

NOTICE OF INTENT

Department of Revenue Policy Services Division

Apprenticeship Tax Credits (LAC 61:I.1909)

Under the authority of R.S. 47:1511 and 6033 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 amend LAC 61:I.1909 relative to Apprenticeship Tax Credits.

Revised Statute 47:6033 authorizes a credit for businesses that hire an eligible apprentice, as defined therein. The purpose of these proposed amendments is to implement Act 454 of the 2021 Regular Session of the Louisiana Legislature relative to Apprenticeship Tax Credits.

Title 61

REVENUE AND TAXATION

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

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1909. ~~Nation Center for Construction Education and Research~~ Apprenticeship Tax Credits

A. General Description.

~~1. For tax periods beginning after December 31, 2021, Revised Statute 47:6033 provides certain employers~~ 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 individual or corporation income tax or corporation franchise tax equal to one dollar \$1.25 for each hour of employment of each eligible apprentice, as defined herein, not to exceed 1,000 hours for each eligible apprentice.

~~B. 2. In order to be eligible for the credit, a business must employ a person who: considered an "eligible apprentice", a student must be enrolled in a training program accredited by the National Center for Construction Education and Research (NCCER), must have successfully completed no less than two levels of training, and must have attained no less than 250 hours of instruction.~~

~~1. An apprentice becomes an "eligible apprentice" upon enrollment to the third level and the fourth level of a training curriculum. Enrollment to the third and fourth levels are allowed when successful completion of prior levels of training are achieved.~~

~~2. The apprentice will be considered enrolled for the tax year in which the apprentice started a particular level of training.~~

~~3. An employer may claim a credit for an "eligible apprentice" only once for each particular level of training.~~

~~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:

~~1. 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~~

~~2.a. 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;~~

~~b. has successfully completed no less than two levels of training; and~~

~~c. 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.

~~C. 2. Unless otherwise provided, E-eligible employers will be responsible for obtaining and retaining submitting all required information, which includes the following: student transcript information from the (NCCER) for each eligible apprentice for which the credit is claimed. Employers must also retain:~~

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:

1. ~~the name of the student enrolled in the training program;~~
2. ~~the social security number of the student enrolled in the training program;~~
3. ~~i. the level of training attained by the student enrolled in the training program;~~
4. ~~ii. the number of hours worked during the taxable period by the student enrolled in the training program.;~~

5. ~~c. a Any other information required by the Secretary of the Department of Revenue.~~

~~D. Approval. The Louisiana Workforce Commission portion of the apprenticeship tax credit can be found at LAC 40:IX Chapter 7.~~

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 by the Department of Revenue, Policy Services Division, LR 49:

Family Impact Statement

The proposed amendment of LAC 61:I.1909 regarding Louisiana Apprenticeship 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 the proposed amendment 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 Statement

This proposed amendment of LAC 61:I.1909 will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the amended regulation 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 amended regulation 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 Brad 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 4:00 p.m., Tuesday, November 29, 2022.

Public Hearing

A public hearing will be held on Wednesday, November 30, 2022, at 10:00 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kevin J. Richard, CPA
Secretary, Department of Revenue

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Apprenticeship Tax Credits

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

The purpose of this proposed regulation is to amend LAC 61:I.1909 to implement the portion of Act 454 of the 2021 Regular Session relative to the Apprenticeship Tax Credit Program. Act 454 provides an apprenticeship tax credit for tax periods beginning after December 31, 2021. Act 454 allows a non-refundable credit against income and franchise tax equal to \$1.25 per hour of employment with a five-year carryforward for each eligible apprentice. The Act defines an "eligible apprentice" as one who has either entered into a written apprenticeship agreement under Chapter 4 of Title 23 of the Revised Statutes or was enrolled in a training program accredited by the National Center for Construction Education and Research with at least four levels of training and five hundred hours of instruction. The proposed rule provides for administration of the tax credit program such as administering the cap on a first-come, first-serve basis, the application process, the documentation that will be required of employers claiming the credit and providing for disallowance and recapture provisions. No material impacts on expenditures to state or local government entities are anticipated due to this proposed rule change.

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

Act 454 provides a nonrefundable tax credit against income and franchise tax to employers equal to \$1.25 for every hour an eligible apprentice works. The credit requires a minimum of 250 hours worked in a taxable period, and the credit is capped at \$1,250 per eligible apprentice. Act 454 sets an annual aggregate cost cap of \$2.5 million for the apprenticeship tax credit. Assuming that credit uptake for the apprenticeship tax credit remains comparable to similar tax credits offered in the past, the estimated impact would be a state general fund revenue loss of \$1.2 million annually. No material impact on revenue collections to local governmental units is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NON-GOVERNMENTAL GROUPS (Summary)

No material aggregate impacts on costs or economic benefits are anticipated for affected persons, small business or non-governmental groups due to this proposed rule change. In order to claim the tax credit, taxpayers must attach a copy of supporting documentation to support eligibility for the credit. Any additional costs for completion and submission of the required paperwork of this proposed rule are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated.

Kevin J. Richard, CPA
Secretary of Revenue

Alan Boxberger
Interim Fiscal Officer

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§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:

1. 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
- 2.a. 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;
- b. has successfully completed no less than two levels of training; and
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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.

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

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Act 454 provides a nonrefundable tax credit against income and franchise tax to employers equal to \$1.25 for every hour an eligible apprentice works. The credit requires a minimum of 250 hours worked in a taxable period, and the credit is capped at \$1,250 per eligible apprentice. Act 454 sets an annual aggregate cost cap of \$2.5 million for the apprenticeship tax credit. Assuming that credit uptake for the apprenticeship tax credit remains comparable to similar tax credits offered in the past, the estimated impact would be a state general fund revenue loss of \$1.2 million annually. No material impact on revenue collections to local governmental units is anticipated.

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IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated.

Kevin J. Richard, CPA
Secretary of Revenue

Alan Boxberger
Interim Fiscal Officer

Fiscal and Economic Impact Statement For Administrative Rules

Person preparing

statement:

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617 North Third Street
Baton Rouge, LA 70802

Department: Revenue

Office: Policy Services Division

Rule Title: LAC 61:I.1909 Apprenticeship Tax Credit

Date Rule

Takes Effect: January 20, 2023

Summary

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the *Louisiana Register* with the proposed agency rule.

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

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Signature of Agency Head or Designee

Kevin J. Richard, Secretary

Typed Name and Title of Agency Head or Designee

Date of Signature



Legislative Fiscal Officer Designee

Alan Boxberger, Interim Fiscal Officer

Typed Name of Legislative Fiscal Officer Designee

10/7/22
Date of Signature