

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 55

2016 First Extraordinary Session

Leger

TAX/INCOME TAX: Requires that certain deductible items be added-back on certain corporate income tax returns (Item #5)

Synopsis of Senate Amendments

1. Adds a definition for "management fees" for purposes of proposed law that excludes certain expenses from being required to be added-back for purposes of computing corporate income taxes.

Digest of Bill as Finally Passed by Senate

Proposed law provides that for purposes of computing a corporation's La. net income, a corporation shall add-back otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid, accrued, incurred, or in connection with one or more direct or indirect transactions, with one or more related members. However, to the extent a corporation shows that the corresponding item of income was, either subject to a tax based on or measured by the related member's net income in La. or any other state, or was subject to a tax based on or measured by the related member's net income by a foreign nation, that item of income would not be required to be added-back.

Proposed law defines "subject to a tax based on or measured by the related member's net income" as the receipt of payment by the recipient related member that is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor. Any portion of an item of income not attributed to the taxing jurisdiction, as determined by that jurisdiction's allocation and apportionment methodology, shall not be considered subject to a tax.

Proposed law adds provisions for when the adjustments required in proposed law shall not apply, such as if a corporation establishes that the transaction giving rise to the interest expenses and costs, the intangible expenses and costs, or management fees between the corporation and the related member did not have as a principal purpose the avoidance of any La. income tax.

Proposed law exempts from the mandatory adjustments that portion of interest expenses and costs, intangible expenses and costs, and management fees that the corporation establishes was paid or incurred by the related member during the same taxable year to a person that is not a related member.

Proposed law adds a definition for "management fees" for purposes of proposed law that excludes interest expenses pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing not for resale, taxation, financial matters, securities, accounting, or reporting and compliance matters, or similar administrative activities, to the extent that those amounts are otherwise deductible in the computation of Louisiana adjusted gross income.

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

Applicable to all tax years beginning on and after Jan. 1, 2016.

(Adds R.S. 47:287.82)