
DIGEST

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HB 360 Engrossed

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 repeals present law 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 repeals present law.

Present law provides for the levy, collection, and payment for each taxable year a tax on the La. taxable income of corporations and other entities taxed as corporations, for federal income tax

purposes.

Proposed law retains present law but clarifies that the corporate income tax shall apply to corporations and entities taxed as corporations and includes all corporations and entities required to file federal form 1065 relative to U.S. return of partnership income.

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 the "gross income" of a corporation as the same items and the same dollar amount required by federal law to be reported as gross income on the corporation's federal income tax return for the same taxable year, subject to the modifications specified in present law whether or not a federal income tax return is actually filed.

Proposed law retains present law but clarifies that for entities required to file federal form 1065, U.S. return of partnership income, "gross income" shall mean the sum of lines one through eleven that is reportable in Schedule K, subject to the modifications specified in present law whether or not a federal income tax return is actually filed.

Present law defines "adjusted gross income" for any individual for any taxable year as as the gross income of the individual for the taxable year that is reportable on the individual's federal income tax return.

Proposed law retains present law but eliminates any income or losses subject to corporate or business taxes pursuant to present and proposed law.

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. 356 of the 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

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, 361, 362, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends the heading of Part II-A of Chapter 1 of Subtitle II of Title 47, R.S. 47:287.2, 287.11(A), 287.12, 287.61, and 293(1); Repeals R.S. 47:201-220.3 and 287.732(B))

Summary of Amendments Adopted by House

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

1. Repeal provisions of present law relating to partnerships and income earned by partnerships for purposes of corporate income tax including the filing of composite returns and the computation of partnership income.
2. Clarify that for purposes of corporate income tax, the term "corporations and entities taxed as corporations" shall include all corporations and entities required to file federal form 1065 relative to U.S. return of partnership income.
3. Clarify that for purposes of the levy of the corporate income tax, business entities which are required to file federal form 1065, U.S. return of partnership income shall be subject to the state corporate income tax levied on the taxable income of business entities.
4. Clarify that for entities required to file federal form 1065, U.S. return of partnership income, "gross income" means the sum of lines one through eleven that is reportable in Schedule K, subject to modifications specified in present law.
5. Eliminate income or losses subject to corporate or business taxes from the calculation of adjusted gross income for purposes of calculating individual income tax liability.
6. Add contingent effectiveness on Jan 1, 2018, for proposed law 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, 361, 362, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.