

§6023. Sound recording investor tax credit

A. Purpose. The primary objective of this Section is to encourage development in Louisiana of a strong capital and infrastructure base for sound recording productions in order to achieve a more independent, self-supporting music and sound recording industry. This objective is divided into immediate and long-term objectives as follows:

(1) Immediate objectives are to:

(a) Attract private investment for the production of musical recordings or "sound recordings" in Louisiana.

(b) Develop a tax and capital infrastructure which encourages private investment. This tax infrastructure is to provide for state participation in the form of tax credits to encourage investment in state-certified sound recording productions and infrastructure.

(c) Develop a tax infrastructure utilizing tax credits which encourage investments in multiple state-certified production projects.

(2) Long-term objectives are to:

(a) Encourage increased employment opportunities within this sector and increased global competitiveness by fully utilizing economic development options within the music and sound recording industries.

(b) Encourage new education curricula in order to provide a labor force trained in all aspects of sound recording production.

(c) Encourage the development of a Louisiana sound recording production infrastructure with state-of-the-art facilities.

B. Definitions. For the purposes of this Section:

(1) "Base investment" shall mean the actual investment made and expended in the state by a state-certified production as production-related costs or as capital costs of a state-certified sound recording infrastructure project.

(2) "Expended in the state" or an "expenditure in the state" means an expenditure to acquire property from a source within the state which is subject to state sales or use tax, or an expenditure as compensation for services performed within the state which is subject to state income tax.

(3) "Sound recording" means a recording of music, poetry, or spoken-word performance made in Louisiana, in whole or in part. The term "sound recording" shall not include the audio portions of dialogue or words spoken and recorded as part of television news coverage or athletic events.

(4) "Sound recording production company" shall mean a company engaged in the business of producing sound recordings as defined in this Section. Sound recording production company shall not mean or include any person or company, or any company owned, affiliated, or controlled, in whole or in part, by any company or person, which is in default on a loan made by the state or a loan guaranteed by the state, nor which has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(5) "State-certified production" means a sound recording production, or a series of productions occurring over the course of a twelve-month period, and base investment related to such production or productions that are approved by the Louisiana Department of Economic Development within one hundred eighty days of the receipt by the Department of Economic Development of a complete application for initial certification of a production. If the production is not approved within one hundred eighty days, the Department of Economic Development shall provide a written report to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means which states the reason that the production has not been approved.

(6) "State-certified sound recording infrastructure project" means a sound recording capital infrastructure project and base investment related to such project that are approved by the Louisiana

Department of Economic Development within one hundred eighty days of the receipt by the Department of Economic Development of a complete application for initial certification of an infrastructure project. If the infrastructure project is not approved within one hundred eighty days, the Department of Economic Development shall provide a written report to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means which states the reason that the infrastructure project has not been approved.

C. Investor tax credit; state-certified productions and infrastructure projects.

(1) Until January 1, 2015, there is hereby authorized a credit against the state income tax for investments made in state-certified productions and state-certified sound recording infrastructure projects. The tax credit shall be earned by investors at the time expenditures are certified by the Louisiana Department of Economic Development according to the total base investment certified for the sound recording production company per calendar year; however, no credit shall be allowed under this Section for any expenditures for which a credit was granted under R.S. 47:6007. For state-certified productions certified on and after July 1, 2007, and state-certified infrastructure projects which have applied on or before August 1, 2009, each investor shall be allowed a tax credit of twenty-five percent of the base investment made by that investor in excess of fifteen thousand dollars.

(2) Sound recording investor tax credits associated with a state-certified production shall never exceed the total base investment in that production or sound recording infrastructure project.

(3) Except as otherwise provided in this Paragraph, the aggregate amount of credits certified for all investors pursuant to this Section during any calendar year shall not exceed three million dollars.

(a) An application for initial certification of a project shall be submitted to the Louisiana Department of Economic Development prior to the granting of the credit, and the granting of credits under this Section shall be on a first-come, first-served basis. The secretary of the Louisiana Department of Economic Development shall determine through the promulgation of rules the administration of the annual aggregate maximum. In addition, these rules shall be approved by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs in accordance with the provisions of the Administrative Procedure Act.

(b) If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess will be treated as having been applied for on the first day of the subsequent year.

D. Certification and administration.

(1) The secretary of the Department of Economic Development shall determine through the adoption and promulgation of rules which projects and expenditures, including amounts expended in this state on state-certified infrastructure projects, qualify according to this Section. In addition, these rules shall be approved by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs in accordance with the provisions of the Administrative Procedure Act. When determining which projects qualify, the Louisiana Department of Economic Development shall take the following factors into consideration:

(a) The impact of the production on the immediate and long-term objectives of this Section.

(b) The impact of the production on the employment of Louisiana residents.

(c) The impact of the production on the overall economy of the state.

(d) The availability of similar infrastructure facilities within fifty miles of the proposed infrastructure project.

(2)(a) Application. An applicant for the sound recording investor tax credit shall submit an application for initial certification to the Louisiana Department of Economic Development that includes the following information:

(i) For state-certified productions the application shall include:

(aa) The distribution plan.  
(bb) A preliminary budget including estimated Louisiana payroll and estimated base investment.  
(cc) A description of the type of sound to be recorded.  
(dd) A list of the principal creative elements including performing artist(s) and producer.  
(ee) The name and address of the recording studio or other location where the recording production will take place.

(ff) A statement that the production will qualify as a state-certified production.

(gg) Estimated start and completion dates.

(ii) For state-certified sound recording infrastructure projects the application shall include:

(aa) A detailed description of the infrastructure project.

(bb) A preliminary budget.

(cc) A statement that the project meets the definition of a state-certified infrastructure project.

(dd) Estimated start and completion dates.

(b) If the application is incomplete, additional information may be requested prior to further action by the Louisiana Department of Economic Development.

(c) The Louisiana Department of Economic Development shall submit its initial certification of a project as a state-certified production or a state-certified sound recording infrastructure project to investors and to the secretary of the Department of Revenue. The initial certification shall include a unique identifying number for each state-certified production.

(d) Prior to any certification of the state-certified production or infrastructure project, the sound recording production company shall submit to the Louisiana Department of Economic Development a cost report of production or project expenditures which the Louisiana Department of Economic Development may require to be prepared by an independent certified public accountant. The Louisiana Department of Economic Development shall review such expenditures and shall issue a tax credit certification letter to the investors indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project.

(3) The secretary of the Louisiana Department of Economic Development, in consultation with the Department of Revenue, shall adopt and promulgate such rules and regulations as are necessary to carry out the intent and purposes of this Section in accordance with the general guidelines provided herein.

(4) Any taxpayer applying for the credit shall be required to reimburse the Louisiana Department of Economic Development for any audits required in relation to granting the credit.

(5) With input from the Legislative Fiscal Office, the Louisiana Department of Economic Development shall prepare a written report to be submitted to the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs no less than sixty days prior to the start of the Regular Session of the Legislature in 2007, and every second year thereafter. The report shall include the overall impact of the tax credits, the amount of the tax credits issued, the number of new jobs created, the amount of Louisiana payroll created, the economic impact of the tax credits and sound recording industry, the amount of new infrastructure that has been developed in the state, and any other factors that describe the impact of the program.

E. After certification, the Louisiana Department of Economic Development shall submit the tax credit certification letter to the Department of Revenue on behalf of the investor who earned the sound recording tax credits. The Department of Revenue may require the investor to submit additional information as may be necessary to administer the provisions of this Section. Upon receipt of the tax credit certification letter and any necessary additional information, the secretary of the Department of Revenue shall make payment to the investor in the amount to which he is entitled from the current collections of the taxes collected pursuant to Chapter 1 of Subtitle II of this Title, as amended.

F. Recapture of credits. If the Department of Economic Development finds that funds for which an investor received credits according to this Section are not invested in and expended with respect to a state-certified production within twenty-four months of the date that such credits are earned, then the investor's state income tax for such taxable period shall be increased by such amount necessary for the recapture of credit provided by this Section.

G. Recovery of credits by Department of Revenue.

(1) Credits previously granted to a taxpayer, but later disallowed, may be recovered by the secretary of the Department of Revenue through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December thirty-first of the year in which the twenty-four-month investment period specified in Subsection F of this Section ends.

(2) The only interest that may be assessed and collected on recovered credits is interest at a rate three percentage points above the rate provided in R.S. 9:3500(B)(1), which shall be computed from the original date of the return on which the credit was taken.

(3) The provisions of this Subsection are in addition to and shall not limit the authority of the secretary of the Department of Revenue to assess or to collect under any other provision of law.

H. Brand. As a condition for receiving certification of tax credits under this Section, state-certified productions may be required to display the state brand or logo, or both, as prescribed by the secretary of the Department of Economic Development.

Acts 2005, No. 485, §1, eff. July 12, 2005, applicable to tax years beginning on and after Jan. 1, 2006; Acts 2007, No. 368, §1, eff. July 10, 2007; Acts 2009, No. 475, §1.