

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:2048 (September 2010), amended by the Department of Revenue, Policy Services Division, LR 37:3532 (December 2011), LR 39:99 (January 2013), LR 40:2612 (December 2014).

§1909. Apprenticeship Tax Credits

A. General Description

1. For tax periods beginning after December 31, 2021, Revised Statute 47:6033 authorizes businesses to earn a non-refundable apprenticeship tax credit against Louisiana income tax or corporation franchise tax equal to \$1.25 for each hour of employment of each eligible apprentice, as defined herein, not to exceed 1,000 hours for each eligible apprentice.

2. In order to be eligible for the credit, a business must employ a person who:

- a. is an eligible apprentice, as defined herein;
- b. has been employed for a minimum of 250 hours during the taxable period; and
- c. satisfies all other criteria of this Section.

3. The credit shall be earned in the year in which the taxpayer is deemed to have satisfied all requirements of this Section, as approved by the department.

4. The credit shall be allowed against the income tax for the taxable period for which the credit is earned and against the franchise tax for the taxable period following the period in which the credit is earned. If the tax credit allowed pursuant to R.S. 47:6033 exceeds the amount of such taxes due, any unused credit may be carried forward as a credit against subsequent liability for a period not to exceed five years.

5. A taxpayer shall not receive any other incentive for the job creation or hiring of an eligible apprentice for which the taxpayer has received a tax credit pursuant to this Section, including but not limited to the provisions of R.S. 25:1226, 47:297.13, 6023, 6026, 6028, 6033, 6034, 51:1781, 2451, or 3121.

B. Definitions

Department—the Louisiana Department of Revenue

Eligible Apprentice—a person who:

- a. has entered into a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program as provided for in R.S. 23:381; or
- b. is enrolled in a training program accredited by the National Center for Construction Education and Research (NCCER) which has no less than four levels of training and no less than 500 hours of instruction:
 - i. has successfully completed no less than two levels of training; and

- ii. has attained no less than 250 hours of instruction.

C. Claiming the Credit

1. Taxpayers must attach to the applicable Louisiana income tax return both a completed Apprenticeship Tax Credit Employer Certification (Form R-90005), as well as Tax Incentives with Job Creation Components (Form R-6311). Additionally, supporting documentation should be maintained or submitted to the department, as directed in Paragraph 2 of this Subsection.

2. Unless otherwise provided, eligible employers will be responsible for obtaining and submitting all required information, which includes the following:

- a. For taxpayers seeking to qualify pursuant to a written apprentice agreement with an employer or an association of employers pursuant to a registered apprenticeship program provided for in R.S. 23:281, the number of hours worked during the taxable period for each eligible apprentice. In addition, a copy of the contract executed between the employer and the eligible apprentice should be maintained and available for production upon request from the department to substantiate the qualification of an eligible apprentice.

- b. For taxpayers seeking to qualify pursuant to an eligible apprentice enrolled in a training program accredited by NCCER, a copy of the NCCER transcript for each eligible apprentice, which includes:

- i. the level of training attained by the student enrolled in the training program;
- ii. the number of hours worked during the taxable period by the student enrolled in the training program.
- c. Any other information required by the department.

D. Approval

1. No later than January 31 of each calendar year, the Louisiana Workforce Commission shall provide to the department a list of all employers or association of employers that have registered and have been approved to participate in an apprenticeship program as provided for in R.S. 23:381.

2. A taxpayer is deemed eligible upon satisfactorily demonstrating that it has met the requirements of Subsection A of this Section during the taxable year. Eligibility shall authorize a taxpayer for one or more nonrefundable credit(s) with a carryforward of five years equal to the lesser of \$1.25 for each hour of employment or \$1,250 for the tax period deemed eligible.

3. For any amounts denied, the department shall notify the taxpayer as to each apprentice so denied and provide the reasons for denial.

4. For each calendar year, beginning with calendar year 2023, the department shall not approve credits in excess of \$2,500,000. Claims shall be approved as eligible for the credit by the department on a first-come, first-served basis as determined by the postmarked or received date of all

documentation required by Subsection C of this Section. A claim shall not be considered complete until all information requested by the department has been received.

5. If the total amount of credits granted in any calendar year to qualifying businesses is less than the respective cap, any residual amount may be available for issuance by the department in subsequent calendar years. For purposes of the credit cap, any amounts authorized by the department shall be deemed granted for the calendar year in which the credit is earned.

6. In the event it is determined by the department that the taxpayer has not met the requirements of Subsection A of this Section, any amounts approved by the department are subject to disallowance by the department and any amounts allowed to offset tax are subject to recapture by the department.

7. The accrual of refund interest shall be suspended during any period of time that a delay in the issuance of a refund is attributable to the taxpayer's failure to provide information or documentation required herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6033.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:1791 (August 2010), amended LR 49:73 (January 2023).

§1911. Louisiana New Markets Tax Credit

A. Application Process for New Markets Tax Credits

1. A taxpayer may apply for Louisiana new markets tax credits by submitting a new markets tax credit application to the Special Programs Division of the Louisiana Department of Revenue. The form R-10609 is available online on the department's website. Applications for new markets tax credits will be processed in the order received.

2. If a taxpayer is entitled to the credit, a new market tax credit summary sheet will be issued to the taxpayer. The summary sheet will contain a tracking number.

3. The new market tax credit summary sheet will also contain a transfer section that must be updated each time the taxpayer transfers their credit. The taxpayer must send an updated new market tax credit summary sheet to notify the department of revenue of the sale within 30 days of the sale.

4. The taxpayer must attach the new market tax credit summary sheet to their income or franchise tax return to claim the credit.

B. Applying the New Markets Tax Credit

1. New markets tax credits earned by a taxpayer or received by a taxpayer by flow-through from a partnership or LLC may be applied as detailed in Revenue Ruling 08-011-A and as explained below.

a. Credits may be applied to the tax year in which the credit allowance date occurred.

b. Credits may not be applied to penalties and interest.

c. Prior year returns that include the credit allowance date may be amended to apply credits earned that year.

d. Credits may be applied against taxes paid in a prior year and the taxes paid may be refunded. However, the new markets tax credit is nonrefundable and credits in excess of the tax paid in a prior year can only be carried forward in accordance with R.S. 47:6016(D).

e. Credits from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before December 31, 2008.

f. Credits from qualified equity investments made on or after December 1, 2009 cannot be claimed on any return or prior year return that was due before December 31, 2010.

2. New markets tax credits transferred by sale to a taxpayer may be applied as detailed in Revenue Ruling 08-011-A and as explained below.

a. Credits may be applied to a prior year's outstanding tax liability, including penalties and interest, as provided by R.S. 47:1675(H)(1)(c).

b. A taxpayer that purchases the credits may not amend their prior year returns to claim credits where no liability is currently outstanding and therefore trigger a refund.

c. Credits purchased from qualified equity investments made on or after April 1, 2008, cannot be claimed on any return or prior year return that was due before December 31, 2008.

d. Credits purchased from qualified equity investment made on or after December 1, 2009, cannot be claimed on any return or prior year return that was due before December 31, 2010.

C. Limitations on the New Markets Tax Credit

1. New markets tax credits earned from qualified equity investments issued prior to July 1, 2007, are subject to an annual \$5,000,000 cap applicable to all new markets tax credits issued for that year by the department. Once the cap is reached, no other credits will be granted for that year.

2. New markets tax credits from qualified equity investments issued after July 1, 2007, but before April 1, 2008, are subject to a \$50,000,000 cap on the entire new markets credit program.

3. New markets tax credits from qualified equity investments issued after April 1, 2008, shall be allowed as follows:

a. during the period beginning April 1, 2008, and ending December 31, 2008, \$25,000,000;

b. during the period beginning January 1, 2009, and ending November 30, 2009, \$12,500,000 plus any unissued credits from the prior period;

c. during the period beginning December 1, 2009 and ending December 31, 2010, \$12,500,000 plus any unissued credits from the prior periods; and