

First Extraordinary Session, 2005

HOUSE BILL NO. 41

BY REPRESENTATIVES HAMMETT, PINAC, ARNOLD, BALDONE, DARTEZ, FARRAR, FAUCHEUX, HEATON, HILL, MONTGOMERY, ODINET, SCALISE, JANE SMITH, TOWNSEND, AND TUCKER

TAX/CORP FRANCHISE: Provides for the computation of borrowed capital by corporations affected by Hurricane Katrina or Rita which have incurred extraordinary debt (Item #16)

1 AN ACT

2 To amend and reenact R.S. 47:609(A), relative to the corporation franchise tax; to provide
3 for the computation of borrowed capital which includes extraordinary debt incurred
4 by corporations directly affected by Hurricanes Katrina and Rita; to provide for an
5 effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:609(A) is hereby amended and reenacted to read as follows:

8 §609. Due date, payment and reporting of tax

9 A.(1) The tax levied by this Chapter is for the annual accounting period,
10 fiscal, or calendar year, regularly used by the taxpayer in keeping its books, with no
11 proration for a portion of the year in the case of dissolution of domestic corporations
12 or withdrawal from the state by foreign corporations, or where a corporation
13 otherwise ceases to become taxable under this Chapter. The tax is due on the first
14 day of each calendar or fiscal year and annually thereafter, and, except as provided
15 for in Paragraph (2) of this Subsection, is computed on the basis of the previous
16 calendar or fiscal year closing. The tax is payable to the secretary on or before the
17 fifteenth day of the third month following the month in which the tax is due.
18 However, if the day on which the tax is payable falls on a Saturday, Sunday, or legal

1 holiday, the tax shall be payable on the next business day. With its payment the
2 taxpayer shall deliver to the secretary a full, accurate, and complete report and
3 statement signed by a duly authorized official of the corporation, containing such
4 information as the secretary may require.

5 (2)(a) For taxable periods beginning after August 28, 2005, a corporation
6 that incurred extraordinary debt as a result of a gubernatorially declared disaster of
7 2005 may elect to compute its borrowed capital on the basis of the calendar or fiscal
8 year closing immediately prior to August 28, 2005, if:

9 (i) Fifty percent or more of the corporation's revenue for the fiscal year
10 closing immediately prior to August 28, 2005, was directly attributable to a
11 Hurricane Katrina or Hurricane Rita Federal Emergency Management Agency
12 Individual Assistance Area.

13 (ii) Fifty percent or more of the corporation's property and assets were
14 situated or used in a Hurricane Katrina or Hurricane Rita Federal Emergency
15 Management Agency Individual Assistance Area on the date of the calendar or fiscal
16 year closing immediately prior to August 28, 2005.

17 (b) Extraordinary debt incurred as a result of a gubernatorially declared
18 disaster of 2005 means any borrowed capital of a corporation to which Subparagraph
19 (2)(a) or (b) of this Subsection applies that is in excess of the borrowed capital on
20 that corporation's books on the calendar or fiscal year closing immediately prior to
21 August 28, 2005.

22 * * *

23 Section 2. This Act shall become effective upon signature of the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 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.

Hammett

HB No. 41

Abstract: Provides that corporations having 50% or more of their property in or revenue from the parishes most affected by Hurricanes Katrina and Rita may elect to compute the borrowed capital portion of their corporation franchise tax base at pre-hurricane levels.

Present law provides that the franchise tax is computed on the basis of the previous calendar or fiscal year closing.

Proposed law provides that corporations that had at least 50% of their property located in or that receive at least 50% of their revenues from the Hurricane Katrina or Hurricane Rita Federal Emergency Management Agency Individual Assistance Area and that have borrowed capital that is in excess of the borrowed capital on that corporation's books on the calendar or fiscal year closing immediately prior to August 28, 2005, will be considered to have incurred extraordinary debt as a result of a gubernatorially declared disaster of 2005 and therefore may elect to compute the borrowed capital portion of their franchise tax base either on the basis of the previous calendar or fiscal year closing or on the basis of the calendar or fiscal year closing immediately prior to August 28, 2005.

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

(Amends R.S. 47:609(A))