

**HOUSE SUMMARY OF SENATE AMENDMENTS****HB 735****2016 Regular Session****Abramson**

TAX RETURN: Provides relative to the deadlines for the payment of certain taxes and the time and place for the filing of certain income tax returns

**Synopsis of Senate Amendments**

1. Add provisions limiting the claiming of a transferable income or corporation franchise tax credit on a tax return by requiring either the effective date of the transfer be on or before the due date of the return or that the transferor and transferee execute a binding transfer agreement on or before the due date of the return.
2. Add authorization for a transferred tax credit to be applied to allowable tax liability due for the year that the credit was originally earned or until the carryforward period of the credit is exhausted.
3. Authorizes transferred tax credits to be applied against a taxpayer's tax liability, penalties, and interest but prohibits a transferable tax credit from being claimed as a credit on a tax return.
4. Add authorization for a transferred tax credit to be applied against allowable tax interest and penalty due if the carryforward period of the credit has not expired.
5. Change the applicability provisions of the bill from taxable periods beginning on and after Jan. 1, 2016 to income tax periods beginning on and after Jan. 1, 2016 and to corporation franchise tax periods beginning on and after Jan. 1, 2017.

**Digest of Bill as Finally Passed by Senate****Corporate Income Tax Returns**

Present law requires corporate income tax returns made on the basis of the calendar year to be made and filed with the secretary on or before the 15<sup>th</sup> day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year.

Proposed law changes present law for claims made on the basis of the calendar year from requiring that returns be filed on or before the 15<sup>th</sup> day of the April following the close of the fiscal year to requiring that returns be filed on or before the 15<sup>th</sup> day of May following the close of the fiscal year.

Proposed law changes present law as it relates to returns made on the basis of a fiscal year from requiring that returns be filed on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year to requiring that returns be filed on or before the 15<sup>th</sup> day of the 5<sup>th</sup> month following the close of the fiscal year.

**Partnership and Composite Returns**

Proposed law requires income tax returns for partnerships made on the basis of the calendar year to be made and filed with the secretary on or before the 15<sup>th</sup> day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed with the secretary on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year.

Proposed law requires composite returns required to be made for an entity treated as a partnership for state income tax purposes made on the basis of the calendar year shall be made and filed with the secretary on or before the 15<sup>th</sup> day of May following the close of the calendar year. Composite returns required to be made for an entity treated as a partnership for state income tax purposes made on the basis of a fiscal year shall be made and filed with the secretary on or before the 15<sup>th</sup> day of the 5<sup>th</sup> month following the close of the fiscal year.

Present law requires returns made on the basis of the calendar year to be made and filed with the secretary on or before 15<sup>th</sup> day of April following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year with the secretary.

Proposed law changes present law as it relates to returns made on the basis of a calendar year from requiring that returns be filed on or before the 15<sup>th</sup> day of April following the close of the fiscal year to requiring that returns be filed on or before the 15<sup>th</sup> day of May following the close of the calendar year.

### **Payment of Taxes**

Present law requires the total amount of tax on a calendar year return to be paid on the 15<sup>th</sup> day of April following the close of the calendar year. However, if the taxpayer files a calendar year return prior to that date, the taxes shall be paid when the return is filed.

Present law requires the total amount of tax on a fiscal year return to be paid on the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year. However, if the taxpayer files a fiscal year return prior to that date, the taxes shall be paid when the return is filed.

Proposed law changes the date to pay taxes filed on calendar year returns from April 15<sup>th</sup> to May 15<sup>th</sup> and changes the date to pay taxes filed on fiscal year returns from the 4<sup>th</sup> month to the 5<sup>th</sup> month following the close of the calendar year and fiscal year respectively.

Present law requires, for purposes of corporate franchise taxes, the tax to be paid on or before the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the month in which the tax is due. The tax is computed on the basis of the previous calendar or fiscal year closing and is due on the first day of each calendar or fiscal year and annually thereafter.

Proposed law changes the date for the payment of corporate franchise taxes from the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the month the tax is due to the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the month the tax is due.

Present law provides for general administrative provisions for credits against income and corporation franchise tax. Further provides, with respect to, transferable income or corporation franchise tax credits that a person is not required to apply a transferable credit against his own tax liability prior to transferring the credit, that the credit can only be applied against tax, that if a person acquires a credit through transfer the credit can be used to pay any outstanding tax liability for the tax against which the credit was originally granted and any related penalty and interest, and that the tax credit can not be claimed on a tax return prior to the effective date of transfer.

Proposed law retains present law but specifies that if a taxpayer is claiming a transferable tax credit on a tax return, the effective date of transfer must be on or before the due date of the return, inclusive of extensions. Further provides that if a taxpayer is claiming a transferable tax credit on a tax return with an effective date of transfer after the due date of the return, including extensions, the credit may be utilized as a payment of tax liability.

### **Transferable Income or Corporation Franchise Tax Credits**

Present law prohibits a tax credit from being claimed on a tax return or utilized as a payment prior to the effective date of transfer between the transferor and transferee. Further provides

that in order to utilize a credit on a tax return, the effective date of transfer must be on or before the due date of the return, without regard to the granting of any extension. A tax credit with an effective date of transfer after the due date of the return may be utilized as a payment.

Present law provides that a credit acquired through transfer can be applied to any allowable tax liability that is due for the year the credit was originally earned or to any year afterward until the applicable carryforward period is over.

Proposed law changes present law to require that in order to claim a credit on a tax return, either the effective date of transfer shall be on or before the due date of the return or the transferor and transferee shall have executed a binding agreement to transfer the credit on or before the due date of the return. Proposed law requires the agreement between the parties to be on a form approved by the secretary.

Proposed law defines "effective date of transfer" as the date of transfer as reflected in the Tax Credit Registry.

Proposed law authorizes a credit acquired through transfer to be applied to any allowable tax liability that is due for the year the credit was originally earned or to any year afterward until the applicable carryforward period is over.

Proposed law provides that a tax credit with an effective date of transfer or an executed transfer agreement entered into after the due date of the return shall only be applied to allowable tax, penalty, and interest but the credit shall not be claimed as a credit on a tax return. Further provides that a credit acquired through transfer that is applied as a payment may be applied to any allowable tax liability, interest, and penalty that is due provided that the applicable carryforward period of the credit has not expired.

Applicable for income tax periods beginning on and after Jan. 1, 2016 and to corporation franchise tax periods beginning on and after Jan. 1, 2017.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:103(A), 287.614(A)(1), 287.651(A)(1), and 609(A) and R.S. 47:1675(H)(1)(e), (f), and (g) as enacted by Act No. 23 of the 2016 1 E.S.)