

2021 Regular Session

HOUSE BILL NO. 292

BY REPRESENTATIVE RISER

1 AN ACT

2 To amend and reenact R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B)
3 and to repeal R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C), relative to
4 corporation income tax; to provide relative to the deductibility of federal income
5 taxes; to repeal deductibility of federal income taxes paid for purposes of calculating
6 corporate income taxes; to decrease the number of tax brackets applicable to
7 corporation income tax; to lower the rates of corporation income tax; to provide for
8 applicability; to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B) are
11 hereby amended and reenacted to read as follows:

12 §32. Rates of tax

13 * * *

14 C. On corporations. The tax to be assessed, levied, collected, and
15 paid upon the net taxable income of every corporation shall be computed at
16 the ~~rate of:~~ rates provided for in R.S. 47:287.12.

17 ~~(1) Four percentum upon the first twenty-five thousand dollars of net~~
18 ~~income.~~

19 ~~(2) Five percentum upon the amount of net income above twenty-five~~
20 ~~thousand dollars but not in excess of fifty thousand dollars.~~

21 ~~(3) Six percentum on the amount of net income above fifty thousand dollars~~
22 ~~but not in excess of one hundred thousand dollars.~~

23 ~~(4) Seven percentum on the amount of net income above one hundred~~
24 ~~thousand dollars but not in excess of two hundred thousand dollars.~~

1 ~~(5) Eight percentum on all net income in excess of two hundred thousand~~
2 ~~dollars.~~

3 * * *

4 §241. Net income subject to tax

5 The net income of a nonresident individual or a corporation subject to the tax
6 imposed by this Chapter shall be the sum of the net allocable income earned within
7 or derived from sources within this state, as defined in R.S. 47:243, and the net
8 apportionable income derived from sources in this state, as defined in R.S. 47:244;
9 ~~less the amount of federal income taxes attributable to the net allocable income and~~
10 ~~net apportionable income derived from sources in this state. The amount of federal~~
11 ~~income taxes to be so deducted shall be that portion of the total federal income tax~~
12 ~~which is levied with respect to the particular income derived from sources in this~~
13 ~~state to be computed in accordance with rules and regulations of the collector of~~
14 ~~revenue. Proper adjustment shall be made for the actual tax rates applying to~~
15 ~~different classes of income and for all differences in the computation of net income~~
16 ~~for purposes of federal income taxation as compared to the computation of net~~
17 ~~income under this Chapter. Where the allocation of the tax is to be based on a ratio~~
18 ~~of the amount of net income of a particular class, both the numerator and the~~
19 ~~denominator of the fraction used in determining the ratio shall be computed on the~~
20 ~~basis that such net income is determined for federal income tax purposes.~~

21 * * *

22 §287.12. Rates of tax

23 The tax to be assessed, levied, collected, and paid upon the Louisiana taxable
24 income of every corporation shall be computed at the rate of:

25 (1) ~~Four~~ Three and one-half percent upon the first ~~twenty-five~~ fifty thousand
26 dollars of Louisiana taxable income.

27 (2) ~~Five percent upon the amount of Louisiana taxable income above twenty-~~
28 ~~five thousand dollars but not in excess of fifty thousand dollars.~~

29 (3) ~~Six~~ Five and one-half percent on the amount of Louisiana taxable income
30 above fifty thousand dollars but not in excess of one hundred fifty thousand dollars.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~(4)~~(3) Seven and one-half percent on the amount of Louisiana taxable
2 income above one hundred fifty thousand dollars ~~but not in excess of two hundred~~
3 ~~thousand dollars.~~

4 ~~(5)~~ Eight percent on all Louisiana taxable income in excess of two hundred
5 ~~thousand dollars.~~

6 * * *

7 §287.69. Louisiana taxable income defined

8 "Louisiana taxable income" means Louisiana net income; after adjustments;
9 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After adjustments"
10 means after the application of the net operating loss adjustment allowed by R.S.
11 47:287.86.

12 * * *

13 §287.442. Exceptions to taxable year of inclusion; taxable year deductions taken

14 * * *

15 B. Period for which deductions and credits shall be taken.

16 (1) ~~The taxable year in which to claim the federal income tax deduction~~
17 ~~allowed by R.S. 47:287.85 shall be determined as follows, regardless of the method~~
18 ~~of accounting regularly employed by the taxpayer:~~

19 ~~(a) The federal income tax deduction may be claimed for the same taxable~~
20 ~~year in which the federal income tax sought to be deducted is incurred, provided the~~
21 ~~taxpayer files a federal income tax return for such taxable year or is included with~~
22 ~~affiliates in a consolidated federal income tax return for such taxable year.~~

23 ~~(b)(i)~~(a) Taxable year for adjustments to taxpayer's federal income tax
24 return. Except as otherwise provided in this ~~Subparagraph~~ Paragraph, adjustments
25 affecting federal taxable income which are made to the taxpayer's income tax return
26 subsequent to filing, whether made because of a deficiency proposed by the
27 government, a court order, an amended return, or other appropriate instrument or act,
28 showing an overpayment or a deficiency shall be taken into account for purposes of
29 this Part in the period for which the return was filed, unless the prescriptive period
30 for the collection of tax or the refund or credit of overpayments, as the case may be,

1 has expired. If the applicable prescriptive period has expired, the additional tax paid
2 by the taxpayer in the case of an underpayment or the refund or credit received by
3 the taxpayer in the case of an overpayment shall be for the taxable year such tax was
4 paid, such refund was received, or such credit was allowed, as the case may be.

5 ~~(ii)~~(b) When a federal refund results from transactions or conditions which
6 arise after the close of the taxable year for which the refund is made, such federal
7 refund shall be taken into account, for purposes of this Part, for the taxable year in
8 which arose the transactions or conditions causing the refund.

9 ~~(c)~~(2) Taking federal adjustments into account. A payment of additional
10 federal tax upon income which has borne Louisiana tax shall be taken into account
11 by decreasing taxable income. That portion, if any, of such additional federal tax
12 payment which would be disallowed as a deduction under either R.S. 47:287.81 or
13 R.S. 47:287.83 shall be excluded from such adjustment. Refunds or credits of federal
14 overpayments, including refunds or credits created by the carryback of a federal net
15 operating loss, shall be taken into account by increasing Louisiana net income or
16 decreasing the Louisiana net loss, as the case may be. That portion, if any, of the
17 federal refund or credit of an overpayment which has not previously been charged
18 against or deducted from Louisiana net income shall be excluded from such
19 adjustment.

20 ~~(d)~~(3) Adjustments made to the Louisiana return. Adjustments to a return
21 filed pursuant to this Part, whether initiated by the secretary or the taxpayer, shall be
22 taken into account in the taxable year for which the return was filed in accordance
23 with rules, regulations, or forms prescribed by the secretary.

24 ~~(2)~~(4) If a deduction is claimed and allowed in any period, the same
25 deduction cannot again be claimed in a subsequent period in which it otherwise
26 would be properly deductible, unless the taxpayer, prior to the running of
27 prescription with respect to the first period, shall have amended his return for that
28 period so as to eliminate the deduction and shall have paid any additional tax which

1 may be due as a result thereof, together with any interest and penalties that may be
2 applicable thereto.

3 * * *

4 §287.732.2. Election for S corporations and other flow-through entities

5 * * *

6 B. Notwithstanding any provision of law to the contrary, the tax on the
7 Louisiana taxable income of every entity that makes the election pursuant to this
8 Section shall be computed at the rates of:

9 (1) ~~Two~~ One and eighty-five one hundredths percent upon the first
10 twenty-five thousand dollars of Louisiana taxable income.

11 (2) ~~Four~~ Three and one-half percent upon the amount of Louisiana taxable
12 income above twenty-five thousand dollars but not in excess of one hundred
13 thousand dollars.

14 (3) ~~Six~~ Four and one-quarter percent upon the amount of Louisiana taxable
15 income above one hundred thousand dollars.

16 ~~C. An entity that has made the election provided in this Section shall be
17 allowed a deduction in an amount equal to the federal income tax the entity would
18 have paid on its Louisiana net income for the taxable year if the entity had been
19 required to file an income tax return with the Internal Revenue Service as a C
20 corporation for the current and all prior taxable years, in accordance with federal
21 law.~~

22 * * *

23 Section 2. R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C) are hereby
24 repealed in their entirety.

25 Section 3. The provisions of this Act shall be applicable for taxable periods
26 beginning on or after January 1, 2022.

27 Section 4. This Act shall take effect and become operative on January 1, 2022, if the
28 proposed amendment of Article VII of the Constitution of Louisiana contained in the Act
29 which originated as House Bill No. 275 of this 2021 Regular Session of the Legislature or
30 the Act which originated as Senate Bill No. 159 of this 2021 Regular Session of this

1 Legislature is adopted at a statewide election and becomes effective and if both of the Acts
2 that originated as House Bill No. 278 and Senate Bill No. 161 of this 2021 Regular Session
3 of the Legislature are enacted and become law.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____