

TITLE 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs

Chapter 29. Research and Development Tax Credit

§2901. Purpose and Application

A. The purpose of this Chapter is to implement the Research and Development Tax Credit Program as established by R.S. 47:6015.

B. This Chapter shall be administered to achieve the following purposes:

1. encourage the development, growth, and expansion of the private sector within the state; and
2. encourage new and continuing efforts to conduct research and development activities within this state.

C. This Chapter shall apply to any person claiming a credit under this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR_____.

§2903. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 51:2352 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

Credit Certification-a certification by DED of the amount of the Research and Development Tax Credit earned by a person for a particular tax year.

DED-Louisiana Department of Economic Development.

Person-any natural person or legal entity including an individual, corporation, partnership, or limited liability company.

Qualified Research Expenses in the State-expenses that are qualified research expenses under 26 U.S.C § 41(b) and meet the following requirements:

- a. wages described in 26 U.S.C. § 41(b)(2)(A)(i) shall be paid to individuals who are residents of Louisiana and perform their services in Louisiana;
- b. supplies described in 26 U.S.C. § 41(b)(2)(A)(ii) shall be consumed in Louisiana;
- c. expenses for the right to use computers as described in 26 U.S.C. § 41(b)(2)(A)(iii)

shall be for the use of computers located in Louisiana; and

d. contract research expenses as described in 26 U.S.C. § 41(b)(3) shall be for services performed in Louisiana.

Research and Development Tax Credits-credits against Louisiana income or corporation franchise taxes that are earned by a person pursuant to the provisions of the Research and Development Tax Credit Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004).

§2904. Type, Amount and Duration of Credit

A. Type. Any taxpayer meeting the following criteria shall be allowed a refundable tax credit to be applied against income and corporation franchise taxes due.

1. Employs more than fifty Louisiana residents, and claims for the taxable year a federal income tax credit under 26 U.S.C. § 41(a) for increasing research activities;
2. Employs up to fifty Louisiana residents, and incurs qualified research expenses for the taxable year, as defined in 26 U.S.C. § 41(b); and
3. Receives a Small Business Innovation Research Grant, as defined in R.S. 47:6015 (D).

B. Amount. The amount of the credit authorized shall be equal to:

1. eight percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities, if the applicant is an entity that employs one hundred or more Louisiana residents; or
2. twenty percent of the state's apportioned share of the taxpayer's expenditures for increasing research activities, if the applicant is an entity that employs fifty to ninety-nine Louisiana residents; or
3. twenty-five percent of the state's apportioned share of the federal research credit claimed for research expenditures in the state if the taxpayer claims the alternative incremental tax credit under 26 U.S.C. § 41; or
4. forty percent of the state's apportioned share of the taxpayer's qualified research expenses conducted in the state if the applicant is an entity that employs fewer than fifty Louisiana residents.
5. forty percent of the Small Business Innovation Research Grant award received during the tax year.

C. Duration. No credit shall be allowed for research expenditures incurred or Small Business Innovation Research Grant funds received after December 31, 2013.

§2905. Certification of Amount of Credit

A. Prior to claiming a research and development tax credit on any tax return a person must apply for and obtain a credit certification from DED.

B. The application for a credit certification shall be submitted on a form provided by the DED

and shall include, but not be limited to the following information:

1. An application fee of \$250, payable to Louisiana Department of Economic Development.
2. Appropriate supporting documentation.
 - a. For taxpayers employing more than fifty residents, a federal income tax return and evidence of the amount of federal research credit for the same taxable year.
 - b. For taxpayers employing up to fifty residents, evidence of the amount of qualified research expenses for the same taxable year.
 - c. For taxpayers claiming credits based upon the federal Small Business Innovation Research Grant, evidence of the amount of such grant.
3. The total amount of qualified research expenses and the qualified research expenses in this state;
4. The total number of Louisiana residents employed by the taxpayer and the number of those Louisiana residents directly engaged in research and development;
5. The average wages of the Louisiana resident employees not directly engaged in research and development and the average wages of the Louisiana resident employees directly engaged in research and development;
6. The average value of benefits received by all Louisiana resident employees;
7. The cost of health insurance coverage offered to all Louisiana resident employees;
8. Any other information required by the Department of Economic Development.

C. DED shall review the application and issue a credit certification in the amount determined to be eligible and provide a copy to the Department of Revenue. The credit certification and the amount of such certification shall be considered preliminary and shall be subject in all respects to audit by the Louisiana Department of Revenue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:977 (May 2004), amended by the Office of Business Development, LR_____.

§2911. Recapture of Credits

- A. An application for credit certification shall constitute:
1. a consent by the taxpayer that credits granted under this Section, but later disallowed in whole or in part, may be recovered by the secretary of the Department of Revenue from the taxpayer applicant through any collection remedy authorized by the provisions of R.S. 47:6015(G); and
 2. a consent by the taxpayer that the Department of Revenue may disclose to DED, any tax information of the taxpayer related to the earning of, or use of research and development tax credits by the taxpayer or any other information required by DED for the effective administration of this program, provided that such tax information, shall remain confidential in the possession of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6015.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, Business Resources Division, LR 30:978 (May 2004).