2018 Second Extraordinary Session

HOUSE BILL NO. 13

BY REPRESENTATIVE JACKSON

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 #16)

AN ACT

To amend and reenact R.S. 47:158(C) and (D), 287.73(C)(4), and 287.745(B) and Section 6 of Act No. 123 of the 2015 Regular Session of the Legislature and to repeal Sections 3 and 4 of Act No. 123 of the 2015 Regular Session of the Legislature, relative to corporate income tax; to provide relative to certain exclusions, exemptions, and deductions; to provide for continued effectiveness of reductions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:158(C) and (D), 287.73(C)(4), and 287.745(B) are hereby amended and reenacted to read as follows:

§158. Basis for depletion

* * *

C. Percentage depletion for oil and gas wells. In the case of oil and gas wells the allowance for depletion under R.S. 47:66 shall be ~~fifteen and eight-tenths of one~~ <u>sixteen</u> percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to eighty percent of any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed thirty-six percent of the net income of the taxpayer, computed without allowance for depletion, from the property except that in no case shall the depletion allowance under R.S. 47:66 be less than it would be if computed without reference to this Subsection.

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

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

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

* * *

(4) Expenses disallowed by I.R.C. Section ~~280(C)~~ 280C. Seventy-two percent of expenses which would otherwise be deductible under federal law, but for the disallowance provisions of I.R.C. Section ~~280(C)~~ 280C, relative to certain expenses for which credits are allowable.

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§287.745. Deductions from gross income; depletion

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B. In the case of oil and gas wells, the percentage depletion provided for in Subsection A shall be ~~fifteen and eight-tenths of one~~ sixteen percent of gross income from the property during the taxable year, excluding from such gross income an amount equal to seventy-two percent of any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed thirty-six percent of the net income of the taxpayer, computed without allowance for depletion, from the property. In determining net income from the property, federal income taxes shall be considered an expense.

Section 2. Section 6 of Act No. 123 of the 2015 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

* * *

Section 6. The provisions of Sections 1 and 2 of this Act shall become effective on July 1, 2015~~, and shall remain effective through June 30, 2018. The provisions of Sections 3 and 4 of this Act shall become effective on July 1, 2018~~.

* * *

Section 3. Sections 3 and 4 of Act No. 123 of the 2015 Regular Session of the Legislature are hereby repealed in their entirety.

Section 4. The provisions of Section 1 of this Act shall be applicable to taxable periods beginning on and after January 1, 2018.

Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 13 Original 2018 Second Extraordinary Session Jackson

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))

Proposed law relative to the increase in depletion rates shall be applicable to taxable periods beginning on and after Jan. 1, 2018.

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

(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.)