



Historical Note: The [original version of this Revenue Ruling](#) was published October 21, 2008. This revenue ruling has been amended to include provisions from Act 4 of the 2008 Second Extraordinary Session and Act 463 of the 2009 Regular Session. This Revenue Ruling supersedes the original version published October 21, 2008.

**Revenue Ruling
No. 08-011
October 8, 2009**

**Corporation Income Tax, Corporation Franchise Tax, Individual Income Tax
Frequently Asked Questions Regarding Louisiana New Markets Tax Credits**

The purpose of this ruling is to address common issues regarding Louisiana New Markets Tax Credits. The issues and responses detailed below represent the department's position and should serve as guidance to taxpayers applying for and claiming Louisiana New Markets Tax Credits.

The Louisiana New Markets Tax Credit is a credit for persons that have a qualified equity investment (QEI) in a qualified community development entity (CDE) on a credit allowance date. Among the requirements for a QEI is that substantially all of the investment must be used by the CDE to make qualified low-income community investments (QLICI) in Louisiana.

1. What qualifies as a "qualified equity investment" under La. R.S. 47:6016?

The Louisiana New Markets Tax Credit piggybacks the Federal New Markets Tax Credit (Federal NMTC). La. R.S. 47:6016(B)(4) provides that the QEI, QLICI, qualified low-income community business (QALICB) and "qualified business" shall have the same meaning given to them in Section 45D of the Internal Revenue Code..." and that "[n]o investment shall be considered a QEI unless it has also been designated as a QEI for the same amount and is eligible for tax credits according to the provisions of Section 45D of the Internal Revenue Code." Therefore, Louisiana's determination of a QEI and a QLICI is dependent upon the federal determination and if an investment qualifies as a QEI and QLICI for federal NMTC purposes, the investment qualifies as a QEI and a QLICI under Louisiana law as well.

2. Who is entitled to claim the State New Market Tax Credits (State NMTCs)?

La. R.S. 47:6016(C) states that any person who holds a QEI on a certain date may claim the State NMTC. Thus, any person who holds a QEI will be entitled to claim the credits as they are earned on the initial investment date and subsequent credit allowance dates.

3. How are the State NMTCs allocated among the members of an LLC?

An LLC is taxed and treated in the same manner for Louisiana income tax purposes as it is taxed and treated for federal income tax purposes. If an LLC is taxed as a corporation for federal income tax purposes, then it will be taxed as a corporation for Louisiana income tax purposes. If an LLC is considered a partnership for federal income tax purposes (the most common situation), then it is treated as a partnership for Louisiana income tax purposes.

Furthermore, pursuant to La. R.S. 47:204, items of income, loss, credits and deductions flow through to partners of a partnership as provided in the operating agreement. In the absence of an operating agreement, items of income, loss, credits and deductions flow through pursuant to the partner's distributive share in the partnership at the end of the partnership's tax year. If the partnership's operating agreement provides for special allocations, they will be permitted for Louisiana income tax purposes. Therefore, if an LLC is treated as a partnership for income tax purposes, and such LLC's operating agreement provides for a special allocation of State NMTCs to one or more members, State NMTCs will be allocated to such member or members as provided in the operating agreement and such member or members will be entitled to claim the credits as they are earned on the initial investment date and subsequent credit allowance dates.

If an LLC is a single member LLC it can elect to be classified as an association or to be disregarded as an entity separate from its owner. Treas. Reg. § 301.7701-3. If the LLC did not elect otherwise, it will be a disregarded entity for federal income tax purposes. If the LLC is a disregarded entity for federal income tax purposes, it will be treated as a disregarded entity for Louisiana income tax purposes as well. Credits earned by a disregarded entity will be considered to be earned by the sole member, who will be entitled to claim the credits as they are earned on the initial investment date and subsequent credit allowance dates.

4. If new members are admitted to an LLC or if a current member's interest is transferred/sold subsequent to the initial credit allowance date, are the new members entitled to claim State NMTCs?

Any natural or juridical person that owns an interest in an investor in a CDE on a credit allowance date will be allowed to claim a percentage of credits available to the investor in the CDE on that date. Credit allowance date means with respect to any QEI the date on which such investment is initially made and the first two anniversaries of such date and with respect to QEIs issued prior to July 1, 2007, the date on which the initial investment is made and the first six anniversaries of such date. La. R.S. 47:6016 (B)(3)

If an operating agreement is in effect at the time of the passing of a credit allowance date, the credits will flow through as detailed in the operating agreement. For example, if the operating agreement provides that 100% of the credits will flow through to a member that has a 1% interest in the LLC or provides that credits shall flow through to the original members which may no longer be members of the LLC, without regard to federal partnership rules regarding special allocations, the credits will flow through as detailed in the operating agreement.

5. May an investor in a CDE or its members transfer/sell to one or more other taxpayers all or part of the State NMTCs to which it is entitled on each credit allowance date?

La. R.S. 47:6016(F) provides that any tax credits not previously claimed by any taxpayer against its income or franchise tax may be transferred to another Louisiana taxpayer subject to certain conditions. If an investor has credits that it has not previously claimed, they may be transferred as provided in the State NMTC statute and regulations promulgated thereunder.

With regard to credits which have been earned by virtue of the passing of a credit allowance date, the investor may transfer all or any portion of the credits they are entitled to claim but have not themselves claimed or transferred.

With regard to credits which have not been earned yet, but will be earned upon the arrival of future credit allowance dates, the rights to receive future credits can only be transferred by transferring an interest in the investor.

When transferring the credits, the transferor should issue to the transferee a New Markets Transfer Form, R-10613, available on the department's web page at www.revenue.louisiana.gov. The transferor/original investor must update their New Markets Tax Credit Summary Sheet, which will be issued when their application is approved, each time the credit is transferred and send an updated summary sheet to the Department within 30 days of the sale.

If the transferor is not the original investor, they will not have a Tax Credit Summary Sheet. They will use the New Markets Transfer Form to notify the department of a sale. The transferee must submit the New Market Transfer Form with their return to claim the credits.

6. Must the proceeds from the sale of a member's interest in an investor, who earned State NMTCs, be reinvested in that same investor?

No. La. R.S. 47:6016 does not provide that the sales proceeds from the sale of an interest in an investor, who earned State NMTCs, must be reinvested into that same investor.

7. When are the State NMTCs earned?

La. R.S. 47:6016 provides that a natural or juridical person that holds a qualified equity investment which, in turn, has been invested in a qualified low income community investment on a credit allowance date of such investment which occurs during the taxable year may claim a credit against the person's Louisiana income or corporation franchise tax for such taxable year equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment which, in turn, has been invested in qualified low-income community investments for such credit allowance date. The credit allowance date is the date on which such investment is initially made and the applicable anniversaries of such date as provided in La. R.S. 47:6016 (B)(3). Hence, the credit is earned on each credit allowance date that a person holds a qualified equity investment which in turn has been invested in a qualified low income business.¹ The amount of the credit earned on each credit allowance date is equal to the product of the multiplying adjusted purchase price by the applicable percentage as provided in La. R.S. 47:6016 (B)(2).

8. Must the holder of the State NMTCs reduce its basis in the investment in a manner similar to the basis reduction required for federal credits by 26 USC §45D(h)?

Basis is not a factor in computing Louisiana income tax liability. However, Louisiana income tax liability does begin with federal items of income and expense. To the extent that the basis reduction provided for in 26 USC 45(h) impacts the investor's federal items of income and expense, this impact will affect the investor's Louisiana income as well. Nevertheless, the basis reduction provided for in 26 USC 45(h) will not affect the availability of State NMTCs.

¹ As of the date of this publication, the department's position has changed regarding the date the State NMTCs are earned. Private Letter Rulings that reference the department's position described in the original version of this Revenue Ruling are not superseded by this ruling.

9. Applicable provisions and treatment for QEIs made prior to July 1, 2007:

State NMTCs are earned on the initial credit allowance dates and six subsequent credit allowance dates. On the first three credit allowance dates, 1% of the credits earned are allowed. On the last four credit allowance dates, 2% of the credits earned are allowed. The department is prohibited from granting more than five million dollars of credits per year.

La. R.S 47:6016(B) also provides for the calculation of the adjusted purchase by stating:

The adjusted purchase price shall mean the product of:

(a) The amount paid to the issuer of the qualified equity investment for such qualified equity investment and which, in turn, has been invested in qualified low-income community investments.

(b) A fraction, the numerator of which is the dollar amount of qualified low-income community investments held by the issuer of the qualified equity investments in the state determined as of the immediately preceding credit allowance date, and the denominator of which is the total dollar amount of qualified low-income community investments made by the issuer determined as of the immediate preceding credit allowance date.

To apply the statute in calculating the investor's adjusted purchase price, the investor must multiply the amount of the QEI which in turn has been invested in a QALICB, by a fraction the numerator of which is composed of the dollar amount of QLICIs made by the CDE in the state as of the immediately preceding credit allowance date. However, on the initial credit allowance date the dollar amount of QLICIs made by the CDE immediately preceding the credit allowance date is impossible to determine since no investments had been made on the "immediately preceding" credit allowance date.

Similarly, the denominator of the fraction used to determine the investor's adjusted purchase price would be the dollar amount of total QLICIs made by the CDE determined as of the "immediately preceding" credit allowance date. On the initial credit allowance date the "immediately preceding" credit allowance date is impossible to determine because on the immediately preceding credit allowance date, no investment had been made by the investor.

To illustrate the absurd result of a faithful application of the language of La. R.S. 47:6016(B) prior to the 2007 Regular Session amendments, consider the following example. Investor Corporation invests \$5 million dollars into a CDE that will further invest the \$5 million dollars in a QALICB. The investor hopes to earn State NMTCs in return for the investment.

Under La. R.S. 47:6016(B) the first credit allowance date is the date Investor Corporation makes the \$5 million investment. The credit earned on that date is an applicable percentage times the adjusted purchase price.

The adjusted purchase price under the language prior to the amendments of the 2007 Regular Session is the product of \$5 million times a fraction. The numerator of the fraction is dollar amount of QLICIs held by CDE in the state, determined as of the *immediately preceding* credit allowance date, and the denominator is the total dollar amount of QLICIs issued to the CDE determined as of the *immediately preceding* credit allowance date.

On the first credit allowance date, which is the date Investor Corporation makes the \$5 million investment, the adjusted purchase price would be \$5 million times a fraction. The fraction would be zero divided by zero, since there was no immediately preceding credit allowance date. In mathematical terms, zero divided by zero is not anything. It is an “undefined” value. The calculation required by the statute is impossible. Even if the immediately preceding credit allowance date were assumed to be the date of the investment, rather than the preceding credit allowance date, if CDE waits even one day to make the QLICI the fraction would still be zero divided by zero.

On the second credit allowance date, which is the anniversary of the date on which the initial investment was made, unless the CDE made its QLICI on the day of the initial investment, the fraction would be zero divided by zero again. An investor who took the action for which the Legislature created an incentive would receive none of the incentive.

As a result, applying the fraction to the amount of the QEI, which in turn has been invested in a QALICB, yields an undefined number. Louisiana Civil Code Article 9 states, “When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature.” *Richard v. Hall*, 2003-1488 874 So.2d 131 (La. 4/23/04). In this instance, how to calculate the adjusted purchase price is clear and unambiguous; however, the calculation will yield an undefined amount, which is absurd.

Because application of La. R.S. 47:6016(B)(1), as written, yields an absurd result, “the letter of the law must give way to the spirit of the law and the statute so as to produce a reasonable result.” *Hall*, (874 So.2d 131 (citing *Swat 24*, 2000-1695 808 So.2d). Fortunately, during the 2007 Regular Session, the definition of adjusted purchase price was amended to provide as follows:

(b) A fraction, the numerator of which is the dollar amount of qualified low-income community investments held by the issuer of the qualified equity investment in the state, determined as of the credit allowance date for which the calculation is made, and the denominator of which is the total dollar amount of qualified low income community investments made by the issuer, determined as of the credit allowance date for which the calculation is made. ...

This amendment corrected the absurdity by removing the wording “immediately preceding” from the statute. For the purpose of calculating the adjusted purchase price for credits issued before July 1, 2007, the department will apply the definition of adjusted purchase price as amended in Act 379 of the 2008 Regular Session.

10. Applicable provisions and treatment for QEIs made after July 1, 2007 and before April 1, 2008:

La. R.S. 47:6016 provides that a natural or juridical person that holds a qualified equity investment which, in turn, has been invested in a qualified low income community investment on a credit allowance date of such investment which occurs during the taxable year may claim a credit against the person’s Louisiana income or corporation franchise tax for such taxable year equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment which, in turn, has been invested in qualified low-income community investments for such credit allowance date. The credit allowance date is the date on which such

investment is initially made and the applicable anniversaries of such date as provided in La. R.S. 47:6016 (B)(3). La. R.S. 47:6016 also provides that on the first and second credit allowance dates, only 10% of the QEI invested on the initial credit allowance date is available to be claimed or transferred. On the third credit allowance date, only 5% of the QEI is available to be claimed or transferred. Additionally, La. R.S. 47:6016(B) as amended provides for the calculation of the adjusted purchase by stating:

The adjusted purchase price shall mean the product of:

(a) The amount paid to the issuer of the qualified equity investment for such qualified equity investment and which, in turn, has been invested in qualified low-income community investments.

(b) A fraction, the numerator of which is the dollar amount of qualified low-income community investments held by the issuer of the qualified equity investment in the state, determined as of the credit allowance date for which the calculation is made, and the denominator of which is the total dollar amount of qualified low income community investments made by the issuer, determined as of the credit allowance date for which the calculation is made. ...

La. R.S. 47:6016(B)(1)(b) also provides:

For purposes of the initial credit allowance date only, the issuer of the qualified low-income community investment will be deemed to hold the amount of qualified low-income community investments, both in the state and outside the state, that the issuer projects in the applications for the qualified equity investment submitted pursuant to subsection E of this Section. If the issuer of the qualified equity investment fails to make sufficient investments in the state to match such projections by the first anniversary date of its credit allowance, the state may disallow or recapture a portion of the credits from the holder of the qualified equity investment so that the credit earned for the initial credit allowance date reflects the actual investments made by the issuer.

Lastly, La R.S. 47:6016(B)(1)(c) provides that the maximum amount of QLICIs that may be issued by a single business shall not exceed \$15 million.

Therefore, the adjusted purchase price is the QEI times a fraction. The numerator of the fraction is dollar amount of QLICI made by the CDE in the state, determined as of credit allowance date for which the calculation is made or, for the initial credit allowance date, the dollar amount an investor projects will be made in the state, and the denominator is the total dollar amount of QLICI made by the CDE determined as of the credit allowance date for which the calculation is made or, for the initial credit allowance date, the dollar amount an investor projects will be made.

However, sometimes this calculation yields an absurd result. For example, an investor invests in a CDE that issues two separate QEIs: QEI A made on December 23, 2005, \$10 million invested in Louisiana; and QEI B made on December 27, 2005, \$5 million invested in Texas. One hundred percent of the QLICIs made from QEI A were invested in Louisiana; however, in the aggregate, the two QEIs were used to fund QLICIs both inside and outside of Louisiana.

Applying the statute as written, in order to calculate the initial adjusted purchase price, all of the QLICIs made by the CDE on or before December 23, 2005 would have to be considered. Only one of the two QEIs described above was made on or before December 23, 2005, the \$10 million Louisiana investment (QEI A). From the \$10 million dollar investment, a total of \$10 million in QLICIs were made, all of which were made for use in Louisiana. Applying the statute as written, to determine the initial adjusted purchase price, the \$10 million investment would be multiplied by a fraction, the numerator of which is \$10 million (the total amount of QLICIs made in Louisiana on or before December 23, 2005) and the denominator of which is \$10 million (the total amount of QLICIs made by the CDE as of December 23, 2005), which amounts to \$10 million multiplied by 100 percent, which equals \$10 million. Therefore, in this instance, the investor's initial adjusted purchase price is 10 million dollars.

However, once the \$5 million QEI B is made and the \$5 million QLICI is invested in Texas, then the ratio for QEI A will be reduced applying the current version of the law. By the next credit allowance date for QEI A, the new ratio would be as follows: the \$10 million investment would be multiplied by a fraction, the numerator of which is \$10 million (the total amount of QLICIs made in Louisiana on or before December 23, 2006) and the denominator of which is \$15 million (the total amount of QLICIs made by the CDE as of December 23, 2006), which amounts to \$10 million multiplied by 66 percent, which equals \$6.6 million. Consequently, because QEI B was invested in another state (Texas), the investor's adjusted purchase price for QEI A on December 23, 2006 would only be \$6.6 million even though 100 percent of QEI A (10 million dollars) was made in Louisiana.

Though the law is clear and unambiguous relative to calculating the adjusted price, the result is unfair and absurd. Louisiana Civil Code Article 9 states, "When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature." *Richard v. Hall*, 2003-1488, 874 So.2d 131 (La. 4/23/04). *Richard v. Hall* also provides that, "the letter of the law must give way to the spirit of the law and the statute so as to produce a reasonable result." (874 So.2d 131, 148 (citing *SWAT 24 Shreveport Bossier, Inc. v. Bond*, 2000-1695, p. 12, 808 So.2d 294, 302 (La. 6/29/01)).

La. R.S. 47:6016 provides that the purpose of this legislation is to "encourage and attract private sector capital investment" to certain areas in the state. However, applying the law as written would discourage Louisiana investment because there is no way to ensure and protect their investment. The legislative intent is satisfied by counting only those QLICIs that were made from specific qualified equity investment for which State NMTCs are sought in the calculation of the "adjusted purchase price" under La. R.S. 47:6016(B)(1).

Consequently, the adjusted purchase price for an investor will not be adjusted as a result of other QEIs made by an investor or other investors into a CDE whether such QLICIs are within or outside of Louisiana.

11. Applicable provisions and treatment for to QEI's made on or after April 2008:

La. R.S. 47:6016(C) of the State NMTC statute enables any natural or juridical person that holds a QEI which, in turn, has been invested in a QALICB on a credit allowance date to claim a credit against such person's Louisiana income or corporate franchise tax liability for such taxable year. The State NMTC statute itself is modeled upon, and incorporates part of, the Federal NMTC. For

purposes of calculating the amount of State NMTCs available on a per project basis, (i) Section 6016(B)(1)(c)(ii) of the State NMTC statute imposes a maximum, per project cap of \$5,000,000 in QEI issued on or after April 1, 2008 but before December 1, 2009, which amounts to a per project cap of \$1,250,000 in state NMTCs, and (ii) Section 6016(B)(1)(c)(iii) of the State NMTC statute imposes a maximum, per project cap of \$7,500,000 in QEI issued on or after December 1, 2009. In addition, La. R.S. 47:6016(E) of the state NMTC statute (i) limits the aggregate amounts of State NMTCs available to all taxpayers to \$50,000,000 over the life of the program, as set forth in the schedule described below. La. R.S. 47:6016(B) as amended also provides for the calculation of the adjusted purchase by stating:

The adjusted purchase price shall mean the product of:

(a) The amount paid to the issuer of the qualified equity investment for such qualified equity investment and which, in turn, has been invested in qualified low-income community investments.

(b) A fraction, the numerator of which is the dollar amount of qualified low-income community investments held by the issuer of the qualified equity investment in the state, determined as of the credit allowance date for which the calculation is made, and the denominator of which is the total dollar amount of qualified low income community investments made by the issuer, determined as of the credit allowance date for which the calculation is made.

La. R.S. 47:6016(B)(1)(b) also provides:

For purposes of the initial credit allowance date only, the issuer of the qualified low-income community investment will be deemed to hold the amount of qualified low-income community investments, both in the state and outside the state, that the issuer projects in the applications for the qualified equity investment submitted pursuant to subsection E of this Section. If the issuer of the qualified equity investment fails to make sufficient investments in the state to match such projections by the first anniversary date of its credit allowance, the state may disallow or recapture a portion of the credits from the holder of the qualified equity investment so that the credit earned for the initial credit allowance date reflects the actual investments made by the issuer.

The aggregate amount of credit for all QEIs issued to taxpayers on or after April 1, 2008 shall not exceed fifty million dollars based on the following schedule:

- A. A maximum of twenty five million dollars of the total aggregate amount of credit shall be available for issuance during the period beginning April 1, 2008 and ending December 31, 2008.
- B. A maximum of twelve million five hundred thousand dollars of the total aggregate amount of the credit plus any unissued credits from any prior taxable year shall be available for issuance during the period beginning on January 1, 2009 and ending November 30, 2009.
- C. A maximum of twelve million five hundred dollars of the total aggregate amount of credits, plus any unissued credits from any prior taxable year, shall be available for issuance beginning December 2009 and ending December 31, 2010.

12. With respect to the maximum amount of QLICIs that may be issued by a single business:

The State NMTC statute allows any natural or juridical person that holds a QEI which has been invested in a QALICB on a credit allowance date to claim a credit against such person's Louisiana income or corporate franchise tax liability for such taxable year. The amount of Louisiana credits for which each QEI is eligible is determined by the QEI's adjusted purchase price. The purpose of this calculation is to limit the generation of Louisiana credits to that portion of the QEI invested in QLICIs in Louisiana. The State NMTC statute also imposes certain limits on the amount of QLICIs that may be issued by a single Louisiana business and used to calculate a QEI's "adjusted purchase price." In particular, the statute states:

(i) The maximum amount of [QLICIs] that may be issued by a single business, on an aggregate basis with all of its affiliates, and be included in the calculation of the fraction described in La. R.S. 47:6016(B)(1)(b) for [QEIs] issued after July 1, 2007, and before April 1, 2008, whether to one or more issuers of [QEIs], shall not exceed fifteen million dollars.

(ii) For [QEIs] issued on or after April 1, 2008 and before December 1, 2009, the maximum amount of [QLICIs] that may be issued by a single business, on an aggregate basis with all of its affiliates, and be included in the calculation of the fraction described in La. R.S. 47:6016(B)(1)(b), whether to one or more issuers of [QEIs], shall not exceed five million dollars. For [QEIs] issued on or after April 1, 2008, the maximum amount of [QLICIs] that may be issued by a single business that are consistent with Department of Economic Development target industries shall not exceed fifteen million dollars.

(iii) For [QEIs] issued on or after December 1, 2009, the maximum amount of [QLICIs] that may be issued by a single business, on an aggregate basis with all of its affiliates, and be included in the calculation of the fraction described in La. R.S. 47:6016(B)(1)(b) whether to one or more issuers of [QEIs], shall not exceed seven million five hundred thousand dollars. The maximum amount of [QLICIs] that may be issued by a single business that are consistent with Department of Economic Development target industries shall not exceed fifteen million dollars.

Each paragraph quoted above sets forth a limitation on the amount of QLICIs that may be issued by a particular QALICB but also states that the limitation is only on what may be "included in the calculation of the fraction described in La. R.S. 47:6016(B)(1)(b)" with respect to QEIs issued within a particular period. The limitations on the amount of QLICIs that may be issued by a single business are tied to the QEIs from which they are made and the period during which the QEI was issued. Consequently, a limitation from a prior period would not prevent a QALICB from issuing a QLICI in a current period. For example, a single QALICB may (i) issue a QLICI in the amount of \$15 million to a CDE using the proceeds from a QEI issued between July 1, 2007 and April 1, 2008 and (ii) issue another QLICI in the amount of \$5 million to a CDE (or the same CDE), using the proceeds from a QEI issued between April 1, 2008 and December 1, 2009.

13. With respect to recapture of State NMTCs:

La. R.S. 47:6016(G) of the Statute provides, in pertinent part, that to avoid recapture of State NMTCs, (a) the issuer of a QEI that earned State NMTCs must maintain QLICIs in Louisiana "in an amount at least equal to the amount used in calculating the credits issued through all

anniversaries of the credit allowance date of such qualified equity investment” and (b) a recapture of any federal NMTCs arising out of the QEI must not have occurred.

La. R.S. 47: 6016(B)(3) of the Statute defines “credit allowance date” for qualified equity investments made after July 1, 2007 as “the date on which such qualified equity investment is initially made and the first two anniversaries of such date.” Although the “all anniversaries” language of La. R.S. 47:6016(G) of the statute can be read literally to require the qualified low-income community investment to be maintained in Louisiana indefinitely (i.e., through “all anniversaries of the credit allowance date”), this is clearly not the legislative intent because it would lead to the absurd result that a QLICI would have to be maintained forever. Because the “all anniversaries” language of La. R.S. 47: 6016(G) of the Statute, as written, yields an absurd result, “the letter of the law must give way to the spirit of the law and the statute so as to produce a reasonable result.” *Richard v. Hall*, 2003-1488, 874 So.2d 131 (La. 4/30/2004).

A reasonable interpretation of this language, when viewed in the context of the Statute as a whole, is that the words “all anniversaries” as used in La. R.S. 47:6016(G) of the Statute refer to the first two anniversaries of the credit allowance date, as set forth in the definition of “credit allowance date” in La. R.S. 47:6016(B)(3) of the Statute for QEI made after July 1, 2007. Accordingly, to avoid recapture of State NMTCs for failing to maintain a QLICI in Louisiana, La. R.S. 47:6016(G) of the Statute requires the issuer of a QEI to maintain the QLICI in Louisiana only until the second anniversary of the date on which the QEI is initially made. Additionally, to avoid recapture of State NMTCs as a result a federal recapture of NMTCs, La. R.S. 47:6016 G requires the avoidance of any recapture of the federal NMTCs arising out of the QEI until the second anniversary date of the date on which the QEI was initially made. After the second anniversary of the date on which the QEI is initially made, the State NMTCs issued with respect to the QEI will no longer be subject to recapture under La. R.S. 47: 6016(G).

14. After January 1, 2009, the department will no longer accept private letter ruling request as applications for State NMTCs. Applications must be submitted to the Taxpayer Services Division. See application: [New Markets Tax Credit Application](#) Certification from LED or proof of deemed certification must be received by the department before any credits will be issued.

Interested parties should contact Policy Services Division at 225-219-2780

Cynthia Bridges

Secretary

By: Nina S. Hunter, Attorney

Policy Services Division

A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.