

2016 Second Extraordinary Session

HOUSE BILL NO. 64

BY REPRESENTATIVE BROADWATER

TAX/INCOME TAX: Repeals the corporate income tax and franchise taxes and prohibits certain corporate taxpayers from claiming certain refundable tax credits (Items #43 & 44)

1 AN ACT

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

3 6020(D)(2)(a) and (3), 6022(D)(1)(introductory paragraph) and (E)(2), 6025(A),

4 6032(A) and (D) and to repeal R.S. 47:51, 158, 246, Subparts A through D of Part

5 II-A of Chapter 1 of Title 47 of the Louisiana Revised Statutes of 1950, comprised

6 of R.S. 47:287.2 through 287.95, 287.738, 287.745, and Chapter 5 of Subtitle II of

7 Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:601 through

8 618, relative to corporate taxes; to repeal the corporate income tax; to repeal the

9 corporation franchise tax; to repeal provisions relative to the computation of taxable

10 income for purposes of the corporate income tax; to repeal provisions relative to

11 certain deductions, including the federal deduction and net operating loss deduction;

12 to repeal provisions with respect to the calculation of taxable capital for purposes of

13 levying the corporate franchise tax; the to provide with respect to the applicability

14 of certain tax credits, exemptions and deductions against certain state taxes; to

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

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 47:6006(A) and (B), 6006.1(A) and (B), 6014(A), (B), and (C),

18 6020(D)(2)(a) and (3), 6022(D)(1)(introductory paragraph) and (E)(2), 6025(A), 6032(A)

19 and (D) are hereby amended and reenacted to read as follows:

1 §6006. Tax credits for local inventory taxes paid

2 A.(1)(a) There shall be allowed a credit against any Louisiana individual
3 ~~income or corporation franchise~~ tax for ad valorem taxes paid to political
4 subdivisions on inventory held by manufacturers, distributors, and retailers.

5 ~~(2)(b)~~ There shall be allowed a credit against any Louisiana individual
6 ~~income or corporation franchise~~ tax for ad valorem taxes paid to political
7 subdivisions on natural gas held, used, or consumed in providing natural gas storage
8 services or operating natural gas storage facilities.

9 (2) Beginning January 1, 2017, the state corporate income and corporation
10 franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
11 for the credit provided for pursuant to the provisions of this Section. Corporate
12 taxpayers shall be prohibited from applying this credit against individual income
13 taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.

14 B. ~~Credit for taxes paid by corporations shall be applied to state corporate~~
15 ~~income and corporation franchise taxes.~~ Credit for taxes paid by unincorporated
16 persons shall be applied to state personal income taxes. The secretary shall make
17 a refund to the taxpayer in the amount to which he is entitled from the current
18 collections of the taxes collected pursuant to Chapter 1 and Chapter 5 of Subtitle II.
19 If the amount of the credit authorized pursuant to Subsection A of this Section
20 exceeds the amount of tax liability for the tax year, the following amounts of the
21 excess credit shall either be refundable or may be carried forward as a credit against
22 subsequent Louisiana individual ~~income or corporation franchise~~ tax liability for a
23 period not to exceed five years, as follows:

24 * * *

25 §6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental
26 Shelf Lands Act Waters

27 A. There shall be allowed a credit against any Louisiana individual income
28 ~~or corporation franchise~~ tax for ad valorem taxes paid without protest to political
29 subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to

1 the assessor pursuant to R.S. 47:1956(B) within the calendar year immediately
2 preceding the taxable year of assessment of such vessel. For purposes of this
3 Section, ad valorem taxes shall be deemed to be paid to political subdivisions when
4 they are paid without protest either in money or by applying credits established
5 pursuant to R.S. 47:2108.1.

6 B.(1) Notwithstanding anything to the contrary in either Chapter 1 or
7 Chapter 5 of Subtitle II of this Title, as amended, the following rules shall apply with
8 respect to the application of the credit established in Subsection A of this Section:

9 ~~(1) The credit for taxes paid by or on behalf of a corporation shall be applied~~
10 ~~against Louisiana corporate income and corporation franchise taxes of such~~
11 ~~corporation. However, any such credit allowable to any member of an affiliated~~
12 ~~group of corporations, as defined in Section 1504 of the Internal Revenue Code of~~
13 ~~1954, as amended, shall be applied against Louisiana corporate income and~~
14 ~~corporation franchise taxes of such member and any other member of such affiliated~~
15 ~~group of corporations until the entire amount of the credit has been applied against~~
16 ~~such Louisiana corporate income taxes or corporation franchise taxes.~~

17 ~~(2)(a)~~ The credit for taxes paid by an individual shall be applied against
18 Louisiana personal income taxes.

19 ~~(3) The credit for taxes paid by or on behalf of a corporation classified under~~
20 ~~Subchapter S of the Internal Revenue Code of 1954, as amended, as an S corporation~~
21 ~~shall be applied first against any Louisiana corporate income and corporation~~
22 ~~franchise taxes due by such S corporation, and the remainder of any such credit shall~~
23 ~~be allocated to the shareholder or shareholders of such S corporation in accordance~~
24 ~~with their respective interests and applied against the Louisiana income tax of such~~
25 ~~shareholder or shareholders of the S corporation.~~

26 ~~(4)(b)~~ The credit for taxes paid by or on behalf of a partnership shall be
27 allocated to the partners according to their distributive shares of partnership gross
28 income and applied against any Louisiana individual income tax ~~and corporation~~
29 ~~franchise tax liability of such partners.~~

1 C.(1) Notwithstanding any provision of law to the contrary, the following
2 provisions shall apply with respect to the application of the credit established in
3 Subsection A of this Section:

4 ~~(1) The credit for ad valorem taxes paid by or on behalf of a corporation~~
5 ~~shall be applied against Louisiana corporation income and corporation franchise~~
6 ~~taxes of such corporation. However, any such credit allowable to any member of an~~
7 ~~affiliated group of corporations, as defined in Section 1504 of the Internal Revenue~~
8 ~~Code of 1986, as amended, shall be applied against Louisiana corporation income~~
9 ~~and corporation franchise taxes of such member and any other member of such~~
10 ~~affiliated group of corporations until the entire amount of the credit has been applied~~
11 ~~against such Louisiana corporation income taxes or corporation franchise taxes.~~

12 (2)(a) The credit for taxes paid by an individual shall be applied against the
13 Louisiana individual income tax.

14 ~~(3) The credit for taxes paid by or on behalf of a corporation classified under~~
15 ~~Subchapter S of the Internal Revenue Code of 1986, as amended, as an S corporation~~
16 ~~shall be applied first against any Louisiana corporation income and corporation~~
17 ~~franchise taxes due by such S corporation, and the remainder of any such credit shall~~
18 ~~be allocated to the shareholder or shareholders of such S corporation in accordance~~
19 ~~with their respective interests and applied against the Louisiana income tax of such~~
20 ~~shareholder or shareholders of the S corporation.~~

21 ~~(4)(b)~~ The credit for taxes paid by or on behalf of a partnership shall be
22 allocated to the partners according to their distributive shares of partnership gross
23 income and applied against any Louisiana individual income tax ~~and corporation~~
24 ~~franchise tax liability of such partners.~~

25 (5)(c) The credit for taxes paid by or on behalf of a limited liability company
26 shall be allocated to the members according to their distributive shares of such
27 limited liability company's gross income and applied against any Louisiana
28 individual income tax ~~and corporation franchise tax liability of such members;~~
29 ~~however, the credit for taxes paid by or on behalf of a limited liability company~~

1 ~~treated as a corporation for Louisiana income tax purposes may be applied against~~
2 ~~the Louisiana corporation income taxes of such limited liability company.~~

3 (6)(d) The character of the credit for taxes paid by or on behalf of a
4 partnership, ~~S-corporation~~, or limited liability company not treated as a corporation
5 for Louisiana income tax purposes and allocated to the partners, shareholders, or
6 members, respectively, of such partnership, ~~S-corporation~~, or limited liability
7 company, shall be determined as if such credit were incurred by such partners,
8 shareholders, or members, in the same manner as incurred by such partnership, ~~S~~
9 ~~corporation~~, or limited liability company.

10 (7)(e) The credit for taxes paid by an estate or trust shall be applied against
11 the Louisiana income tax imposed on estates and trusts.

12 (2) Beginning January 1, 2017, the state corporate income and corporation
13 franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
14 for the credit provided for pursuant to the provisions of this Section. Corporate
15 taxpayers shall be prohibited from applying this credit against individual income
16 taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.

17 * * *

18 §6020. Angel Investor Tax Credit Program

19 * * *

20 D. Tax credits.

21 * * *

22 (2)(a) An investor may apply for and, if qualified, be granted a credit on any
23 individual income ~~or corporation franchise~~ tax liability owed to the state by the
24 taxpayer seeking to claim the credit in the amount approved by the secretary of the
25 department. The amount of the tax credit shall be based upon the amount of money
26 invested by the investor in the Louisiana Entrepreneurial Business, which investment
27 shall not exceed seven hundred twenty thousand dollars per year per business and
28 one million four hundred forty thousand dollars total per business. Except as
29 otherwise provided in Subparagraph (b) of this Paragraph, the credit shall be allowed

1 against the individual income tax for the taxable period in which the credit is earned
2 and the franchise tax for the taxable period following the period in which the credit
3 is earned. The credits approved by the department shall be granted at the rate of
4 twenty-five and two tenths percent of the amount of the investment with the credit
5 divided in equal portions for five years.

6 * * *

7 (3)(a) ~~All entities taxed as corporations for Louisiana income or corporation~~
8 ~~franchise tax purposes shall claim any credit allowed under this Section on their~~
9 ~~corporation income and corporation franchise tax return.~~

10 (b) Individuals shall claim any credit allowed under this Section on their
11 individual income tax return.

12 (c) Estates or trusts shall claim any credit allowed under this Section on
13 their fiduciary income tax returns.

14 (d) Entities not taxed as corporations shall claim any credit allowed under
15 this Section on the returns of the partners or members as follows:

16 (i) ~~Corporate partners or members shall claim their share of the credit on~~
17 ~~their corporation income or corporation franchise tax returns.~~

18 (ii) Individual partners or members shall claim their share of the credit on
19 their individual income tax returns.

20 (iii) Partners or members that are estates or trusts shall claim their share
21 of the credit on their fiduciary income tax returns.

22 * * *

23 §6022. Digital interactive media and software tax credit

24 * * *

25 D. Tax credit; specific projects.

26 (1) For applications for state-certified productions submitted to the office
27 prior to July 1, 2009, and subsequently approved by the office and secretary, there
28 is hereby authorized a tax credit against state individual income tax which shall be

1 earned by producers at the time funds are expended in Louisiana on a state-certified
2 production as follows:

3 * * *

4 E.

5 * * *

6 (2) For tax credits earned for expenditures made on or after January 1, 2012:

7 (a) The tax credits shall be refundable and allowed against the individual ~~or~~
8 ~~corporate income~~ tax liability of the ~~companies or~~ financiers of the project in
9 accordance with their share of the credit as provided for in the application for
10 certification for the project. The credit shall be allowed for the taxable period in
11 which expenditures eligible for a credit are expended as set forth in the final tax
12 credit certification letter. Any excess of the credit over the income tax liability
13 against which the credit may be applied shall constitute an overpayment, as defined
14 in R.S. 47:1621(A), and the secretary of the Department of Revenue shall make a
15 refund of such overpayment from the current collections of the taxes imposed by
16 Chapter 1 of Subtitle II of this Title, as amended. The right to a refund of any such
17 overpayment shall not be subject to the requirements of R.S. 47:1621(B).

18 (b) At the time of final certification of tax credits, a company may elect, on
19 a one-time basis, to receive a rebate of the credits. The amount of the rebate shall be
20 eighty-five percent of the face value of the credits. Upon receipt of the final tax
21 credit certification letter and any necessary additional information, the secretary of
22 the Department of Revenue shall make payment to the company, or its irrevocable
23 designee, which may include but not be limited to a bank or other lender, in the
24 amount to which he is entitled from the current collections of the taxes collected
25 pursuant to Chapter 1 of Subtitle II of this Title, as amended

26 (c) Beginning January 1, 2017, the state corporate income and corporation
27 franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
28 for the credit provided for pursuant to the provisions of this Section. Corporate

1 taxpayers shall be prohibited from applying this credit against individual income
2 taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.

3 * * *

4 §6025. Tax credit for Louisiana Citizens Property Insurance Corporation assessment

5 A.(1)(a) There shall be allowed a credit against Louisiana individual income
6 tax due in a taxable year for seventy-two percent of the amount of surcharges, market
7 equalization charges, or assessments paid by a taxpayer during the taxable year as
8 a result of the 2005 regular assessment or the emergency assessments levied due to
9 Hurricanes Katrina and Rita by Louisiana Citizens Property Insurance Corporation
10 for the FAIR Plan and Coastal Plan, as they are defined in R.S. 22:2292.

11 (b) Beginning January 1, 2017, the state corporate income and corporation
12 franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
13 for the credit provided for pursuant to the provisions of this Section. Corporate
14 taxpayers shall be prohibited from applying this credit against individual income
15 taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.

16 * * *

17 §6032. Tax credit for certain milk producers

18 A.(1) A resident taxpayer engaged in the business of producing milk for sale
19 shall be allowed a refundable tax credit based on the amount of milk produced and
20 sold. The credit may be claimed against any Louisiana individual income tax ~~and~~
21 ~~the corporation franchise tax~~. The credit shall be allowed when the USDA Uniform
22 Price in Federal Order Number 7 drops below the announced production price any
23 time during the calendar year.

24 (2) Beginning January 1, 2017, the state corporate income and corporation
25 franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
26 for the credit provided for pursuant to the provisions of this Section. Corporate
27 taxpayers shall be prohibited from applying this credit against individual income
28 taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.

29 * * *

of net allocable income from La. sources, computation of net apportionable income from La. sources, and determination of La. apportionment percent.

Present law (R.S. 47:601 et seq.) establishes the corporation franchise tax. Such tax is levied on every domestic and foreign corporation exercising its charter, qualified to do business, or actually doing business in La. It is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in Louisiana.

Present law provides that the tax shall be levied at the following rates:

- (1) \$1.50 per \$1,000 of taxable capital, up to \$300,000.
- (2) \$3.00 per \$1,000 of taxable capital above \$300,001.

Proposed law repeals present law levy of corporation franchise taxes beginning January 1, 2017. Proposed law repeals all provisions of present law relative to the determination of taxable capital for purposes of levying the corporation franchise tax including the allocation of taxable capital and the payment of the tax.

Present law provides for the following refundable tax credits which may be applied against Louisiana income and corporation franchise taxes:

- (1) R.S. 47:6006 -Tax credits for local inventory taxes
- (2) R.S. 47:6006.1 - Tax credits for vessels in Outer Continental Shelf Lands Act Waters
- (3) R.S. 47:6014 - Credit for property taxes paid by certain telephone companies
- (4) R.S. 47:6020 - Angel Investor Tax Credit Program
- (5) R.S. 47:6022 - Digital interactive media and software tax credit
- (6) R.S. 47:6025 - Credit for La. Citizens Property Insurance Corporation assessment
- (7) R.S. 47:6030 - Solar energy systems tax credit
- (8) R.S. 47:6032 - Tax credit for certain milk producers

Proposed law retains present law but specifically provides that the refundable credits are applicable against individual income taxes. Proposed law further provides that beginning Jan. 1, 2017, since the state corporate income and corporation franchise taxes are repealed, no corporate taxpayer shall be eligible for the refundable tax credits in present law. Further prohibits corporate taxpayers from applying these credits against individual income taxes or any other taxes imposed in present law.

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

(Amends R.S. 47:6006(A) and (B), 6006.1(A) and (B), 6014(A), (B), and (C), 6020(D)(2)(a) and (3), 6022(D)(1)(intro. para.) and (E)(2), 6025(A), 6032(A) and (D); Repeals R.S. 47:51, 158, 246, 287.2-287.95, 287.738, 287.745, and 601-618)