

NOTICE OF INTENT
Department of Revenue
Policy Services Division
Restaurant Oyster Shell Recycling Tax Credit
(LAC 61:I.1933)

Under the authority of R.S. 47:1511 and 6043, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, proposes to adopt LAC 61:I.1933 to effectively administer R.S. 47:6043 relative to the restaurant oyster shell recycling tax credit.

Act 404 of the 2023 Regular Legislative Session (“Act 404”) enacted R.S. 47:6043, which authorizes an income tax credit for Louisiana restaurants that donate oyster shell material to the oyster shell recycling program of the Coalition to Restore Coastal Louisiana or a Department approved oyster shell recycling program. The credit authorized by Act 404 may be claimed for taxable years beginning between January 1, 2024 and December 31, 2028. The credit is refundable and may be applied against corporation, individual, and fiduciary income taxes for the year in which donations are made. The primary purpose of this proposed regulation is to implement Act 404.

The proposed Rule is written in plain language in an effort to increase transparency.

Title 61
REVENUE AND TAXATION

Part I. Miscellaneous Tax Exemptions, Credits and Deductions

Chapter 19.

§1933. Restaurant Oyster Shell Recycling Tax Credit

A. Definitions

CRCL—the Coalition to Restore Coastal Louisiana.

Compensation—for purposes of this section, any amount of payment in any form that contributes to an entity’s profit.

Department—the Department of Revenue.

OSRP—an oyster shell recycling program or activity certified by the department for purposes of this credit. The CRCL is considered an OSRP.

Restaurant—a “food establishment” as defined by LAC 51:XXIII.101 that

- a. holds a State Health Department Permit to Operate.
- b. has an owner or designated employee possessing a state food safety certificate.
- c. collects, accounts for, and remits state sales tax to the department.

Taxpayer—a person who is required to file a Louisiana income tax return.

B. General Description

1. For taxable years beginning on or after January 1, 2024 but before January 1, 2029, taxpayers are eligible for the restaurant oyster shell recycling tax credit for donations of oyster shell material by restaurants to the oyster shell recycling program of the Coalition to Restore Coastal Louisiana or other oyster shell recycling program or activity approved by the department. The credit is a refundable income tax credit and is limited to \$2,000 per restaurant.

2. OSRPs are certified by the department to receive donations eligible for the tax credit. Only donations to the CRCL or an OSRP qualify for the credit.

C. Claiming the Tax Credit

1. Taxpayers claiming the restaurant oyster shell recycling credit must attach Form(s) R-90154, Receipt for Restaurant Oyster Shell Recycling Credit, to their return. The receipt shall contain the information set forth in this paragraph and must be issued by the OSRP to the donor on a quarterly basis, or monthly if approved by the department.

a. The OSRP section shall contain the following information:

- i. name and physical location address of the restaurant,
- ii. name of the OSRP,
- iii. beginning and ending dates of the donation period,
- iv. receipt number for tracking, and
- v. the total amount, in pounds, of oyster shell material donated by the donor to the OSRP during the donation period.

b. The donor section shall contain the following:

- i. legal name of the restaurant making the donation, whether an individual or entity, and

- ii. last four digits of the Social Security number, or Louisiana revenue account number, of the owner of the restaurant that donated to the OSRP, and
- iii. the amount of the credit.
- c. The amount of donated oyster shell material may be ineligible for the credit for failure to include any information required on the receipt.
- 2. The credit shall be claimed for the taxable year in which the donation was made.
 - a. Exception: Receipts issued on a quarterly basis shall be claimed for the taxable year in which the quarter ends.
- 3. If the total amount of credits claimed in a particular calendar year exceeds the \$100,000 annual cap, the Department shall treat the excess as having been applied for on the first day of the following year. To utilize the credits in the subsequent year during which the taxpayer's claim has priority, the taxpayer shall claim the credits on the subsequent tax year's return and file it prior to the end of the calendar year. If the taxpayer fails to file a return in the subsequent year, the credits shall lose their priority status.
- D. Application for Certification as an Oyster Shell Recycling Program
 - 1. An organization that seeks to become certified as an OSRP may apply for certification at any time during the year by submitting a completed Form R-90152, Application for Certification as an Oyster Shell Recycling Program to the department.
 - 2. The application shall contain:
 - a. The name, mailing and physical address, Louisiana revenue account number, and federal employer identification number of the OSRP.
 - b. Contact information, including an email address, for the OSRP's designated representative.
 - c. A statement detailing the planned method of calculating approximate weights of oyster shell material donated to the program.
 - d. A statement that the program intends use 100 percent of donated oyster shell material to improving water quality, benefitting aquatic habitats, supporting local economies, and protecting the coastline of this state.
 - e. A statement that the OSRP will not use or otherwise facilitate the use of donated oyster shell material for commercial aquaculture or as aggregate in commercial use.
 - f. A statement that the program will not receive or provide compensation for donated oyster shell material.
 - 3. Within two months of receipt of an application for certification as an OSRP, the department shall notify the applicant of their status by way of approval notated on the application to the email address designated on the application. The notification shall designate whether the OSRP is approved to issue quarterly or monthly receipts to donors. Certification is valid beginning January 1 of the year that an organization is approved.
 - 4. If the application is denied, the Department will inform the applicant of its grounds for denial and allow 15 business days from date of notification for the applicant to correct any defects. Grounds for denial include, but are not limited to:
 - a. Failure of the applicant to submit any information required by the application.
 - b. Failure of the applicant to submit any additional information requested by the Department.
- E. OSRP Reporting
 - 1. An OSRP shall submit a completed Form R-90154, Receipt for Restaurant Oyster Shell Recycling Credit, with a completed OSRP section to each donor on a quarterly basis, or monthly if approved by the Department.
 - 2. An OSRP shall file an annual report with the Department no later than January 31 of each year to OysterShell.RecyclingCredit@la.gov.
 - 3. The annual report shall contain the following information:
 - a. A certification that the OSRP continues to abide by the statements attested to in their OSRP application.
 - b. Copies of all receipts issued to donors during the prior calendar year.
 - c. A listing in Excel format of all donations made for the purpose of this credit. For every donation of oyster shell material made during the prior calendar year, include:
 - i. The date of donation, the weight of materials donated, in pounds, the restaurant name and physical location address, and the receipt number on which the donation is included.
 - ii. If issuing receipts quarterly, the last day of the quarter.
 - d. Notification to the department of changes that may affect certification eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:6043.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Planning and Policy Division, LR 50:

Family Impact Statement

The proposed Rule 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 Statement

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

Small Business Analysis

The proposed Rule is not expected to 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 Rule 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.
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Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Danielle Daniels, Attorney, Tax Policy and Planning Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by email at Danielle.Daniels2@la.gov. All comments must be received no later than 4:00 p.m., Tuesday, July 30, 2024.

Public Hearing

A public hearing will be held on Wednesday, July 31, 2024, at 10:30 AM in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. Should individuals with a disability need an accommodation in order to participate, contact Danielle Daniels at the address given above in the Public Comments section, by phone at (225)219-1781, or by e-mail at LDRadarequests@la.gov.

Richard Nelson
Secretary, Department of Revenue

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Richard Nelson
Secretary, Department of Revenue

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

Person Preparing Statement:	<u>Ashley Joseph</u>	Dept.:	<u>Louisiana Department of Revenue</u>
Phone:	<u>225-219-2259</u>	Office:	<u>External Reporting Division</u>
Return Address:	<u>617 North Third Street</u>	Rule Title:	<u>61:I.1933</u>
	<u>Baton Rouge, La 70802</u>	Date Rule Takes Effect:	<u>September 20, 2024</u>

SUMMARY
(Use complete sentences)

In accordance with Section 961 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 STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

Act 404 of the 2023 Regular Session of the Louisiana Legislature established a refundable tax credit for restaurants who donate oyster shell material to an oyster shell recycling program. The tax credit allowed is \$1 per 50 pounds of oyster material donated limited to \$2,000 maximum credit per restaurant. The credit is claimed for taxable years beginning between January 1, 2024 and December 31, 2028.

The proposed rule sets up the application process and the process of approving credits under the established \$100,000 cap on granted credits.

Implementation of this proposal will result in approximately \$52,750 of additional expenditures for computer system development and modification, tax form redesign, and testing. There are no anticipated implementation costs or savings to local governments.

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

The impact on revenue collections is an indeterminable decrease via reduced individual, fiduciary, and corporate income tax receipts. Act 404 limits total credits granted per calendar year to \$100,000. The credit amount is \$1 per 50 pounds of oyster material donated limited to \$2,000 maximum credit per restaurant. The credit amount would allow an individual restaurant to qualify for the credit for up to 100,000 pounds of shell material per taxable year.

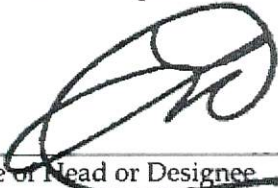
With no local income tax, there are no anticipated effects on revenue collections of local governments.

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

The proposed rule will impact restaurant owners who donate oyster shell material to an oyster shell recycling program (OSRP) to claim the refundable tax credit. The department created an application for OSRPs to apply for certification. However, applicants will also have to file an annual report no later than January 31 of each year with LDR. Additional costs for completion and submission of the required paperwork of this proposed rule are expected to be minor.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No material impact on competition or employment is anticipated due to this proposal.



Signature of Head or Designee

Wike Morris, Asst. Secretary
Typed Name & Title of Agency Head or Designee

6/6/2024
Date of Signature



Legislative Fiscal Officer or Designee

6/10/24
Date of Signature