

2016 First Extraordinary Session

HOUSE BILL NO. 47

BY REPRESENTATIVE JAMES

TAX CREDITS: Reduces the amount of certain ad valorem tax credits and provides for the carryforward rather than the refund of a certain portion of excess credit amounts (Item #31)

1 AN ACT

2 To amend and reenact R.S. 47:6006(A), (B), and (D), 6006.1(A) and (E), and 6014(A) and

3 to repeal R.S. 47:6006.1(C) and 6014(D) and (E), relative to income and corporation

4 franchise tax credits; to provide with respect to tax credits for ad valorem taxes paid

5 on inventory, certain offshore vessels, and certain telephone company public service

6 properties; to reduce the amount of the tax credits; to provide with respect to the

7 issuance of refunds for tax credits which exceed taxpayer liability; to repeal the

8 statutory dedication of the Telephone Company Property Assessment Relief Fund;

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6006(A), (B), and (D), 6006.1(A) and (E), and 6014(A) are

12 hereby amended and reenacted to read as follows:

13 §6006. Tax credits for local inventory taxes paid

14 A.(1) There shall be allowed a credit against any Louisiana income or

15 corporation franchise tax for ad valorem taxes paid to political subdivisions on

16 inventory held by manufacturers, distributors, and retailers. The amount of the credit

17 is provided for in Subsection D of this Section.

18 (2) There shall be allowed a credit against any Louisiana income or

19 corporation franchise tax for ad valorem taxes paid to political subdivisions on

1 natural gas held, used, or consumed in providing natural gas storage services or
2 operating natural gas storage facilities. The amount of the credit is provided for in
3 Subsection D of this Section.

4 B. Credit for taxes paid by corporations shall be applied to state corporate
5 income and corporation franchise taxes. Credit for taxes paid by unincorporated
6 persons shall be applied to state personal income taxes. ~~The secretary shall make~~
7 ~~a refund to the taxpayer in the amount to which he is entitled from the current~~
8 ~~collections of the taxes collected pursuant to Chapter 1 and Chapter 5 of Subtitle II.~~
9 ~~If the amount of the credit authorized pursuant to Subsection A of this Section~~
10 ~~exceeds the amount of tax liability for the tax year, the following amounts of the~~
11 ~~excess credit shall either be refundable or may be carried forward as a credit against~~
12 ~~subsequent Louisiana income or corporation franchise tax liability for a period not~~
13 ~~to exceed five years, as follows:~~

14 (1) ~~Eligible taxpayers whose ad valorem taxes paid to all political~~
15 ~~subdivisions in the taxable year was less than ten thousand dollars shall be refunded~~
16 ~~all of the excess credit.~~

17 (2) ~~Eligible taxpayers whose ad valorem taxes paid to all political~~
18 ~~subdivisions in the taxable year was ten thousand dollars or more shall be refunded~~
19 ~~seventy-five percent of the excess credit, and the remaining twenty-five percent of~~
20 ~~the credit may be carried forward as a credit against subsequent tax liability for a~~
21 ~~period not to exceed five years.~~

22 * * *

23 D.(1) The amount of the credit provided in this Section shall be allowed as
24 follows:

25 (1) ~~For inventory taxes paid to political subdivisions on or after July 1,~~
26 ~~1992, and before June 30, 1993, the credit shall be twenty percent of such taxes paid.~~

27 (a) For inventory taxes paid prior to January 1, 2016, the amount of the
28 credit shall be one hundred percent of the taxes paid; however, no amount of the tax
29 credit provided for in this Section which exceeds the tax liability of the taxpayer

1 shall be refundable. One-fourth of the excess credit amount may be carried forward
2 as a credit against subsequent Louisiana income or corporation franchise tax liability
3 in each of the next four taxable years.

4 ~~(2) For inventory taxes paid to political subdivisions on or after July 1, 1993,~~
5 ~~and before June 30, 1994, the credit shall be forty percent of such taxes paid.~~

6 ~~(3) For inventory taxes paid to political subdivisions on or after July 1, 1994,~~
7 ~~and before June 30, 1995, the credit shall be sixty percent of such taxes paid.~~

8 ~~(4) For inventory taxes paid to political subdivisions on or after July 1, 1995,~~
9 ~~and before June 30, 1996, the credit shall be eighty percent of such taxes paid.~~

10 ~~(5) For inventory taxes paid to political subdivisions on or after July 1, 1996,~~
11 ~~the credit shall be one hundred percent of such taxes paid.~~

12 (b) For inventory taxes paid on and after January 1, 2016, the amount of the
13 credit authorized pursuant to the provisions of this Section shall be equal to eighty
14 percent of the inventory taxes paid to political subdivisions.

15 (i) If the amount of the taxes paid to all political subdivisions is less than ten
16 thousand dollars in any one year and the amount of the credit authorized pursuant to
17 the provisions of this Section exceeds the tax liability of the taxpayer for that year,
18 the secretary of the Department of Revenue shall refund the excess amount of the
19 credit to the taxpayer.

20 (ii) If the amount of the taxes paid to all political subdivision is ten thousand
21 dollars or more in any one year and the amount of the credit authorized pursuant to
22 the provisions of this Section exceeds the tax liability of the taxpayer for that year,
23 seventy-five percent of the excess credit amount shall be refunded to the taxpayer
24 and the remaining twenty-five percent of the excess credit amount may be carried
25 forward as a credit against subsequent Louisiana income or corporation franchise tax
26 liability for a period not to exceed five years.

27 (2) The secretary shall make a refund to the taxpayer in the amount to which
28 he is entitled from the current collections of the taxes collected pursuant to Chapter
29 1 and Chapter 5 of Subtitle II of this Title.

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§6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental Shelf Lands Act Waters

A. There shall be allowed a credit against any Louisiana income or corporation franchise tax for ad valorem taxes paid without protest to political subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to the assessor pursuant to R.S. 47:1956(B) within the calendar year immediately preceding the taxable year of assessment of such vessel. The amount of the credit is provided for in Subsection E of this Section. For purposes of this Section, ad valorem taxes shall be deemed to be paid to political subdivisions when they are paid without protest either in money or by applying credits established pursuant to R.S. 47:2108.1.

* * *

E.(1) The amount of the credit provided in this Section shall be ~~allowed~~ as follows:

~~(1) For ad valorem taxes on Outer Continental Shelf Lands Act Waters vessels paid to political subdivisions on or after July 1, 1994, and before June 30, 1995, the credit shall be sixty percent of such taxes paid.~~

~~(2) For ad valorem taxes on Outer Continental Shelf Lands Act Waters vessels paid to political subdivisions on or after July 1, 1995, and before June 30, 1996, the credit shall be eighty percent of such taxes paid.~~

~~(3) For ad valorem taxes on Outer Continental Shelf Lands Act Waters vessels paid to political subdivisions on or after July 1, 1996, the credit shall be one hundred percent of such taxes paid.~~

(a) For ad valorem taxes paid prior to January 1, 2016, the amount of the credit shall be one hundred percent of the taxes paid; however, no amount of the tax credit provided for in this Section which exceeds the tax liability of the taxpayer shall be refunded to the taxpayer; however, the excess credit amount may be carried

1 forward as a credit against subsequent Louisiana income or corporation franchise tax
2 liability for a period not to exceed four years.

3 (b) For ad valorem taxes paid on and after January 1, 2016, the amount of
4 the credit authorized pursuant to the provisions of this Section shall be equal to
5 eighty percent of the ad valorem taxes paid without protest to political subdivisions
6 on vessels in Outer Continental Shelf Lands Act Waters as certified to the assessor
7 pursuant to R.S. 47:1956(B) within the calendar year immediately preceding the
8 taxable year of assessment of the vessel. If the amount of the credit authorized
9 pursuant to the provision of this Section exceeds the tax liability of the taxpayer for
10 that year, seventy-five percent of the excess credit amount shall be refunded to the
11 taxpayer and the remaining twenty-five percent of the excess credit amount may be
12 carried forward as a credit against subsequent Louisiana income or corporation
13 franchise tax liability for a period not to exceed five years.

14 (2) The secretary shall make a refund to the taxpayer in the amount to which
15 he is entitled from the current collections of the taxes collected pursuant to Chapter
16 1 and Chapter 5 of Subtitle II of this Title.

17 * * *

18 §6014. Credit for property taxes paid by certain telephone companies; fund

19 A.(1) Pursuant to the provisions of this Section, there shall be allowed a
20 credit against Louisiana corporation or individual income taxes and Louisiana
21 corporation franchise tax ~~for, and in an amount equal to, forty percent of the~~
22 aggregate ad valorem taxes paid to political subdivisions of this state after December
23 31, 2000, by a telephone company, as defined in R.S. 47:1851(Q), with respect to
24 such telephone company's public service properties, as defined in R.S. 47:1851(M),
25 which are assessed by the Louisiana Tax Commission at twenty-five percent of fair
26 market value pursuant to R.S. 47:1854. The amount of the credit provided for in this
27 Section shall be as follows:

28 (a) For ad valorem taxes paid prior to January 1, 2016, the amount of the
29 credit shall be one hundred percent of the taxes paid; however, no amount of the tax

1 credit provided for in this Section which exceeds the tax liability of the taxpayer
2 shall be refunded to the taxpayer; however, the excess credit amount may be carried
3 forward as a credit against subsequent Louisiana income or corporation franchise tax
4 liability for a period not to exceed four years.

5 (b) For taxable periods beginning on and after January 1, 2016, the amount
6 of the credit authorized pursuant to the provisions of this Section shall be equal to
7 thirty-two percent of the ad valorem taxes paid to political subdivisions by a
8 telephone company with respect to the company's public service properties assessed
9 by the Louisiana Tax Commission at twenty-five percent of fair market value. If the
10 amount of the credit authorized pursuant to the provision of this Section exceeds the
11 tax liability of the taxpayer for that year, seventy-five percent of the excess credit
12 amount shall be refunded to the taxpayer and the remaining twenty-five percent of
13 the excess credit amount may be carried forward as a credit against subsequent
14 Louisiana income or corporation franchise tax liability for a period not to exceed five
15 years.

16 (2) The secretary shall make a refund to the taxpayer in the amount to which
17 he is entitled from the current collections of the taxes collected pursuant to Chapter
18 2 of Subtitle II of this Title.

19 * * *

20 Section 2. R.S. 47:6006.1(C) and 6014(D) and (E) are hereby repealed in their
21 entirety.

22 Section 3. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 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. 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 47 Original

2016 First Extraordinary Session

James

Abstract: Disallows refundability of tax credits for ad valorem taxes paid prior to Jan. 1, 2016, on inventory, offshore vessels, and telephone company public service properties and for ad valorem taxes paid on and after Jan. 1, 2016, reduces the amount of the credits and modifies refundability of excess credit amounts.

INVENTORY

Present law provides for income or corporation franchise tax credits for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers and for ad valorem taxes paid to political subdivisions on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.

Present law provides that if a taxpayer pays less than \$10,000 in ad valorem taxes to all political subdivisions, then any amount of the tax credit that exceeds the taxpayer's tax liability is 100% refundable to the taxpayer. Further provides that if a taxpayer pays \$10,000 or more in ad valorem taxes to all political subdivisions, then 75% of the amount of the credit that exceeds the taxpayer's tax liability is refundable to the taxpayer and the remaining 25% of the credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.

Proposed law changes present law by disallowing any refundability of excess credit amounts for inventory taxes paid prior to Jan. 1, 2016; however, a taxpayer is allowed to carry forward one-quarter of the excess credit amount against subsequent Louisiana income or corporation franchise tax liability in each of the next four taxable years.

Proposed law changes present law for inventory taxes paid to all political subdivisions on and after Jan. 1, 2016, by reducing the amount of the credit from 100% of the inventory taxes paid to 80% but maintains the refundability of the excess amount of tax credit for taxpayers whose tax liability is less than the amount of the credit.

OFFSHORE VESSELS

Present law provides for income or corporation franchise tax credits for ad valorem taxes paid without protest to political subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to the assessor within the calendar year immediately preceding the taxable year of assessment of such vessel. The amount of the credit shall be 100% of the ad valorem taxes paid to political subdivisions on these vessels.

Present law provides that if the tax credit amount exceeds the taxpayer's tax liability, then 100% of the excess amount of the credit shall be refunded to the taxpayer.

Proposed law changes present law by disallowing any refundability of excess credit amounts for ad valorem taxes paid prior to Jan. 1, 2016; however, a taxpayer is allowed to carry forward one-quarter of the excess credit amount against subsequent Louisiana income or corporation franchise tax liability in each of the next four taxable years.

Proposed law changes present law for ad valorem taxes paid to all political subdivisions on and after Jan. 1, 2016, by reducing the amount of the credit from 100% of the ad valorem taxes paid to 80% and reduces the amount of the credit which may be refunded to a taxpayer

if the taxpayer's tax credit amount exceeds his tax liability from 100% refundable to 75%. The remaining 25% of the excess credit amount may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.

TELEPHONE COMPANY PUBLIC SERVICE PROPERTY

Present law provides for income or corporation franchise tax credits for ad valorem taxes paid to political subdivisions by a telephone company on the company's public service properties which are assessed by the La. Tax Commission at 25% of fair market value pursuant to present law. The amount of the credit shall be equal to 40% of the aggregate amount of ad valorem taxes paid on these properties.

Present law provides that if the tax credit amount exceeds the taxpayer's tax liability, then 100% of the excess amount of the credit shall be refunded to the taxpayer.

Proposed law changes present law by disallowing any refundability of excess credit amounts for ad valorem taxes paid prior to Jan. 1, 2016; however, a taxpayer is allowed to carry forward one-quarter of the excess credit amount against subsequent Louisiana income or corporation franchise tax liability in each of the next four taxable years.

Proposed law changes present law for ad valorem taxes paid to all political subdivisions on and after Jan. 1, 2016 by reducing the amount of the credit from 40% of the ad valorem taxes paid to 32% and reduces the amount of the credit which may be refunded to a taxpayer if the taxpayer's tax credit amount exceeds his tax liability from 100% refundable to 75%. The remaining 25% of the excess credit amount may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.

Present law establishes the "Telephone Company Property Assessment Relief Fund" ("fund") as a special treasury fund wherein the avails of the sales and use taxes imposed under present law attributable to the furnishing of interstate and international telecommunication services shall be credited. Present law requires the monies in the fund to be used solely for paying the credits or refunds as provided in present law.

Proposed law repeals the special treasury fund and provides that the secretary shall make refunds for this tax credit from current sales tax collections.

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

(Amends R.S. 47:6006(A), (B), and (D), 6006.1(A) and (E), and 6014(A); Repeals R.S. 47:6006.1(C) and 6014(D) and (E))