

# DECLARATION OF EMERGENCY

## Department of Revenue Policy Services Division

Application of the New Markets Tax Credit Cap for 2009

(LAC 61:I.1911.1)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allows the Department of Revenue to use emergency procedures to establish rules, and R.S. 47:295, R.S. 47:6016 and R.S. 47:1511, which allow the Department to make reasonable rules and regulations, the Secretary of Revenue hereby finds that imminent peril to the public welfare exists and accordingly adopts the following Emergency Rule. This Emergency Rule shall be effective December 19, 2008, and shall remain in effect until the expiration of the maximum period allowed under the Administrative Procedure Act or the adoption of the final rule, whichever comes first.

This Emergency Rule is necessary to allow the Secretary to provide needed information to Louisiana taxpayers anticipating applying for Louisiana New Markets Tax Credits for investments made on or after January 1, 2009.

The amount of New Markets Tax Credits allowed to be certified by the Department in 2009 is capped at 12.5 million dollars. This credit is issued to taxpayers on a first-come, first-served basis.

To be issued New Markets Tax Credits from the 2009 credit pool, the qualified equity investment must be made on or after January 1, 2009. However, January 1 and 2, 2009, are state holidays and the Department will not be open to receive requests on these days. The Department not only anticipates that applications will be submitted on January 2, 2009, but also that the cap may be exceeded on January 2, 2009. This emergency rule details how the Department will treat applications received outside of Department operating hours and applications received on the same day when the total credit amounts requested that day exceed the credit cap.

### Title 61

### REVENUE AND TAXATION

### Part I. Taxes Collected and Administered

### By the Secretary of Revenue

### Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

#### §1911.1 Application of the New Markets Tax Credit Cap

A. January 1, 2009, and January 2, 2009, are state holidays; therefore, the Department will not be open for business on those days. As a result, all New Markets Tax Credits applications received by the Department January 1, 2009, through January 4, 2009, will be treated as received on January 5, 2009.

B. Applications for tax credits will be accepted and evaluated throughout the year, and credit certificates will be issued in the order in which completed applications are received. If the aggregate amount of credit applications received exceeds the amount of tax credits available, credits will be approved on a first-come, first-served basis, determined by the order of receipt.

C. All applications received on the same business day will be treated as received at the same time, and if the aggregate amount of credit applications received on a single business day exceeds the amount of credits available, credits will be approved on a pro rata basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:295, R.S. 47:1511 and R.S. 47:6016

HISTORICAL NOTE: Adopted by the Department of Revenue, LR 32:

**Cynthia Bridges**  
Secretary