

Title 13
ECONOMIC DEVELOPMENT

Part I. Financial Incentives Programs

Chapter 9. Restoration Tax Abatement

901. General

A. Intent of Law: To encourage the expansion, restoration, improvement, and development of **existing commercial structures and owner-occupied residences** in downtown, historic, and economic development districts. To provide for the development and improvement of local communities, encourage the fullest use of underutilized resources, and enhancement of the tax base.

B. Program Description: The Restoration Tax Abatement Program provides to commercial property owners and homeowners who expand, restore, improve or develop an existing structure in a downtown development district, economic development district or historic district (the "project"), the right for five years after completion of the work, to pay ad valorem taxes based on the assessed valuation of the property prior to the commencement of the project.

1. The application is subject to approval by the local governing authority, the State Board of Commerce and Industry, and the Governor. Assessment of the improvements, made by the project to the property, is deferred for five years by a contract entered into with the Board of Commerce and Industry. The contract may be eligible for renewal, subject to the same conditions, for an additional five years. **The tax abatement is not available if property taxes have been paid on the improvements made by the project.** If the property is sold, the contract may be transferred, subject to local government and Board approval. (This program is for property owners, for work done to an existing structure, located in a qualifying district. Enterprise Zones or Economic Development Zones are not an RTA "economic development district", A909(C). Only equipment that becomes an integral part of the "existing structure" is exemptible.)

2. The program is administered by the Louisiana Department of Economic Development (LED), Business Incentives Services Division. For more information contact the Restoration Tax Abatement Program Manager, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185. Telephone 225-342-5340.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

(October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992).

903. Time Limits for Filing Application

A. The applicant shall submit an "Advance Notification" on the prescribed form **prior to the beginning of construction**. An advance notification fee of \$100 shall be submitted with the advance notification form. The phrase "beginning of construction" shall mean the first day on which foundations are started, or, where foundations are unnecessary, the first day on which installation of the facility begins. (This form should be filed ASAP after the decision to apply, or contemplate applying for this program.)

B. Application for tax exemption should be filed with Louisiana Economic Development (LED), Box 94185, Baton Rouge, Louisiana, 70804-9185 on the form prescribed prior to the beginning of construction. Failure to file an application prior to construction, may result in the application being denied.

C. An application fee (effective May 4, 1988) shall be submitted with the application:

1. Minimum application fee is \$200, maximum application fee is \$5000.
2. Please make checks payable to: Louisiana Economic Development.

D. LED reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost that have been accepted for eligible projects, shall not be refundable.

E. In order to include an application for the next scheduled meeting of the Board of Commerce and Industry, applications must be received a minimum of four (4) weeks prior to the next scheduled Screening Committee meeting date. The Authorized Board Representative, at his discretion, may accept certain applications beyond this date.

F. The board may restrict the years of eligible exemption, on the initial contract, if applicant submits the application after the required due date established by paragraph (B.) of this section.

G. If a property owner includes clauses in the lease agreement or correspondence relating to the Restoration Tax Abatement Program ("the program"), that the lessors have joined in and ratified all actions of the lessees, and the lease provisions make it evident that the property owner contemplated and bargained for an actual role in the property renovations and improvements, the lessee could make application for the program (Attorney General Opinion 84-483).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

(October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992).

905. Application Requirements

A. The application must be complete (any exceptions must be authorized by LED staff). All sections of the application form must be completed. Under Section 5, submit at least a one paragraph detailed description of the project with some historical overview, if applicable. For "ESTIMATED NO. OF JOBS", list only the **net new** permanent jobs that will be created as a result of the project being applied for; **do not list permanent jobs that existed prior to the beginning of the project**. In addition all applicable addendum documentation, listed under "Project Documentation," must be received. The application will be returned to the applicant if the required information is not received.

B. The expansion, restoration, improvement or development must be made to an existing structure and must be located in a downtown development district, economic development district, or historic district.

C. If the construction period is longer than two years, the project must be divided into two-year phases, and a separate application must be filed for each two-year increment. A separate application must be filed for each structure being restored, renovated, improved or developed. Exceptions to this paragraph must be approved in advance by the authorized representative of the Board and approved by the Board.

D. The expansion, restoration, improvement or development of a certified historic structure shall also be required to meet the National Park Service requirements for restoration projects known as The Secretary of the Interior's "Standards for Rehabilitating Historic Structures"; and, as interpreted by the Louisiana Department of Culture, Recreation, and Tourism, Division of Historic Preservation. As used in this Paragraph, the phrase "certified historic structure" means any building including its structural components, which: (a) Is listed on the National Register of Historic Places, or (b) Is located in a registered historic district and is listed as a contributing element of that district in the National Register records under authority of the Secretary of the Interior.

E. The Board of Commerce and Industry will not consider for tax exemption any expansion, restoration, improvement or development project if substantial completion of a commercial project occurred prior to October 15, 1982. For an owner-occupied residence, construction must not have been started prior to September 7, 1990.

F. Pursuant to R.S. 47:4315 (A) (4), under no circumstances will the Board of Commerce and Industry consider an application (or renewal application) for abatement on any project for expansion, restoration, improvement or development **once ad valorem taxes have been paid** on the basis of an assessed valuation that reflects the improvements made by the project. **For RTA applications where construction has been completed prior to filing the application**, submit a written, notarized certification (three copies) from the applicant on company or personal letterhead, referencing the RTA application number (or if a renewal, the contract number) and stating that:

"...taxes have not been paid on improvements for which an exemption is being applied for under the Restoration Tax Abatement Program pursuant to R.S. 47:4315, paragraph (A)(4)."
(See sample form)

G. When the expansion, restoration, improvement, or development is to be made to an owner-occupied residence, a contract of exemption shall not be available unless a **minimum rehabilitation cost equal to or greater than twenty-five percent** of the assessed valuation of the improvements located on the property prior to the commencement of the expansion, restoration, improvement, or development of the owner-occupied residence is incurred by the owner and such expansion, restoration, improvement, or development is completed within a twenty-four month period. Owner-occupied residence" means any structure occupied by the owner and used principally for residential use including condominium units, duplexes, and other multiple residence structures. Owner-occupied residence projects shall not have been started prior to September 1, 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

(October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992).

907. Project Documentation

A. Application is to be filed with Louisiana Economic Development (LED). Please return **four (4)** application forms completed with original signatures, and notarized. The application should include a **complete description** of the project. Attach additional pages if necessary.

B. **Four copies** of the following addendum documentation must be submitted with the application: (Please denote each document with one of the numbers below.) (Failure to submit sufficient copies may result in a processing delay.)

1. Proof of Ownership: Act of sale or option to acquire the property.
2. A legal property description (suitable for insertion into the exemption contract – retype if necessary), a plot map; a copy of the building permit issued for the project.
3. Picture of the structure before beginning the project and a rendering of the structure as it will appear after completion of the project.
4. Names and addresses of all owners (the general partner(s) or, the principal stockholders of the corporation).
5. The assessed value of the structure only (improvements) and the taxes paid on the structure only.
6. A copy of the tax invoice for the year prior to commencement of the project.

7. Written certification from the local governing authority that the structure is in a downtown development district, an historic district, or an economic development district specifically designated as such for this program.

8. If the project is a 'certified historic structure' as defined in Section 905 (D), written certification from the Louisiana Department of Culture, Recreation, and Tourism, Division of Historic Preservation that the project meets the National Park Service requirements for restoration projects known as The Secretary of the Interior's "Standards for Rehabilitating Historic Structures". This is mandatory if the project is located in downtown New Orleans or downtown Shreveport.

9. A statement certifying that the minimum rehabilitation cost incurred to the owner-occupied residence project will be equal to or greater than twenty-five percent of the assessed valuation of the improvements located on the property prior to the commencement of the expansion, restoration, improvement, or development.

10. A statement certifying that the owner-occupied residence project will be completed within a twenty-four month period.

11. In addition to the information required above, the applicant will furnish to LED any additional information applicable to the project.

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909. Local Governing Authority Certification and Approval

A. R.S. 47:4314 (B), requires the exemption to be certified and approved by each local governing authority that is defined in R.S. 47:4313(5):

"Local governing authority" means the governing authority of the parish in which the downtown, historic, or economic development district is located unless the district is located within a municipality, in which case "local governing authority" shall mean the governing authority of the municipality. If the district is located partly in a municipality, "local governing authority" shall mean the governing authority of the parish and the governing authority of the municipality.

B. Upon receipt of the application, the local governing authority shall notify each tax recipient body affected by the contract for a limited exemption and shall make available to each body the application and all supporting documents.

C. The parish or municipal governing authority shall certify that the property on which the expansion, restoration, improvement of development is being made is located within an established downtown, historic, or economic development district, whether established by a local governing authority or in accordance with law. This certification shall be submitted to the LED with its decision to approve or disapprove.

D. The local governing authority shall determine whether the applicant's land usage meets the definition of "commercial property" based on their zoning ordinance, land use plan, downtown or economic revitalization plan, or any other development code and shall certify that the property

meets their criteria. This certification shall be submitted to the LED along with their recommendation.

E. Before notifying the board of its approval or disapproval of the application, the local governing authority shall conduct a public hearing. Notice of the time and place of the hearing shall be published at least twice in the official journal of the local governing authority, and at least ten days shall elapse between the first publication and the date of the hearing. Each affected tax recipient body shall be given written notice of the hearing at least ten days prior to such hearing. After such hearing, the local governing authority shall determine whether to approve or disapprove the application.

F. The local governing authority shall, within sixty days after receipt of the application from LED, file with the department a statement of its decision to approve or disapprove the application, the reasons therefore, and any supporting documents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

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911. Effective Date Of Contract

A. The owner of the existing structure or structures, shall carefully document the beginning date of the effective use of the structure, and also document the date that construction is essentially complete. The contractee must file that information with LED on the prescribed **Project Completion Report** within 30 days following the last day of the month after effective use of the structure has begun or construction is essentially completed, whichever occurs first. LED will indicate with a return of a copy of that report the effective date of the tax exemption contract, which shall be December 31 of the calendar year in which effective use or operation of the structure began or construction was essentially complete, whichever was sooner.

B. As the assessment date for Orleans Parish is August 1, the effective date of contract for a structure located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

(October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992).

913. Affidavit Of Final Cost

Within six (6) months after construction has been completed, an **Affidavit of Final Cost** showing complete cost of the exempted project shall be filed on the prescribed form together with a fee of \$100 for the inspection that will be conducted by Louisiana Economic Development. (Make check payable to the Louisiana Economic Development.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

(October 1986), amended by the Department of Economic Development, LR 18:252 (March 1992).

915. Reports To Parish Assessor

The property owner agrees to file annually with the assessor of the parish in which the structure is located any taxpayer's report required by law on forms furnished by the assessor in order that the exempted property may be separately listed on the assessment rolls.

Notwithstanding the fact, taxes will be collected on the exempt property during the period of exemption at the assessed valuation of the property the year prior to the commencement of the expansion, restoration, improvement, or development of the property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

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917. Contract Can Be Transferred

If the property for which the limited exemption has been granted is sold, the limited exemption may be transferred for the remainder of its term to the new owner, provided such transfer is approved by the local governing authority, the Board of Commerce and Industry, and the Governor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

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919. Violation Of Rules Or Documents

On the Board's initiative or whenever a written complaint or violation of terms of the tax exemption rules or contract is received, Louisiana Economic Development shall cause to be made a full investigation on behalf of the Board, and LED shall have full authority for such investigation including, but not exclusively, authority to call for reports or other pertinent records or other information from the contractee. If the investigation substantiates a violation, LED may present the subject contract to the Board for formal cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

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921. Contract Renewal

A. Effective January 1, 1991, contracts may be renewed, subject to the same conditions, for an additional five years extending such right for a total of ten years from completion of the work.

B. In order to be eligible for renewal of an existing contract, the Project Completion Report, Affidavit of Final Cost, and contract addendum documents, must have been filed for the original contract; taxes cannot have been paid on the improvements pursuant to R.S. 47:4315(A)(4); and a renewal application form must be submitted. The following documentation should be submitted:

1. Four copies of the Renewal Application form containing current data.

2. A written, notarized certification (four copies) from the applicant, referencing the original application/contract number, that "taxes have not been paid on improvements exempted under contract number (number), for (owner name), pursuant to R.S. 47:4315, paragraph (A)(4) and the Restoration Tax Abatement Program rules."

3. A renewal fee check for \$50, payable to Louisiana Economic Development.

C. The same approval process, as used for the original application and contract, will be followed for renewal contracts. Applications must first be filed with Louisiana Economic Development. They will then be sent to the local governing authority for approval. If approved by the local governing authority, the application will be submitted to the Board of Commerce and Industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:4311-4319.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 11:98 (February 1985), amended LR 12:665

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