

NOTICE OF INTENT

Department of Revenue Policy Services Division

Health Insurance Credit for Contractors of Public Works (LAC 61:I.1195)

Under the authority of R.S. 47:287.759, R.S. 47:287.785, R.S. 47:1511, R.S. 47:1601, and R.S. 47:1603, 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 adopt LAC 61:I.1195 relative to the administration of the health insurance credit for contractors of public works.

The purpose of this regulation is to explain the procedure employed for the administration of the health insurance credit allowed for public works contractors by R.S. 47:287.759 as enacted by Act 504 of the 2005 Regular Session of the Legislature.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Income: Corporation Income Tax

§1195. Health Insurance Credit for Contractors of Public Works

A. Louisiana Revised Statutes 47:287.759 allows for a tax credit against corporation income tax to contractors and subcontractors constructing a public work who offer health insurance to their employees and their dependents.

1. The amount of the credit is 2 percent of the total amount of the contract for the public work less any amounts paid to a subcontractor for a portion of the work performed by the subcontractor.

2. The total tax credit for all taxpayers is limited to \$3 million per calendar year.

3. At least 85 percent of the full-time employees must be offered health insurance. Contractors and subcontractors must pay 75 percent of the total premium for the health insurance of employees who choose to participate and at least 50 percent for each participating dependent of such employees.

4. Employees do not include independent contractors.

B. Definitions

Dependents—spouse and those persons who would qualify as dependents on the employee's federal income tax return.

Earnings—gross wages of the employee not including fringe benefits.

Health Insurance—coverage for basic hospital care, and coverage for physician care, as well as coverage for health care, which shall be the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employer who are exempt from the minimum wage and maximum hour requirements of the Federal Fair Labor Standards Act, 29 U.S.C.A. §201, et seq.

Public Work—a building, physical improvement, or other fixed construction owned by the state or a political subdivision of the state.

C. Procedure for Allocation of the Health Insurance Credit

1. The department will determine if the \$3 million cap on the health insurance credit has been exceeded after all possible extensions to file have passed for all taxpayers.

2. If the \$3 million cap on the health insurance credit is not exceeded and all applicable extensions to file returns have expired, contractors and subcontractors who earn the health insurance credit will be allowed the full amount of the credit properly claimed on their tax return with appropriate interest.

3. However, if more than \$3 million is claimed statewide, the department will allocate the credit on a pro rata basis in proportion to the amount of health insurance credit properly claimed on each employer's timely filed tax return. The allocation will be made after the filing deadline inclusive of all applicable extension periods.

a. Contractors and subcontractors claiming the health insurance credit and an overall refund of overpayment for the taxable year should file their return with the department.

i. The department will reduce the taxpayer's total refund of overpayment by the amount of the health insurance credit claimed on the tax return.

ii. An initial refund of overpayment, the amount of which is exclusive of the health insurance credit amount, will be sent to the taxpayer with a letter stating that the taxpayer's claimed health insurance credit will be held in abeyance until after the extended filing deadline and subsequently will be refunded with appropriate interest.

iii. The health insurance credit will be processed and refunded proportionately after the last extension for filing deadline.

iv. If the health insurance credit is reduced as provided by §1195.C.3 and the taxpayer owes additional money to the department, an assessment will be sent exclusive of penalties and interest if paid within 60 days.

(a) If the additional amount owed is paid within the 60-day period, the interest will be abated pursuant to R.S. 47:1601. Payment of the additional amount owed within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

(b) If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

b. Contractors and subcontractors who claim the health insurance credit and still owe additional taxes for the taxable year, should file their return with the department and remit payment with the return.

i. If the taxpayer's health insurance credit is reduced as provided by §1195.C.3, the taxpayer will receive an assessment for the difference without being subject to penalties and interest if paid within 60 days.

ii. If the additional amount owed is paid within the 60-day period, the interest will be abated pursuant to R.S. 47:1601. Payment of the additional amount owed within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

iii. If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

c. Contractors and subcontractors who claim the health insurance credit that reduce their tax liability to zero

for a taxable year should file their return with the department.

i. If the taxpayer's health insurance credit is reduced as provided by §1195.C.3 such that the taxpayer owes additional tax, the taxpayer will receive an assessment for the taxes owed exclusive of interest and penalties if paid within 60 days.

ii. If the additional amount owed is paid within the 60-day period, the interest is abated pursuant to R.S. 47:1601. Payment of the additional amount owed within the 60-day period will be considered to be a request for waiver of delinquent payment penalties pursuant to R.S. 47:1603 and will be granted.

iii. If the amount owed is not paid within the 60-day period, interest and penalties will be computed from the original due date of the return regardless of any extensions.

D. Information that must be submitted with the return in order to properly claim the credit:

1. statement that health insurance has been offered to at least 85 percent of the employees;
2. copy of the health insurance coverage plan from the insurance company;
3. number of full-time employees working for the contractor or subcontractor; and
4. amount of the contract for public work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.759, R. S. 47:1601, R.S. 47:1603, R.S. 47:287.785, and R.S. 47:1511.

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

Family Impact Statement

The proposed adoption of LAC 61:I.1195, regarding the health insurance credit for contractors of public works 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. 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 budgets;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be submitted no later than 4:30 p.m., Wednesday, January, 25, 2006. A public hearing will be held on Thursday, January, 26, 2005, at 2 p.m. in the River Room located on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Cynthia Bridges
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Health Insurance Credit for Contractors of Public Works

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

The implementation of this proposed regulation will require the addition of one Revenue Accounts Auditor with salary and related benefits of \$52,275 in Fiscal Year 2006/07 and expenses of \$15,000 for system modification and tax form redesign for Fiscal Year 2006-2007. These tax credits expire on December 31, 2007. As such, the Department of Revenue will incur recurring costs for this staff person at least through Fiscal Year 2008-2009.

The implementation of this proposed regulation will have no impact on state government costs or savings.

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

The proposed regulation explains the procedure to implement Act 504 of the 2005 Regular Legislative Session (SB 351). Act 504 is estimated to reduce State General Fund revenues by an amount not greater than \$3 million in total for Fiscal Years 2005/06, 2006/07, and 2007/08.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Statutory changes related to Act 504 of the 2005 Regular Legislative Session will decrease the tax payments of public works construction contractors who furnish certain health insurance coverage to their employees by an amount not greater than \$3 million in Fiscal Years 2005-2006, 2006-2007, and 2007-2008. Employees who would not otherwise have health insurance coverage may be provided this employment benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation should have no effect on competition or employment.

Cynthia Bridges
Secretary
0512#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office