

2015 Regular Session

HOUSE BILL NO. 735

BY REPRESENTATIVE STOKES

TAX/INCOME TAX: Requires the withholding of individual income taxes from income earned by certain individuals for purposes of the motion picture investor tax credit

1 AN ACT

2 To amend and reenact R.S. 47:164(D) and 6007(B)(8) and (D)(5), relative to individual
3 income tax; to provide with respect to the motion picture investor tax credit; to
4 provide for employee compensation eligible as a production expense for purposes
5 of the tax credit; to require the reporting of certain payments and other information;
6 to provide for applicability; to provide for effectiveness; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:164(D) and 6007(B)(8) and (D)(5) are hereby amended and
10 reenacted to read as follows:

11 §164. Information at source

12 * * *

13 D. Withholding of tax at source. (1) The ~~collector~~ secretary, whenever it is
14 deemed necessary to insure compliance with the provisions of this Chapter, may
15 require the United States, the state of Louisiana or any other state or any political
16 subdivision, agency or instrumentality of the foregoing, or any person having
17 control, receipt, custody, disposal or payment of interest (other than interest coupon
18 payable to the bearer), rent, salaries, wages, premiums, annuities, compensation,
19 remunerations, emoluments, or other fixed or determinable annual or periodical
20 gains, profits, and income, paid or payable to any person, to deduct and withhold as

1 tax an amount determined by the ~~collector~~ secretary, to be payable from such person
2 and make return thereof and pay the tax to the ~~collector~~ secretary.

3 (2)(a) The Motion Picture Investor Tax Credit pursuant to R.S. 47:6007
4 awards a tax credit for investments made and used for production expenditures in the
5 state for state-certified productions. Therefore, any individual receiving any
6 payments for the performance of services used directly in a production activity,
7 which payments shall be claimed as a production expenditure for purposes of
8 certification of tax credits, is deemed to be receiving Louisiana taxable income
9 whether directly, or indirectly through an agent or agency, loan out company, a
10 personal service company, an employee leasing company, or other entity.

11 (b) Any motion picture production company, payroll service provider, or
12 other entity making or causing to be made payments as provided in Subparagraph (a)
13 of this Paragraph, to an individual, or to an agent or agency, loan out company,
14 personal service company, employee leasing company, or other entity is considered
15 to be paying compensation taxable by the state of Louisiana. For purposes of
16 eligibility as a production expenditure, the company or other entity shall withhold
17 taxes from those payments at the highest individual rate of 6%, or the highest
18 individual rate in effect at the time.

19 (c) The motion picture production company or other entity required to
20 withhold income taxes as required by this Paragraph shall electronically report and
21 remit such withholdings to the Department of Revenue quarterly, and shall also
22 annually report electronically a list of all payees in a format approved by the
23 department. The reports shall contain the following information:

24 (i) Name, address, ownership structure, and taxpayer identification number
25 of the loan out company.

26 (ii) Identification of tax type: C Corporation, S Corporation, or Limited
27 Liability Company with tax type specified.

28 (iii) Name, address, and social security number of the payee.

29 (iv) An estimated amount of what the loan out company will pay the payee.

leasing company, or other entity is considered to be paying compensation taxable by the state. For purposes of eligibility of such payments for certification of motion picture investor tax credits, the company is required to withhold taxes from those payments at the rate of 6%.

Proposed law requires the company to electronically report and remit the withholdings made pursuant to proposed law to the Dept. of Revenue quarterly, and to annually electronically report a list of all payees in a format approved by the department. The report must contain the following information:

- (1) Name, address, ownership structure, and taxpayer identification number of the loan out company.
- (2) Identification of tax type: C Corp; S Corp; or L.L.C. with tax type specified.
- (3) Name, address, and social security number of the payee.
- (4) An estimated amount of what the loan out company will pay the payee.
- (5) An affirmative statement of whether or not the payee is a related party to the loan out company, and if so, provision of an affidavit stating under penalty of perjury that the transaction is valued at the same value that an unrelated party would value the same transaction.

Proposed law redefines "payroll" for purposes of the motion picture investor tax credit to include a requirement that taxes be withheld and remitted to the Dept. of Revenue in accordance with proposed law in order for the payroll to be qualified as "base investment" for purposes of the tax credit.

Proposed law authorizes the Department of Revenue to retain an amount equal to 30% of the credit transfer fee required by R.S. 47:6007 for the purpose of administering the provisions required by proposed law.

Proposed law is applicable to productions which receive initial certification on or after Jan. 1, 2016.

Effective Aug. 1, 2015.

(Amends R.S. 47:164(D) and 6007(B)(8) and (D)(5))