
DIGEST

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HB 362 Engrossed

2017 Regular Session

Ivey

Abstract: Modifies and repeals certain income and corporation franchise tax credits and extends the cap on the motion picture production credit until Fiscal Year 2027-2028 with a gradual elimination of the credit on July 1, 2028.

Present law (R.S. 47:6006) provides for an income or corporation franchise tax credit for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.

Present law requires full refundability of any amount in excess of the taxpayer's state tax liability for taxpayers whose total payments of ad valorem tax eligible for the credit is less than \$500,000 and for taxpayers formed or first registered to do business in La. after April 1, 2016 whose payments of ad valorem taxes paid to all political subdivisions was less than \$10,000.

Present law requires that 75% of any amount in excess of the taxpayer's state tax liability be refunded and the remaining 25% be carried forward as a credit against subsequent tax liability for five years for the following taxpayers:

- (1) Taxpayers whose total payments of ad valorem tax eligible for the credit is at least \$500,000, but less than or equal to \$1M.
- (2) Taxpayers first registered to do business in La. after April 1, 2016, and whose total payments of ad valorem tax is at least \$10,000 or more, but no more than \$1M.

Present law requires that, for taxpayers whose total payments of ad valorem taxes eligible for the credit is \$1M or more, 75% of the first \$1,000,000 of excess credit shall be refunded and the remaining amount shall be carried forward as a credit against subsequent tax liability for five years.

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Present law requires taxpayers that are members of a federal consolidated group combine their ad valorem taxes paid in order to determine the amount of the excess credit that is refundable.

Proposed law changes present law and makes the excess credit for any taxpayer nonrefundable. Further requires the remaining amount to be carried forward as a credit against subsequent tax

liability for five years.

Present law defines "manufacturer" as one of the following:

- (1) A person engaged in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.
- (2) A person who meets the qualifications of (1) and who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Proposed law repeals the portion of present law defining a manufacturer as one who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Present law requires any excess credit claimed by a manufacturer who received an ad valorem tax exemption under present constitution to be carried forward as a credit against subsequent tax liability for five years. This carry-forward requirement is applicable to all related parties, affiliates, subsidiaries, parent companies, or owners of the manufacturer that held inventory related to the business of the manufacturer.

Proposed law repeals present law.

Present law (R.S. 47:6007) provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production.

Present law caps the total aggregate amount of claims against state income tax allowed on returns for tax credits or transfers of tax credits to the office of entertainment industry development at \$180M each fiscal year for FY 2015-2016, 2016-2017, and 2017-2018. Claims for credits or transfers shall be allowed on a first-come-first-served basis.

Proposed law extends the \$180M cap established in present law for each fiscal year through FY 24-25. Further reduces the cap as follows:

- (1) FY 2025-2026: \$135M
- (2) FY 2026-2027: \$90M
- (3) FY 2027-2028: \$45M

Proposed law prohibits any new productions being approved by the office of the secretary of the Dept. of Economic Development on or after July 1, 2028.

Present law provides for the following income and corporation franchise tax credits:

- (1) R.S. 47:34 Corporation tax credit
- (2) R.S. 47:287.749 Jobs credit
- (3) R.S. 47:297(H) Reduction to tax due for small town doctors
- (4) R.S. 47:297.6 Credit for rehabilitation of residential structures
- (5) R.S. 47:6005 Qualified new recycling manufacturing equipment and service contracts
- (6) R.S. 47:6009 Louisiana Basic Skills Training Tax Credit
- (7) R.S. 47:6012 Employer tax credits for donations of materials, equipment, advisors, or instructors
- (8) R.S. 47:6019 Credit for rehabilitation of historic structures (commercial)
- (9) R.S. 47:6020 Angel Investor tax credit program
- (10) R.S. 47:6023 Sound recording investor tax credit
- (11) R.S. 47:6025 Credit for La. Citizens Property Insurance Corp. assessment
- (12) R.S. 47:6034 Musical and theatrical production income tax credit
- (13) R.S. 47:6035 Credit for conversion of vehicles to alternative fuel usage
- (14) R.S. 51:2354 Technology commercialization credit
- (15) R.S. 51:2399.3 Modernization tax credit

Present law (R.S. 47:34 and R.S. 47:287.749) provides for an income tax credit to be used against the tax liability of corporate income taxpayers who generate new full-time and part-time jobs in the state. This tax credit is allowed in lieu of any tax exemptions granted pursuant to the Louisiana Enterprise Zone Act, any ad valorem property tax exemptions for business or industry, or any ad valorem tax exemption allowed through the State Board of Commerce and Industry pursuant to La. Const. Art. VII, Sec. 21(F). The amount of the credit is equal to the number of new employees multiplied by varying amounts.

Present law (R.S. 47:297(H)) provides for an income tax credit for certain medical doctors and dentists who practice in designated rural areas.

Present law (R.S. 47:297.6) provides for an income tax credit for individual income tax for the

amount of eligible costs and expenses incurred during the rehabilitation of an owner-occupied residential or owner-occupied mixed use structure located in certain specific locations.

Present law (R.S. 47:6005) provides an income tax or corporation franchise tax credit for taxpayers who purchase qualified new recycling manufacturing or process equipment or qualified service contracts to be used or performed exclusively in the state.

Present law (R.S. 47:6009) provides for an income or corporation franchise tax credit for a La. business or industry that supports and encourages employee basic skills training by satisfying criteria established in present law and that submits proper and complete applications.

Present law (R.S. 47:6012) provides for an income and corporation franchise tax credit for employers within the state to donate materials, equipment, or instructors to public training providers registered with the La. Workforce Commission, or community colleges to assist in the development of training programs designed to meet industry needs.

Present law (R.S. 47:6019) provides for an income or corporation franchise tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district.

Present law (R.S. 47:6020) provides for an income tax credit for qualifying individuals or entities that invest in a La. Entrepreneurial Business. This income tax credit is known as the Angel Investor tax credit.

Present law (R.S. 47:6023) provides for an income or franchise tax credit for La. taxpayers for investment in state-certified productions for sound recordings earned at the time expenditures are made on a state-certified production.

Present law (R.S. 47:6025) provides an income tax credit against La. income tax for 25% amount of surcharges, market equalization charges, or assessments paid by a taxpayer for the La. Citizens Property Insurance Corporation assessments due to Hurricanes Katrina and Rita.

Present law (R.S. 47:6034) provides for an individual or corporate income tax credit for qualified production expenditures on investments in a state-certified musical or theatrical production or infrastructure project.

Present law (R.S. 47:6035) provides for an income tax credit for qualified clean-burning motor vehicle fuel property purchased and installed on certain motor vehicles.

Present law (R.S. 51:2354) provides an income and corporation franchise tax credit for investments by the taxpayer in commercialization costs for certain business locations.

Present law (R.S. 51:2399.3) provides for an income or corporation franchise tax credit for amounts of qualified expenditures incurred by an employer for modernization.

Applicable to income tax periods beginning on or after Jan. 1, 2018 and franchise tax periods beginning on or after Jan. 1, 2019.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 357, 358, 359, 360, 361, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends R.S. 47:6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and (cc); Adds R.S. 47:6006(D)(6) and 6007(C)(1)(d)(ii)(dd), (ee), and (ff); Repeals R.S. 47:34, 297(H), 297.6, 6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034, 6035, R.S. 51:2351-2364 and 2399.1-2399.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add applicability provisions for proposed law to be applicable for income tax periods beginning on or after Jan. 1, 2018 and franchise tax periods beginning on or after Jan. 1, 2019.

2. Add contingent effectiveness on Jan. 1, 2018, for proposed law if the proposed amendment of Art. VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 357, 358, 359, 360, 361, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.