

2017 Regular Session

HOUSE BILL NO. 360

BY REPRESENTATIVE IVEY

TAX/CORP INCOME: Levies a flat tax on business income and provides relative to business entities subject to the tax

1 AN ACT

2 To amend and reenact R. S. 47:201, 201.1(A)(1), (C)(1), and (D)(1), and 203(A), the
3 heading of Part II-A of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised
4 Statutes of 1950, R.S. 47:287.2, 287.11(A), and 287.12, to enact R.S.
5 47:293(9)(a)(xviii), and to repeal R.S. 47:287.732(B), relative to income tax; to
6 provide relative to the rate of the income tax levied on certain business entities; to
7 repeal certain income tax exemptions and exclusions; to require certain business
8 entities to pay the income tax levied on business income; to provide for certain
9 limitations; to provide for certain definitions; to provide for an exclusion for certain
10 income from individual income tax; to provide for applicability; to provide for
11 effectiveness; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R. S. 47:201, 201.1(A)(1), (C)(1), and (D)(1), and 203(A), the heading
14 of Part II-A of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950,
15 R.S. 47:287.2, and 287.11 (A) are hereby amended and reenacted and R.S.
16 47:293(9)(a)(xviii) is hereby enacted to read as follows:

17 §201. Partners, not partnership, subject to tax; partnership return of income required
18 A partnership, as such, shall ~~not~~ be subject to the income tax imposed by this
19 Chapter, but those partnerships having any member who is not an individual or who
20 is not a resident of Louisiana shall be required to file a partnership return of income.

1 §203. Partnership computations

2 A. Income and deductions. The taxable income of a partnership shall be
3 computed in the same manner as in the case of ~~an individual~~ a business or
4 corporation except that:

- 5 ~~(1) the items described in R.S. 47:202 (A) shall be separately stated, and~~
 - 6 ~~(2) the following deductions shall not be allowed to the partnership:~~
 - 7 ~~(a) the standard deduction provided in R.S. 47:68;~~
 - 8 ~~(b) the deduction for charitable contributions provided in R.S. 47:57;~~
 - 9 ~~(c) deductions allowed individuals if they itemize which would not be~~
- 10 allowable if they claim the optional standard deduction.

11 * * *

12 PART II-A. LOUISIANA CORPORATION AND BUSINESS INCOME TAX

13 * * *

14 §287.2. Short title

15 This Act shall be known as and may be cited as the "Louisiana Corporation
16 and Business Income Tax Act".

17 * * *

18 §287.11. Tax imposed

19 A. (1) There shall be levied, collected, and paid for each taxable year a flat
20 tax upon the Louisiana taxable income of corporations and other entities taxed as
21 corporations, for federal income tax purposes, which entities shall be considered to
22 be corporations for the purposes of this Chapter only, other than insurance
23 companies as hereinafter provided.

24 (2) There shall be levied, collected, and paid for each taxable year a flat tax
25 upon the Louisiana taxable income of other business entities such as partnerships,
26 S corporations, and C corporations as further specified in this Part.

27 * * *

1 §293. Definitions

2 The following definitions shall apply throughout this Part, unless the context
3 requires otherwise:

4 * * *

5 (9)(a) "Tax table income", for resident individuals, means adjusted gross
6 income plus interest on obligations of a state or political subdivision thereof, other
7 than Louisiana and its municipalities, title to which obligations vested with the
8 resident individual on or subsequent to January 1, 1980, and less:

9 * * *

10 (xviii) Dividends and distributions from Louisiana corporations.

11 * * *

12 Section 2. R.S. 47:287.12 is hereby amended and reenacted to read as follows:

13 §287.12. Rates of tax; corporation and business income

14 The tax to be assessed, levied, collected, and paid upon the Louisiana taxable
15 income of every corporation and other business entities shall be computed at ~~the a~~
16 flat rate of:

17 ~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana~~
18 ~~taxable income.~~

19 ~~(2) Five percent upon the amount of Louisiana taxable income above twenty-~~
20 ~~five thousand dollars but not in excess of fifty thousand dollars.~~

21 ~~(3) Six percent on the amount of Louisiana taxable income above fifty~~
22 ~~thousand dollars but not in excess of one hundred thousand dollars.~~

23 ~~(4) Seven percent on the amount of Louisiana taxable income above one~~
24 ~~hundred thousand dollars but not in excess of two hundred thousand dollars.~~

25 ~~(5) Eight six and one-half of one percent on all Louisiana taxable income in~~
26 ~~excess of two hundred thousand dollars.~~

27 Section 3. R.S. 47:287.12 is hereby amended and reenacted to read as follows:

28 §287.12. Rates of tax; corporation and business income

1 The tax to be assessed, levied, collected, and paid upon the Louisiana taxable
2 income of every corporation and other business entities shall be computed at ~~the a~~
3 flat rate of:

4 ~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana~~
5 ~~taxable income.~~

6 ~~(2) Five percent upon the amount of Louisiana taxable income above twenty-~~
7 ~~five thousand dollars but not in excess of fifty thousand dollars.~~

8 ~~(3) Six percent on the amount of Louisiana taxable income above fifty~~
9 ~~thousand dollars but not in excess of one hundred thousand dollars.~~

10 ~~(4) Seven percent on the amount of Louisiana taxable income above one~~
11 ~~hundred thousand dollars but not in excess of two hundred thousand dollars.~~

12 ~~(5) Eight six percent on all Louisiana taxable income in excess of two~~
13 ~~hundred thousand dollars.~~

14 Section 4. R.S. 47:287.732(B) is hereby repealed in its entirety.

15 Section 5. The provisions of this Act shall be applicable to all tax years beginning
16 on and after January 1, 2018.

17 Section 6. Section 3 of this Act shall become effective and Section 2 of this Act shall
18 not become effective if the proposed amendment of Article VII of the Constitution of
19 Louisiana contained in the Act which originated as House Bill No. ____ of this 2017 Regular
20 Session of the Legislature is adopted at a statewide election and becomes effective.

21 Section 7. Except as provided for in Section 6 of this Act, Sections 1, 2, 4, 5, 6, and
22 7 of this Act shall become effective on January 1, 2018.

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 360 Original

2017 Regular Session

Ivey

Abstract: Changes the corporate income tax rate from a graduated schedule of rates dependent on the taxable income of the taxpayer to a flat rate of 6.5% and expands the tax to all "business income" and further authorizes a reduction to a flat 6% if certain conditions are met.

Present law provides that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation shall be computed at the following rates:

- (1) 4% on the first \$25,000 of La. taxable income.
- (2) 5% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) 6% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) 7% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) 8% on all La. taxable income in excess of \$200,000.

Proposed law changes present law by deleting the graduated schedule of rates dependant on the amount of taxable income of the taxpayer in favor of a flat 6.5% rate. Further expands the levy of this tax to "business income" and makes it applicable to business entities such as partnerships.

Present law provides for an exemption from corporate income for partnerships but requires partnerships with members who are not individuals or not residents of La. to file a partnership return of income.

Proposed law changes present law by deleting this exemption thereby making income earned by partnerships subject to the flat business income tax in proposed law.

Present law provides for the filing of composite returns for nonresident partners and members as well as the tax treatment of income earned by partners, partnership computations, distributive shares, and the determination of a partner's interest for purposes of calculating income tax liability.

Proposed law retains present law but clarifies that these provisions are applicable to calculating the tax levied on the *business income* of such entities.

Present law requires that income earned by corporations classified under Subchapter S provisions of federal law shall be taxed and required to comply with provisions of present law the same as any other corporation if the S corporation had been required to file an income tax return with the I. R. S. as a C corporation for the current and all prior taxable years in accordance with federal law.

Present law provides for an exclusion from corporate income tax for corporations classified as S corporations under federal law for the taxable year. Further provides that in computing La. taxable income, an S corporation may exclude the percentage of its La. net income for the taxable year.

Present law provides for a formula for the calculation of the percentage of La. net income that is not subject to La. corporate income tax.

Proposed law repeals the present law S corporation exclusion thereby making this income subject to the flat income tax levied on business income as provided for in proposed law.

Present law defines "tax table income" for resident individuals means adjusted gross income plus interest on obligations of a state or political subdivision less items such as federal income tax liability, gratuitous loans and grants, excess amounts of personal exemptions and deductions, and amounts deposited into medical and educational savings accounts.

Proposed law retains present law but adds that dividends and distributions from La. corporations shall not be considered "tax table income" for resident individuals.

Applicable to all tax years beginning on and after Jan. 1, 2018.

Proposed law with respect to the reduction in the corporate income tax rate to a flat 6.5% rate shall be effective on Jan. 1, 2018. Proposed law provides for the further reduction of the flat corporate income tax rate from 6.5% to a flat rate of 6% if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. ___ of the 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R. S. 47:201, 201.1(A)(1), (C)(1), and (D)(1), and 203(A), the heading of Part II-A of Chapter 1 of Subtitle II of Title 47, R.S. 47:287.2, 287.11(A), and 287.12; Adds R.S. 47:293(9)(a)(xviii); Repeals R.S. 47:287.732(B))