

2017 Regular Session

HOUSE BILL NO. 102

BY REPRESENTATIVE LEGER

TAX/CORP INCOME: Repeals the state income tax deduction for federal income taxes paid for purposes of calculating corporate income tax

1 AN ACT

2 To amend and reenact R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A),
3 to enact R.S. 47:55(6), and to repeal R.S. 47:287.79, 287.83, and 287.85, relative to
4 corporation income tax; to provide relative to the deductibility of federal income
5 taxes; to repeal deductibility of federal income taxes paid for purposes of calculating
6 corporate income taxes; to provide for applicability; to provide for an effective date;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A) are
10 hereby amended and reenacted and R.S. 47:55(6) is hereby enacted to read as follows:

11 §55. Deductions from gross income; taxes generally

12 In computing net income, there shall be allowed as deductions all taxes paid
13 or accrued within the taxable year except:

14 * * *

15 (6) Federal income taxes paid by corporations and entities taxed as
16 corporations.

17 * * *

18 §93. Period for which deductions and credits shall be taken

19 * * *

1 B. The proper year in which to claim deductions for federal income and
2 excess profits taxes allowable under the provisions of R.S. 47:55 shall be determined
3 as follows, regardless of the method of accounting regularly employed by the
4 taxpayer:

5 (1) The amount of tax shown to be due upon the federal income tax return
6 of the individual taxpayer, as filed, shall be allowed as a deduction in the state
7 individual income tax return for the same period as that for which such federal return
8 is filed.

9 (2) Federal income and excess profits taxes paid after the filing of the federal
10 return in addition to the amount disclosed to be due by the return as filed shall be
11 allowed as a deduction ~~in~~ on the state individual income tax return for that period if
12 it is not prescribed. If it is prescribed, the deduction for such additional taxes shall
13 be allowed as a deduction in the state return for the period in which such additional
14 tax is paid. ~~This Subsection shall apply to all such payments after December 31,~~
15 ~~1973.~~

16 * * *

17 §241. Net income subject to tax

18 A. The net income of a nonresident individual ~~or a corporation~~ subject to the
19 tax imposed by this Chapter shall be the sum of the net allocable income earned
20 within or derived from sources within this state, as defined in R.S. 47:243, and the
21 net apportionable income derived from sources in this state, as defined in R.S.
22 47:244, less the amount of federal income taxes attributable to the net allocable
23 income and net apportionable income derived from sources in this state. The amount
24 of federal income taxes to be so deducted shall be that portion of the total federal
25 income tax which is levied with respect to the particular income derived from
26 sources in this state to be computed in accordance with rules and regulations of the
27 collector of revenue. Proper adjustment shall be made for the actual tax rates
28 applying to different classes of income and for all differences in the computation of
29 net income for purposes of federal income taxation as compared to the computation

1 of net income under this Chapter. Where the allocation of the tax is to be based on
2 a ratio of the amount of net income of a particular class, both the numerator and the
3 denominator of the fraction used in determining the ratio shall be computed on the
4 basis that such net income is determined for federal income tax purposes.

5 B. The net income of a corporation subject to the tax imposed by this
6 Chapter shall be the sum of the net allocable income earned within or derived from
7 sources within this state, as defined in R.S. 47:243, and the net apportionable income
8 derived from sources in this state, as defined in R.S. 47:244. Proper adjustment shall
9 be made for the actual tax rates applying to different classes of income and for all
10 differences in the computation of net income for purposes of federal income taxation
11 as compared to the computation of net income under this Chapter. Where the
12 allocation of the tax is to be based on a ratio of the amount of net income of a
13 particular class, both the numerator and the denominator of the fraction used in
14 determining the ratio shall be computed on the basis that such net income is
15 determined for federal income tax purposes.

16 * * *

17 §287.69. Louisiana taxable income defined

18 "Louisiana taxable income" means Louisiana net income; after adjustments;
19 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After adjustments"
20 means after the application of the net operating loss adjustment allowed by R.S.
21 47:287.86.

22 * * *

23 §287.442. Exceptions to taxable year of inclusion; taxable year deductions taken

24 * * *

25 B. Period for which deductions and credits shall be taken.

26 (1) ~~The taxable year in which to claim the federal income tax deduction~~
27 ~~allowed by R.S. 47:287.85 shall be determined as follows, regardless of the method~~
28 ~~of accounting regularly employed by the taxpayer:~~

1 (a) ~~The federal income tax deduction may be claimed for the same taxable~~
2 ~~year in which the federal income tax sought to be deducted is incurred, provided the~~
3 ~~taxpayer files a federal income tax return for such taxable year or is included with~~
4 ~~affiliates in a consolidated federal income tax return for such taxable year.~~

5 **(b)(i)** Taxable year for adjustments to taxpayer's federal income tax return.
6 Except as otherwise provided in this Subparagraph, adjustments affecting federal
7 taxable income which are made to the taxpayer's income tax return subsequent to
8 filing, whether made because of a deficiency proposed by the government, a court
9 order, an amended return, or other appropriate instrument or act, showing an
10 overpayment or a deficiency shall be taken into account for purposes of this Part in
11 the period for which the return was filed, unless the prescriptive period for the
12 collection of tax or the refund or credit of overpayments, as the case may be, has
13 expired. If the applicable prescriptive period has expired, the additional tax paid by
14 the taxpayer in the case of an underpayment or the refund or credit received by the
15 taxpayer in the case of an overpayment shall be for the taxable year such tax was
16 paid, such refund was received, or such credit was allowed, as the case may be.

17 **(ii) (b)** When a federal refund results from transactions or conditions which
18 arise after the close of the taxable year for which the refund is made, such federal
19 refund shall be taken into account, for purposes of this Part, for the taxable year in
20 which arose the transactions or conditions causing the refund.

21 (c) Taking federal adjustments into account. ~~A payment of additional federal~~
22 ~~tax upon income which has borne Louisiana tax shall be taken into account by~~
23 ~~decreasing taxable income. That portion, if any, of such additional federal tax~~
24 ~~payment which would be disallowed as a deduction under either R.S. 47:287.81 or~~
25 ~~R.S. 47:287.83 shall be excluded from such adjustment.~~ Refunds or credits of federal
26 overpayments, including refunds or credits created by the carryback of a federal net
27 operating loss, shall be taken into account by increasing Louisiana net income or
28 decreasing the Louisiana net loss, as the case may be. That portion, if any, of the
29 federal refund or credit of an overpayment which has not previously been charged

1 against or deducted from Louisiana net income shall be excluded from such
2 adjustment.

3 (d) Adjustments made to the Louisiana return. Adjustments to a return filed
4 pursuant to this Part, whether initiated by the secretary or the taxpayer, shall be taken
5 into account in the taxable year for which the return was filed in accordance with
6 rules, regulations, or forms prescribed by the secretary.

7 * * *

8 §300.6. Louisiana taxable income of resident estate or trust

9 A. Definition. "Louisiana taxable income" of a resident estate or trust means
10 the taxable income of the estate or trust determined in accordance with federal law
11 for the same taxable year, as specifically modified by the provisions contained in
12 Subsection B of this Section, less a federal income tax deduction to be computed
13 ~~following the provisions of R.S. 47:287.83 and 287.85~~in accordance with the
14 following provisions:

15 (1) In computing Louisiana taxable income, no federal income tax deduction
16 shall be allowed on net income upon which no Louisiana income tax has been
17 incurred, or upon which, for any reason whatsoever, no Louisiana income tax will
18 be paid. For purposes of this Section, the federal income tax deduction may be
19 recomputed and reduced to reflect the application of a net operating loss adjustment.
20 When computing Louisiana taxable income, the secretary may consider reductions
21 to the federal income tax deduction in accordance with the provisions of this
22 Paragraph.

23 (2) The alternative minimum tax is a federal income tax deductible to the
24 extent that it is applicable to regular federal taxable income. Any alternative
25 minimum tax paid on tax preference items shall not be deductible. In accordance
26 with the provisions of this Paragraph, the secretary may determine the deductible
27 portion of the alternative minimum tax.

28 (3) For purposes of this Section, federal income taxes shall include taxes
29 based on net income, accumulated earnings, war profits, excess profits, personal

1 holding company income, and tax from recomputation of investment credit. For
 2 purposes of federal income taxation as compared to the computation of net income
 3 under this Part, proper adjustment shall be made for the actual tax rates as applied
 4 to different classes of income and for all differences in the computation of net
 5 income. The amount of the federal income tax deduction shall be that portion of the
 6 total federal income tax, after application of all credits, which is levied on income
 7 derived solely from sources in this state as computed under the rules and regulations
 8 prescribed by the secretary.

9 (4) As used in this Subsection, the term "credits" shall not include
 10 overpayments of prior year taxes allowed as a credit, estimated tax payments or
 11 similar prepayments, credit for prior year alternative minimum tax that is allowed as
 12 a credit against the current regular federal income tax, or federal income tax credits
 13 determined by the secretary to be presidential disaster area disaster relief credits.

14 * * *

15 §300.7. Louisiana taxable income of nonresident estate or trust

16 A. Definition. "Louisiana taxable income" of a nonresident estate or trust
 17 means ~~such~~ the portion of the taxable income of the nonresident estate or trust
 18 determined in accordance with federal law for the same taxable year, as specifically
 19 modified by the provisions contained in Subsection C of this Section, that was earned
 20 within or derived from sources within this state, less a federal income tax deduction
 21 to be computed following the provisions of ~~R.S. 47:287.83 and 287.85~~ R.S. 47:300.6.

22 * * *

23 Section 2. R.S. 47:287.79, 287.83, and 287.85 are hereby repealed in their entirety.

24 Section 3. The provisions of this Act shall be applicable for all taxable periods
 25 beginning on and after January 1, 2018.

26 Section 4. This Act shall take effect and become operative if and when the proposed
 27 amendment of Article VII of the Constitution of Louisiana contained in the Act which
 28 originated as House Bill No. ___ of this 2017 Regular Session of the Legislature is adopted
 29 at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 102 Original

2017 Regular Session

Leger

Abstract: Repeals the deductibility of federal income taxes paid for purposes of calculating corporate income taxes.

Present constitution and present law authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating corporate income taxes.

Present law provides for the computation of La. taxable income for a resident estate or trust, including provisions for the federal income tax deduction, limitations of deductions for net income, provisions for the federal deduction for alternative minimum tax, and the authority of the secretary of the Dept. of Revenue to consider reductions to the federal income tax deduction and the determination of the deductible portion of an alternative minimum tax.

Proposed law retains present law except as it applies to the deductibility of federal income taxes.

Applicable for all taxable periods beginning on or after Jan. 1, 2018.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. __ of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A); Adds R.S. 47:55(6); Repeals R.S. 47:287.79, 287.83, and 287.85)