PUBLICATION

Spotlight on Louisiana: 2015 Legislative Session Increases Tax Burdens to Balance State Budget

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Even though Louisiana's 2015 legislative session has concluded, the dust may be far from settled as to how increases in tax burdens meant to balance the State's budget will impact taxpayers. At least one industry trade association has already filed a lawsuit challenging the loss of its industry's tax exemption while others are threatening the same. Some gubernatorial hopefuls have promised to call a special session when they take office in the new year to reverse some of these new tax burdens. Below is a summary of some of the more significant increases in Louisiana tax burdens resulting from the 2015 legislative session.

Reductions in Tax Credits

- ***Motion Picture Investor Tax Credit** (**Acts 134, 144**)*
  - For productions initially certified after July 1, 2015 through June 30, 2018, a single production may not exceed $30 million in credits.
  - Until June 30, 2018, there is a $180 million cap per fiscal year on the aggregate amount of credits that may be claimed on returns and transferred to the State.
  - From July 1, 2015 through June 30, 2016, there is no State buy back.
  - With one exception for in-state post-production activities, the State will certify production expenditures only once.
  - Unused credits may only be carried forward for five years.
- ***Inventory Tax Credit (Act 133)***
  - In any taxable year for returns originally filed after July 1, 2015, only 75 percent of excess credits are refundable if taxpayer paid $10,000 or more of ad valorem taxes.
- ***Research and Development Tax Credit (Act 133)***
  - The credit is no longer refundable if claimed on any return originally filed on or after July 1, 2015.
- ***Solar Energy Systems Tax Credit (Act 131)***
  - Solar thermal systems no longer qualify for the credit.
  - No additional tax credits are allowed for equipment installed on a residence after credit claimed on initial system.
  - For a system purchased and installed on or after July 1, 2015 and before January 1, 2018, the credit cannot exceed $10,000.
  - Beginning July 1, 2015, the aggregate amount of credits granted per fiscal year for a purchased system is subject to a cap that declines to $5 million for returns filed on or after July 1, 2017, with no credits granted for purchased systems installed on or after January 1, 2018.

- For systems leased by residential users that are installed on or after January 1, 2014 and before January 1, 2018, the credit is 38 percent of the first $20,000 of the cost of purchase with eligibility subject to a ceiling on the system's cost.
- Beginning July 1, 2015, the aggregate amount of credits granted per fiscal year for a leased system is subject to a cap that declines to $5 million for returns filed on or after July 1, 2017, with no credits granted for systems installed after December 31, 2017.
- The cost of a system and its installation cannot be financed by the installer.

- ***Other Tax Credits Reduced (Act 125)***

  - With exceptions for amended returns and returns filed pursuant to an extension, the amount of the following credits is reduced if claimed on any return filed on or after July 1, 2015 but before June 30, 2018:
    - Credits arising from refunds by utilities;
    - Credits for employee and dependent health insurance coverage;
    - Angel Investor Tax Credit;
    - Digital Interactive Media and Software Tax Credit;
    - Sound Recording Investor Tax Credit;
    - Ports of Louisiana Tax Credit;
    - Import-export Cargo Tax Credit;
    - Technology and Commercialization Tax Credit; and
    - Musical and Theatrical Production Tax Credit.

Increases in Tax Penalties (Act 128)

- Effective as of July 1, 2015, the following penalties are increased:

  - Penalty imposed on dealers for failure to keep adequate records increased from $500 to $5,000;
  - Penalty imposed for failure to remit full amount of tax due with return imposed even if 90 percent or more of tax due is remitted;
  - Penalty for negligence increased to 10 percent; and
  - Penalty for large income tax deficiencies and willful intent now as high as 20 percent.

Reductions in Exemptions (HCR 8 and Act 120)

- Certain exemptions for sales of steam, water, electric power or energy and natural gas are suspended beginning July 1, 2015 through the 16th day after final adjournment of the 2016 Regular Session of the Louisiana Legislature.
- The amount of the exemption from severance tax allowed for a horizontal well that commences production of natural gas or oil on or after July 1, 2015 decreases as the price of gas or oil increases with no exemption allowed at $110 per barrel for oil and $7 per million BTU for natural gas.

Reductions in Rebates (Act 126)

- Mega Project Assistance rebate reduced by 20 percent for projects with energy consumption determination made on or after July 1, 2015.
- Quality Jobs Program rebate reduced by 20 percent for advance notifications filed on or after July 1, 2015.
- Corporate Headquarters Relocation Program rebate reduced by 20 percent for projects receiving invitation to apply on or after July 1, 2015.
- Competitive Projects Payroll Incentive Program rebate reduced by 20 percent for projects receiving invitation to apply on or after July 1, 2015.

Reductions in Corporate Income Tax Deductions (Acts 103, 123)

- For all claims for the net operating loss deduction on any return filed on or after July 1, 2015 through June 30, 2018, the net operating loss carryback is eliminated.
- With some exceptions, all claims for the following deductions on any return filed on or after July 1, 2015 through June 30, 2018 are limited to 72 percent: the deductions for government funding of public transportation operations, net Louisiana loss, Louisiana income tax refunds, dividends from banks and capital stock associations, expenses disallowed under Internal Revenue Code Section 280(C), net operating losses, otherwise includable interest and dividends, and the hurricane recovery benefits.
- As of July 1, 2015 through June 30, 2018, the percentage depletion rate and overall cap for oil and gas wells and for coal, metal and sulphur mines are reduced.

For more information about how this legislation may affect your business, or related matters, contact the author of this alert, Rob Wollfarth, or any of the attorneys from the Firm's Tax Group.