

2021 Regular Session

HOUSE BILL NO. 547

BY REPRESENTATIVE PRESSLY

TAX/CORP INCOME: Levies a flat corporate income tax, repeals the corporation franchise tax, repeals deductibility of federal income taxes paid, and terminates certain income tax credits

1 AN ACT

2 To amend and reenact R.S. 47:287.12, 287.69, 6007(I), 6020(H), 6023(I), and 6034(K) and

3 R.S. 51:1787(L), to enact R.S. 47:55(6), 3206, and 6022(K), and to repeal R.S.

4 47:287.79, 287.83, 287.85, 287.442(B)(1), and Chapter 5 of Subtitle II of Title 47

5 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:601 through 618,

6 relative to state income and corporate franchise taxes; to provide for the rates and

7 brackets for purposes of calculating corporate income taxes; to authorize the

8 reduction in corporate income tax rates under certain circumstances; to repeal

9 deductibility of federal income taxes paid for purposes of calculating corporate

10 income taxes; to repeal the corporate franchise tax; to repeal certain income tax

11 credits; to terminate certain income tax credits; to provide for applicability; to

12 provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:287.12, 287.69, 6007(I), 6020(H), 6023(I), and 6034(K) are

15 hereby amended and reenacted and R.S. 47:55(6), 3206, and 6022(K) are hereby enacted to

16 read as follows:

17 §55. Deductions from gross income; taxes generally

18 In computing net income, there shall be allowed as deductions all taxes paid

19 or accrued within the taxable year except:

20 * * *

1 §287.69. Louisiana taxable income defined

2 "Louisiana taxable income" means Louisiana net income, after adjustments;
3 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After adjustments"
4 means after the application of the net operating loss adjustment allowed by R.S.
5 47:287.86.

6 * * *

7 §3206. Application deadline

8 A. The Board of Commerce and Industry shall not enter into any contract of
9 exemption from taxation pursuant to the provisions of this Chapter on or after
10 January 1, 2023, nor shall the Board of Commerce and Industry renegotiate or
11 approve the renewal of an existing contract granted pursuant to the provisions of this
12 Chapter on or after January 1, 2023. However, contracts entered into prior to
13 January 1, 2023, shall continue to receive tax exemptions pursuant to the terms of the
14 agreement with the state as long as the conditions of the contract continue to be met.

15 B. The provisions of this Section shall not apply to contracts of exemption
16 of ad valorem property taxes entered into or approved by the Board of Commerce
17 and Industry pursuant to the provisions of Article VII, Section 21(F) of the
18 Constitution of Louisiana.

19 * * *

20 §6007. Motion picture production tax credit

21 * * *

22 I. No credits shall be allowed pursuant to this Section for applications
23 received on or after ~~July 1, 2025~~ January 1, 2023.

24 * * *

25 §6020. Angel Investor Tax Credit Program

26 * * *

27 H. No credits shall be granted or reserved under this program for reservation
28 applications received by the department on or after ~~July 1, 2025~~ July 1, 2023.

29 * * *

1 §6022. Digital interactive media and software tax credit

2 * * *

3 K. The credit authorized pursuant to the provisions of this Section shall
4 terminate and have no effect beginning on January 1, 2023. No credit shall be
5 granted pursuant to the provisions of this Section for applications received on or after
6 January 1, 2023.

7 * * *

8 §6023. Sound recording investor tax credit

9 * * *

10 I. No credits shall be granted pursuant to the provisions of this Section for
11 applications received on or after ~~July 1, 2026~~ July 1, 2023.

12 * * *

13 §6034. Musical and theatrical production income tax credit

14 * * *

15 K. No credit shall be granted or allowed pursuant to this Section for
16 applications received on or after ~~July 1, 2025~~ July 1, 2023.

17 Section 2. R.S. 51:1787(L) is hereby amended and reenacted to read as follows:

18 §1787. Enterprise zone incentives

19 * * *

20 L. The department shall not accept any advance notification on or after ~~July~~
21 ~~1, 2026~~ July 1, 2023.

22 Section 3. R.S. 47:287.79, 287.83, 287.85, 287.442(B)(1), and Chapter 5 of Subtitle
23 II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:601 through
24 618, are hereby repealed in their entirety.

25 Section 4. The provisions of this Act shall be applicable for taxable periods
26 beginning on or after January 1, 2023.

27 Section 5. This Act shall take effect and become operative on January 1, 2023, if the
28 proposed amendment of Article VII of the Constitution of Louisiana contained in the Act

- 1 which originated as House Bill No. ____ of this 2021 Regular Session of the Legislature is
2 adopted at a statewide election and becomes effective.

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 547 Original

2021 Regular Session

Pressly

Abstract: Reduces the rate of the corporate income tax from a graduated system of rates and brackets to a flat rate of 3.28%, repeals the corporate franchise tax, repeals the deduction for federal income taxes paid, and terminates certain income tax credits.

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 3.28% corporate income tax rate.

Proposed law includes a mechanism for the corporate income tax rate to be reduced in .5% increments if certain revenue thresholds are met until the tax rate is 0% and the tax is eliminated.

Present constitution and present law authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating corporate income taxes.

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.

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.

Present law suspends the lower tier of corporate franchise tax and the initial tax for small business corporations for taxable periods beginning between July 1, 2020, and June 30, 2021.

Proposed law repeals present law.

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.

Proposed law repeals present law.

Present law authorizes the Board of Commerce and Industry, with approval of the governor, to enter into exemption contracts with manufacturing establishments, headquarters, or warehousing and distribution establishments seeking such exemption if requirements of present law are met regarding the location of the entity seeking the exemption for tax equalization.

Proposed law prohibits the Board of Commerce and Industry from entering into any exemption contract on or after Jan. 1, 2023, and prohibits the Board of Commerce and Industry from renegotiating or approving the renewal of an existing contract on or after Jan. 1, 2023. However, contracts entered into prior to Jan. 1, 2023, shall continue to receive tax exemptions pursuant to the terms of the agreement with the state as long as the conditions of the contract continue to be met. Proposed law does apply to contracts of exemption of ad valorem property taxes entered into or approved by the Board of Commerce and Industry pursuant to the present constitution.

Present law authorizes the following tax credits for state-certified motion picture productions:

- (1) A 25% tax credit if the base investment is in excess of \$300,000 or if the production is a La. screenplay production.
- (2) An additional 5% base investment credit for projects filmed outside the New Orleans Metro Zone, but not including St. John the Baptist Parish.
- (3) An additional 10% base investment credit for certain expenditures equal to or greater than \$50,000 but less than \$5 million for projects meeting certain La. screenplay criteria.
- (4) A 15% credit for La. resident payroll expenditures.
- (5) A 5% credit for certain La.-based visual effects expenditures meeting certain requirements.

Present law prohibits credits for applications received on or after July 1, 2025.

Proposed law retains present law but accelerates termination of the motion picture production tax credit from on or after July 1, 2025, to beginning Jan. 1, 2023.

Present law establishes the Angel Investor Tax Credit program which authorizes a 25% income or corporate franchise tax credit on investments in La. small businesses that are certified by La. Economic Development as "Louisiana Entrepreneurial Businesses."

Present law limits the total amount of credits granted under the program to \$3.6 million per year but authorizes the department to carry forward residual unused credits in any calendar year to subsequent calendar years without regard to the annual credit cap. Prohibits credits from being granted or reserved for applications received by the Dept. of Economic Development on or after July 1, 2025.

Proposed law retains present law but accelerates the termination date for granting or reserving credits from on or after July 1, 2025, to on or after July 1, 2023.

Present law authorizes an income tax credit for applications for state-certified digital media productions submitted to the office of entertainment industry development on or after July 1, 2017, and subsequently approved by the office and secretary, that shall be earned by a company at the time funds are expended in La on a state-certified production. The amount of the credit shall be equal to 18% of the base investment and an additional 7% tax credit to the extent the base investment is expended on payroll for La. residents employed in connection with a state-certified production.

Proposed law retains present law but terminates the credit beginning Jan. 1, 2023 and prohibits credits from being granted for applications received on or after Jan. 1, 2023.

Present law authorizes a state income tax credit for investments made in state-certified sound recording productions until July 1, 2026. The tax credit is earned by investors at the time expenditures are certified by the Dept. of Economic Development (DED) according to the total base investment certified for the sound recording production company per calendar year. The aggregate amount of credits that can be certified each year is limited to \$2,160,000; however, 50% of the credits certified each year shall be reserved for qualified music companies (QMC).

Present law provides that the amount of the credit for each investor for state-certified productions received on or after July 1, 2017, is 18% of the base investment made by that investor in excess of \$25,000 or, if a resident of this state, in excess of \$10,000. Present law provides for the following additional tax credits for state-certified productions:

- (1) QMC Tier 1 payroll credit of 10% for each new job with a salary of \$35,000 through \$66,000 per year.
- (2) QMC Tier 2 payroll credit of 15% for each new job with a salary of \$66,000 but not more than \$200,000.
- (3) Additional 10% increase in the base amount if the base investment is expended by a QMC on a sound recording of a resident copyright.

Proposed law prohibits credits from being allowed or granted for applications received on or after July 1, 2023. Otherwise retains present law.

Present law provides for income tax credits for state-certified productions and state-certified musical or theatrical facility infrastructure projects with annual limitations on the amount of credits that can be granted each year of \$10 million and a per project cap of \$1 million. Further provides that if the available cap is not used in any fiscal year then any amount of cap remaining shall be available for use in subsequent fiscal years.

Present law reserves 50% of the annual credit cap for state-certified musical or theatrical productions by approved nonprofit organizations. Present law prohibits credits from being granted for applications received on or after July 1, 2025.

Proposed law accelerates the termination date for granting credits from on or after July 1, 2025 to on or after July 1, 2023. Otherwise retains present law.

Present law provides for the Enterprise Zone Program under which the Board of Commerce and Industry can enter into contracts after consultation with the secretary of DED and the secretary of the Dept. of Revenue with qualified applicants for rebates of state and local sales and use tax or a refundable investment income tax credit equal to 1.5% of the amount of qualified expenditures.

Present law prohibits DED from accepting new advance notifications for the Enterprise Zone Program on or after July 1, 2026.

Proposed law retains present law but changes the deadline for DED to accept new advance notifications from on or after July 1, 2026, to July 1, 2023.

Applicable for all taxable periods beginning on or after Jan. 1, 2023.

Effective if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. ___ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:287.12, 287.69, 6007(I), 6020(H), 6023(I), and 6034(K) and R.S. 51:1787(L); Adds R.S. 47:55(6), 3206, and 6022(K); Repeals R.S. 47:287.79, 287.83, 287.85, 287.442(B)(1), and 601-618)