SLS 161ES-74 REENGROSSED

2016 First Extraordinary Session

SENATE BILL NO. 15

1

BY SENATOR MORRELL

TAX/TAXATION. Provides relative to the application of refundable tax credits. (Item #26)(gov sig)

AN ACT

2	To amend and reenact R.S. 47:1675(B) and to enact R.S. 47:1675(H)(1)(d), (e), (f), and (g),
3	relative to refundable tax credits; to provide for the ordering of tax credits and
4	payments; to provide relative to utilization of transferable tax credits in the Tax
5	Credit Registry; to provide for an effective date; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 47:1675(B) is hereby amended and reenacted and R.S.
8	47:1675(H)(1)(d), (e), (f), and (g) are hereby enacted to read as follows:
9	§1675. General administrative provisions for credits against income and corporation
10	franchise tax
11	* * *
12	B. Priority of credits. Unless otherwise provided in the statute granting the
13	eredit, the The department will shall apply credits against income and corporation
14	franchise tax. The provisions of this Subsection shall supersede and control to
15	the extent of conflict with any other provision of law. Credits and payments
16	shall be applied in the following order:
17	(1) Current year nonrefundable credits with no carry forward.

1	(2) Refundable tax credits. Refundable credits that are allowable against
2	both income and corporation franchise tax shall be applied first against income
3	tax. Any credit in excess of the income tax liability shall then be applied against
4	corporation franchise tax.
5	(3) Any carry forward amount from a tax credit earned, granted, or received
6	in a prior year, in the order of the length of the carry forward period remaining,
7	beginning with the shortest carry forward period.
8	(3)(4) Current year nonrefundable credits with a carry forward, in the order
9	of the length of the carry forward period, beginning with the credit with the shortest
10	carry forward period.
11	(4)(5) Tax credits that are transferable, but that are not refundable that the
12	taxpayer elects to apply against the tax.
13	(5) Refundable tax credits.
14	(6) Estimated payments, the credit for withholding, and other payments of
15	tax.
16	* * *
17	H. Transferable income or corporation franchise tax credits.
18	(1) Unless otherwise provided in the statute granting the credit:
19	* * *
20	(d) A tax credit cannot be claimed on a tax return or utilized as a
21	payment prior to the effective date of transfer, as reflected in the Tax Credit
22	Registry pursuant to R.S. 47:1524, between the transferor and transferee.
23	(e) To claim a credit on a tax return, the effective date of transfer, as
24	reflected in the Tax Credit Registry pursuant to R.S. 47:1524, must be on or
25	before the due date of the return, without regard to the granting of any
26	extension.
27	(f) A tax credit with an effective date of transfer, as reflected in the Tax
28	Credit Registry pursuant to R.S. 47:1524, after the due date of the return,
29	without regard to the granting of any extension, may be utilized as a payment.

1 (g) A credit acquired through transfer can be applied to any allowable 2 tax liability that is due for the year the credit was originally earned or to any 3 year due afterward until the applicable carryforward period is over. 4 Section 2. The provisions of this Act shall apply to all taxable periods beginning on 5 or after January 1, 2016. 6 7 Section 3. This Act shall become effective upon signature by the governor or, if not 8 signed by the governor, upon expiration of the time for bills to become law without signature 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become 11 effective on the day following such approval. The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was

DIGEST

SB 15 Reengrossed

2016 First Extraordinary Session

Morrell

<u>Present law</u> provides for the ordering of nonrefundable tax credits, refundable tax credits, and payments.

Proposed law retains present law.

prepared by McHenry Lee.

<u>Present law</u> provides that refundable credits shall be applied after all nonrefundable credits.

<u>Proposed law</u> changes the ordering of the application of tax credits and requires that refundable credits be applied before all other credits and payments of tax except for nonrefundable credits with no carry forward which will be applied first.

<u>Proposed law</u> requires that refundable credits that can be applied against both income and corporate franchise tax, be applied to income tax first.

<u>Present law</u> provides certain requirements on transferable income or corporation franchise tax credits.

Proposed law retains present law but adds the following additional requirements:

- (1) A tax credit cannot be claimed on a tax return or utilized as a payment prior to the effective date of transfer as reflected in the Tax Credit Registry, between the transferor and transferee.
- (2) To claim a credit on a tax return, the effective date of transfer, as reflected in the Tax Credit Registry must be on or before the due date of the return, without regard to the granting of any extension.
- (3) A tax credit with an effective date of transfer, as reflected in the Tax Credit Registry

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Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

after the due date of the return, without regard to the granting of any extension, may be utilized as a payment.

(4) A credit acquired through transfer can be applied to any allowable tax liability that is due for the year the credit was originally earned or to any year due afterward until the applicable carryforward period is over.

Applicable to taxable periods beginning on or after January 1, 2016.

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

(Amends R.S. 47:1675(B); adds R.S. 47:1675(H)(1)(d), (e), (f), and (g))

Summary of Amendments Adopted by Senate

<u>Committee Amendments Proposed by Senate Committee on Revenue and Fiscal</u> Affairs to the original bill

- 1. Requires the Department of Revenue to apply nonrefundable credits with no carry forward before refundable credits.
- 2. Requires that refundable credits that can be applied against both income and corporate franchise tax, be applied to income tax first.

Senate Floor Amendments to engrossed bill

1. Adds certain requirements for transferable income or corporation franchise tax credits.