

Revenue Information Bulletin No. 15-033

August 12, 2015

Individual Income and Corporation Income Taxes

Motion Picture Investor Tax Credits

The 2015 Regular Session of the Louisiana Legislature made numerous changes to the motion picture investor tax credit provided in La. R.S. 47:6007. Several of these changes have implications for taxpayers seeking to claim, pay with or transfer tax credits now or in the near future. The below summarizes several of those changes.

Earned as Expended vs. Earned when Finally Certified

La. R.S. 47:6007(C)(1) formerly provided that tax credits were “earned . . . at the time expenditures are made” However, Act 134, effective July 1, 2015, provides that tax credits are now “earned . . . at the time expenditures are certified. . . .”

Accordingly, tax credits for expenditures made before July 1, 2015 will be deemed earned at the time the expenditures are made. Tax credits for expenditures made on or after July 1, 2015 will be deemed earned at the time of final certification of the tax credits.

Pursuant to R.S. 47:6007(C)(2), tax credits will be allowed against income tax for the taxable period in which the tax credit is deemed earned, unless otherwise provided in the initial certification.

Carry Forward Provision

Effective January 1, 2016, Act 129 changes the carryforward provision of the tax credits from 10 years to 5 years. As previously discussed, effective July 1, 2015, credits shall be earned at the time of final certification.

Accordingly, taxpayers who receive final certification of credits on or before December 31, 2015 may carry forward the credit for a period of 10 years. Taxpayers who receive final certification of credits on or after January 1, 2016 may carry forward the credit for a period of 5 years.

Tax Credit Cap

Act 134 establishes an aggregate tax credit cap applicable against credits utilized against state income tax allowed on returns, credits used as a payment and credits transferred back to the state

(“buy-backs”) (Pursuant to La. R.S. 47:6007(C)(4)(f)(iii), buy-backs are prohibited from July 1, 2015 through June 30, 2016.) The credit cap limits the aggregate total of credits which may be utilized in the above-mentioned manner to \$180 million per Fiscal Year and is applicable for Fiscal Years 2015-2016, 2016-2017, and 2017-2018. The credits are required to be granted based on a first-come, first-served basis as determined by the received date of the taxpayer’s Louisiana income tax return or either Form R-6140 or Form R-6170 (hereinafter “form(s)”) where applicable. All credits utilized pursuant to La. R.S. 47:6007 will not be considered received for purposes of the first-come, first-served requirement until all supporting documentation and applicable fees are received.

In the event the aggregate total of credits utilized in any particular Fiscal Year exceeds the amount authorized to be granted, the excess requests shall be treated as having been applied for on the first day of the subsequent year and the taxpayer may utilize such credits by either filing a timely original return or original form in the subsequent Fiscal Year, during which the taxpayer’s claim has priority. In the event the taxpayer fails to file an original return or original form in the subsequent Fiscal Year, the taxpayer’s priority rights to the amount originally claimed, paid or transferred shall terminate and such amount shall be disbursed and made available for distribution based on a first-come, first-served basis.

In the event the aggregate total of credits utilized in any particular Fiscal Year is less than the amount authorized, the remaining amount authorized for the current Fiscal Year, plus any amounts remaining from previous Fiscal Years, shall be carried forward and added to the subsequent year’s cap of \$180 million and made available until such amounts are utilized. Beginning in Fiscal Year 2018-2019, the credit cap on the aggregate amount of tax credits that may be utilized is currently set to expire, meaning credits utilized on returns or forms filed on or after July 1, 2018 will not be subject to a credit cap.

Finally, all requests received on the same business day shall be treated as received at the same time, and if the aggregate amount of the requests received on a single business day exceed the total amount of available tax credits, tax credits shall be approved on a pro rata basis.

The aggregate total of tax credits which may be granted by the department, whether claimed on a return, used as a payment or transferred to the state is as follows:

- For tax credits claimed on returns or forms filed on or after July 1, 2015, and before July 1, 2016, no more than \$180 million of tax credits shall be granted (Pursuant to La. R.S. 47:6007(C)(4)(f)(iii), buy-backs are prohibited from July 1, 2015-June 30, 2016).
- For tax credits claimed on returns or forms filed on or after July 1, 2016, and before July 1, 2017, no more than \$180 million of tax credits shall be granted.

- For tax credits claimed on returns or forms filed on or after July 1, 2017, and before July 1, 2018 no more than \$180 million of tax credits shall be granted.
- For tax credits claimed on returns or forms filed on or after July 1, 2018, no tax credit cap shall be applicable.

For questions concerning this matter, please contact the Policy Services Division at (225) 219-2780. For questions concerning a taxpayer's return, please contact the Customer Contact Center at (855) 307-3893.

Tim Barfield

Secretary