

2016 First Extraordinary Session

HOUSE BILL NO. 99

BY REPRESENTATIVE STOKES

TAX/CORP INCOME: Provides relative to the apportionment ratio for purposes of computing corporate income tax (Item #5)

1 AN ACT

2 To amend and reenact R.S. 47:287.95(A), (C)(1), (D), and (F)(2)(a) and (b), relative to
3 corporate income tax; to provide for the calculation of apportionment income for
4 certain businesses; to provide for the weighing of certain ratios in the calculation of
5 Louisiana income; to provide for applicability; to provide for an effective date; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:287.95(A), (C)(1), (D), and (F)(2)(a) and (b) are hereby amended
9 and reenacted to read as follows:

10 §287.95. Determination of Louisiana apportionment percent

11 A.(1) Air transportation. ~~The~~ Except as provided in Paragraph (2) of this
12 Subsection, the Louisiana apportionment percent of any taxpayer whose net
13 apportionable income is derived primarily from the business of transportation by
14 aircraft shall be the arithmetical average of two ratios, as follows:

15 ~~(1)(a)~~ (a) The ratio of the value of immovable and corporeal movable property,
16 other than aircraft, owned by the taxpayer and located in Louisiana to the value of
17 all immovable and corporeal movable property, other than aircraft, owned by the
18 taxpayer and used in the production of apportionable income.

19 ~~(2)(b)~~ (b) The ratio of the amount of gross apportionable income derived from
20 Louisiana sources to the total gross apportionable income of the taxpayer.

1 (2) For taxable periods beginning on or after January 1, 2016, and for the
2 purpose of this Subsection, the Louisiana apportionment percent of any taxpayer
3 whose net apportionable income is derived primarily from the business of
4 transportation by aircraft shall be computed by means of a single ratio consisting of
5 the ratio provided for in Subparagraph (1)(b) of this Subsection.

6 (3) For the purposes of this Subsection, gross apportionable income from
7 Louisiana sources shall include all gross receipts derived from passenger journeys
8 and cargo shipments originating in Louisiana and any other items of gross
9 apportionable income or receipts derived entirely from sources in this state.

10 * * *

11 C. Other transportation. ~~(1)(a)~~ Except as provided in Subparagraph (b)
12 of this Paragraph, the Louisiana apportionment percent of any taxpayer whose net
13 apportionable income is derived primarily from the business of transportation, other
14 than by aircraft or pipeline, shall be the arithmetical average of two ratios, as
15 follows:

16 (i) The ratio of the value of immovable and corporeal movable property
17 owned by the taxpayer and located in Louisiana to the value of all immovable and
18 corporeal movable property owned by the taxpayer and used in the production of
19 apportionable income.

20 (ii) The ratio of the amount of gross apportionable income from Louisiana
21 sources to the total amount of gross apportionable income of the taxpayer.

22 (b) For taxable periods beginning on or after January 1, 2016, and for the
23 purpose of this Subsection, the Louisiana apportionment percent of any taxpayer
24 whose net apportionable income is derived primarily from the business of
25 transportation, other than by aircraft or pipeline, shall be computed by means of a
26 single ratio consisting of the ratio provided for in Item (a)(ii) of this Paragraph.

27 ~~(b)~~ (c) For the purposes of this Subsection, the gross apportionable income
28 from Louisiana sources shall include all such income that is derived entirely from
29 sources within the state and a portion of revenue from transportation partly without

1 and partly within this state, to be prorated subject to rules and regulations of the
2 secretary, who shall give due consideration to the proportion of service performed
3 in Louisiana.

4 ~~(c)~~ (d) For the purposes of this Subsection, the value of immovable and
5 corporeal movable property owned by the taxpayer and used in Louisiana shall
6 include the value of all such property regularly situated in this state, plus a pro rata
7 of the value of all rolling stock and other mobile equipment owned by the taxpayer
8 and used in the production of apportionable income, whether within or without this
9 state, said proration to be made subject to rules and regulations of the secretary, who
10 shall give due consideration to the mileage operated and traffic density within and
11 without this state.

12 * * *

13 D.(1) Service enterprises. The Except as provided in Paragraph (2) of this
14 Subsection, the Louisiana apportionment percent of any taxpayer whose net
15 apportionable income is derived primarily from a service business in which the use
16 of property is not a substantial income-producing factor shall be the arithmetical
17 average of two ratios, as follows:

18 ~~(1)~~(a) The ratio of the amount paid by the taxpayer for salaries, wages, and
19 other compensation for personal services rendered in Louisiana to the total amount
20 paid by the taxpayer for salaries, wages, and other compensation for personal
21 services in connection with the production of the net apportionable income.

22 ~~(2)~~(b) The ratio of the gross apportionable income of the taxpayer from
23 Louisiana sources to the total gross apportionable income of the taxpayer.

24 (2) For taxable periods beginning on or after January 1, 2016, and for the
25 purpose of this Subsection, the Louisiana apportionment percent of any taxpayer
26 whose net apportionable income is derived primarily from a service business in
27 which the use of property is not a substantial income-producing factor shall be
28 computed by means of a single ratio consisting of the ratio provided for in
29 Subparagraph (b) of this Paragraph.

1 (3) For the purposes of this Subsection, the gross apportionable income from
2 Louisiana sources shall include the revenue from services performed in this state and
3 any other gross income derived entirely from sources within this state.

4 * * *

5 F.

6 * * *

7 ~~(2)(a) For taxable periods beginning on or after January 1, 1997, and ending~~
8 ~~on or before December 31, 2005, and for the purpose of this Subsection, the~~
9 ~~Louisiana apportionment percent of any taxpayer whose net apportionable income~~
10 ~~is derived primarily from the business of manufacturing or merchandising shall be~~
11 ~~computed by means of the ratios provided in Subparagraphs (1)(a) through (c) of this~~
12 ~~Subsection, except that the ratio of net sales as provided in Subparagraph (c) shall~~
13 ~~be double-weighted or counted twice, and the Louisiana apportionment percent shall~~
14 ~~be the arithmetical average of the four ratios.~~

15 ~~(b)~~ For taxable periods beginning on or after January 1, 2006, and for the
16 purpose of this Subsection, the Louisiana apportionment percent of any taxpayer
17 whose net apportionable income is derived primarily from the business of
18 manufacturing or merchandising shall be computed by means of a single ratio
19 consisting of the ratio provided for in Subparagraph (1)(c) of this Subsection.

20 (b) For taxable periods beginning on or after January 1, 2016, and for the
21 purpose of this Subsection, the Louisiana apportionment percent of any taxpayer
22 whose net apportionable income is derived primarily from transportation by pipeline
23 or from any business not included in Subsections A through E of this Section shall
24 be computed by means of a single ratio consisting of the ratio provided for in
25 Subparagraph (1)(c) of this Subsection.

26 * * *

27 Section 2. The provisions of this Act shall be applicable to all taxable periods
28 beginning on and after January 1, 2016.

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

1 Section 3. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 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 99 Original

2016 First Extraordinary Session

Stokes

Abstract: Changes the apportionment percent for apportionable income derived for certain transportation and service industry sectors to a single ratio calculation.

Transportation By Aircraft

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation by aircraft shall be calculated from the average of following ratios:

- (1) The ratio of the value of immovable and movable property, other than aircraft, owned by the taxpayer located in La. to the value of all immovable and movable property, other than aircraft, owned by the taxpayer used in the production of apportionable income.
- (2) The ratio of gross apportionable income derived from La. sources to the total gross apportionable income of the taxpayer.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using the *single ratio* as provided in (2).

Present law provides that "gross apportionable income from La. sources" shall include all gross receipts derived from passenger journeys and cargo shipments originating in La. and other items of gross apportionable income or receipts derived entirely from sources in La.

Transportation Other Than Aircraft Or Pipeline

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation other than by aircraft or pipeline, shall be calculated from the average of the following ratios:

- (1) The ratio of the value of immovable and movable property owned by the taxpayer located in La. to the value of all immovable and movable property owned by the taxpayer used in the production of apportionable income.
- (2) The ratio of gross apportionable income from La. sources to the total amount of gross apportionable income of the taxpayer.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using the *single ratio* as provided in (2).

Present law provides that "gross apportionable income from La. sources" shall include all income derived entirely from sources within the state and a portion of revenue from transportation partly in and partly outside this state, prorated with deference given to the proportion of service performed in La.

Present law further provides that the value of immovable and movable property owned by the taxpayer used in La. shall include the value of property regularly situated in this state plus a pro rata of the value of all rolling stock and other mobile equipment owned by the taxpayer used in the production of apportionable income, with deference given for the mileage operated and traffic density inside and outside of this.

Present law provides for special provisions for trucking companies.

Service Enterprises

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from a service business in which the use of property is not a substantial income-producing factor shall be calculated from the average of the following ratios:

- (1) The ratio of the amount paid by the taxpayer for salaries, wages, and other compensation for personal services rendered in La. to the total amount paid by the taxpayer for salaries, wages, and other compensation for personal services in connection with the production of the net apportionable income.
- (2) The ratio of the gross apportionable income of the taxpayer from La. sources to the total gross apportionable income of the taxpayer.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed by using the *single ratio* as provided in (2).

Present law provides that "gross apportionable income from La. sources" shall include revenue from services performed in this state, and any other gross income derived entirely from sources within this state.

Manufacturing And Merchandising

Present law provides that the La. apportionment percent of a taxpayer whose net apportionable income is derived primarily from the transportation by pipeline or from any business not included in other provisions of present law (manufacturing and merchandising) shall be calculated from the average of the following three ratios:

- (1) The ratio of the value of the immovable and movable property owned by the taxpayer located in La. to the value of all immovable and movable property owned by the taxpayer used in the production of the net apportionable income.
- (2) The ratio of the amount paid by the taxpayer for salaries, wages, and other compensation for personal services rendered in this state to the total amount paid by the taxpayer for salaries, wages, and other compensation for personal services in connection with the production of net apportionable income.

- (3) The ratio of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of taxpayers whose apportionable income is derived primarily from transportation by pipeline or from any business not included in other provisions of present law shall be computed by using the *single ratio* as provided in (3).

Present law provides that since Jan. 1, 2006, the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from manufacturing or merchandising shall be computed by a *single ratio* of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer.

Proposed law retains present law as it relates to the apportionment ratios for manufacturing or merchandising sectors.

Applicable to all taxable periods beginning on and after Jan. 1, 2016.

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

(Amends R.S. 47:287.95(A), (C)(1), (D), and (F)(2)(a) and (b))