2017 Regular Session

HOUSE BILL NO. 355

BY REPRESENTATIVE IVEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX: Provides for the comprehensive revision of the tax code and tax incentives

AN ACT

To amend and reenact R.S. 47:32(A), 79, the heading of Part II-A of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, R.S. 47:287.2, 287.11(A), 287.12, 287.61, 287.86(A), (B), and (C)(2), 293(1) and (3)(introductory paragraph), 295(B), 297.8(A), 306(A)(3)(a), 601(A), (B), and (C)(2), 633(7)(a) and (d)(introductory paragraph) and (8), 6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and (cc), to enact R.S.47:293(9)(a)(xviii) 611(C), 6006(D)(6), and 6007(C)(1)(d)(ii)(dd), (ee), and (ff), and to repeal R.S. 47:34, Subpart D of Part II of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:201 through 220.3, 287.73(C)(4), 287.732(B), 294, 297(H), 297.6, 633(7)(d)(i) and (ii), Chapter 1 and Chapter 3 of Subtitle V of Title 47 of the Louisiana Revised Statues of 1950, comprised of R.S. 47:3201 through 3206 and R.S. 47:4301 through 4306, R.S. 47:6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034, 6035, Chapter 4 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:6351, Chapter 21 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:1781 through 1791, Part VI of Chapter 39 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2351 through 2356, R.S. 51:2365 and 2367, Chapter 39-C of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2399.1 through 2399.6, Chapter 42 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2451 through 2462, Chapter 54 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:3111 through 3115, and Chapter 55 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:3121, relative to taxes generally; to provide for a comprehensive revision of Louisiana tax laws; to provide relative to the individual income tax; to provide for the rates and brackets for individual income tax; to provide for a flat single individual income tax rate; to provide for the calculation of individual income tax liability; to provide for certain individual income tax deductions and credits; to reduce certain individual income tax deductions and credits; to provide with respect to the deduction for excess federal itemized personal deductions; to provide for individual income tax limitations and restrictions; to provide with respect to the individual income tax earned income tax credit; to increase the amount of the individual income tax credit, relative to corporate income tax; to provide for the deduction from corporate income tax for net operating loss; to limit application of the net operating loss deduction from corporate income tax; to extend the allowable carryover period; to provide for the order of loss years from which a net operating loss may be carried over; to repeal the deduction from corporate income tax for wage expenses, relative to severance tax; to provide for certain tax rates; to provide with respect to the exemption for certain production from a horizontally drilled well, relative to state incentives; to prohibit compensation for collection and remittance of certain state taxes; relative to the corporate franchise tax; to provide for the rate of the corporate franchise tax; to provide for a reduction and eventual elimination of the corporate franchise tax; to prohibit the levy of an initial tax under certain circumstances; to repeal certain corporate income tax provisions relative to partnerships; to provide relative to income and corporation franchise tax credits; to modify certain income and corporation franchise tax credits; to repeal certain income and corporation franchise tax credits, relative to income tax; to provide relative to the rate of the income tax levied on certain business entities; to repeal certain income tax exemptions and exclusions; to require certain business entities to pay the income tax levied on business income; to provide for certain limitations; to provide for certain definitions; to provide for an exclusion for certain income from individual income tax; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Legislative Intent and Purpose

A. The Louisiana statutes regarding taxes have been amended in such a manner over time that our general taxing structure is a complicated, overly burdensome, and convoluted system of laws which is difficult to understand, interpret, or enforce.

B. It is the intent of this Act to provide for a revision of the system of taxation laws to provide for a consistent and fair system of laws that balances the tax burden between business and individual taxpayers and also provides for a fair and appropriate policy with respect to each different type of tax levied by the state; thereby, providing individual and corporate taxpayers with the predictability, stability, and simplicity that is essential in attracting and retaining our most valuable resource in Louisiana, our citizens.

C. Louisiana consistently ranks at the bottom of national assessments of business tax climates. As a result, Louisiana's economic growth has been hampered while other states in our region have shown significant economic growth. Therefore, it is the intent of this Act to improve Louisiana's national attractiveness for its business tax climate and to improve the health of our overall economic indicators; thereby, encouraging organic economic growth and development throughout Louisiana.

D. The purpose of this Act is to develop a state tax system that minimizes the impact of tax compliance required by business or individuals. By allowing business to focus on its primary operational efforts, the state of Louisiana and its citizens will reap the benefits resultant from increased productivity and economic growth. The problems in our state's tax system have developed over time through piecemeal changes to isolated tax components which ignored the connectivity to other taxes and economic forces. Continued piecemeal attempts to solve our systemic shortcomings will only compound the problem. A wholesale, omnibus change is imperative. The intent of this Act is to provide that wholesale, omnibus change.

Section 2. R.S. 47:32(A) is hereby amended and reenacted to read as follows:

§32. Rates of tax

A. On individuals. The tax to be assessed, levied, collected and paid upon the taxable income of an individual shall be computed at the following rates:

(1) ~~Two percent~~ No tax shall be assessed on that portion of the first twelve thousand five hundred dollars of net income ~~which is in excess of the credits against net income provided for in R.S. 47:79;~~.

(2) ~~Four percent on the next thirty-seven thousand five hundred dollars of net income;~~

~~(3) Six percent on any amount of net income in excess of fifty thousand dollars of net income.~~ Four percent on net income in excess of twelve thousand five hundred dollars.

* * *

Section 3. R.S. 47:32(A) is hereby amended and reenacted to read as follows:

§32. Rates of tax

A. On individuals. The tax to be assessed, levied, collected and paid upon the taxable income of an individual shall be computed at the following rates:

(1) ~~Two percent~~ No tax shall be assessed on that portion of the first twelve thousand five hundred dollars of net income ~~which is in excess of the credits against net income provided for in R.S. 47:79;~~.

(2) ~~Four percent on the next thirty-seven thousand five hundred dollars of net income;~~

~~(3) Six percent on any amount of net income in excess of fifty thousand dollars of net income.~~ Three percent on net income in excess of twelve thousand five hundred dollars.

* * *

Section 4. R.S. 47:79, 293(3)(introductory paragraph), 295(B), and 297.8(A) are hereby amended and reenacted to read as follows:

§79. Credits of individuals against net income

A. Personal exemption.

~~(1) An exemption of twenty-five hundred dollars is allowed for the taxpayer; and an additional exemption of twenty-five hundred dollars is allowed for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has no gross income and is not the dependent of another taxpayer for the calendar year in which the taxable year of the taxpayer begins. A person who occupied status as head of family during the entire taxable year is allowed an exemption of five thousand dollars.~~

~~(2) In addition to the exemptions above provided for, an~~ <u>An</u> exemption of one thousand dollars is allowed for the taxpayer who is blind or who has sustained the loss of one or more limbs or who has an intellectual disability or who is deaf. As used herein the word "blind" shall mean and refer to ~~persons who have been determined by a qualified ophthalmologist or optometrist to have no vision or to have vision which is insufficient for use in an occupation or activity for which sight is essential.~~ <u>a person who, after examination by a licensed physician skilled in diseases of the eye or by a licensed optometrist, has been determined to have not more than 20/200 central visual acuity in the better eye with correcting lenses, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees.</u> For purposes herein, the word "deaf" shall be defined as in ~~Paragraph (B)(5)~~ <u>Subsection B</u> of this Section. Each person claiming an exemption under the provisions of this ~~Paragraph~~ <u>Section</u> shall be able to prove such claim by certificate of a qualified physician or optometrist.

B. ~~Credit~~ <u>Deductions</u> for dependents.

~~(1) In general. A credit of four hundred dollars is allowed for each dependent (as defined in Subsection C of this Section),~~

~~(a) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $600 or~~

~~(b) who is a child of the taxpayer and who (i) has not attained the age of nineteen at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.~~

~~(2) Credit denied in case of certain married dependents. No credit is allowed under this Subsection for any dependent who has made a joint return with his spouse under R.S. 47:101(B), for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.~~

~~(3) Child defined. For purposes of this Subparagraph (B)(1)(b) of this Subsection, the term "child" means an individual who (within the meaning of Subsection C of this Section) is a son, stepson, daughter, or stepdaughter of the taxpayer.~~

~~(4) Student and educational institution defined. For purposes of Item (B)(1)(b)(ii) of this Subsection, the term "student" means an individual who during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins,~~

~~(a) is a full-time student at an educational institution; or~~

~~(b) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this Subsection, the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.~~

~~(5) Credit for certain dependents.~~ A ~~credit~~ deduction of one thousand dollars is allowed for each dependent ~~as defined in Subsection C of this Section~~ allowed in determining federal income tax liability who is blind or deaf or who has sustained the loss of one or more limbs or who has an intellectual disability. As herein used the word "blind" shall be defined as in ~~Paragraph (A)(2)~~ Subsection A of this Section. For purposes herein, the word "deaf" shall mean and refer to persons whose hearing is so impaired that it is insufficient for use in an occupation or activity for which hearing is essential. The taxpayer claiming ~~credit~~ the deduction as herein provided shall be able to prove such claim by certificate of a qualified physician or optometrist issued for each such dependent for which a ~~credit~~ deduction is claimed.

C. ~~Dependent defined.~~

~~(1) General definition. For purposes of this Chapter, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under Paragraph (C)(3) of this Subsection as received from the taxpayer):~~

~~(a) a son or daughter of the taxpayer, or a descendant of either,~~

~~(b) a stepson or stepdaughter of the taxpayer,~~

~~(c) a brother, sister, stepbrother, or stepsister of the taxpayer,~~

~~(d) the father or mother of the taxpayer, or an ancestor of either,~~

~~(e) a stepfather or stepmother of the taxpayer,~~

~~(f) a son or daughter of a brother or sister of the taxpayer,~~

~~(g) a brother or sister of the father or mother of the taxpayer,~~

~~(h) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,~~

~~(i) an individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, or~~

~~(j) an individual who,~~

~~(i) is a descendant of a brother or sister of the father or mother of the taxpayer,~~

~~(ii) for the taxable year of the taxpayer received institutional care required by reason of a physical or mental disability, and~~

~~(iii) before receiving such institutional care, was a member of the same household as the taxpayer.~~

~~(2) Rules relating to general definition. For purposes of this Section the rules set forth below will apply.~~

~~(a) The terms "brother" and "sister" include a brother or sister by the halfblood.~~

~~(b) In determining whether any of the relationships specified in this Section exists, a child legally adopted by an individual shall be treated as if he were the child of such individual by blood.~~

~~(c) The term "dependent" does not include any individual who is not a citizen of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. The preceding sentence shall not exclude from the definition of "dependent" any child of the taxpayer born to him, or legally adopted by him, in the Philippine Islands before January 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him.~~

~~(d) A payment to a wife which is includible in the gross income of the wife under R.S. 47:42(C) shall not be treated as a payment by her husband for the support of any dependent.~~

~~(3) Multiple support agreements. For purposes of Paragraph (C)(1) of this Subsection, over half of the support of an individual for a calendar year shall be treated as received from the taxpayer if:~~

~~(a) no one person contributed over half of such support;~~

~~(b) over half of such support was received from persons each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;~~

~~(c) the taxpayer contributed over ten per cent of such support; and~~

~~(d) each person described in Subparagraph (C)(3)(b) of this Section (other than the taxpayer) who contributed over ten per cent of such support files a written declaration (in such manner and form as the collector may by regulations prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.~~

~~(4) Special support test in case of students. Amounts received as scholarships for study at an educational institution by an individual who is:~~

~~(a) a son, stepson, daughter, or stepdaughter of the taxpayer (within the meaning of this Section), and~~

~~(b) a student, shall not be taken into account in determining whether such individual received more than half of his support from the taxpayer.~~

~~D. Exception for certain heads of families. If the taxpayer would not occupy the status of head of family except by reason of there being one or more dependents for whom he would be entitled to credit under Subsection C above the credit under such paragraph shall be disallowed with respect to one of such dependents.~~

~~E.~~ Limitation on portion of ~~credit~~ <u>deduction</u> allowable. There shall be allowed only that portion of the ~~credits~~ <u>deductions</u> set forth in the preceding Subsections of this Section which the net income of the individual taxable under this Chapter bears to the total net income of such individual.

* * *

§293. Definitions

The following definitions shall apply throughout this Part, unless the context requires otherwise:

* * *

(3) "Excess federal itemized personal deductions" for the purposes of this Part, means the ~~following percentages of the~~ amount by which the federal itemized personal deductions <u>for charitable contributions allowed on the taxpayer's federal tax return for the taxable period</u> exceed the amount of <u>the</u> federal standard ~~deductions which~~ <u>deduction that</u> is designated for the filing status used for the taxable period on

the individual income tax return required to be filed~~:~~. No deduction shall be allowed on the first twelve thousand five hundred dollars of excess federal itemized personal deductions for single filers and twenty-five thousand dollars for taxpayers filing joint returns. Taxpayers may claim the following percentages of excess federal itemized personal deductions:

* * *

§295. Tax imposed on individuals; administration

* * *

B. The secretary shall establish tax tables that calculate the tax owed by taxpayers based upon where their taxable income falls within a range. ~~that shall not exceed two hundred fifty dollars. The secretary shall provide in the tax tables that the combined personal exemption, standard deduction, and other exemption deductions in R.S. 47:294 shall be deducted from the two percent bracket. If such combined exemptions and deductions exceed the two percent bracket, the excess shall be deducted from the four percent bracket. If such combined exemptions and deductions exceed the two and four percent brackets, the excess shall be deducted from the six percent bracket.~~

* * *

§297.8. Earned income tax credit

A. There shall be a credit against the tax imposed by this Chapter for individuals in an amount equal to ~~three and one-half~~ seven percent of the federal earned income tax credit for which the individual is eligible for the taxable year under Section 32 of the Internal Revenue Code.

Section 5. R.S. 47:6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and (cc) are hereby amended and reenacted and R.S. 47:6006(D)(6) and 6007(C)(l)(d)(ii)(dd), (ee), and (ff) are hereby enacted to read as follows:

§6006. Tax credits for local inventory taxes paid

* * *

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

~~(a) Taxpayers whose ad valorem taxes eligible for the credit authorized pursuant to this Section paid to all political subdivisions in the taxable year was less than or equal to five hundred thousand dollars shall be refunded all of the excess credit.~~

~~(b) Taxpayers whose ad valorem taxes eligible for the credit authorized pursuant to this Section paid to all political subdivisions in the taxable year was more than five hundred thousand dollars, but less than or equal to one million dollars, shall be refunded seventy-five percent of the excess credit, and the remaining twenty-five percent of the excess credit shall be carried forward as a credit against subsequent tax liability for a period not to exceed five years.~~

~~(c) Taxpayers whose ad valorem taxes eligible for the credit authorized pursuant to this Section paid to all political subdivisions in the taxable year was more than one million dollars shall be refunded seventy-five percent of the first one million dollars of excess credit, and the remaining amount of the credit shall be carried forward as a credit against subsequent tax liability for a period not to exceed five years.~~

~~(2) Each taxpayer allowed a credit under this Section shall claim the credit on its separately filed income or corporate franchise tax return, however for purposes of the application of the limitations on refundability of excess credit provided for in~~

~~Subparagraphs (1)(a) through (c) of this Subsection, all taxpayers included in one consolidated federal income tax return filed under the Internal Revenue Code shall be treated as a single taxpayer. The secretary shall promulgate rules to ensure that taxpayers affiliated with or related to any other entity through common ownership by the same interests or as parent or subsidiary shall be considered one taxpayer for the purpose of the limitations on refunds provided for in Subparagraphs (1)(a) through (c) of this Subsection.~~

~~(3)(a) Subparagraphs (1)(a) and (b) of this Subsection shall not apply to any new business entity formed or registered to do business in this state after April 15, 2016.~~

~~(b) New business entities formed or first registered to do business in this state after April 15, 2016, whose ad valorem taxes paid to all political subdivisions in the taxable year was less than ten thousand dollars shall be refunded all of the excess credit.~~

~~(c) New business entities formed or first registered to do business in this state after April 15, 2016, whose ad valorem taxes paid to all political subdivisions in the taxable year was ten thousand dollars or more, but no more than one million dollars shall be refunded seventy-five percent of the excess credit, and the remaining twenty-five percent of the credit shall be carried forward as a credit against subsequent tax liability for a period not to exceed five years.~~

~~(4) Notwithstanding any provision in this Section to the contrary, for a manufacturer, as defined in Subparagraph (C)(3)(b) of this Section, and for all related parties, affiliates, subsidiaries, parent companies, or owners of such manufacturer for the inventory held that is related to the business of such manufacturer, if the amount of the credit authorized pursuant to Subsection A of this Section exceeds the amount of tax liability for the tax year, the excess credit may only be carried forward as a credit against subsequent Louisiana income or corporation franchise tax liability for a period not to exceed five years and shall not be refundable. The secretary shall promulgate rules to ensure that taxpayers~~

~~affiliated with or related to any other entity through common ownership by the same interests or as a parent or subsidiary shall be considered one taxpayer for the purpose of the limitations on refundability provided for in this Paragraph. This rulemaking authority shall be in addition to the rulemaking authority provided for elsewhere in this Title.~~ <u>If the amount of the credit authorized pursuant to Subsection A of this Section exceeds the amount of tax liability for the tax year, then any unused credit may be carried forward as a credit against subsequent Louisiana income and corporation franchise tax liability for a period not to exceed five years.</u>

C. For purposes of this Section, the following terms shall have the meanings ascribed to them:

* * *

(3) "Manufacturer" shall mean ~~one of the following:~~

~~(a) A~~ <u>a</u> person engaged in the business of working raw materials into wares suitable for use or which gives new shapes, qualities, or combinations to matter which already has gone through some artificial process.

~~(b) A person who meets the definition of "manufacturer" as provided in Subparagraph (a) of this Paragraph and who has claimed the ad valorem exemption under Article VII, Section 21(F) of the Constitution of Louisiana during the taxable year in which the local inventory taxes were levied.~~

* * *

D. The credit provided in this Section shall be allowed as follows:

* * *

(5) For inventory taxes paid to political subdivisions on or after July 1, 1996, <u>and on or before December 31, 2017,</u> the credit shall be one hundred percent of such taxes paid.

<u>(6) For inventory taxes paid to political subdivisions on or after January 1, 2018, the credit shall be fifty percent of such taxes paid.</u>

* * *

§6007. Motion picture production tax credit

* * *

C. Production tax credit; specific productions and projects.

(1)

* * *

(d)(i)

* * *

(ii)(aa) For Fiscal Years 2015-2016~~, 2016-2017, and 2017-2018~~ through 2024-2025, claims against state income tax allowed on returns for tax credits or transfers of such tax credits to the office as provided for in Paragraph (4) of this Subsection shall be limited to an aggregate total of one hundred eighty million dollars each fiscal year. Claims for tax credits or transfers of tax credits to the office shall be allowed on a first-come-first-served basis. Any taxpayer whose claim for such tax credits or transfer to the office is disallowed may use the tax credits against state income tax due in a return filed in the next fiscal year or may transfer tax credits to the office the next fiscal year, and his claim or transfer shall have priority over other claims filed or transfers applied for after the date and time of his original claim or application for transfer.

* * *

(cc) ~~Beginning in Fiscal Year 2018-2019, the cap on the aggregate amount of tax credits that may be paid by the state or transferred to the state shall be inapplicable, inoperable, and of no effect.~~ For Fiscal Year 2025-2026, claims against state income tax allowed on returns for tax credits or transfers of such tax credits to the office as provided for in Paragraph (4) of this Subsection shall be limited to an aggregate total of one hundred thirty-five million dollars for the fiscal year. Claims for tax credits or transfers of tax credits to the office shall be allowed on a first-come-first-served basis. Any taxpayer whose claim for such tax credits or transfer to the office is disallowed may use the tax credits against state income tax due in a return filed in the next fiscal year or may transfer tax credits to the office the next fiscal year, and his claim or transfer shall have priority over other claims filed or transfers applied for after the date and time of his original claim or application for transfer.

(dd) For Fiscal Year 2026-2027, claims against state income tax allowed on returns for tax credits or transfers of such tax credits to the office as provided for in Paragraph (4) of this Subsection shall be limited to an aggregate total of ninety million dollars for the fiscal year. Claims for tax credits or transfers of tax credits to the office shall be allowed on a first-come-first-served basis. Any taxpayer whose claim for such tax credits or transfer to the office is disallowed may use the tax credits against state income tax due in a return filed in the next fiscal year or may transfer tax credits to the office the next fiscal year, and his claim or transfer shall have priority over other claims filed or transfers applied for after the date and time of his original claim or application for transfer.

(ee) For Fiscal Year 2027-2028, claims against state income tax allowed on returns for tax credits or transfers of such tax credits to the office as provided for in Paragraph (4) of this Subsection shall be limited to an aggregate total of forty-five million dollars for the fiscal year. Claims for tax credits or transfers of tax credits to the office shall be allowed on a first-come-first-served basis. Any taxpayer whose claim for such tax credits or transfer to the office is disallowed may use the tax credits against state income tax due in a return filed in the next fiscal year or may transfer tax credits to the office the next fiscal year, and his claim or transfer shall have priority over other claims filed or transfers applied for after the date and time of his original claim or application for transfer.

(ff) The office and the secretary shall not approve any productions on or after July 1, 2028.

Section 6. R.S. 47:287.86(A), (B), and (C)(2) are hereby amended and reenacted to read as follows:

§287.86. Net operating loss deduction

A. Deduction from Louisiana net income. (1) Except as otherwise provided, for all claims for this deduction on any return filed on or after July 1, 2015, relating to any taxable year beginning before January 1, 2018, there shall be allowed for the taxable year a deduction reducing Louisiana net income in an amount equal to ~~seventy-two percent of~~ the net operating loss carryovers to such year~~, but the deduction shall never exceed seventy-two percent of Louisiana net income~~. The maximum amount of net operating loss carryover that may be applied in each taxable year shall be as calculated in Paragraph (2) of this Subsection.

(2) For all taxable periods beginning on or after January 1, 2018, the amount of net operating loss carryover that may be applied in each taxable year shall be determined based upon the taxpayer's total amount of net operating loss available. Any amount of net operating loss in excess of the amounts allowed pursuant to this Subsection may be carried over in the manner provided for in Subsection B of this Section. In each taxable year for which the net operating loss carryover is claimed, the portion of net operating loss carryover that may be applied in that taxable year shall be as follows:

(a) If the total amount of net operating loss carryover available to the taxpayer is two hundred fifty million dollars or greater, the deduction shall be limited and shall not exceed fifty percent of Louisiana net income for the taxable year.

(b) If the total amount of net operating loss carryover available to the taxpayer is at least one hundred million dollars, but less than two hundred fifty million dollars, the deduction shall be limited and shall not exceed sixty percent of Louisiana net income for the taxable year.

(c) If the total amount of net operating loss carryover available to the taxpayer is at least fifty million dollars, but less than one hundred million dollars, the deduction shall be limited and shall not exceed seventy percent of Louisiana net income for the taxable year.

(d) If the total amount of net operating loss carryover available to the taxpayer is at least twenty-five million dollars, but less than fifty million dollars, the deduction shall be limited and shall not exceed eighty percent of Louisiana net income for the taxable year.

(e) If the total amount of net operating loss carryover available to the taxpayer is at least ten million dollars, but less than twenty-five million dollars, the deduction shall be limited and shall not exceed ninety percent of Louisiana net income for the taxable year.

(f) If the total amount of net operating loss carryover available to the taxpayer is less than ten million dollars, the deduction shall be limited and shall not exceed the amount of Louisiana net income for the taxable year.

B. Net operating loss ~~carrybacks and~~ carryovers. (1) For all claims for this deduction on any return filed on or after July 1, 2015, ~~regardless of the taxable year to which the return relates~~ relating to any taxable year beginning before January 1, 2017, the taxable years to which a Louisiana net loss may be carried shall be a net operating loss carryover to each of the twenty taxable years following the taxable year of such loss.

(2) For taxable years beginning on or after January 1, 2018, the taxable years to which a Louisiana net loss may be carried shall be a net operating loss carryover to each of the thirty taxable years following the taxable year of such loss.

C. Manner and amount of carryovers. For all claims for this deduction on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates, the entire amount of Louisiana net loss for any taxable year, hereinafter the "loss year", shall be carried over to the earliest of the taxable years allowed. The portion of such loss which shall be carried to each of the other taxable years allowed by Subsection B shall be the excess, if any, of the amount of such loss over the aggregate of the Louisiana taxable income for each of the taxable years to which such loss may be carried. For the purposes of this Subsection:

* * *

(2) In calculating the aggregate Louisiana taxable incomes in cases where more than one loss year must be taken into account, the various net operating loss carryovers to such taxable year are considered to be applied in reduction of Louisiana net income in the order of the taxable years from which such losses are carried over, beginning with the loss for the ~~most recent~~ earliest taxable year.

* * *

Section 7. R.S. 47:633(7)(a) and (d)(introductory paragraph) and (8) are hereby amended and reenacted to read as follows:

§633. Rates of tax

The taxes on natural resources severed from the soil or water levied by R.S. 47:631 shall be predicated on the quantity or value of the products or resources severed and shall be paid at the following rates:

* * *

(7)(a) On oil ~~twelve and one-half~~ eight percentum of its value at the time and place of severance. Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price. In the absence of an arms length transaction or a posted field price, the value shall be the severer's gross income from the property as determined by R.S. 47:158(C).

* * *

(d) There shall be an exemption from severance tax as provided in this Subparagraph for production from any horizontally drilled well, or, on any horizontally drilled recompletion well, from which production occurs on or after July 1, 2015. The exemption shall last for a period of ~~twenty-four~~ sixty months or until payout of the well cost is achieved, whichever comes first, and shall be equal to one-half of the tax rate imposed under this Section. For the purposes of this Section "horizontal drilling" shall mean high angle directional drilling of bore holes with fifty to three thousand plus feet of lateral penetration through productive reservoirs and "horizontal recompletion" shall mean horizontal drilling in an existing well bore.

Payout of well cost shall be the cost of completing the well to the commencement of production as determined by the Department of Natural Resources. The provisions of this Subparagraph shall not apply to a well certified as a stripper or incapable well.

* * *

(8) On distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas, ~~twelve and one-half~~ eight percentum of gross value at the time and place of severance. For the levy of this tax, gross value shall be as defined by R.S. 47:633(7)(a). However, natural gasoline, casinghead gasoline and other natural gas liquids, including but not limited to ethane, methane, butane or propane, all of which occur naturally or which are recovered through processing gas after separation of oil, distillate, condensate, or similar natural resources shall not be subject to the levy provided for in this Paragraph, but shall be subject to the levy provided for in R.S. 47:633(9).

Section 8. R.S. 47:306(A)(3)(a) is hereby amended and reenacted to read as follows:

§306. Returns and payment of tax; penalty for absorption

A. General provisions.

* * *

(3)(a) ~~For the purpose of compensating the dealer in accounting for and remitting the tax levied by this Chapter, each dealer shall be allowed .935 percent of the amount of tax due and accounted for and remitted to the secretary in the form of a deduction in submitting his report and paying the amount due by him, provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder. The aggregate state compensation for a dealer who operates one or more business locations within Louisiana shall not exceed one thousand five hundred dollars per calendar month. This compensation shall be allowed only if the payment of the dealer is timely paid and the return is timely filed. Notwithstanding any other provision of law, the calculation of this deduction shall be based only on the taxes levied pursuant to R.S.~~

~~47:302, 321, 331, and R.S. 51:1286. There~~ Notwithstanding any provision of law to the contrary, there shall be no compensation for the taxes accounted for and remitted pursuant to ~~R.S. 47:321.1~~ R.S. 47:302, 321, 321.1, 331, and R.S. 51:1286 or any other sales tax levied by the state.

* * *

Section 9. The heading of Part II-A of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, R.S. 47:287.2, 287.11(A), 287.61, and 293(l) are hereby amended and reenacted to read as follows:

PART II-A. LOUISIANA CORPORATION AND BUSINESS INCOME TAX

* * *

§287.2. Short title

This Act shall be known as and may be cited as the "Louisiana Corporation and Business Income Tax Act". For purposes of this Title, the term "corporations and entities taxed as corporations" shall include all corporations and all entities which are required to file federal form 1065 relative to U.S. return of partnership income.

* * *

§287.11. Tax imposed

A. (1) There shall be levied, collected, and paid for each taxable year a flat tax upon the Louisiana taxable income of corporations and other entities taxed as corporations, for federal income tax purposes, which entities shall be considered to be corporations for the purposes of this Chapter only, other than insurance companies as hereinafter provided.

(2) There shall be levied, collected, and paid for each taxable year a flat tax upon the Louisiana taxable income of other business entities which are required to file federal form 1065, U.S. return of partnership income.

* * *

§287.61. Gross income defined

"Gross income" of a corporation means the same items and the same dollar amount required by federal law to be reported as gross income on the corporation's federal income tax return for the same taxable year, subject to the modifications specified in this Part, whether or not a federal income tax return is actually filed. <u>For entities required to file federal form 1065, U.S. return of partnership income, "gross income" means the sum of lines one through eleven that is reportable in Schedule K, subject to the modifications specified in this Part, whether or not a federal income tax return is actually filed.</u>

* * *

§293. Definitions

The following definitions shall apply throughout this Part, unless the context requires otherwise:

(1) "Adjusted gross income" means, for any taxable year and for any individual, the adjusted gross income of the individual for the taxable year that is reportable on the individual's federal income tax return <u>less any income or losses subject to corporate or business taxes pursuant to R.S. 47:287.2</u>.

* * *

Section 10. R.S. 47:287.12 is hereby amended and reenacted to read as follows:

§287.12. Rates of tax<u>; corporation and business income</u>

The tax to be assessed, levied, collected, and paid upon the Louisiana taxable income of every corporation <u>and other business entities</u> shall be computed at ~~the~~ <u>a flat</u> rate of~~:~~

~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana taxable income.~~

~~(2) Five percent upon the amount of Louisiana taxable income above twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

~~(3) Six percent on the amount of Louisiana taxable income above fifty thousand dollars but not in excess of one hundred thousand dollars.~~

~~(4) Seven percent on the amount of Louisiana taxable income above one hundred thousand dollars but not in excess of two hundred thousand dollars.~~

~~(5) Eight~~ six and one-half of one percent ~~on all Louisiana taxable income in excess of two hundred thousand dollars~~.

* * *

Section 11. R.S. 47:287.12 is hereby amended and reenacted to read as follows:

§287.12. Rates of tax; corporation and business income

The tax to be assessed, levied, collected, and paid upon the Louisiana taxable income of every corporation and other business entities shall be computed at ~~the~~ a flat rate of~~:~~

~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana taxable income.~~

~~(2) Five percent upon the amount of Louisiana taxable income above twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

~~(3) Six percent on the amount of Louisiana taxable income above fifty thousand dollars but not in excess of one hundred thousand dollars.~~

~~(4) Seven percent on the amount of Louisiana taxable income above one hundred thousand dollars but not in excess of two hundred thousand dollars.~~

~~(5) Eight~~ six percent ~~on all Louisiana taxable income in excess of two hundred thousand dollars~~.

Section 12. R.S. 47:601(A), (B), and (C)(2) are hereby amended and reenacted and R.S. 47:611(C) is hereby enacted to read as follows:

§601. Imposition of tax

A. (1) Except as provided for in Paragraph (2) of this Subsection, every ~~Every~~ domestic corporation and every foreign corporation, exercising its charter, or qualified to do business or actually doing business in this state, or owning or using any part or all of its capital, plant, or any other property in this state, subject to compliance with all other provisions of law, except as otherwise provided for in this Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each one thousand dollars, or major fraction thereof on the first three hundred thousand dollars of taxable capital and at the rate of three dollars for each one thousand dollars, or major fraction thereof, which exceeds three hundred thousand dollars of taxable capital. Taxable capital shall be determined as hereinafter provided. The tax levied herein is due and payable on any one or all of the following alternative incidents:

~~(1)~~(a) The qualification to carry on or do business in this state or the actual doing of business within this state in a corporate form. The term "doing business" as used herein shall mean and include each and every act, power, right, privilege, or immunity exercised or enjoyed in this state, as an incident to or by virtue of the powers and privileges acquired by the nature of such organizations, as well as, the buying, selling, or procuring of services or property.

~~(2)~~(b) The exercising of a corporation's charter or the continuance of its charter within this state.

~~(3)~~(c) The owning or using any part or all of its capital, plant, or other property in this state whether owned directly or indirectly by or through a partnership, joint venture, or any other business organization of which the domestic or foreign corporation is a related party as defined in R.S. 47:605.1.

(2) The tax levied pursuant to the provisions of this Chapter shall be limited to the following percentages of the amount otherwise levied pursuant to the provisions of this Chapter:

(a) For taxable years beginning on or after January 1, 2019, and before January 1, 2020, seventy-five percent.

(b) For taxable years beginning on or after January 1, 2020, and before January 1, 2021, fifty percent.

(c) For taxable years beginning on or after January 1, 2021, and before January 1, 2022, twenty-five percent.

(d) For taxable years beginning on or after January 1, 2022, no corporation franchise tax shall be assessed, levied, or collected by the state nor paid by domestic or foreign corporations on taxable capital.

B. It is the purpose of this Section to require the payment of this tax to the state of Louisiana by domestic corporations for the right granted by the laws of this state to exist as such an organization, and by both domestic and foreign corporations for the enjoyment, under the protection of the laws of this state, of the powers, rights, privileges, and immunities derived by reason of the corporate form of existence and operation. The tax ~~hereby~~ imposed <u>pursuant to the provisions of this Chapter</u> shall be in addition to all other taxes levied by any other statute.

C.(1) As used herein the term "domestic corporation" shall mean and include any of the following:

* * *

(2) The term "foreign corporation" shall mean and include all such business organizations as ~~hereinbefore~~ described in ~~this~~ Paragraph <u>(1) of this Subsection</u> which are organized under the laws of any other state, territory or district, or foreign country.

* * *

§611. Newly taxable corporation

* * *

<u>C. For taxable years beginning on and after January 1, 2022, no initial tax shall be assessed, levied, or collected by the state nor paid by domestic or foreign corporations.</u>

Section 13. R.S. 47:34, Subpart D of Part II of Chapter 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:201 through 220.3, 287.73(C)(4), 287.732(B), 294, 297(H), 297.6, 633(7)(d)(i) and (ii), Chapter 1 and Chapter 3 of Subtitle V of Title 47 of the Louisiana Revised Statues of 1950, comprised of R.S. 47:3201 through 3206 and R.S. 47:4301 through 4306, R.S. 47:6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034, 6035, Chapter 4 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:6351 are hereby repealed in their entirety.

Section 14. Chapter 21 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:1781 through 1791, Part VI of Chapter 39 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2351 through 2356, R.S. 51:2365 and 2367, Chapter 39-C of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2399.1 through 2399.6, Chapter 42 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:2451 through 2462, Chapter 54 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:3111 through 3115, and Chapter 55 of Title 51 of the Louisiana Revised Statues of 1950, comprised of R.S. 51:3121 are hereby repealed in their entirety.

Section 15. Section 12 of this Act shall be applicable to all corporate franchise tax periods beginning on and after January 1, 2019.

Section 16. Except as provided for in Sections 15, this Act shall be applicable to all taxable periods beginning on or after January 1, 2018.

Section 17. Notwithstanding the provisions of Section 6 of Act No. 123 of the 2015 Regular Session, R.S. 47:287.73(C)(4) as enacted by Section 3 of Act No. 123 of the 2015 Regular Session shall not become effective.

Section 18. Section 3 of this Act shall become effective and Section 2 of this Act shall not become effective if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature is adopted at a statewide election and becomes effective.

Section 19. The provisions of Section 7 of this Act shall become effective September 1, 2017.

Section 20. Section 11 of this Act shall become effective and Section 10 of this Act shall not become effective if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature is adopted at a statewide election and becomes effective.

Section 21. Except as provided in Sections 17, 18, 19, and 20 of this Act, the provisions of this Act shall take effect on January 1, 2018, and only become operative if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 119, 357, and 358 of this 2017 Regular Session of the Legislature are enacted and become effective and HCR No. 4 is adopted by both houses of the Louisiana Legislature.

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 355 Engrossed 2017 Regular Session Ivey

Abstract: Provides generally relative to state taxes.

Relative to individual income tax (Sections 2, 3 and 4 of the Act):

Present law provides for a tax to be assessed, levied, collected, and paid upon the taxable income of an individual at the following rates:

(1) 2% on the first $12,500 of net income;

(2) 4% on the next $37,500 of net income;

(3) 6% on net income in excess of $50,000.

Proposed law reduces individual income tax rates as follows:

(1) From 2% on the first $12,500 of net income to 0% on the first $12,500 of net income.

(2) From 4% on the next $37,500 of net income and 6% on net income in excess of $50,000 to 4% on net income in excess of $12,500.

Present law provides that in cases where taxpayers file a joint return of husband and wife, the combined tax shall be twice the combined tax of single filers.

Proposed law retains present law.

Present law provides that all personal exemptions and deductions for dependents allowed in determining federal income tax liability shall be allowed in determining La. tax liability. Further provides for a combined personal exemption of $4,500 for single, individual filers, $9,000 for married, joint filers, $4,500 for married, separate filers, and $9,000 for filers who are the head of household.

Proposed law repeals present law.

Present law authorizes a credit of $400 for each dependent who meets certain criteria.

Proposed law repeals present law.

Present law authorizes an additional deduction of $1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under present law.

Proposed law repeals present law.

Present law requires the secretary to establish tax tables that calculate the tax owed by taxpayers based upon where their taxable income falls within a range that does not exceed $250. Further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in present law which is deducted from the 2% bracket. If the combined exemptions and deductions exceed the 2% bracket, the excess is deducted from the 4% bracket, and then the 6% bracket.

Proposed law deletes the provisions authorizing the combined personal exemption, standard deduction, and other exemption deductions to be deducted from the income tax brackets.

Present law authorizes a deduction from individual income taxes for excess federal itemized personal deductions. Excess federal itemized personal deductions is defined to mean 100% of the amount by which the federal itemized personal deductions exceed the amount of federal standard deduction designated for the filing status used for the taxable period on the individual income tax return.

Proposed law changes present law to limit the deduction to charitable contributions in excess of the first $12,500 of excess federal itemized personal deductions for single filers and $25,000 for taxpayers filing joint returns.

Present law provides for an individual income tax credit in an amount equal to 3.5% of the amount of the taxpayer's federal earned income tax credit authorized under Section 32 of the Internal Revenue Code.

Proposed law increases the amount of the state credit from 3.5% to 7% of the federal tax credit.

Proposed law with respect to the reduction in the individual income tax rate to a flat 4% rate shall be effective on Jan. 1, 2018. Proposed law provides for the further reduction of the flat individual income tax rate from 4% to a flat rate of 3% if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 356 of the 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

Modifies certain income and corporation franchise tax credits and repeals certain income and corporation franchise tax credits (Section 5 of the Act).

Present law (R.S. 47:6006) provides for an income or corporation franchise tax credit for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.

Present law requires full refundability of any amount in excess of the taxpayer's state tax liability for taxpayers whose total payments of ad valorem tax eligible for the credit is less than $500,000 and for taxpayers formed or first registered to do business in La. after April 1, 2016, whose payments of ad valorem taxes paid to all political subdivisions was less than $10,000.

Present law requires that 75% of any amount in excess of the taxpayer's state tax liability be refunded and the remaining 25% be carried forward as a credit against subsequent tax liability for five years for the following taxpayers:

(1) Taxpayers whose total payments of ad valorem tax eligible for the credit is at least $500,000, but less than or equal $1,000,000.

(2) Taxpayers first registered to do business in La. after April 1, 2016, and whose total payments of ad valorem tax is at least $10,000 or more, but no more than $1,000,000.

Present law requires that, for taxpayers whose total payments of ad valorem tax eligible for the credit is $1,000,000 or more, 75% of the first $1,000,000 of excess credit be refunded and the remaining amount be carried forward as a credit against subsequent tax liability for five years.

Present law requires that, 75% of the first $1,000,000 of excess credit be refunded and the remaining amount be carried forward as a credit against subsequent tax liability for five years.

Present law requires taxpayers that are members of a federal consolidated group combine their ad valorem taxes paid in order to determine the amount of the excess credit that is refundable.

Proposed law changes present law and makes the excess credit for any taxpayer nonrefundable. Further requires the remaining amount be carried forward as a credit against subsequent tax liability for five years.

Present law defines "manufacturer" as one of the following:

(1) A person engaged in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.

(2) A person who meets the qualifications of (1) and who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Proposed law repeals the portion of present law defining a manufacturer as one who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Present law requires any excess credit claimed by a manufacturer who received an ad valorem tax exemption under present constitution to be carried forward as a credit against subsequent tax liability for five years. This carryforward requirement is applicable to all related parties, affiliates, subsidiaries, parent companies, or owners of the manufacturer that held inventory related to the business of the manufacturer.

Proposed law repeals present law.

Present law (R.S. 47:6007) provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production.

Present law caps the total aggregate amount of claims against state income tax allowed on returns for tax credits or transfers of tax credits to the office of entertainment industry development at $180 million each fiscal year for FY 2015-2016, 2016-2017, and 2017-2018. Claims for credits or transfers shall be allowed on a first-come-first-served basis.

Proposed law extends the $180 million cap established in present law to each fiscal year through FY 2024-2025. Further reduces the cap as follows:

(1) FY 2025-2026: $135 million

(2) FY 2026-2027: $90 million

(3) FY 2027-2028: $45 million

Proposed law prohibits any new productions being approved by the office or the secretary of the Dept. of Economic Development on or after July 1, 2028.

Present law provides for the following income and corporation franchise tax credits:

(1) R.S. 47:34 Corporation tax credit

(2) R.S. 47:297(H) Reduction to tax due for small town doctors

(3) R.S. 47:297.6 Credit for rehabilitation of residential structures

(4) R.S. 47:3201 et seq. Industrial Tax Equalization Program

(5) R.S. 47:4301 et seq. Exemptions for manufacturing establishments

(6) R.S. 47:6005 Qualified new recycling manufacturing equipment and service contracts

(7) R.S. 47:6009 Louisiana Basic Skills Training Tax Credit

(8) R.S. 47:6012 Employer tax credits for donations of materials, equipment, advisors, or instructors

(9) R.S. 47:6019 Credit for rehabilitation of historic structures (commercial)

(10) R.S. 47:6020 Angel Investor tax credit program

(11) R.S. 47:6023 Sound recording investor tax credit

(12) R.S. 47:6025 Credit for La. Citizens Property Insurance Corp. assessment

(13) R.S. 47:6034 Musical and theatrical production income tax credit

(14) R.S. 47:6035 Credit for conversion of vehicles to alternative fuel usage

(15) R.S. 51:2354 Technology commercialization credit

(16) R.S. 51:2399.3 Modernization tax credit

Present law (R.S. 47:34) provides for an income tax credit to be used against the tax liability of corporate income taxpayers who generate new full-time and part-time jobs in the state. This tax credit is allowed in lieu of any tax exemptions granted pursuant to the Louisiana Enterprise Zone Act, any ad valorem property tax exemptions for business or industry, or any ad valorem tax exemption allowed through the State Board of Commerce and Industry pursuant to La. Const. Art. VII, §21(F). The credit is equal to the number of new employees multiplied by varying amounts.

Present law (R.S. 47:297(H)) provides for an income tax credit for certain medical doctors and dentists who practice in designated rural areas.

Present law (R.S. 47:297.6) provides for an income tax credit for individual income tax for the amount of eligible costs and expenses incurred during the rehabilitation of an owner-occupied residential or owner-occupied mixed use structure located in certain specific locations.

Present law (R.S. 47:3201 et seq.) authorizes the Board of Commerce and Industry to enter into tax equalization contracts with manufacturing establishments, headquarters, or warehousing and distribution establishments exempting the business from state corporation franchise tax, corporation income tax, certain sales and use tax, or any other tax imposed by the state for which the business is liable.

Present law (R.S. 47:4301 et seq.) authorizes the Board of Commerce and Industry to enter into contracts with manufacturing industries, business headquarters, and warehousing and distribution establishments exempting the business from state corporation franchise tax, corporation income tax, certain sales and use tax, or any other tax imposed by the state for which the business is liable if the business is considering establishing its business in another state because the other state has a more favorable tax structure than La.

Present law (R.S. 47:6005) provides an income tax or corporation franchise tax credit for taxpayers who purchase qualified new recycling manufacturing or process equipment or qualified service contracts to be used or performed exclusively in the state.

Present law (R.S. 47:6009) provides for an income or corporation franchise tax credit for a La. business or industry that supports and encourages employee basic skills training by satisfying criteria established in present law and that submit proper and complete applications.

Present law (R.S. 47:6012) provides for an income and corporation franchise tax credit for employers within the state to donate materials, equipment, or instructors to public training providers registered with the La. Workforce Commission, or community colleges to assist in the development of training programs designed to meet industry needs.

Present law (R.S. 47:6019) provides for an income or corporation franchise tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district.

Present law (R.S. 47:6020) provides for an income tax credit for qualifying individual or entities that invest in a La. Entrepreneurial Business. This income tax credit is known as the Angel Investor tax credit.

Present law (R.S. 47:6023) provides for an income or franchise tax credit for La. taxpayers for investment in state-certified productions for sound recordings earned at the time expenditures are made on a state-certified production.

Present law (R.S. 47:6025) provides an income tax credit against La. income tax for 25% amount of surcharges, market equalization charges, or assessments paid by a taxpayer for the La. Citizens Property Insurance Corporation assessments due to Hurricanes Katrina and Rita.

Present law (R.S. 47:6034) provides for an individual or corporate income tax credit for qualified production expenditures on investments in a state-certified musical or theatrical production or infrastructure project.

Present law (R.S. 47:6035) provides for an income tax credit for qualified clean-burning motor vehicle fuel property purchased and installed on certain motor vehicles.

Present law (R.S. 51:2354) provides an income and corporation franchise tax credit for investments by the taxpayer in commercialization costs for certain business locations.

Present law (R.S. 51:2399.3) provides for an income or corporation franchise tax credit for amounts of qualified expenditures incurred by an employer for modernization.

Proposed law repeals present law.

Relative to corporate and income tax (Section 6 of the Act):

Limits applicability, extends the carry over period, and changes the order of the loss year for the net operating loss deduction to corporate income and repeals the deduction for I.R.C. 280 wage expenses.

Present law provides for a deduction from corporate income tax for 72% of the amount of net operating loss (NOL) incurred in La., but prohibits the amount of the deduction from exceeding 72% of the value of La. net income. Any amount of net operating loss in excess of the amount that may be deducted may be carried over to each of the 20 taxable years immediately following the tax year of the loss.

Proposed law increases the number of taxable years any excess net operating loss may be carried over from 20 years to 30 years for taxable years beginning on or after Jan. 1, 2018.

Present law requires net operating loss to be applied for purposes of reducing La. net income in order of the year of the loss, beginning with the most recent taxable year.

Proposed law changes present law by requiring net operating loss from the earliest tax year to be applied first.

Proposed law changes the amount of the deduction that may be applied against the taxpayer's tax liability as follows:

(1) If the taxpayer has $250 million or more of available NOL, the amount of the deduction shall not exceed 50% of the taxable income prior to application of the NOL.

(2) If the taxpayer has at least $100 million, but less than $250 million, of available NOL, the amount of the deduction shall not exceed 60% of the taxable income prior to application of the NOL.

(3) If the taxpayer has at least $50 million, but less than $100 million, of available NOL, the amount of the deduction shall not exceed 70% of the taxable income prior to application of the NOL.

(4) If the taxpayer has at least $25 million, but less than $50 million, of available NOL, the amount of the deduction shall not exceed 80% of the taxable income prior to application of the NOL.

(5) If the taxpayer has at least $10 million, but less than $25 million, of available NOL, the amount of the deduction shall not exceed 90% of the taxable income prior to application of the NOL.

(6) If the taxpayer has less than $10 million of available NOL, the amount of the deduction shall not exceed the amount of taxable income prior to application of the NOL.

Present law provides for a deduction from corporate income tax expenses disallowed under I.R.C. Section 280C. Further requires a taxpayer who elects to claim certain credits that are based on an expense to reduce the federal deduction for the expense by the dollar amount of the credit claimed.

Proposed law repeals present law.

Relative to severance tax (Section 7 of the Act):

Present law imposes a tax on natural resources severed from the soil or water based upon quantity or value of the products or resources severed. The severance tax rate for oil is 12.5% of value The severance tax rate for natural gas is a minimum of 7¢ per 1,000 cubic feet but is subject to an annual rate adjustment based on the prior year's price of natural gas. The severance tax rate for distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas is 12.5% of value.

Proposed law changes present law by reducing the tax rate on oil from 12.5% to 8% of value, and reducing the tax rate on distillate, condensate, or similar natural resources severed from the soil or water either with oil or gas from 12.5% to 8% of value.

Present law establishes an exemption from severance tax for oil production from a horizontally drilled well or horizontally drilled recompletion well that commences production on or after July 1, 2015. The duration of the exemption is 24 months or until payout, whichever occurs first. The amount of the exemption is based upon the price of oil as determined by the secretary of the Dept. of Natural Resources on July 1st of each year for the ensuing 12 months based on the average New York Mercantile Exchange prices per barrel from the previous 12 months. The amount of the exemption for a horizontally drilled well or recompletion well that produces oil shall be as follows:

(1) 100% if the price of oil is at or below $70 per barrel.

(2) 80% if the price is above $70 and at or below $80 per barrel.

(3) 60% if the price is above $80 and at or below $90 per barrel.

(4) 40% if the price is above $90 and at or below $100 per barrel.

(5) 20% if the price is above $100 and at or below $110 per barrel.

(6) No exemption if the price of oil exceeds $110 per barrel.

Present law establishes an exemption from severance tax for natural gas production from a horizontally drilled well or horizontally drilled recompletion well that commences production on or after July 1, 2015. The amount of the exemption is based upon the price of natural gas as determined by the secretary of the Dept. of Natural Resources on July 1st of each year for the ensuing 12 months based on the average New York Mercantile Exchange prices per million BTU per month from the previous 12 months. The amount of the exemption for a horizontally drilled well or recompletion well that produces natural gas shall be as follows:

(1) 100% if the price of natural gas is at or below $4.50 per million BTU.

(2) 80% if the price is above $4.50 per million BTU and at or below $5.50 per million BTU.

(3) 60% if the price is above $5.50 per million BTU and at or below $6 per million BTU.

(4) 40% if the price is above $6 per million BTU and at or below $6.50 per million BTU.

(5) 20% if the price is above $6.50 per million BTU and at or below $7 per million BTU.

(6) No exemption if the price of natural gas exceeds $7 per million BTU.

Proposed law changes present law by extending the duration of the exemption from 24 months or until payout to 60 months or until payout. The amount of the exemption is changed from a variable amount based on the price of the commodity to 50% of the tax rate.

Proposed law specifies that the exemption for horizontal drilling does not apply to a well certified by the Dept. of Natural Resources as an incapable or stripper well.

Effective Sept. 1, 2017.

Relative to certain state rebate programs and prohibits compensation of a dealer (a/k/a "vendor") for the collection, accounting, and remittance of state sales and use taxes (Section 8 of the Act):

Present law imposes a 4% state tax upon the sale, use, consumption, storage, or rental of certain tangible personal property and certain services.

Present law requires that a dealer either monthly or quarterly transmit to the Dept. of Revenue a tax return showing the gross sales, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payments for services, arising from all of their taxable transactions during the preceding calendar month.

Present law authorizes a dealer to retain an amount equal to 0.935% of the taxes remitted as compensation for collection and administration of the state tax. Limits the amount of vendor's compensation to $1,500 per calendar month.

Proposed law changes present law and prohibits compensation for the state sales and use taxes accounted for and remitted pursuant to present law.

Present law (R.S. 47:6351) authorizes the secretary of the Dept. of Economic Development (DED) to enter into a contract with a procurement processing company which recruits purchasing companies to La. for incentive rebate payments (hereinafter "rebates") in exchange for the generation of new state tax revenue from new taxable sales. Further requires the secretary of the Dept. of Revenue (DOR) to pay rebates from the state tax revenue generated by the new taxable sales occurring in La. as a result of the operation of a procurement processing company in La.

Present law (R.S. 51:1781 et seq.) establishes the enterprise zone program through which businesses may enter into contracts with the Board of Commerce and Industry to receive income tax credits or sales and use tax rebate payments in exchange for the creation of a certain number of jobs that involve employees who meet certain residency and other requirements.

Present law (R.S. 51:2365 and 2367) establishes La. Mega Project Energy Assistance Rebate and the authorizes the secretary of the Dept. of Economic Development to grant a rebate of severance taxes paid on natural gas to certain mega-projects when the secretary has determined that the consumption of energy will be a major cost component of the operation of the project.

Present law (R.S. 51:2451 et seq.) establishes the Quality Jobs Program, which authorizes the granting of contracts by the Board of Commerce and Industry to businesses for the purposes of providing rebates and tax credits for the achievement of certain performance by the business. The term of the contract is five years.

Present law (R.S. 51:3111 et seq.) establishes the Corporate Headquarters Relocation Program, which grants to a "qualified business" a contract to receive a relocation rebate to relocate or expand its "headquarters" in La.

Present law (R.S. 51:3121) establishes the Competitive Projects Payroll Incentive Program through which businesses may contract with the Dept. of Economic Development for receipt of rebate payments in exchange for the creation of jobs. The contract provides for three different rebates: a rebate based on the amount of new payroll, a sales and use tax rebate for taxes paid, and a rebate equal to a percentage of the amount of certain qualified capital expenditures associated with a facility utilized in the performance of the contract.

Proposed law repeals present law.

Relative to corporate income tax rate (Sections 9, 10, and 11 of this Act):

Present law provides that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation shall be computed at the following rates:

(1) 4% on the first $25,000 of La. taxable income.

(2) 5% on La. taxable income above $25,000 but not in excess of $50,000.

(3) 6% on La. taxable income above $50,000 but not in excess of $100,000.

(4) 7% on La. taxable income above $100,000 but not in excess of $200,000.

(5) 8% on all La. taxable income in excess of $200,000.

Proposed law changes present law by deleting the graduated schedule of rates dependant on the amount of taxable income of the taxpayer in favor of a flat 6.5% rate. Further expands the levy of this tax to "business income" and makes it applicable to business entities such as partnerships.

Present law provides for an exemption from corporate income for partnerships but requires partnerships with members who are not individuals or not residents of La. to file a partnership return of income.

Proposed law repeals present law thereby making income earned by partnerships subject to the flat business income tax in proposed law.

Present law provides for the filing of composite returns for nonresident partners and members as well as the tax treatment of income earned by partners, partnership computations, distributive shares, and the determination of a partner's interest for purposes of calculating income tax liability.

Proposed law repeals present law.

Present law provides for the levy, collection, and payment for each taxable year a tax on the La. taxable income of corporations and other entities taxed as corporations, for federal income tax purposes.

Proposed law retains present law but clarifies that the corporate income tax shall apply to corporations and entities taxed as corporations and includes all corporations and entities required to file federal form 1065 relative to U.S. return of partnership income.

Present law requires that income earned by corporations classified under Subchapter S provisions of federal law shall be taxed and required to comply with provisions of present law the same as any other corporation if the S corporation had been required to file an income tax return with the I. R. S. as a C corporation for the current and all prior taxable years in accordance with federal law.

Present law provides for an exclusion from corporate income tax for corporations classified as S corporations under federal law for the taxable year. Further provides that in computing La. taxable income, an S corporation may exclude the percentage of its La. net income for the taxable year.

Present law provides for a formula for the calculation of the percentage of La. net income that is not subject to La. corporate income tax.

Proposed law repeals the present law S corporation exclusion thereby making this income subject to the flat income tax levied on business income as provided for in proposed law.

Present law defines the "gross income" of a corporation as the same items and the same dollar amount required by federal law to be reported as gross income on the corporation's federal income tax return for the same taxable year, subject to the modifications specified in present law whether or not a federal income tax return is actually filed.

Proposed law retains present law but clarifies that for entities required to file federal form 1065, U.S. return of partnership income, "gross income" shall mean the sum of lines one through eleven that is reportable in Schedule K, subject to the modifications specified in present law whether or not a federal income tax return is actually filed.

Present law defines "adjusted gross income" for any individual for any taxable year as the gross income of the individual for the taxable year that is reportable on the individual's federal income tax return.

Proposed law retains present law but eliminates any income or losses subject to corporate or business taxes pursuant to present and proposed law.

Applicable to all tax years beginning on and after Jan. 1, 2018.

Proposed law with respect to the reduction in the corporate income tax rate to a flat 6.5% rate shall be effective on Jan. 1, 2018. Proposed law provides for the further reduction of the flat corporate income tax rate from 6.5% to a flat rate of 6% if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 356 of the 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

Relative to corporate franchise tax (Section 12 of the Act):

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

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 per $1,000 of taxable capital above $300,001.

Present law levies the corporation franchise tax on a corporation when any of the following occurs:

(1) An organization does business within this state in a corporate form.

(2) A corporation exercises its charter or the continuance of its charter within La.

(3) An entity owns or uses part or all of its capital, plant, or other property in La. in a corporate capacity.

Present law provides for the determination of taxable capital for purposes of levying the corporation franchise tax as well as the tax treatment of capital stock, surplus and undivided profits, and the allocation of taxable capital. Present law further provides for the administration of the tax as well as the collection and payment of the tax.

Proposed law provides for the phase-out of the corporate franchise tax for taxable years beginning on or after Jan. 1, 2019, by reducing the amount of the tax by 25% each year until no tax is levied on the taxable capital of corporations for tax years beginning on or after Jan. 1, 2022.

Present law requires every corporation or other entity subject to the franchise tax to pay only an initial tax of $110 in the first accounting period in which it becomes subject to the tax. After the first closing of the corporate books, the tax is payable as provided in present law.

Proposed law retains present law but clarifies that no initial tax shall be levied or collected by the state nor paid by domestic or foreign corporations for taxable years beginning on and after Jan. 1, 2022.

Other provisions, applicability, and effective dates:

Proposed law provides that notwithstanding the provisions of Section 6 of Act No. 123 of the 2015 Regular Session, R.S. 47:287.73(C)(4) as enacted by Section 3 of Act No. 123 of the 2015 Regular Session shall not become effective.

Applicable to all taxable periods beginning on or after January 1, 2018.

Proposed law provides that Section 3 of this Act shall become effective and Section 2 of this Act shall not become effective if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R. S. of the Legislature is adopted at a statewide election and becomes effective.

Proposed law provides that Section 11 of this Act shall become effective and Section 10 of this Act shall not become effective if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature is adopted at a statewide election and becomes effective.

Except as specifically provided, the provisions of this Act shall take effect on Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 119, 357, and 358 of this 2017 R.S. of the Legislature are enacted and become effective and HCR No. 4 is adopted by both houses of the Louisiana Legislature.

(Amends R.S. 47:32(A), 79, the heading of Part II-A of Ch. 1 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, R.S. 47:287.2, 287.11(A), 287:12, 287.61, 287.86(A),(B), and (C)(2), 293(l) and (3)(intro. para.), 295(B), 297.8(A), 306(A)(3)(a), 601(A), (B), and (C)(2), 633(7)(a) and (d)(intro. para.) and (8), 6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa), and (cc); Adds R.S. 47:293(9)(a)(xviii), 611(C), 6006(D)(6), 6007(C)(1)(d)(ii), (dd), (ee), and (ff); Repeals R.S. 47:34, 201-220.3, 287.73(C)(4), 287.732(B), 294, 297(H), 297.6, 633(7)(d)(i) and (ii), 3201-3206, 4301-4306, 6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034, 6035, and 6351, R.S. 51:1781-1791, 2351-2356, 2365 and 2367, 2399.1-2399.6, 2451-2462, 3111-3115, and 3121)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Phase out the corporate franchise tax over four years beginning on and after Jan. 1, 2019, by reducing the taxpayer's tax liability by 25% until the entire amount of the tax is eliminated for taxable years beginning on and after Jan. 1, 2022, rather than repeal the tax.

2. Add provision that for tax years beginning on and after Jan. 1 2022, no initial corporate franchise tax is due for newly established businesses.

3. Changes the applicability provisions of the bill from taxable years beginning on and after Jan. 1, 2018 to all corporate franchise tax periods beginning on and after Jan. 1, 2019.

4. Increase the carry over period for net operating loss deduction from 20 years to 30 years for taxable years beginning on and after Jan. 1, 2018.

5. Change the application order of net operating loss from the most recent year to the earliest year of loss.

6. Provides that the the exemption for horizontal drilling does not apply to a well certified by the Dept. of Natural Resources as an incapable or stripper well.

7. Repeal provisions of present law relating to partnerships and income earned by partnerships for purposes of corporate income tax including the filing of composite returns and the computation of partnership income.

8. Clarify that for purposes of corporate income tax, the term "corporations and entities taxed as corporations" shall include all corporations and entities required to file federal form 1065 relative to U.S. return of partnership income.

9. Clarify that for purposes of the levy of the corporate income tax, business entities which are required to file federal form 1065, U.S. return of partnership income shall be subject to the state corporate income tax levied on the taxable income of business entities.

10. Clarify that for entities required to file federal form 1065, U.S. return of partnership income, "gross income" means the sum of lines one through eleven that is reportable in Schedule K, subject to modifications specified in present law.

11. Eliminate income or losses subject to corporate or business taxes from the calculation of adjusted gross income for purposes of calculating individual income tax liability.

12. Add applicability provisions for proposed law changes relative to corporate franchise taxes for corporate franchise tax periods beginning on and after Jan. 1, 2019.

13. Add effective date of Sept. 1, 2017 to proposed law relative to severance tax.

14. Add contingent effectiveness on Jan. 1, 2018, for proposed law if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 119, 357, and 358 are enacted and become effective and HCR No. 4 is adopted by both houses of the Louisiana Legislature.