

2017 Regular Session

HOUSE BILL NO. 647

BY REPRESENTATIVE HAVARD

TAX/STATE: Levies the Louisiana Petroleum Refinery Business Tax

1 AN ACT

2 To enact Subtitle XII of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 47:10001 through 10014, relative to the imposition of the Louisiana
4 Petroleum Refinery Business Tax Act; to provide for the levy, rate, collection,
5 computation, administration, and enforcement of the tax; to provide for credits for
6 certain financial and insurance institutions; to provide for definitions; to provide for
7 the allocation and apportionment of certain business activity; to require the filing of
8 certain tax returns; to authorize certain refunds; to authorize the promulgation of
9 rules and regulations; to provide for requirements and limitations; to provide for an
10 effective date; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. 1. Subtitle XII of Title 47 of the Louisiana Revised Statutes of 1950, to
13 be comprised of R.S. 47:10001 through 10014, is hereby enacted to read as follows:

14 SUBTITLE XII. LOUISIANA PETROLEUM REFINERY BUSINESS TAX

15 §10001. Short title

16 This Act and Subtitle shall be known as the "Louisiana Petroleum Refinery
17 Business Tax Act".

18 §10002. Levy and imposition

19 A. There is hereby levied an annual tax on petroleum refinery activity in
20 Louisiana, which shall be known as the Louisiana Petroleum Refinery Business Tax.

1 For every entity assigned the North American Industry Classification System code
2 324110, there shall be levied an annual tax upon the adjusted tax base of every
3 person engaged in petroleum refinery business activity in Louisiana, in lieu of the
4 taxes assessed, levied, collected, and paid upon Louisiana taxable income and capital
5 pursuant to Parts I, II, and II-A of Chapter 1 and Chapter 5 of Subtitle II of Title 47
6 of the Louisiana Revised Statutes of 1950. The tax to be assessed, levied, collected,
7 and paid upon the adjusted tax base of every person engaged in petroleum refinery
8 business activity in Louisiana shall be computed annually at the rate of two percent
9 upon the adjusted taxable base of five hundred thousand dollars or more.

10 B. "Adjusted tax base" means the tax base that can be allocated, apportioned,
11 or attributed to the business activity of a person in Louisiana pursuant to R.S.
12 47:10004.

13 §10003. Definitions

14 For purposes of this Subtitle, the following words and phrases have the
15 meanings ascribed to them in this Section. Terms used in this Subtitle that are not
16 specifically defined shall have the same meaning as when used in comparable
17 context in the laws of the United States relating to federal income taxes in effect for
18 the tax year unless a different meaning is clearly required.

19 (1) "Affiliated group" means two or more United States corporations, as
20 provided for in Section 7701(a)(3) and (4) of the Internal Revenue Code, one of
21 which owns or controls, directly or indirectly, eighty percent or more of the capital
22 stock with voting rights of the other United States corporation or corporations.

23 (2) "Business activity" means a transfer of legal or equitable title to or rental
24 of property, whether real, personal, or mixed, tangible or intangible, or the
25 performance of services, or a combination thereof, made or engaged in, or caused to
26 be made or engaged in, within this state, whether in intrastate, interstate, or foreign
27 commerce, with the object of gain, benefit, or advantage, whether direct or indirect,
28 to the taxpayer or to others. The term shall not include the services rendered by an
29 employee to his employer, services as a director of a corporation, or a casual

1 transaction. Although an activity of a taxpayer may be incidental to another or other
2 of his business activities, each activity shall be considered to be business engaged
3 in within the meaning of this Subtitle.

4 (3) "Business income" means federal taxable income. However, for a person
5 other than a corporation, it means that part of federal taxable income derived from
6 business activity. For an S corporation or a taxpayer filing as a partnership for
7 federal income tax purposes, business income includes payments and items of
8 income and expense which are attributable to business activity of the entity and are
9 separately reported to the owners, shareholders, partners, or members. Business
10 income does not include any loss carryovers or carrybacks from other tax periods.

11 (4) "Casual transaction" means a transaction made or engaged in other than
12 in the ordinary course of repeated and successive transactions of a like character.
13 Transactions made or engaged in by a person which is incidental to that person's
14 regular business activity shall be considered to be a business activity within the
15 meaning of this Subtitle.

16 (5) "Compensation" means all wages, salaries, fees, bonuses, commissions,
17 or other payments made in the taxable year on behalf of or for the benefit of
18 employees, officers, or directors of the taxpayers and subject to or specifically
19 exempt from withholding under Section 3401 to 3406 of the Internal Revenue Code.
20 Compensation includes, on a cash or accrual basis consistent with the taxpayer's
21 method of accounting for federal income tax purposes, payments under the federal
22 insurance contribution act and similar social insurance programs, payments,
23 including self-insurance, for workmen's compensation insurance, payments to
24 individuals not currently working, payments to dependents and heirs of individuals
25 because of current or former labor services rendered by those individuals, payments
26 to a pension, retirement, or profit sharing plan, and payments for insurance for which
27 employees are the beneficiaries. Compensation does not include discounts on the
28 price of the taxpayer's merchandise or services sold to the taxpayer's employees,
29 officers, or directors which are not available to other customers.

1 (6) "Cost of goods sold" means all direct costs of acquiring or producing the
2 goods that are allowable under the United States Internal Revenue Code.

3 (7) "Department" means the Department of Revenue.

4 (8) "Employee" means an employee as defined in Section 3401(c) of the
5 Internal Revenue Code. A person from whom an employer is required to withhold
6 for federal income tax purposes shall prima facie be deemed an employee.

7 (9) "Employer" means an employer as defined in Section 3401(d) of the
8 Internal Revenue Code. A person required to withhold for federal income tax
9 purposes shall prima facie be deemed an employer.

10 (10) "Federal taxable income" means taxable income as defined in Section
11 63 of the Internal Revenue Code.

12 (11) "Foreign person" means a person formed under the laws of a foreign
13 country or a political subdivision of a foreign country.

14 (12) "Internal Revenue Code" means the United States Internal Revenue
15 Code of 1986, as amended. A reference in this Subtitle to the Internal Revenue Code
16 includes other provisions of the laws of the United States relating to federal income
17 taxes.

18 (13) "Person" means a partnership in commendam, limited liability
19 partnership, registered limited liability partnership, limited liability company, limited
20 partnership, partnership, joint venture, association, corporation, receiver, estate, trust,
21 or any other group or combination acting as a unit. The term person shall not include
22 natural persons.

23 (14) "Rent" includes a lease payment or other payment for the use of any
24 property to which the taxpayer does not have legal or equitable title.

25 (15) "Rental business" means a business whose principal business activity
26 consists of the rental or leasing of any property.

27 (16) "Sale" or "sales" means all receipts arising from a transaction or
28 transactions that constitute consideration for one of the following:

1 (a) The transfer of title to, or possession of, property that is stock in trade or
2 other property of a kind which would properly be included in the inventory of the
3 taxpayer if on hand at the close of the tax period, or property held by the taxpayer
4 primarily for sale to customers in the ordinary course of its trade or business.

5 (b) The performance of services, which constitute business activities other
6 than those included in Subparagraph (a) of this Paragraph.

7 (c) Any combination of Subparagraphs (a) or (b) of this Paragraph.

8 (17) "Secretary" means the secretary of the Department of Revenue.

9 (18) "State" means any state of the United States, the District of Columbia,
10 the Commonwealth of Puerto Rico, any territory or possession of the United States,
11 and any foreign country, or political subdivision of any of the foregoing.

12 (19)(a) "Tax base" means business income of the tax year, before allocation,
13 apportionment, or attribution even if zero or negative, subject to the following
14 adjustments:

15 (b) Add, to the extent not already included in the tax base, income classified
16 as unrelated business taxable income or unrelated taxable income as defined in the
17 Internal Revenue Code.

18 (c) Add all taxes on or measured by net income and the tax imposed by this
19 Subtitle to the extent the taxes were deducted in arriving at federal taxable income.

20 (d) Add, to the extent deducted in arriving at federal taxable income all of
21 the following:

22 (i) Any deduction for depreciation, depletion, intangible drilling costs,
23 amortization, or immediate or accelerated write-off related to the cost of assets
24 including tangible and intangible assets.

25 (ii) Any dividends paid or accrued except dividends that represent reduction
26 of premiums to policyholders of insurance companies.

27 (iii) Any deduction or exclusion by a taxpayer due to a classification as, or
28 the payment of commissions or other fees to, a domestic international sales
29 corporation, western hemisphere trade corporation, China trade act corporation,

1 foreign sales corporation, or any like special classification the purpose of which is
2 to reduce or postpone federal income tax liability.

3 (iv) All interest including amounts paid, credited, or reserved by insurance
4 companies as amounts necessary to fulfill the policy and other contract liability
5 requirements of Sections 805 and 809 of the Internal Revenue Code.

6 (v) All rents and royalties, except for oil and gas royalties that are excluded
7 in the depletion deduction calculation under the Internal Revenue Code.

8 (e) Add compensation as defined in Paragraph (5) of this Section.

9 (f) Deduct, to the extent included in arriving at federal taxable income all of
10 the following:

11 (i) Dividends received or deemed received, including the foreign dividend
12 gross-up provided for in the Internal Revenue Code.

13 (ii) All interest except amounts paid, credited, or reserved by an insurance
14 company as amounts necessary to fulfill the policy and other contract liability
15 requirements of Sections 805 and 809 of the Internal Revenue Code.

16 (iii) All rents and royalties, except oil and gas royalties that are included in
17 the depletion deduction calculation under the Internal Revenue Code.

18 (g) Deduct all cost of goods sold not deducted in arriving at federal taxable
19 income.

20 (h) Deduct any capital loss not deducted in arriving at federal taxable income
21 in the year the loss occurred.

22 (i) To the extent included in federal taxable income, add the loss or subtract
23 the gain from the tax base that is attributable to another entity whose business
24 activities are taxable under this Subtitle or would be taxable under this Subtitle if the
25 business activities were in this state.

26 (20) "Tax year" or "taxable year" means the calendar year, or the fiscal year
27 ending during the calendar year, upon the basis of which the tax base is computed
28 under this Subtitle. When a return is made for a fractional part of a year, tax year

1 means the period for which the return is made. A taxpayer's tax year shall be for the
2 same period as is covered by his federal income tax return.

3 (21) "Taxpayer" means a person liable for a tax, interest, or penalty under
4 this Subtitle.

5 (22) "Unrelated business activity" or "unrelated trade or business" means any
6 business activity that gives rise to unrelated business taxable income as defined in
7 the Internal Revenue Code.

8 (23) "Wages" means wages as defined in Section 3401 of the Internal
9 Revenue Code. The secretary may expand the definition of wages in rules and
10 regulations promulgated under this Subtitle.

11 §10004. Allocation and apportionment of business activity

12 A. Business activities solely in Louisiana. In the case of a taxpayer whose
13 business activities are not taxable in another state as defined in Subsection C of this
14 Section, the entire tax base of the taxpayer shall be allocated to this state.

15 B. Business within and outside of Louisiana. A taxpayer whose business
16 activities are taxable both within and outside of the state shall apportion his tax base
17 as provided in this Section. In the case of a foreign person, only items effectively
18 connected to business activity in the United States shall be included in the factors.

19 C. Business outside of state. For purposes of apportionment of the tax base
20 from business activities under this Subtitle, a taxpayer is taxable in another state if
21 either of the following is applicable:

22 (1) In the other state, the taxpayer is subject to a business privilege tax, a net
23 income tax, a franchise tax measured by net income, a franchise tax for the privilege
24 of doing business, a corporate stock tax, or a tax of the type imposed under this
25 Subtitle.

26 (2) The other state has jurisdiction to subject the taxpayer to one or more of
27 the taxes regardless of whether, in fact, the state does or does not.

28 D. Apportionment method

1 (1) All of the tax base, other than the tax base derived principally from
2 transportation of oil and gas, shall be apportioned to this state by multiplying the tax
3 base by a fraction, the numerator of which is the property factor plus the payroll
4 factor plus the sales factor, and a denominator of three. If the denominator of any
5 of the factors is zero, those factors shall be eliminated from the calculation of the
6 fraction.

7 (a) The property factor is a fraction, the numerator of which is the average
8 value of the taxpayer's real and tangible personal property owned, used, or rented in
9 this state during the tax year and the denominator of which is the average value of
10 all the taxpayer's real and tangible personal property owned, used, or rented during
11 the tax year.

12 (b) Property owned by the taxpayer is valued at its original cost. Property
13 rented by the taxpayer is valued at eight times the net annual rental rate. Net annual
14 rental rate is the annual rental rate paid by the taxpayer less any annual rental rate
15 received by the taxpayer from subrentals.

16 (c) The average value of property shall be determined by averaging the
17 values at the beginning and ending of the tax year, but the secretary may require the
18 periodic averaging of values during the tax year if reasonably required to reflect
19 properly the average value of the taxpayer's property.

20 (d) The payroll factor is a fraction, the numerator of which is the total wages
21 paid in this state during the tax year by the taxpayer and the denominator of which
22 is the total wages paid everywhere during the tax year by the taxpayer. Wages shall
23 be considered paid in this state under any of the following circumstances:

24 (i) The individual's service is performed entirely within the state.

25 (ii) The individual's service is performed both within and outside of the state,
26 but the service performed outside of the state is incidental to the individual's service
27 within the state.

28 (iii) Some of the service is performed in the state and the base of operations,
29 or if there is no base of operations, the place from which the service is directed or

1 controlled is in the state; or the base of operations or the place from which the
2 service is directed or controlled is not in any state in which some part of the service
3 is performed, but the individual's residence is in this state.

4 (e) The sales factor is a fraction, the numerator of which is the total sales of
5 the taxpayer in this state during the tax year, and the denominator of which is the
6 total sales of the taxpayer everywhere during the tax year.

7 (i) Sales of tangible personal property shall be considered sales in this state
8 as follows:

9 (aa) The property is shipped or delivered to a purchaser, other than the
10 United States government, within this state regardless of the free on board point or
11 other conditions of the sale.

12 (bb) The property is shipped from an office, store, warehouse, factory, or
13 other place of storage in this state and the purchaser is the United States government,
14 or the taxpayer is not taxable in the state of the purchaser. For purposes of this Item
15 only, "state" means any state of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico, any territory or possession of the United States, or
17 political subdivision thereof.

18 (ii) Sales other than sales of tangible personal property, shall be considered
19 sales in this state as follows:

20 (aa) The business activity is performed in this state.

21 (bb) The business activity is performed both inside and outside of this state
22 and, based on costs of performance, a greater proportion of the business activity is
23 performed in this state than the proportion performed outside this state.

24 (iii) Receipts derived from services performed for planning, design, or
25 construction activities within this state shall be deemed Louisiana receipts.

26 (2) Apportionment of oil and gas transportation services. The tax base of a
27 taxpayer whose principal business activities consist of transportation of oil by
28 pipeline, the tax base apportioned to Louisiana shall be the tax base of the taxpayer

1 in the ratio that the barrel miles transported in Louisiana bear to the barrel miles
2 transported by the taxpayer everywhere.

3 (3) When the tax base is derived from the transportation of gas by pipeline,
4 the tax base apportioned to Louisiana shall be the tax base of the taxpayer in the ratio
5 that one thousand cubic foot miles transported in Louisiana bear to one thousand
6 cubic foot miles transported by the taxpayer everywhere.

7 (4) Alternative allocation and apportionment. If it is shown to the
8 satisfaction of the secretary that the foregoing information is not available or cannot
9 be obtained without unreasonable expense to the taxpayer, the secretary may use
10 other available data that, in the opinion of the secretary, will result in an equitable
11 allocation and apportionment of the receipts to this state.

12 §10005. Apportionment not representative of business activity; petition by taxpayer;
13 approval of alternative method

14 A. If the apportionment provisions of R.S. 47:10004 do not fairly represent
15 the extent of the taxpayer's business activity in this state, the taxpayer may petition
16 for, or the secretary may require, in respect to all or any part of the taxpayer's
17 business activity, any of the following, if reasonable:

18 (1) Separate accounting.

19 (2) The exclusion of any one or more of the factors.

20 (3) The inclusion of one or more additional factors which will fairly
21 represent the taxpayer's business activity in this state.

22 (4) The employment of any other method to effectuate an equitable
23 allocation and apportionment of the taxpayer's tax base.

24 B. An alternate method will be effective only if it is approved in writing by
25 the secretary.

26 C. The apportionment provisions of R.S. 47:10004 shall be presumed to
27 fairly represent the extent of the taxpayer's business activity in this state unless it can
28 be demonstrated that the business activity attributed to the taxpayer in this state is

1 out of all appropriate proportion to the actual business transacted in this state and
2 leads to a grossly distorted result.

3 §10006. Estimated tax return; filing

4 A. Estimated tax return. A taxpayer who reasonably expects liability for the
5 tax year to exceed five thousand dollars shall file an estimated tax return and pay an
6 estimated tax for each quarter of the taxpayer's tax year.

7 B. Time for filing estimated payment. For taxpayers paying the tax on a
8 calendar year basis, the quarterly returns and estimated payments shall be made by
9 March fifteenth, June fifteenth, September fifteenth, and December fifteenth.
10 Taxpayers not on a calendar year basis shall file quarterly returns and make
11 estimated payments on the appropriate due date which, in the taxpayer's fiscal year,
12 corresponds to the calendar year.

13 C. Amounts of estimated payments. The estimated payment made with each
14 quarterly return of each tax year shall be one-fourth of the estimated tax liability for
15 the tax year. The second, third, and fourth estimated payments in each tax year shall
16 include adjustments, if necessary, to correct underpayments or overpayments from
17 previous quarterly payments.

18 D. Interest assessed on underpayment of estimated tax. Estimated tax due
19 but not paid shall bear interest at the rate provided for in R.S. 47:1601.

20 E. Interest; when not assessed. The interest provided by this Section shall
21 not be assessed if any of the following occur:

22 (1) If the sum of the estimated payments equals at least eighty-five percent
23 of the liability and the amount of each estimated payment reasonably approximates
24 the tax liability incurred during the quarter for which the estimated payment was
25 made.

26 (2) If the preceding year's tax liability was greater than five thousand dollars
27 and the taxpayer submitted four equal installments which equal the previous year's
28 tax liability.

1 F. Form; contents. Each estimated return shall be made in a manner
2 prescribed by the secretary and shall include any information required by the
3 secretary. The secretary may require electronic filing, electronic payment, or both
4 by any taxpayer.

5 G. Return for tax year less than twelve months. With respect to a taxpayer
6 filing an estimated tax return for the taxpayer's first tax year of less than twelve
7 months, the amounts paid with each return shall be proportional to the number of
8 payments made in the first tax year.

9 H. Credit of payments against tax. Payments made under this Section shall
10 be a credit against the payment required with the annual tax return required in R.S.
11 47:10007.

12 I. Filing and payment at other periods. When the secretary considers it
13 necessary to insure payment of the tax or to provide a more efficient administration
14 of the tax, the secretary may require filing of the returns and payment of the tax for
15 other than quarterly or annual periods.

16 §10007. Final return; contents; due date; payment of balance; exception

17 A. Due date of tax. The tax imposed by this Subtitle shall be due on the day
18 after the last day of the taxpayer's taxable year.

19 B. An annual or final return shall be filed with the secretary, in the form and
20 content prescribed by the secretary, by the fifteenth day of the fourth month after the
21 end of the taxpayer's tax year. Any final liability shall be remitted with this return.
22 At the discretion of the secretary, a person whose business income is less than five
23 hundred thousand dollars may not need to file the return required under this Subtitle.
24 For a person whose business income is for a tax year that is less than twelve months,
25 the five hundred thousand dollar threshold shall be multiplied by a fraction, the
26 numerator of which is the number of months in the tax year and the denominator of
27 which is twelve.

28 C. The secretary may extend the date for filing an annual return; however,
29 a filing extension shall not extend the time for payment of the tax.

1 D.(1) The secretary may grant a reasonable extension of time for filing
2 returns, not to exceed seven months from the date the Louisiana tax return is due or
3 the extended due date of the federal income tax return, whichever is later.

4 (2) The secretary may accept a photocopy or duplicate original of the
5 taxpayer's federal application for an extension of time to file a return or the
6 taxpayer's application for an automatic extension of time to file a federal return.

7 (3) The secretary may otherwise provide for the automatic extension of time
8 to file a return not to exceed seven months.

9 §10008. Furnishing copy of federal income tax return to state

10 A. A taxpayer required to file a return under this Subtitle may be required
11 to furnish a true and correct copy of any return or portion of any return which he has
12 filed under the provisions of the Internal Revenue Code.

13 B. A taxpayer shall file an amended return showing any alteration in or
14 modification of his federal income tax return which affects his tax base under this
15 Subsection. The amended return shall be filed within sixty days after a final
16 determination by the Internal Revenue Service.

17 §10009. Information return of income paid to others; copies of federal tax returns

18 At the request of the secretary, a person required by the Internal Revenue
19 Code to file or submit an information return of income paid to others shall, to the
20 extent the information is applicable to residents of this state, at the same time file or
21 submit the information in a form and content prescribed by the secretary.

22 §10010. Consolidated or combined return

23 The secretary may permit or require combined reporting and the filing of a
24 consolidated or combined return by related persons, including but not limited to
25 affiliated groups of corporations. Furthermore, the secretary may promulgate rules
26 and regulations in accordance with the Administrative Procedures Act to implement
27 the provisions of this Section, including to require and provide for combined
28 reporting and the filing of consolidated or combined returns for any person when
29 necessary to clearly reflect the tax base.

1 §10011. Administrative provisions

2 A. Except as specifically provided to the contrary in this Subtitle, all matters
3 pertaining to the administration of this Subtitle shall be governed by the provisions
4 of Chapter 18 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 in
5 the same manner as they apply to the taxes imposed by Subtitle II.

6 B. Refunds of overpayments.

7 (1) In addition to the authority given to the secretary to refund overpayments
8 under R.S. 47:1621, the secretary may refund overpayments resulting from
9 unintentional errors by the taxpayer. This provision shall apply to all taxes imposed
10 by Subtitle II of Title 47 that are administered by the secretary.

11 (2) Interest on refunds of overpayments of the tax imposed by this Subtitle
12 shall not begin to accrue until ninety days from the later of the filing date of the
13 return showing the overpayment or the due date of the return showing the
14 overpayment. An overpayment of the tax imposed by this Subtitle shall bear no
15 interest if credit is given for the overpayment.

16 C. The secretary may provide for the rounding to whole dollars of any
17 amount required to be reported under this Subtitle.

18 D. Keeping of records; powers of secretary. A person liable for any tax
19 imposed under this Subtitle shall keep and maintain accurate records in form as to
20 make it possible to determine the tax due under this Subtitle. When deemed
21 necessary, the secretary may require a person, by notice served upon him, to make
22 a return, render under oath such statements, or keep records as the secretary deems
23 sufficient to show whether or not the person is liable for tax under this Subtitle.

24 E. Transfer of business; liability of successor. If a person liable for the tax
25 levied by this Subtitle, or any employer required to deduct or withhold a tax from
26 salaries or wages, sells out his business or stock of goods or ceases his business
27 activity, his successor or succeeding successors shall withhold sufficient of the
28 purchase money to satisfy the amount of tax which may be due and unpaid until the
29 former owner produces a certificate from the department stating that a tax is not due.

1 A successor who fails to withhold purchase money is liable personally for any tax
2 accruing by virtue of the business of the former owner.

3 §10012. Records, books, and accounts; examination by secretary; violation,
4 misdemeanor, penalty

5 A person shall keep records, books, and accounts as may be necessary to
6 determine the amount of tax for which the person is liable under this Subtitle and as
7 the secretary requires until the tax prescribes. The records, books, and accounts shall
8 be open for examination at any time during regular business hours of the taxpayer
9 by the secretary and his agents. A person who violates this Section shall be guilty
10 of a misdemeanor and shall be fined not more than one thousand dollars, or
11 imprisoned for not more than one year, or both.

12 §10013. Administration of tax; forms; rules

13 A. The tax imposed by this Subtitle shall be administered by the secretary.
14 The secretary shall prescribe forms for use by taxpayers and shall have the authority
15 to adopt and promulgate rules for the maintenance by taxpayers of records, books,
16 and accounts, and for the computation of the tax, the manner and time of changing
17 or electing accounting methods and of exercising the various options contained in
18 this Subtitle, the making of returns, and the ascertainment, assessment, collection,
19 and administration of the tax imposed.

20 B. In addition to the returns authorized and required in this Subtitle, the
21 secretary may prescribe alternate forms and instructions practicable for the purpose
22 of simplifying compliance. Such forms and instructions may contain arithmetical
23 shortcuts and abbreviated formulae which do not precisely trace the computational
24 scheme of this Subtitle.

25 §10014. Imposition in addition to other taxes

26 The tax imposed by this Subtitle shall be in addition to all other taxes for
27 which the taxpayer may be liable.

28 Section 2. 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 647 Original

2017 Regular Session

Havard

Abstract: Levies the La. Petroleum Refinery Business Tax on the adjusted tax base of taxpayers engaged in the petroleum refinery business.

Present law imposes an income tax and a franchise tax on the capital assets of corporations and other business entities and provides for the levy, collection, computation, administration, and enforcement of the tax.

Proposed law exempts petroleum refinery business entities liable for the tax in proposed law from the tax in present law.

Proposed law levies the La. Petroleum Refinery Business Tax. The tax is levied at the rate of 2% on the adjusted tax base of taxpayers with a business income of more than \$500K. The tax is in lieu of La. individual income and corporation income and franchise tax.

Proposed law defines "business income" to mean federal taxable income. Further provides that business income shall not include any loss carryforwards or carrybacks from other tax periods.

Proposed law defines "adjusted tax base" as business income plus depreciation, dividends, interest, royalties, compensation, and taxes.

Proposed law allows the cost of goods sold to be deducted from the tax base to the extent it was not included in calculation of the federal taxable income.

Proposed law apportions income to Louisiana using the following calculation:

$$\frac{\text{Property} + \text{Payroll} + \text{Sales}}{3}$$

Therefore, equal weight is given to three factors:

Property factor: $\frac{\text{value of property in Louisiana}}{\text{value of all property}}$

Payroll factor: $\frac{\text{total wages paid in state}}{\text{total wages paid everywhere}}$

Sales factor: $\frac{\text{total sales in state}}{\text{total sales everywhere}}$

Proposed law provides an alternative apportionment method for oil and gas transportation services.

Proposed law allows the secretary to authorize an alternate method of apportionment if the taxpayer is able to demonstrate that the apportionment provisions in proposed law do not fairly represent the extent of the taxpayer's business activity in this state.

Proposed law requires quarterly payment of an entity's estimated tax, with a final tax return due on the day after the last day of the taxpayer's taxable year.

Proposed law authorizes the secretary to require combined reporting and the filing of consolidated or combined returns by related parties.

Effective Jan. 1, 2018.

(Adds R.S. 47:10001-10014)