

June 30, 2017

Overview of 2017 Legislative Session changes to the Motion Picture Production Tax Credit Program

The following legislation made significant changes to the motion picture production tax credit program: Act 309 (SB 254), Act 223 (HB 508), and Act 384 (SB 177).

This overview summarizes the changes, for informational purposes and general guidance, but is subject to the actual language of these enactments, and to further requirements as may be provided by the Louisiana Department of Revenue (LDR) as well as rules promulgated by Louisiana Economic Development (LED) under the Administrative Procedures Act.

I. Caps (Act 309)

A. LED Total Program Issuance Cap

The aggregate dollar amount of tax credits issued for all applications for state-certified productions received on or after July 1, 2017 shall not exceed \$150 million per fiscal year.

Cap reservations by Specific Project Type or Production Size:

1. 5% of the \$150 million issuance cap (\$7.5 million) shall be reserved for Qualified Entertainment Companies. Any remaining amount shall carryforward into the following fiscal year.
2. 5% of the \$150 million issuance cap (\$7.5 million) shall be reserved for Louisiana screenplay productions. Any remaining amount does not roll over; however, any remaining amount can be applied to other state certified productions.
3. 10% of the \$150 million issuance cap (\$15 million) shall be reserved for independent film productions. The remaining amount does not roll over; however, any remaining amount can be applied to other state certified productions.
4. The remaining 80% of the \$150 million issuance cap (\$120 million) is unreserved and may be applied to any size production. Any remaining amount does not roll over in the following fiscal year.

B. LDR Taxpayer Claims cap

Beginning July 1, 2017, tax credit claims and transfers to the State (buy-back) shall be limited to an aggregate total of \$180 million each fiscal year. LDR administers and regularly provides public reports on the status of the claims cap.

C. LED Individual project issuance cap

For applications for state-certified productions received on or after July 1, 2017, the maximum credits certified by LED for a single state-certified production shall be \$20 million, which may be structured over two or more years in the initial certification letter.

**Overview of Changes
Motion Picture Production Tax Credit**

EXCEPTION: State-certified productions for scripted episodic content may be granted up to \$25 million in credits per season.

D. LED Individual salary cap

For applications for state-certified productions received on or after July 1, 2017, the maximum amount of qualifying payroll expenditures per individual shall be \$3 million. Payroll payments in excess of \$3 million made directly or indirectly to an individual or loan-out shall be excluded.

II. Credit Rates (Act 309)

Applications for state-certified productions received on or after July 1, 2017 may be eligible for the following credit rates:

A. Base Investment Credit

1. Base Rate

State-certified productions with a total base investment greater than \$300,000, or for Louisiana screenplay state-certified productions with a total base investment equal to or greater than \$50,000, a tax credit of 25% of the base investment may be allowed.

2. Louisiana Screenplay

State-certified productions with expenditures equal to or greater than \$50,000, but no greater than \$5 million, based upon a screenplay created by a Louisiana resident, may be eligible for an increased 10% credit of the base investment (35% total).

3. Out-of-Zone Filming

State-certified productions that have their production office and at least sixty percent of principal photography based and occurring outside of the New Orleans Metropolitan Statistical Area (NOLA-MSA) may be eligible for an increased 5% credit of base investment (30% total or 40% total for a Louisiana screenplay shot out of the zone).

In NOLA-MSA Zone: Orleans Parish, Jefferson Parish, Plaquemines Parish, St. Bernard Parish, St. Charles Parish, St. James Parish, and St. Tammany Parish.

Out-of-Zone: All other parishes including St. John the Baptist Parish.

B. Additional Payroll & Visual Effects (VFX) Credits

1. Louisiana resident payroll

Compensation for services paid directly to a Louisiana resident may be eligible for an additional 15% credit for qualified Louisiana resident payroll only. (Payments made to a loan-out company are not eligible for this additional credit).

2. Visual Effects (VFX)

If at least 50% of the VFX budget is expended for services performed in Louisiana by an approved QEC, or a minimum of \$1 million in qualified VFX expenditures are made in Louisiana, an additional 5% credit may be allowed on the qualified VFX spend only.

**Overview of Changes
Motion Picture Production Tax Credit**

C. Maximum Credit Rate

Productions may be eligible for an increased base investment rate and/or additional credits for Louisiana Payroll or VFX expenditures; however, the maximum tax credit that can be earned by any production is 40% of the base investment.

III. Qualified Entertainment Company (QEC) (Act 309)

A. Qualified Entertainment Company

Beginning July 1, 2017, a business engaged in the development or distribution of audio, visual, or both audio and visual entertainment products for public consumption, directly or indirectly, as approved by LED may be eligible for credits on their annual W-2 wages upon the creation of five net new jobs employing Louisiana residents at the following rates:

1. 15% for each new job whose wages are equal to or greater than \$45,000 per year, up to \$66,000 per year.
2. 20% for each new job whose wages are equal to or greater than \$66,000 per year, but no greater than \$200,000 per year.

B. QEC Caps

1. Individual Salary

The maximum amount of qualifying QEC payroll expenditures shall be \$200,000 per person per year. No tax credits shall be earned for payroll expenditures in excess of \$200,000 per person per year.

2. Individual Project

The maximum amount of credits that may be granted for a single QEC shall not exceed \$1 million per year.

IV. Transfer Fees (Act 223)

A. Transfer Fees

Notices of tax credit transfers submitted to LDR shall include a fee as follows:

1. For projects with applications submitted to LED prior to July 1, 2017, a fee of \$200 per transferee shall be remitted to LDR.
2. For projects with applications submitted to LED on or after July 1, 2017, a fee of 2% of the transfer value shall be applicable.

B. Transfer Fee Allocation

25% of the transfer fees shall be allocated to the Department of Revenue for administrative purposes.

75% of the transfer fees shall be allocated to Louisiana Economic Development for the Louisiana Entertainment Development Fund to provide for education development initiatives, matching grants for

**Overview of Changes
Motion Picture Production Tax Credit**

Louisiana filmmakers, a loan guarantee program and a deal closing fund. Specific allocations within the fund shall be determined by rule.

V. Buy-back, Transferability, and Legacy Credits (Act 309)

A. Buy-back Rates

Credits that have been certified by LED may be transferred to LDR (otherwise known as “buy-back”) as follows:

1. For projects that apply to LED prior to July 1, 2017, either the motion picture production company (applicant) or its irrevocable designee may transfer the credits to LDR, or under certain circumstances, taxpayers / legacy credit holders, may transfer the credits to LDR at a buy-back rate of 85%.
2. For projects that apply to LED on or after July 1, 2017, either the motion picture production company (applicant) or its irrevocable designee may transfer the credits to LDR at a buy-back rate of 90%.

B. Transferability

For applications received on or after July 1, 2017, credits may not be transferred or sold to another taxpayer. Credits may only be applied directly against the taxpayer’s own income tax liability or transferred back to the state (buy-back).

C. Legacy Credits

A “legacy credit” is a credit is defined as either a credit certified in a final certification letter issued before July 1, 2017 that has not expired, a credit that has not been claimed on a tax return filed before July 1, 2017 or a credit that has not been transferred to LDR prior to July 1, 2017. A legacy credit that is recorded in the Tax Credit Registry prior to January 1, 2018 may be transferred to LDR for 85% of the face value of the credit. A maximum of \$10 million in legacy credits per fiscal year for each transferor may be paid out.

VI. Miscellaneous Provisions (Act 309 & Act 384)

A. Non-qualifying items

1. Music Festivals are not eligible for participation in the Motion Picture Production Tax Credit Program.
2. Expenditures for catering and craft services shall not qualify unless such expenditures are made to a source within the state.
3. Expenditures for procurement company services shall qualify only if the procurement company vendor meets certain eligibility criteria as delineated in Act 309.

**Overview of Changes
Motion Picture Production Tax Credit**

B. Logo requirement

For applications received on or after July 1, 2017, the state-certified production shall include a Louisiana promotional graphic or an alternative marketing option (which may include a donation to a Louisiana nonprofit film grant program), as approved by LED.

C. Career Based Learning and Training Requirement

For applications received on or after July 1, 2017, the state-certified production shall participate in a career-based learning and training program approved by LED (approved programs and minimum criteria shall be established through rule).

D. Forced Withholding

In order for a payment for services to qualify, excluding any amount that is otherwise not subject to the withholding requirements imposed by federal and state law and regulations, the production shall withhold at a rate determined in accordance with an employee's withholding allowance certificate, L4 or the highest individual rate in effect at the time if there is no employee withholding allowance certificate, in accordance with guidance by LDR.

For questions, please contact:

Christopher Stelly, Executive Director
Louisiana Entertainment
chris.stelly@la.gov or 225.342.5403

Stephen Hamner, Director of Louisiana Film
stephen.hamner@la.gov or 225.342.5403