

Louisiana's advantage

Tax credits allow companies to compete

BY SKIP DESCANT
Advocate business writer

When software firm Carrollton Technology Partners in New Orleans approached Cynergy Telecom Management about designing a system to help the Hattiesburg, Miss., company analyze long and complicated phone bills, Carrollton had a unique bargaining chip many technology firms outside Louisiana do not have access to.

Carrollton Technology could tap into digital media tax credits—a special form of state subsidy. That allowed Carrollton to make Cynergy a better deal than it was likely to get from another technology firm without access to incentive products like tax credits.

"It absolutely helped us get the job," said Chris Reade, a partner in Carrollton Technology.

The Cynergy job cost about \$117,000, according records with the Louisiana Economic Development Office of Entertainment Industry Development. The agency is responsible for managing various state incentive programs for digital media, film, sound recording and live theater projects.

Carrollton was able to reduce its cost by 35 percent because of the state incentive it would earn, a \$41,002 savings.

"So when we got \$41,000 of tax credits from the state, we were then able to split that savings with Cynergy, which was a big part of the sales process that got us the job in the first place," Reade explained.

"To the average person—and even a few techie and film types working in the industries eligible for these state-provided incentives—the language of tax credits can sound intimidating. In short, tax credits become cash in a developer's pocket. The money is ultimately paid by the state.

For movie projects alone, Louisiana paid \$180.7 million in tax credits from July 2010 to June 2011, said Greg Albrecht, chief economist with the Louisiana Legislative Fiscal Office. This surpasses \$156.2 million paid for projects the previous year.

Film projects, with their sizable in-state spending budgets, account for the lion's share of the incentive program's cost.

However, before any of this money is paid out, project managers or producers must round a number of bases.

For one, tax credits are issued after a project files an independent audit report with Louisiana

How tax credits work

Here's a step-by-step look at how Louisiana's tax credits generally work.

1. Say a film project earns, for simplicity, \$100 in tax credits. It can use the \$100 tax credit dollar-for-dollar against its state tax liability, or sell it to the state at a discount for \$85, or it can turn to a broker. If that happens:
2. A project manager then sells the tax credits to a broker at an agreed-upon rate. (Generally in the area of an 85 percent return.)
3. The broker writes an \$85 check to the film project. (Some processing and other fees may apply.)
4. For his \$85, the broker now owns \$100 worth of state of Louisiana tax credits, which can be sold to anyone with a state tax liability.
5. A state taxpayer buys the \$100 worth of tax credits from the broker at a discount, possibly about 90 percent. This reduces the taxpayer's tax liability by about 10 percent.
6. The taxpayer writes a \$90 check to the broker to get the \$100 in tax credits.
7. The taxpayer files the tax credits with his state tax income tax return to reduce his taxes.

Economic Development stating how much a movie production company or other qualifying firm spent in the state and what it was spent on.

The review process takes about 60 days, said Chris Stelly, director of Louisiana Economic Development's Office of Entertainment Industry Development, otherwise known as Louisiana Entertainment.

Once this review process is complete, Louisiana Entertainment issues the project a tax credit certification report outlining how much the project has earned in tax credits.

Depending on the project, there are several options for what comes next. If it's a film project, the production company can turn over its tax credits to the state's Department of Revenue for an 85 percent return.

For example, the 2010 Disney movie "Secretariat" spent slightly more than \$1 million in Louisiana, making it eligible, at 35 percent, for \$326,679 in tax credits, according to state records. Disney can request this money directly from the state in

what is known as a "refundable credit." In this case, the state keeps 15 percent and issues Disney a check for the other 85 percent. Or, Disney can sell its credits to a broker like FBT Film and Entertainment in New Orleans. Brokers generally buy tax credits at nearly the same rate as the state. Most film projects go the route of the state refund because it's a guaranteed rate, said Leonard Alsfeld, a broker with FBT Film and Entertainment.

With the guaranteed 85 percent return, studios "will actually bank that because of the state's guarantee and then borrow against it from their lending source," Alsfeld explained.

"It's created a really fluid market for films coming here, because now, instead of waiting until the end of the cycle, which could be six months after they finish principle photography, well now they get the ability to borrow against their bank source at just a slight discount of the state's 85 percent because they know the state's going to pay it. So it creates great liquidity," Alsfeld explained.

The state refund process is fairly easy and quick, say state officials.

"If a taxpayer decides to sell the credits back to the state, LED will certify the amount of credit to be refunded to the taxpayer. Once the proper documentation is received, we will issue the refund. Our objective is to issue the refund within 30 days of receipt if all of the proper documentation is provided," Byron Henderson, a spokesman for the Louisiana Department of Revenue, said in an email.

In the case of digital media projects, tax credits issued to a firm like Carrollton Technology must be sold to a broker like Alsfeld, a process that many find daunting, said Reade.

"Once I finally got hooked up with a broker who actually knew what he was doing ... two days later I have an EFT (electronic funds transfer) for the money," Reade recalled, noting Alsfeld's the broker he ultimately used. "As soon as I got hooked up with a broker, it literally was cash in our pockets two days later."

Alsfeld gave Carrollton an 88 percent rate of return for the credits he sold to FBT Film and Entertainment.

"It was great. I loved working with him," Reade said. "But I got introductions to two other brokers who never even called me back, and so it (tax credits) sat around for a few weeks."

A tax credit just sitting on someone's desk is sort of like a form of delayed payment, say digital media developers. And it's a delay they'd rather not have.

"For me personally—the way I see everything, whether it's my money or a customer's—if it's sitting there idle, it's worthless," said Carina Walker, CEO of InfiniteEdge Software in Prairieville. "Once you have been through the entire process and successfully acquired tax credits from the state, if the sale of these credits to another Louisiana taxpayer is delayed for an unspecified amount of time, it's a waste of everyone's time and effort."

"In 2011 we were thankful to be put in contact with a Louisiana-based brokerage firm who purchases all of our digital media tax credits immediately within a few days of when we receive the completed paperwork from the state," Walker said. "Previously, without a brokerage firm, we found the sale of tax credits to be very lengthy to complete and difficult to predict the turnaround. Having a quality brokerage firm that we could work with was really key to us being able to leverage the state's digital media incentives because businesses need some degree of certainty to invest their resources into any process," she said.

The life of a tax credit continues on in the hands of a broker, who then sells the credits to anyone with a state tax liability. That taxpayer then uses the credit as a form of coupon to reduce his tax bill, Alsfeld said. "This is simple. You write a check to a broker. And you get a state-issued, guaranteed certified credit with a 10-year life," Alsfeld explained.

"Anyone who owes the state money—above a certain threshold—has the opportunity to reduce their taxes by 10 or 12 or even 14 percent.

"The beauty of that is they are engaged in participating or benefiting from an activity that otherwise would have been somewhat exclusive to those that are working on a set," he added.

Buying tax credits from a broker is generally done by upper-income earners with a tax bill of at least \$5,000, say tax preparers, adding anyone wanting to explore this option further should consult his own tax consultant.

State law changes on Jan. 1,

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allowing digital media companies to refund their tax credits with the state at the 85 percent rate of return, just like the film projects.

"Number one, what I'm happy about is it definitely sets the

amount," Walker said, adding InfiNetEdge uses the credits to be competitive. "They won't be sold for lower than that, which is fantastic.

"So to know that we can be certain that these numbers are not going to be that volatile on what the value's going to be, that's kind of important to us," she added.

"You know what it's going to be," echoed Reade. "You don't have to wonder."

Reade does not foresee switching to refunding his digital media credits through the state, if only because he's happy with the broker process.

"The people who broker this stuff are pros," he remarked. "They're used to this process."

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Credit program details vary

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Film projects, theater productions, software development and album recordings all qualify for some sort of Louisiana tax incentive through a somewhat generous tax credit program within the Louisiana Department of Economic Development.

Tax credits operate as a form of state subsidy for the industries, offering the sort of leverage state officials have said is needed to lure these types of projects from more established markets like Los Angeles, Austin or New York City.

The details depend on the type of media:

MOVIE PROJECTS: They can earn tax credits amounting to up to 35 percent of the movie's budget spent in the state, assuming at least \$300,000 is spent in Louisiana.

There is no cap on what amount the state will fund.

The tax credits can be used by the production company to offset its own tax liability to the state at a simple 1:1 ratio.

Or, the production company can refund the credits back to the Louisiana Entertainment office, a division of the Louisiana Department of Economic Development, for an 85 percent return — the most common option, say of-

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“And we turn them (tax credits) over to (the Louisiana Department of) revenue, saying, ‘Yeah, they’ve transferred them back to the state of Louisiana. Go ahead and issue them a check,’” explained Chris Stelly, executive director of Louisiana Entertainment.

Or, the production company can sell its tax credits to a broker on the open market. **DIGITAL MEDIA PROJECTS:** This includes software development, video games and other technology projects, which have fewer options — for the time being.

These firms can sell their credits only to a brokerage firm, which generally offers assistance with the sometimes complicated paperwork process.

“In many cases, we’ve become the advocate to help them learn,” said Leonard Aisfeld, a broker with FBI Film and Entertainment. “They (digital media firms) need great counseling throughout the whole process.”

However, after the new year, digital media projects will be eligible for the same 85 percent direct refund from the state that film projects are eligible for, due to changes in state law.

LIVE PERFORMANCE TAX CREDIT: This is the newest entertainment industry incentive program and the only one like it in the country.

It allows for tax credits of up to 35 percent of a project's in-state budget. At least \$100,000 must be spent in Louisiana to qualify.

Also, theater renovation projects qualify for the tax credit program, though these credits are capped at \$10 million per project with a \$60 million annual state cap.

This means the most any one theater renovation or infrastructure-type project can earn is \$10 million in tax credits.

And state law does not allow Louisiana to pay out more than \$60 million per year in tax credits to live performance theater infra-

structure projects.

Like the other tax credit incentive programs, credits associated with the live-performance projects can be refunded at the 85 percent state rate or transferred to a broker at whatever the market rate proves to be.

SOUND RECORDING PROJECTS: They qualify for a 100 percent production rebate on 25 percent of the production costs occurring in the state. The project must spend at least \$25,000.

“It’s a direct refund — dollar-for-dollar,” Stelly said of the sound-recording incentive program.

“All of this is within LED,” Stelly said, explaining the process. “We review the submissions. We issue the tax credits. And then basically, (the Department of) Revenue’s role is to accept the credits.”