

2017 Regular Session

HOUSE BILL NO. 80

BY REPRESENTATIVE HILFERTY

TAX/CORP FRANCHISE: Phases out the corporate franchise tax over a 10-year period

1 AN ACT

2 To amend and reenact R.S. 47:601(A), (B), and (C)(2) and 611(A) and to enact R.S.  
3 47:611(C), relative to the corporate franchise tax; to provide for the rate of the  
4 corporate franchise tax; to provide for a reduction and eventual elimination of the  
5 corporate franchise tax; to prohibit the levy of an initial tax under certain  
6 circumstances; to provide for the due date for payment of the initial tax; to provide  
7 for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:601(A), (B), and (C)(2) and 611(A) are hereby amended and  
10 reenacted and R.S. 47:611(C) is hereby enacted to read as follows:

11 §601. Imposition of tax

12 A. (1) Except as provided for in Paragraph (2) of this Subsection, every  
13 ~~Every~~ domestic corporation and every foreign corporation, exercising its charter, or  
14 qualified to do business or actually doing business in this state, or owning or using  
15 any part or all of its capital, plant, or any other property in this state, subject to  
16 compliance with all other provisions of law, except as otherwise provided for in this  
17 Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each one  
18 thousand dollars, or major fraction thereof on the first three hundred thousand dollars  
19 of taxable capital and at the rate of three dollars for each one thousand dollars, or  
20 major fraction thereof, which exceeds three hundred thousand dollars of taxable

1 capital. Taxable capital shall be determined as hereinafter provided. The tax levied  
2 herein is due and payable on any one or all of the following alternative incidents:

3 ~~(1)~~(a) The qualification to carry on or do business in this state or the actual  
4 doing of business within this state in a corporate form. The term "doing business"  
5 as used herein shall mean and include each and every act, power, right, privilege, or  
6 immunity exercised or enjoyed in this state, as an incident to or by virtue of the  
7 powers and privileges acquired by the nature of such organizations, as well as, the  
8 buying, selling, or procuring of services or property.

9 ~~(2)~~(b) The exercising of a corporation's charter or the continuance of its  
10 charter within this state.

11 ~~(3)~~(c) The owning or using any part or all of its capital, plant, or other  
12 property in this state whether owned directly or indirectly by or through a  
13 partnership, joint venture, or any other business organization of which the domestic  
14 or foreign corporation is a related party as defined in R.S. 47:605.1.

15 (2) The tax levied pursuant to the provisions of this Chapter shall be limited  
16 to the following percentages of the amount otherwise levied pursuant to the  
17 provisions of this Chapter:

18 (a) For taxable years beginning on or after January 1, 2018, and before  
19 January 1, 2019, ninety percent.

20 (b) For taxable years beginning on or after January 1, 2019, and before  
21 January 1, 2020, eighty percent.

22 (c) For taxable years beginning on or after January 1, 2020, and before  
23 January 1, 2021, seventy percent.

24 (d) For taxable years beginning on or after January 1, 2021, and before  
25 January 1, 2022, sixty percent.

26 (e) For taxable years beginning on or after January 1, 2022, and before  
27 January 1, 2023, fifty percent.

28 (f) For taxable years beginning on or after January 1, 2023, and before  
29 January 1, 2024, forty percent.

1            (g) For taxable years beginning on or after January 1, 2024, and before  
2            January 1, 2025, thirty percent.

3            (h) For taxable years beginning on or after January 1, 2025, and before  
4            January 1, 2026, twenty percent.

5            (i) For taxable years beginning on or after January 1, 2026, and before  
6            January 1, 2027, ten percent.

7            (j) For taxable years beginning on or after January 1, 2027, no corporation  
8            franchise tax shall be assessed, levied, or collected by the state nor paid by domestic  
9            or foreign corporations on taxable capital.

10           B. It is the purpose of this Section to require the payment of this tax to the  
11           state of Louisiana by domestic corporations for the right granted by the laws of this  
12           state to exist as such an organization, and by both domestic and foreign corporations  
13           for the enjoyment, under the protection of the laws of this state, of the powers, rights,  
14           privileges, and immunities derived by reason of the corporate form of existence and  
15           operation. The tax ~~hereby~~ imposed pursuant to the provisions of this Chapter shall  
16           be in addition to all other taxes levied by any other statute.

17           C.(1) As used herein the term "domestic corporation" shall mean and include  
18           any of the following:

19                                                        \*           \*           \*

20           (2) The term "foreign corporation" shall mean and include all such business  
21           organizations as ~~hereinbefore~~ described in ~~this~~ Paragraph (1) of this Subsection  
22           which are organized under the laws of any other state, territory or district, or foreign  
23           country.

24                                                        \*           \*           \*

25           §611. Newly taxable corporation

26           A. Every corporation or other entity subject to the franchise tax shall pay  
27           only an initial tax of one hundred ten dollars in the first accounting period or fraction  
28           thereof in which it becomes subject to the tax levied herein. The tax is first due  
29           immediately on the corporation's becoming taxable under this Chapter and is payable

1 on or before the fifteenth day of the ~~third~~ fourth month after the month in which the  
2 tax is due. After the first closing of the corporate books, the tax is payable as  
3 provided in R.S. 47:609, subject to the minimum tax as provided in this Subsection.

4 \* \* \*

5 C. For taxable years beginning on and after January 1, 2027, no initial tax  
6 shall be assessed, levied, or collected by the state nor paid by domestic or foreign  
7 corporations.

8 Section 2. The provisions of this Act shall be applicable to all corporate franchise  
9 tax periods beginning on and after January 1, 2018.

10 Section 3. This Act shall become effective upon signature by the governor or, if not  
11 signed by the governor, upon expiration of the time for bills to become law without signature  
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
14 effective on the day following such approval.

---

#### 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 80 Engrossed

2017 Regular Session

Hilferty

**Abstract:** Provides for the phasing out of the corporation franchise tax over a 10-year period beginning in tax year 2018.

Present law (R.S. 47:601 et seq.) establishes the corporation franchise tax which is levied on every domestic and foreign corporation exercising its charter, qualified to do business, or actually doing business in La. Corporate franchise tax is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in Louisiana. Proposed law phases out present law, as more fully explained below.

Present law provides that the tax shall be levied at the following rates:

(1) \$1.50 per \$1,000 of taxable capital, up to \$300,000.

(2) \$3 per \$1,000 of taxable capital above \$300,001.

Proposed law retains present law but provides that the amount levied under present law shall be reduced by a cumulative 10% each year beginning Jan. 1, 2018, over the next 10 years until the amount levied is eliminated. Proposed law further provides that in taxable years beginning on or after Jan. 1, 2027, no corporation franchise tax shall be assessed or paid.

Present law requires every corporation or other entity subject to the franchise tax to pay only an initial tax of \$110 in the first accounting period in which it becomes subject to the tax. After the first closing of the corporate books, the tax is payable as provided in present law. Further provides that the tax is first due immediately on the corporation's becoming taxable and is payable on or before the 15<sup>th</sup> day of the third month after the month in which the tax is due.

Proposed law retains present law but clarifies that no initial tax shall be levied or collected by the state nor paid by domestic or foreign corporations for taxable years beginning on and after Jan. 1, 2022. Further changes the month that the tax is due from the 15<sup>th</sup> day of the *third* month after the month in which the tax is due to the 15<sup>th</sup> day of the *fourth* month after the month in which the tax is due.

Proposed law applies to all corporate franchise tax periods beginning on and after Jan. 1, 2018.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:601(A), (B), and (C)(2) and 611(A); Adds R.S. 47:611(C))

#### Summary of Amendments Adopted by House

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

1. Add provision that for tax years beginning on and after Jan. 1, 2022, no initial corporate franchise tax is due for newly established businesses.
2. Change the month that the tax is due from the 15<sup>th</sup> day of the *third* month after the month in which the tax is due to the 15<sup>th</sup> day of the *fourth* month after the month in which the tax is due.
3. Add applicability provisions to the bill for all corporate franchise tax periods beginning on and after Jan. 1, 2018.