

2023 Regular Session

HOUSE BILL NO. 428

BY REPRESENTATIVE PRESSLY

TAX/INCOME TAX: Extends to estates, trusts, and partnerships the flow-through entity income exclusion allowed to individuals

1 AN ACT

2 To enact R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d), relative to state income tax;  
3 to provide relative to computation of income of estates, trusts, and partnerships  
4 subject to state income tax; to provide relative to income derived from flow-through  
5 entities; to provide for an exclusion of such income from the taxable income of  
6 estates, trusts, and partnerships subject to certain conditions; to provide for  
7 requirements and limitations associated with the exclusion; to provide for  
8 applicability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d) are hereby enacted  
11 to read as follows:

12 §203. Partnership computations

13 \* \* \*

14 C.(1) In computing the taxable income of a partnership, the partnership shall  
15 exclude net income or losses received from an entity of which the partnership is a  
16 shareholder, partner, or member if the entity properly filed a Louisiana corporation  
17 income tax return pursuant to R.S. 47:287.732.2 which included the net income or  
18 loss. However, no such exclusion shall be allowed for any amount attributable to  
19 income that, for any reason, will not bear the tax due pursuant to R.S. 47:287.732.2.



1 secretary disclosing the nature and amounts of such adjustments within sixty days  
2 after the federal adjustments have been made and accepted by the estate or trust.  
3 However, if the estate or trust does not receive a statement of the federal adjustments  
4 until after it accepts the adjustments, it shall have sixty days from the receipt of such  
5 statement within which to furnish the required statement to the secretary.

6 (bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown  
7 due or signing a consent to immediate assessment shall constitute an acceptance of  
8 the federal adjustments.

9 §300.7. Louisiana taxable income of nonresident estate or trust

10 \* \* \*

11 C. Modification. For purposes of this Section, federal taxable income shall  
12 be modified by adding or subtracting the items set forth below:

13 \* \* \*

14 (2) There shall be subtracted from federal taxable income, unless already  
15 excluded therefrom:

16 \* \* \*

17 (d)(i) Net income or losses received from an entity of which the estate or  
18 trust is a shareholder, partner, or member if the entity properly filed a Louisiana  
19 corporation income tax return pursuant to R.S. 47:287.732.2 which included the net  
20 income or loss. However, no such exclusion shall be allowed for any amount  
21 attributable to income that, for any reason, will not bear the tax due pursuant to R.S.  
22 47:287.732.2.

23 (ii)(aa) An estate or trust whose federal income tax return is adjusted due to  
24 S corporation or partnership income or losses for which the estate or trust used the  
25 exclusion provided in Item (i) of this Subparagraph shall furnish a statement to the  
26 secretary disclosing the nature and amounts of such adjustments within sixty days  
27 after the federal adjustments have been made and accepted by the estate or trust.  
28 However, if the estate or trust does not receive a statement of the federal adjustments

1 until after it accepts the adjustments, it shall have sixty days from the receipt of such  
2 statement within which to furnish the required statement to the secretary.

3 (bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown  
4 due or signing a consent to immediate assessment shall constitute an acceptance of  
5 the federal adjustments.

6 Section 2. The provisions of this Act shall be applicable for taxable periods  
7 beginning on or after January 1, 2023.

#### 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 428 Original

2023 Regular Session

Pressly

**Abstract:** Extends to estates, trusts, and partnerships the flow-through entity income exclusion allowed to individuals and provides for conditions and requirements relative to the exclusion.

Present law provides for all of the following:

- (1) An election that authorizes Subchapter S corporations and other flow-through entities to file income tax returns and pay tax on their La. income as if they were Subchapter C corporations (R.S. 47:287.732.2).
- (2) An exclusion from taxable income for individual taxpayers for net income or losses received from a flow-through entity which properly filed a La. corporation income tax return that included the net income or loss (R.S. 47:297.14(A)).
- (3) A requirement that any individual taxpayer who utilizes the flow-through entity exclusion described in paragraph (2) above shall notify the Dept. of Revenue if changes are made to his federal income tax return due to adjustments to an S corporation's income or losses (R.S. 47:297.14(B)).

Proposed law retains present law and extends to estates, trusts, and partnerships the flow-through entity income exclusion described in paragraph (2) above that present law allows for individual taxpayers. Proposed law also requires estates, trusts, and partnerships to notify the Dept. of Revenue if changes are made to their federal income tax returns due to adjustments to an S corporation's income or losses in the same manner as required by present law for individual taxpayers as described in paragraph (3) above.

Proposed law is applicable for taxable periods beginning on or after Jan. 1, 2023.

(Adds R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d))