

PUBLICATION

Spotlight on Louisiana: Tax Credits are Music to the Ears

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Among its four entertainment incentives, Louisiana offers a sound recording income tax credit rebate (SRTC). A sound recording of music, poetry, or spoken-word performance made in Louisiana, in whole or in part, and intended for distribution or broadcast will yield a Louisiana state income tax credit rebate equal to 25 percent of each dollar spent on the recording in Louisiana. The statutory authority for the credit is Louisiana Revised Statutes 47:6023, enacted into law July 12, 2005. Louisiana's other three entertainment incentives are the [Digital Interactive Media and Software Tax Credit](#), the Musical and Theatrical Production Income Tax Credit and the [Motion Picture Investor Tax Credit](#). The Louisiana Office of Entertainment Industry Development (OEID), a division of the Louisiana Department of Economic Development, administers all four incentives.

Benefit of the Credit

The SRTC is calculated as a percentage of production expenditures made in Louisiana by a sound recording production company, defined as any company engaged in the business of producing sound recordings. The SRTC is earned by each investor in the sound recording production company who invests more than \$15,000 over a 12-month period if the investments are expended by the company directly in a qualifying sound recording project. If no one sound recording project over the 12-month period will exceed the \$15,000 threshold, an investor may aggregate multiple projects, provided that none of the aggregated projects exceeds the \$15,000 threshold.

Investors earn the SRTC at the time that the OEID certifies the sound recording production company's expenditures. After certification, the OEID submits a tax credit certification letter to the Louisiana Department of Revenue (LDR) on behalf of the investors who earned the SRTCs specifying the amount of credits earned. Upon receipt of the letter and any necessary additional information, the LDR makes payment to the investors in an amount equal to the dollar amount of SRTCs specified in the letter. The SRTCs also may be applied against any outstanding taxes, penalties and interest and the balance treated as an overpayment.

In contrast to the 85 cent per credit buy-back applicable to the Motion Picture Investor Tax Credit and the Digital Interactive Media and Software Tax Credit, the sound recording investor receives 100 cents on the dollar for each SRTC claimed. Additionally, unlike investors earning the Digital Interactive Media and Software Tax Credit or the Musical and Theatrical Production Income Tax Credit, which are both refundable credits, the investor earning the SRTC is not required to wait until filing a state income tax return to receive a refund.

Requirements

Qualifying sound recordings do not include the audio portions of dialogue or words spoken and recorded as part of television news coverage or athletic events. Additionally, the only expenses that will qualify for SRTCs are those that are directly related to the production of a sound recording. For a production, qualifying expenses include but are not limited to: travel (if purchased through a Louisiana travel agent), studio rental and fees, producer fee, composer fee, musicians' fees, and any other costs directly related to production. Non-qualifying expenses include but are not limited to: distribution, marketing, promotion, advertising, expenses incurred but not paid, expenses paid to a business that is not located in the state of Louisiana, and any costs not directly related to the production.

The SRTC law requires that an investor seeking to earn SRTCs with respect to a sound recording project obtain an initial certification of the project from the OEID by submitting an application on a form supplied by the OEID. The application must include:

1. a distribution plan;
2. a preliminary budget including Louisiana payroll;
3. the type of sound to be recorded;
4. principal creative elements including performing artist(s) and producer;
5. the name and address of the recording studio or other location where the recording production will take place;
6. a statement that the production will qualify as a state-certified production; and
7. estimated start and completion dates.

If the company's project qualifies, the OEID will issue an initial certification letter indicating the company's eligibility.

Upon completion of the sound recording project, the investor must submit to the OEID a cost report along with a CPA Certification Form, both prepared by an independent Louisiana CPA. However, if the sound record project's expenditures are \$50,000 or more, the investor must furnish an audited cost report. Following its review of the applicable report, the OEID will issue a tax credit certification letter indicating the amount of SRTCs earned.

Productions may be required to display the state brand or logo, or both, as prescribed by the OEID.

Special Rules and Limitations to Consider

SRTCs are not allowed for expenditures if Motion Picture Investor Tax credits were granted for such expenditures. However, if sound recordings are part of a motion picture and do not qualify for the Motion Picture Investor Tax Credit, they may qualify for the SRTC.

There is an aggregate cap of \$3 million per calendar year on the amount of SRTCs that the OEID will issue. The SRTCs are granted on a first-come, first-served basis based on when the proper cost report is submitted, which is determined by the date of a signed receipt via certified or registered mail, courier, hand or other delivery, or the date of proof of transmission via facsimile and/or by the OEID stamped and staff initialed date. Sound recording projects qualifying for SRTCs after the annual cap has been reached will automatically be placed in the queue to receive SRTCs in the next calendar year.

Any funds expended prior to the OEID's receipt of the official initial certification application will not qualify and will not be certified for SRTCs. This is in contrast to the Digital Interactive Media and Software Tax Credit and the Motion Picture Investor Tax Credit, which have 6- and 12-month look-back periods, respectively.

The SRTC is set to expire on January 1, 2015 unless renewed by the Louisiana Legislature.

Conclusion

The SRTC fits nicely within the foursome of state entertainment incentives that include tax credits for motion pictures, digital interactive media products and live performances. The SRTC should bring additional economic development to locations within the state of Louisiana that already have a rich musical heritage.

This Alert is part of a series of Tax Alerts designed to highlight many of the tax and economic incentives available in Louisiana. For previously issued Alerts included in this series, see our [May 11, 2011](#), [June 30, 2011](#), [September 21, 2011](#), [October 20, 2011](#) and [March 8, 2012](#) Alerts.

If you would like to discuss strategies for earning and maximizing your benefit from or have questions about the Louisiana Sound Recording Tax Credit, or questions regarding any other Louisiana tax issues, please contact this Alert's author, Rob Wollfarth, or any of the attorneys in the Firm's Tax Department.