

NOTICE OF INTENT

Department of Revenue Policy Services Division

Small Town Health Professionals Credit (LAC 61:I.1915)

Under the authority of R.S. 47:297(H) and 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1915 relative to the Small Town Health Professionals credit.

Revised Statute 47:297(H) authorizes a credit for a certified medical primary care health professional who is practicing as a physician, dentist or primary care nurse practitioner and who meets certain requirements. The secretary is authorized by R.S. 47:297(H)(5) to establish the method of allocating and reserving available tax credits to primary health care professionals for a specific time period. The purpose of this regulation is to provide the requirements and procedures for applying for and reserving tax credits as well as the time periods applicable for claiming any tax credits so authorized.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1915. Small Town Health Professionals Credit

A. General Description

1. The Small Town Health Professionals credit provides an individual income tax credit for certified medical primary care health professionals including:

- a. physicians possessing an unrestricted license by the State of Louisiana to practice medicine;
- b. dentists licensed by the State of Louisiana to practice dentistry; or
- c. primary care nurse practitioners licensed by the State of Louisiana.

2. To be eligible for the credit, a certified medical primary care health professional must:

a. Establish and maintain the primary office of their practice which is, as determined by the Department of Health through annual application:

i. for medical physicians and nurse practitioners, an area that is a primary care high needs geographic Health Professional Shortage Area (HPSA), or for dentists, a Dental Health Professional Shortage Area (DHPSA), as designated by the U.S. Department of Health and Human Services' Health Resources and Services Administration's Bureau of Health Workforce, Division of Policy and Shortage Designation (DPSD); and

ii. a rural area as defined in rules promulgated by the Department of Health.

iii. accept Medicaid and Medicare payments for services rendered.

b. To be eligible for the credit, the certified medical primary care health professional must practice under the conditions set forth above for a period of not less than three tax years. In addition, the health professional must submit an annual application and receive certification from the Department of Health for each calendar year in order to

claim the credit for the corresponding tax year. Under no circumstances shall a taxpayer receive the credit for more than one relocation or more than five tax years.

B. Definitions.

Certified Medical Primary Care Health Professional—a physician possessing an unrestricted license by the State of Louisiana to practice medicine, a dentist licensed by the State of Louisiana to practice dentistry, or a primary care nurse practitioner licensed by the State of Louisiana.

Department of Health—the Louisiana Department of Health

Department of Revenue—the Louisiana Department of Revenue

Health Professional Shortage Area/Dental Health Professional Shortage Area—an area so designated by the U.S. Department of Health and Human Services' Health Resources and Services Administration's Bureau of Health Workforce, Division of Policy and Shortage Designation (DPSD) as of December 31 of the year preceding the applicable application period.

C. Application. Beginning January 1, 2018, taxpayers seeking to utilize the small town health professionals tax credit for taxable periods beginning on or after January 1, 2018 must annually apply for and be deemed eligible for the credit by the Department of Health. This annual application requirement applies to all taxpayers, including those who have previously claimed the credit within the last four years. The application period for calendar year 2018 shall begin on October 1, 2018 and conclude on November 30, 2018. For all application periods thereafter, the application period shall begin on September 1 of each calendar year and conclude on October 31 of the same calendar year. Only applications concerning eligibility for the calendar year during which the applications are received may be submitted and considered for purposes of the credit. Applications may not be submitted and will not be accepted prior or subsequent to the application period. Taxpayers must submit a Louisiana small town health professional credit application to the Department of Health for review. Each application must contain an applicant's home mailing address, date of qualifying relocation and the last four digits of the applicant's Social Security number, as well as all other required information. A taxpayer is deemed eligible upon satisfactorily demonstrating that it has met the requirements of Subsection A of this Section for the calendar year.

D. Certification

1. No later than December 31 of each calendar year, the Department of Health shall issue a tax certificate letter to the taxpayer notifying the taxpayer as to whether the application has been approved or denied. If approved, the tax certificate letter shall notify the taxpayer of the maximum amount eligible, the taxable period against which the nonrefundable credit may be used, and the time period during which the credit must be claimed. If denied, the letter shall so provide the reasons for denial. No later than January 31 of the succeeding calendar year, the Department of Health shall provide to the Department of Revenue a list of all approved applicants in a machine-sensible format, including but not limited to an Excel spreadsheet.

2. Pursuant to R.S. 47:297(H), an approved application shall authorize a taxpayer for eligibility for a nonrefundable credit with no carryforward equal to the lesser of the tax due or \$3,600, unless subject to proration, for the tax period deemed eligible. In the event the taxpayer

is subject to proration due to the credit cap provisions, the taxpayer shall only be eligible for a credit equal to the pro rata amount for the tax period deemed eligible.

3. For each calendar year, beginning with calendar year 2018, the Department of Health shall not certify credits in excess of \$1,500,000. For purposes of administering the credit cap, the Department of Health shall count each approved application at a value of \$3,600 or, if subject to proration, the pro rata value. Applications shall be approved as eligible for the credit by the Department of Health on a first-come, first-served basis as determined by the postmarked or received date of a completed Louisiana small town health professional credit application. An application shall not be considered received until all information requested by the Department of Health has been submitted.

4. All applications received on the same business day shall be treated as received at the same time, and if the aggregate amount of requests received on the same business day exceeds the total amount of available tax credits, tax credits shall be approved on a pro rata basis. In such instance, applicants limited by the credit cap provisions shall be eligible for only the pro rata share of their credit.

5. The tax credit shall be earned upon approval from the Department of Health. However, in the event it is determined by the Department of Health that the taxpayer has not maintained the requirements of Subsection A of this Section, any amounts certified by the Department of Health are subject to disallowance by the Department of Revenue and any amounts allowed to offset tax, penalties or interest are subject to recapture by the Department of Revenue.

E. Credits

1. Credits certified by the Department of Health may only be used to offset tax for the taxable period deemed eligible. Any amount certified must be claimed on a return filed within the calendar year subsequent to the calendar year of application. Any credits claimed against a taxable period other than the period authorized or filed on a return before or after the calendar year which is subsequent to the calendar year of application will be disallowed.

a. Example. Application submitted and approved by the Department of Health in calendar year 2018 for credit eligibility for tax period 2018. The approved tax year 2018 credit must be claimed on a 2018 return filed during calendar year 2019.

2. For each calendar year, beginning with calendar year 2018, the Department of Revenue shall not grant credits in excess of \$1,500,000. For purposes of administering the credit cap, the Department of Revenue shall count each approved credit at the lesser of the tax due or other amount deemed eligible according to the certification issued by the Department of Health. Credits shall be granted by the Department of Revenue on a first-come, first-served basis as determined by the received date of a completed individual income tax return. A return shall not be considered received until all information requested by the Department of Revenue has been submitted.

3. All returns received on the same business day shall be treated as received at the same time, and if the aggregate amount of claims received on the same business day exceeds the total amount of available tax credits, tax credits shall be approved on a pro rata basis. In such instance, taxpayers limited by the credit cap provisions shall be eligible for only the pro rata share of their credit.

4. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:297(H) and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 44:

Family Impact Statement

The proposed adoption of LAC 61:I.1915, regarding Small Town Health Professional tax credits, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule will have no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

Poverty Impact Statement

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that this proposed amendment should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed amendment will have no known or foreseeable effect on:

1. The staffing levels requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to Bradley Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., July 24, 2018.

Public Hearing

A public hearing will be held on July 25, 2018, at 9:30 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Small Town Health Professionals Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule implements the changes to the “Small Town Health Providers Tax Credit” enacted by Act 342 of the 2017 Regular Legislative Session. The Act changed the eligibility criteria; required the Department of Health to certify eligibility for the credit through an application process; and added a \$1.5 million annual cap. This proposed rule provides application and certification procedures, including a general description of the eligibility criteria. This proposal also provides procedures for allocation and reservation of the credits relative to the annual cap.

There is no anticipated direct material effect on governmental expenditures as a result of this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent credits would be applied for and granted up to the \$1.5 M cap, this proposal results in additional state exposure of nearly \$1 million per year for FY19 through FY21. The Act and this proposal changes the requirements by which a health care professional qualifies for a tax credit, changing where an eligible applicant may practice, and expands the number of health care professionals that are eligible for the tax credit by including primary care nurse practitioners. Prior to the changes, this tax credit resulted in a loss of State General Fund of \$511,000 for FY 16. Prior to Act 125 of 2015, which temporarily imposed a 28% reduction to this tax credit, the average state revenue loss was approximately \$850,000 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Doctors, nurse practitioners, and dentists applying for the credit will incur the additional paperwork of applying for the credit, which is not expected to be costly. To the extent credits would be granted up to the \$1.5 M cap, this proposal results in an additional tax savings of nearly \$1 million per year for health professionals receiving the credit. No material impacts on receipts and/or income is expected as a result of this proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal is not expected to have any significant effect on competition or employment.

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