

2018 First Extraordinary Session

HOUSE BILL NO. 22

BY REPRESENTATIVE SHADOIN

TAX/CORP INCOME: Reduces the amount of certain corporate income tax deductions and provides for continued effectiveness of reductions to certain corporate income tax deductions and exclusions (Item #4)

1 AN ACT

2 To amend and reenact R.S. 47:158(C) and (D), 287.73(C)(4), and 287.745(B) and Section

3 6 of Act No. 123 of the 2015 Regular Session of the Legislature and to repeal

4 Sections 3 and 4 of Act No. 123 of the 2015 Regular Session of the Legislature,

5 relative to corporate income tax; to provide relative to certain exclusions,

6 exemptions, and deductions; to provide for continued effectiveness of reductions; to

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

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:158(C) and (D), 287.73(C)(4), and 287.745(B) are hereby

10 amended and reenacted to read as follows:

11 §158. Basis for depletion

12 * * *

13 C. Percentage depletion for oil and gas wells. In the case of oil and gas wells

14 the allowance for depletion under R.S. 47:66 shall be ~~fifteen and eight-tenths of one~~

15 sixteen percent of the gross income from the property during the taxable year,

16 excluding from such gross income an amount equal to eighty percent of any rents or

17 royalties paid or incurred by the taxpayer in respect of the property. Such allowance

18 shall not exceed thirty-six percent of the net income of the taxpayer, computed

19 without allowance for depletion, from the property except that in no case shall the

1 depletion allowance under R.S. 47:66 be less than it would be if computed without
2 reference to this Subsection.

3 D. Percentage depletion for coal and metal mines and sulphur. The
4 allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, ~~three~~
5 ~~and six-tenths of one~~ four percent, in the case of metal mines, ~~ten and eight-tenths~~
6 ~~of one~~ eleven percent, and in the case of sulphur mines or deposits, ~~fifteen and eight-~~
7 ~~tenths of one~~ sixteen percent, of the gross income from the property during the
8 taxable year, excluding from such gross income an amount equal to seventy-two
9 percent of any rents or royalties paid or incurred by the taxpayer in respect of the
10 property. Such allowance shall not exceed thirty-six percent of the net income of the
11 taxpayer, computed without allowance for depletion from the property. A taxpayer
12 making his first return under this Chapter or under Act 21 of 1934 in respect of a
13 property, shall state whether he elects to have the depletion allowance for such
14 property for the taxable year for which the return is made computed with or without
15 regard to percentage depletion, and the depletion allowance in respect of such
16 property for such year and all succeeding taxable years shall be computed according
17 to the election thus made. If the taxpayer fails to make such statement in the return,
18 the depletion allowance for such property for all taxable years shall be computed
19 without reference to percentage depletion. This Subsection shall not be construed
20 as granting a new election to any taxpayer relative to any property with respect to
21 which he has filed a return under Act 21 of 1934.

22 * * *

23 §287.73. Modifications to deductions from gross income allowed by federal law

24 * * *

25 C. Additions. The following items are declared allowable as deductions in
26 the computation of net income and shall be added to the deductions allowed under
27 federal law to the extent not already included therein:

28 * * *

1 (A) The Acts which originated as House Bill Nos. 2, 3, 12, 23, and 29 of this 2018
2 First Extraordinary Session of the Legislature are enacted and if any of the Acts are vetoed
3 by the governor, the Act is subsequently approved by the legislature.

4 (B) House Concurrent Resolution No. 2 of this 2018 First Extraordinary Session of
5 the Legislature is adopted by the legislature.

6 (C) The proposed amendment of Article VII of the Constitution of Louisiana
7 contained in the Act which originated as House Bill No. 15 of this 2018 First Extraordinary
8 Session of the Legislature is adopted by the 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 22 Engrossed

2018 First Extraordinary Session

Shadoin

Abstract: Repeals the sunset for various reductions in corporate income tax exclusions and deductions thereby making the reductions permanent.

Previous Act of the legislature (Act No. 123 of 2015 R.S.) temporarily reduced certain allowable exclusions and deductions from corporate income tax. Present law provides that those exclusions and deductions return to their former rates effective July 1, 2018.

Proposed law removes provision for return to the former rates, thereby making the following 2015 reductions permanent:

- (1) Exclusion of funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system; 72% exclusion is retained rather than return to 100%. (R.S. 47:51)
- (2) Deduction of net operating loss of a corporation; 72% deduction is retained rather than return to 100%. (R.S. 47:246)
- (3) Exclusion of funds received from a governmental entity to subsidize the operation and maintenance of a public transportation system; 72% deduction is retained rather than return to 100%. (R.S. 47:287.71)
- (4) Deduction of various corporate expenses that are not allowed as deductions by I.R.C. Section 280C; 72% deduction is retained rather than return to 100%. (R.S. 47:287.73)
- (5) Deduction of net operating loss incurred in La.; 72% deduction is retained rather than return to 100%. (R.S. 47:287.86)
- (6) Deduction of an amount equal to interest and dividend income included on the federal income tax return; 72% deduction is retained rather than return to 100%. (R.S. 47:287.738)

- (7) Exemption from corporation income and franchise taxes for certain La. Community Development Institutions; a four-year exemption is retained rather than return to five years. (R.S. 51:3092)

Present law provides that the allowance for depletion for oil and gas wells is 15.8% of the gross income from the property during the taxable year. Proposed law changes that rate from 15.8% to 16%. Present law, effective now, provides that 80% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion allowance is 22%; 100% of rents or royalties paid by the taxpayer are excluded from income; and this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:158(C))

Proposed law, relative to the allowance for depletion for certain mines, changes the rate for coal mines from 3.6% to 4%; for metal mines from 10.8% to 11%; and for sulphur mines from 15.8% to 16%. Present law, effective now, provides that 72% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion allowances are 5% for coal mines, 15% for metal mines, and 23% for sulphur mines; 100% of rents or royalties paid by the taxpayer are excluded from income; and this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:158(D))

Present law provides that the deduction from gross income tax for depletion for oil and gas wells is 15.8% of the gross income from the property during the taxable year. Proposed law changes that rate from 15.8% to 16%. Present law, effective now, provides that 72% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion deduction is 22%; 100% of rents or royalties paid by the taxpayer are excluded from income; and that this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:287.745(B))

Effective July 1, 2018, but only if the Acts which originated as House Bill Nos. 2, 3, 12, 23, and 29 of this 2018 First E. S. are enacted, if HCR No. 2 of this 2018 First E.S. is adopted, and the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as HB No. 15 of this 2018 First E.S. is adopted by the legislature.

(Amends R.S. 47:158(C) and (D), 287.73(C)(4), and 287.745(B) and §6 of Act No. 123 of 2015 R.S.; Repeals §§3 and 4 of Act No. 123 of 2015 R.S.)

Summary of Amendments Adopted by House

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

1. Make a technical change to a reference to federal law.
2. Change the effective date of proposed law from governor's signature to effectiveness based on enactment of HB Nos. 2, 3, 12, 23, and 29, adoption of HCR No. 2, and the proposed amendment of Article VII of the Constitution contained in the Act which originated as HB No. 15 is adopted, all from the 2018 First E.S.