Research and development tax credit program, R.S. 47:6015.

General provisions for all five tax credits

New law establishes an enhanced uniform procedure for the verification of cost reports or other expenditure reports submitted to DED for certification for tax credits ("cost report"). DED is authorized to engage and assign a certified public account, or, for the research and development tax credit only, a tax attorney (hereinafter collectively referred to as "CPA"), to prepare an expenditure verification report ("verification report") regarding a cost report.

New law establishes certain professional eligibility requirements for a CPA engaged by DED for the preparation of verification reports, including licensing and continuing education.

New law defines "verification report" as any agreed upon procedure, tax opinion, attestation, or other report required by statute or department rule. Further, prior to submission to DED, a verification report shall require two levels of review either within a CPA firm or through a cooperative endeavor with another CPA.

New law requires that a tax credit applicant seeking certification of expenditures for tax credits be assessed a verification report fee of up to \$25,000, including a mandatory up-front deposit of up to \$15,000. The fee shall be collected by DED and be reflective of the actual cost of the report. The amount of the fee shall be established by rule promulgated in accordance with the Administrative Procedure Act, and shall be based upon either an hourly rate not to exceed \$250 per hour for contract services, or the pro rata cost of salary and benefits for an internal CPA.

Existing law requires that the issuance of tax credits be based upon the certification by DED of a tax credit applicant's expenditures that are eligible for tax credits.

Prior law required that a tax credit applicant submit to DED a cost report which would be used by DED to determine those expenditures that were eligible for certification for tax credits.

New law changes prior law by requiring that in addition to DED, the tax credit applicant's cost report shall also be provided to the CPA. After review and investigation of the cost report, the CPA is required to prepare and submit to DED a verification report. Further, the applicant is required to make all records related to the tax credit application and cost report available to the CPA.

New law changes prior law by changing the document to be used by DED in its consideration of expenditures for certification for tax credits from the tax credit applicant's cost report to the verification report prepared by the CPA for such purpose. Only those expenditures which are confirmed verified within the verification report shall be eligible for certification for tax credit purposes.

Motion picture investor tax credit

New law establishes the following amounts for the mandatory fee deposit and maximum verification report fee:

- (1) For a cost report reflecting expenditures of between \$300,000 and \$25,000,000, a deposit of \$7,500, with a maximum fee of \$15,000.
- (2) For a cost report reflecting expenditures in excess of \$25,000,000, a deposit of \$15,000, with a maximum fee of \$25,000.

Prior law required that for certification of motion picture investor tax credits, the tax credit applicant would submit to DED a production audit report issued by a "qualified accountant". The report was an audit of the motion picture production's cost report of production expenditures.

New law substitutes the expenditure verification report for the production audit report as the basis for DED's review of a production's cost report of expenditures.

Prior law defined "qualified accountant" as an independent CPA authorized to practice in La. with sufficient knowledge of accounting principals and practices generally recognized in the film and television industry.

New law changes the definition of "qualified accountant" to mirror the definition established in new law for a CPA qualified for engagement by DED for purposes of production of verification reports.

Research and development tax credit

New law establishes the following amounts for the mandatory fee deposit and the maximum verification report fee:

- (1) For a cost report reflecting expenditures of up to \$1,000,000, a deposit of \$7,500, with a maximum fee of \$15,000.
- (2) For a cost report reflecting expenditures in excess of \$1,000,000, a deposit of \$15,000, with a maximum fee of \$25,000.

New law restricts the requirement for a verification report to a business that employs less than 50 persons, and that is neither a participant in certain federal programs nor a recipient of the federal research and development tax credit.

Digital media and software development tax credit

New law establishes the following amounts for the mandatory fee deposit and the maximum verification report fee:

- (1) For a cost report reflecting expenditures of up to \$1,000,000, a deposit of \$7,500, with a maximum fee of \$15,000.
- (2) For a cost report reflecting expenditures in excess of \$1,000,000, a deposit of \$15,000, with a maximum fee of \$25,000.

Sound recording investor tax credit and Musical and theatrical production tax credit

New law establishes the following amounts for the mandatory fee deposit and maximum verification report fee:

- (1) For a cost report reflecting expenditures of between \$5,000 and \$50,000, a deposit of \$2,500, with a maximum fee of \$5,000.
- (2) For a cost report reflecting expenditures in excess of \$50,000, a deposit of \$5,000, with a maximum fee of \$15,000.

Provisions of this Act shall be applicable to all applications or submissions for certification or issuance of tax credits submitted to DED on or after Jan. 1, 2016.

Effective Aug. 1, 2015.

(Amends R.S. 47:6007(B)(9)-(11), (D)(2)(c)-(e), 6015(B)(3)(i)(i), (4) and (5)(intro. para.) and (F)(5), 6022(C)(10)(b)(vii), (F)(2) and (3)(b) and (c), 6023(B)(1), (D)(2)(c) and (d) and (4), and (5), and 6034(B)(4) and (7)(b), and (E)(1)(e) and (f); Adds R.S. 36:104(B)(9) and 104.1, R.S. 47:6007(C)(1)(e) and (D)(2)(f), 6015(B)(6), 6023(D)(2)(e), and 6034(E)(2)(c))