2023 Regular Session

HOUSE BILL NO. 428

BY REPRESENTATIVE PRESSLY

1 AN ACT 2 To amend and reenact R.S. 47:287.732.2(A)(3) and to enact R.S. 47:203(C), 3 287.732.2(A)(4)(c) and (d) and (G), 300.6(B)(2)(e), and 300.7(C)(2)(d), relative to 4 state income tax; to provide relative to computation of income of estates, trusts, and 5 partnerships subject to state income tax; to provide relative to income derived from flow-through entities; to provide for an exclusion of such income from the taxable 6 7 income of estates, trusts, and partnerships subject to certain conditions; to provide 8 for requirements and limitations associated with the exclusion; to provide for 9 applicability; to provide for prospective termination of the election; and to provide 10 for related matters. 11 Be it enacted by the Legislature of Louisiana: 12 Section 1. R.S. 47:287.732.2(A)(3) is hereby amended and reenacted and R.S. 13 47:203(C), 287.732.2(A)(4)(c) and (d) and (G), 300.6(B)(2)(e), and 300.7(C)(2)(d) are 14 hereby enacted to read as follows: 15 §203. Partnership computations * * 16 17 C.(1) In computing the taxable income of a partnership, the partnership shall 18 exclude net income or losses received from an entity of which the partnership is a 19 shareholder, partner, or member if the entity properly filed a Louisiana corporation 20 income tax return pursuant to R.S. 47:287.732.2 which included the net income or 21 loss. However, no such exclusion shall be allowed for any amount attributable to 22 income that, for any reason, will not bear the tax due pursuant to R.S. 47:287.732.2.

ENROLLED

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1	(2)(a) A partnership whose federal income tax return is adjusted due to S
2	corporation or partnership income or losses for which the partnership used the
3	exclusion provided in Paragraph (1) of this Subsection shall furnish a statement to
4	the secretary disclosing the nature and amounts of such adjustments within sixty days
5	after the federal adjustments have been made and accepted by the partnership.
6	However, if the partnership does not receive a statement of the federal adjustments
7	until after it accepts the adjustments, it shall have sixty days from the receipt of such
8	statement within which to furnish the required statement to the secretary.
9	(b) For purposes of Subparagraph (a) of this Paragraph, paying the federal
10	tax shown due or signing a consent to immediate assessment shall constitute an
11	acceptance of the federal adjustments.
12	* * *
13	§287.732.2. Election for S corporations and other flow-through entities
14	А.
15	* * *
16	(3) The election shall be effective for the taxable year of the entity for which
17	it is made and for all succeeding taxable years of the entity, until the election is
18	terminated by the secretary or an application for prospective termination of the
19	election is effective.
20	(4)(a)
21	* * *
22	(c) An application for prospective termination of the election shall be
23	effective automatically for the subsequent taxable year upon completion of the
24	following:
25	(i) The shareholders, partners, or members holding more than one-half of the
26	ownership interest in the entity consent, in writing and maintained in the entity's
27	records, to the application for prospective termination.
28	(ii) The entity timely submits the application for prospective termination to
29	the secretary, in a manner as prescribed by the secretary, no later than November first

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1	prior to the close of the taxable year for calendar year filers or sixty days prior to the
2	close of the taxable year for fiscal year filers.
3	(d) Upon the entity's completion of Items (c)(i) and (ii) of this Paragraph and
4	the automatic effectiveness of the election's termination, no election otherwise
5	allowed by this Section shall apply for thesucceeding five taxable years of the entity
6	or its successor.
7	* * *
8	G. The secretary may promulgate rules necessary for administering the
9	provisions of this Section in accordance with the provisions of the Administrative
10	Procedure Act.
11	* * *
12	§300.6. Louisiana taxable income of resident estate or trust
13	* * *
14	B. Modification. For purposes of this Section, federal taxable income shall
15	be modified by adding or subtracting the items set forth below:
16	* * *
17	(2) There shall be subtracted from federal taxable income, unless already
18	excluded therefrom:
19	* * *
20	(e)(i) Net income or losses received from an entity of which the estate or
21	trust is a shareholder, partner, or member if the entity properly filed a Louisiana
22	corporation income tax return pursuant to R.S. 47:287.732.2 which included the net
23	income or loss. However, no such exclusion shall be allowed for any amount
24	attributable to income that, for any reason, will not bear the tax due pursuant to R.S.
25	47:287.732.2.
26	(ii)(aa) An estate or trust whose federal income tax return is adjusted due to
27	S corporation or partnership income or losses for which the estate or trust used the
28	exclusion provided in Item (i) of this Subparagraph shall furnish a statement to the
29	secretary disclosing the nature and amounts of such adjustments within sixty days
30	after the federal adjustments have been made and accepted by the estate or trust.

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1	However, if the estate or trust does not receive a statement of the federal adjustments
2	until after it accepts the adjustments, it shall have sixty days from the receipt of such
3	statement within which to furnish the required statement to the secretary.
4	(bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown
5	due or signing a consent to immediate assessment shall constitute an acceptance of
6	the federal adjustments.
7	§300.7. Louisiana taxable income of nonresident estate or trust
8	* * *
9	C. Modification. For purposes of this Section, federal taxable income shall
10	be modified by adding or subtracting the items set forth below:
11	* * *
12	(2) There shall be subtracted from federal taxable income, unless already
13	excluded therefrom:
14	* * *
15	(d)(i) Net income or losses received from an entity of which the estate or
16	trust is a shareholder, partner, or member if the entity properly filed a Louisiana
17	corporation income tax return pursuant to R.S. 47:287.732.2 which included the net
18	income or loss. However, no such exclusion shall be allowed for any amount
19	attributable to income that, for any reason, will not bear the tax due pursuant to R.S.
20	<u>47:287.732.2.</u>
21	(ii)(aa) An estate or trust whose federal income tax return is adjusted due to
22	S corporation or partnership income or losses for which the estate or trust used the
23	exclusion provided in Item (i) of this Subparagraph shall furnish a statement to the
24	secretary disclosing the nature and amounts of such adjustments within sixty days
25	after the federal adjustments have been made and accepted by the estate or trust.
26	However, if the estate or trust does not receive a statement of the federal adjustments
27	until after it accepts the adjustments, it shall have sixty days from the receipt of such
28	statement within which to furnish the required statement to the secretary.

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1	(bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown
2	due or signing a consent to immediate assessment shall constitute an acceptance of
3	the federal adjustments.
4	Section 2. The provisions of this Act shall be applicable for taxable periods

5 beginning on or after January 1, 2023.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____