



# **Procrastinators' Programs <sup>SM</sup>**

**Restoration Tax Abatement (RTA): Why the RTAs  
program is the best and most often overlooked LA  
tax incentive**

**Jaye A. Calhoun, *McGlinchey Stafford*  
Amanda J. Butler, *McGlinchey Stafford***

**Course Number: 0200131218**

**1 Hour of CLE**

**December 18, 2013**

**3:40 – 4:40 pm**

Jaye Calhoun is a member in McGlinchey Stafford's New Orleans office. She has served as Chair of the Louisiana State Bar Association Section on Taxation in 2004-2005, and is currently the Chair of the New Orleans Bar Association Tax Law Committee. Jaye is Chair-Elect of the State and Local Tax Subcommittee of the American Bar Association, and previously served as the Chair of the ABA's Government Submissions & Legislative White Paper Subcommittee. She is Board Certified in both Taxation and Estate Planning and Administration by the Louisiana Board of Legal Specialization, and is a former attorney for the Internal Revenue Service.

Jaye has spoken to numerous professional and community groups on tax-related issues and has been featured in Louisiana *SuperLawyers* as one of the top twenty-five women attorneys in Louisiana and on WWL radio as a tax law expert. She is a frequent contributor to professional publications and authored the chapter on "Local Taxes" in *Bender's State Taxation: Principles and Practice*. She has also contributed to Lexis-Nexis "Practice Insights" on Louisiana law and frequently writes the Recent Developments in Taxation column for the Louisiana Bar Journal. Jaye has published extensively on taxation and dealing with tax agencies and teaches courses in state and local taxation at Tulane Law School and Loyola Law School in New Orleans, in the online graduate tax program at Northeastern University in Massachusetts, and has taught in Georgetown Law Center's SALT Certificate Program since 2012. Jaye's practice in the business section focuses on federal, state and local taxation and regulatory issues, nonprofit, hospitality and health-care related tax issues, Louisiana state entertainment tax credits, estate planning and planned giving, business planning and formation as well as tax audits and tax litigation.

As Chair of the Task Force on Business Activity Taxes and Nexus of the ABA Section of Taxation State and Local Tax Committee, Jaye served as Editor-In-Chief of a special report, published in the ABA Tax Lawyer (State and Local edition) in 2009, addressing the issues involved in state and local government imposition of business activity taxes on nonresident businesses. As vice chair, Jaye initiated a task force to work with private and public practitioners to promote transparency and accountability in state tax administration and to protect taxpayer rights.

## Professional Affiliations

- American Bar Association, State and Local Tax Committee (Chair-Elect); Subcommittee on Government Submissions and Legislative White Papers (former Chair)
- Louisiana State Bar Association, Section of Taxation (former Chair, 2004-2005); Estate Planning Advisory Commission
- The New Orleans Bar Association, Tax Law Committee (Chair)
- Association for Corporate Growth Louisiana, Board Member (Secretary)
- New Orleans Estate Planning Council
- Women's Professional Council
- National Council on Planned Giving
- Women in Film and Television, Louisiana, Steering Committee

## Honors

- *Martindale-Hubbell* preeminent AV Peer Review Rated Lawyer
- *The Best Lawyers in America*® (Litigation & Controversy - Tax, Tax Law)

- *Louisiana Super Lawyers* Estate Planning & Probate, Tax
- Top Lawyer: Tax Law, Elder Law, Trusts and Estates, *New Orleans Magazine*, 2012
- Top 25 Women, *Louisiana Super Lawyers*, 2010
- Women of the Year, New Orleans *CityBusiness*, February 2006
- Role Model, YWCA, 1999

### Community and Other Activities

- Spring Fiesta Association, Board Member
- American Red Cross, Southeast Louisiana Chapter, Board Member
- Junior League of New Orleans, Sustainer
- New Orleans Video Access Center, Board Member

### **ATTORNEY OVERVIEW**

**Amanda Butler** is a senior associate at McGlinchey Stafford in New Orleans whose practice is concentrated in the areas of real estate, public finance and commercial finance and corporate law. In addition, Amanda has closed several new market tax credits transactions representing investment funds and leveraged lenders and state and federal historic tax credit transactions representing developers. Most recently, Amanda has helped secure a Restoration Tax Abatement (RTA) for a New Orleans timeshare property, saving the owners of the property over \$400K in ad valorem property taxes over the next five (5) years and helping to preserve one of the oldest buildings on Canal Street in the French Quarter.

### **EDUCATION**

Ms. Butler received her J.D. from Loyola University School of Law in 2007 and her B.S. in Journalism from Louisiana State University in 2000.

### **PROFESSIONAL AFFILIATIONS/MEMBERSHIPS**

National Association of Bond Lawyers, Government Finance Officers Association, New Orleans Area of Finance Professionals, Commercial Investment Division of the New Orleans Metropolitan Association of Realtors

### **ADMITTED TO PRACTICE**

State of Louisiana

# **Restoration Tax Abatements: RTAs**

**Why RTAs are the most often  
overlooked tax incentives in  
Louisiana**



**Presented by:**

**Amanda Butler and Jaye Calhoun**



## RTA Program

- The RTA Program is administered by the LED in conjunction with the local governing authority (where property is located).
- The program provides a five-year abatement of ad valorem property taxes on renovations and improvements of existing commercial structures and owner-occupied residences

## Eligibility: Structures

- All Louisiana businesses and homeowners with existing structures to be expanded, improved or developed in qualifying locations
- Qualifying locations include:
  - Economic Development Districts
  - Downtown Development Districts
  - Historic Districts
  - Listed on the National Register of Historic Places

Call the LGA to confirm property is in a qualifying district

## Eligibility: Expenses

### **Eligible Expenses:**

- Actual building and materials investment
- machinery and equipment investment
- labor and engineering expenses

### **Non-Eligible Expenses**

- Acquisition costs
- “soft” costs, i.e. – legal expenses
- movable/personal property



# Client Considerations

- **Valuation of the RTA:**
  - Determine how the applicable LGA values the property – i.e. commercial or residential
  - What impact will renovation have on that valuation?
  - Cost vs. benefit analysis
  - Will RTA be eligible for renewal?
- **Timeline:**
  - Must not have begun construction
  - Depending on LGA, can take as much as a year
- **LGA Requirements:**
  - Orleans requires a DBE Participation/Plan, which affects contractors used and how jobs are bid out

## Restoration Tax Abatement Program Timeline

- 1) Advance Notification – must be filed prior to construction
- 2) Application – should be filed with LED as soon as feasible after construction begins, complete online or download application and mail
- 3) Local Governing Authority – once LED application is received, LED forwards to LGA and LGA staff presents application for approval at a local hearing
- 4) Approval – After LED receives a resolution from the LGA, the application is scheduled for Board of Commerce and Industry approval

# Application Process

## **LED Application**

- Before construction, applicant must submit an Advance Notification to the LED and pay the filing fee
- Easy process: use the LED FASTLANE website:  
<https://fastlane.louisianaeconomicdevelopment.com/>

## **Local Governing Authority Application**

- Before filing an advance notice with the LED, review with the local governing authority where the project is located to determine the requirements for their approval of an RTA application.

## Application Process (Continued)

### **LED**

- Once construction has completed, submit the LED application through the fastlane website.
- Within 90 days after operating, complete:
  - Project Completion Report
  - Affidavit of Final Costs

### **Local Governing Authority**

- The LED will forward your application to the local governing authority for approval by resolution. If the local governing authority is the City of New Orleans, you will have substantial additional requirements to fulfill before getting approved

## Timeline (cont.)

- 5) After approval by the Board of Commerce and Industry, a contract is drafted for signature by the applicant and the Governor
- 6) Contract is forwarded to the contractee, local assessor and LGA.
- 7) Within 90 days after completion of construction- applicant must file Project Completion Report
- 8) Within 6 months of project completion/ operation, applicant must file an Affidavit of Final Costs

## LED Advance Note

- Must be filed before construction commences – use LED's FASTLANE website, create a user ID and password to complete advance notification, submit \$100 fee
- Fastlane can be used for multiple LED incentive programs (including Enterprise Zone, Quality Jobs, Industrial Tax Exemption and RTAs)

com/Advance.aspx?uid=w07WqPkWw022ajw/TW0dxg%3d%3d

Web Slice Gallery

**LED** LOUISIANA ECONOMIC DEVELOPMENT

Signed in as: abutle1978 | Log Out

**FASTLANE**

**Choose Incentive Portal**  
 When you registered for Fast Lane, you registered as a user for both business incentives and entertainment incentives. Each of these incentive types has a different portal with different functionality. The default is set to display business incentives. Please click the dropdown below to switch to the desired portal.

FASTLANE [Go]

**SEND AN ADVANCE NOTIFICATION**

1 ADD ADVANCE → 2 SUBMIT PAYMENT → 3 CONFIRMATION

**STEP 1: ADD ADVANCE**  
 \* Required Field

**BUSINESS INFORMATION**

Business Name: XYZ Project Number: Pending  
 Click here, if this is not the correct business.

\*Project Begin Date: [ ] \*Project End Date: [ ]  
 Date is required

Project Type: Start Up/New [v]

\*Project Name: [ ]

\*Project Address Line 1: 601 Poydras, 12th Floor

Project Address Line 2: [ ]

\*City: New Orleans State: Louisiana [v] \*Zip Code: 70130

If this address is not the physical location for this project, please add another location by clicking here

## LED Application

- Application will require the following information:
  - Project Description
  - Estimated Building & Materials
  - Machinery & Equipment
  - Labor & Engineering
  - Construction Payroll/ number of jobs
  - # of new jobs from project



## Local Governing Authority Requirements

- Each local governing authority has separate requirements, Becky Lambert at the LED can explain who you need to speak with at your local governing authority concerning the RTA approval
- Ultimately you need a resolution approving the RTA by your local governing authority

## What about Orleans?

- Carefully review the City's RTA Document Checklist
- Contact Tracey Jackson with the Mayor's Office of Economic Development to determine eligibility
- City Policy does not allow for RTAs on properties that have received RTAs in the past 20 years, no renewals for residential structures

## Orleans Document Checklist

- Before and After appraisal
- Pro Forma
- Other tax breaks
- Cost benefit analysis
- Eligibility Certification
- Before and After Pictures
- DBE Participation Plan/ Good Faith Efforts

## Orleans DBE Participation

- Orleans Parish adopted City Ordinance 70.432.1 which provides that a 50% local business and 35% DBE participation goal for all public spending or private projects that utilize public funding and/or incentives. This applies to commercial projects and residential projects with more than 6 units.

## Orleans: DBE Participation

- Needs to be a key consideration, prior to construction
- If you cannot meet the goal of 50% local business and 35% DBE participation, you must show that you made a good faith attempt to achieve such DBE participation
- rarely is a project able to meet the DBE requirements – so setting up a plan with the Office of Supplier and Diversity is critical

## Orleans Score Card

- Orleans Uses a scoring system for determining whether a project should receive a recommendation for approval
- Understanding the scoring process is critical to knowing whether your client will receive a favorable score

## Types of scorecards

- Mixed-Use Residential with more than 4 units (generates sales taxes)
- Mixed-Use Residential with more than four units (does not generate sales taxes)
- Commercial
- Residential

#	Scorecard criteria	Weighting	Results	Score
1	Deadline: Advance Note filed prior to construction:4/12/10	5		
2	RTA applicant's estimated project investment total is reflected in their declared building permit(s) job value.  Partial Credit: Applicant may receive half the possible points if the project's declared value is no less than 5% of the RTA investment.	30		
3	A minimum renovation investment of 25% of the pre-improvement improvement basis value of the existing structure is being satisfied.	20		
4	Project expansion does not extend beyond 10% of the original footprint / exterior walls.	10		
5	An "as-is appraisal of the value of the land and improvements before rehab and a "post-appraisal of the proposed improvements have been provided by a duly qualified appraiser.	5		
6	Property Taxes are up to date.	10		
7	DBE Goal Met: 50% local business and 35% DBE participation or good faith efforts.	20		
	<b><u>TOTAL</u></b>	100		
	BONUS: Permanent Jobs created as a result of the project.	10		
	<b><u>FINAL TOTAL</u></b>	110		



## Orleans Scorecard evaluation

- Score  $\geq$  80 points:
  - Important that your declared job value listed on your building permit = the amount of hard costs listed in your RTA application
  - Supplement your building permit, if the values don't match, especially if you are applying for a residential structure. Half credit for a 5% difference.

## RTA Renewal?

- An RTA can be renewed for an additional five (5) years
- Renewal application must be filed with the RTA and LGA approval must also be received
- Currently, Orleans Parish will not approve RTA renewals, but there are exceptions, and policies can change

## Conclusion

- RTAs are the most often overlooked incentive because many clients do not realize the potential savings until its too late to apply
- RTA adds value to the project which can maximize the potential for success