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## DIGEST

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HB 604 Engrossed

2019 Regular Session

Stefanski

**Abstract:** Reduces the state income tax rate for S Corporations and other flow through entities that elect to be taxed at the corporation level.

Present law requires Subchapter S corporations to pay La. income tax using the corporate income tax rate and bracket schedule as follows:

- (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 requires income from flow through entities such as limited liability companies that elect federal partnership treatment and partnerships (referred to as "flow through entities") to be reported on the partner or member's individual income tax return.

Proposed law provides an election that authorizes S corporations and other flow through entities to file and pay tax on their La. income as if they were C corporations.

Proposed law changes the Subchapter S corporation state income tax rates to the married individual income tax rates and brackets for S corporations that elect to be taxed at the corporate level as follows:

- (1) 2% on the first \$25,000 of La. taxable income.
- (2) 4% on La. taxable income above \$25,000 but not in excess of \$100,000.
- (3) 6% on La. taxable income in excess of \$100,000.

Proposed law applies the married individual income tax rates and brackets to the income of all flow through entities that elect to be taxed as corporations for La. tax purposes.

Present law provides a deduction for federal income tax paid on state income for the taxable year.

Proposed law authorizes Subchapter S corporations and other flow through entities that elect to file and pay La. income tax as if they were a corporation a deduction for the amount of federal income tax the entities would have paid on its La. income if it had been taxed as a C corporation for federal income tax purposes.

Present law provides a corporation income tax exclusion for Subchapter S income that is reported on a La. individual resident or nonresident income tax return.

Proposed law retains the present law Subchapter S exclusion for S corporations not making the proposed law election and further provides an individual income tax exclusion for La. Subchapter S income and flow through entity income that is included in La. individual income taxpayer's federal adjusted gross income for that taxable year.

Present law requires individual income taxpayers to inform the secretary of revenue of federal income tax adjustments.

Proposed law retains present law and requires individual income taxpayers who use the proposed law S corporation and flow through entity exclusion to notify the secretary if changes are made to their federal income tax return due to adjustments to an S corporation's income or losses.

Present law provides that credits earned by flow through entities shall flow through to partners or members as provided in the operating agreement of the entity.

Proposed law provides that credits earned by flow through entities that have made the proposed law election shall not flow through to the partners or members but shall be applied at the entity level.

Present law requires S corporations to use corporation income tax credits at the corporation level unless the S corporation annually elects to flow corporation income tax credits to shareholders.

Proposed law retains present law requiring S corporations to use credits at the corporation level and ends the annual election to flow through credits on Jan. 1, 2019.

Proposed law provides that an election may be made at any time during the preceding taxable year or for the taxable year, anytime on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month after the end of the taxable year. Further, proposed law provides that an election that is made untimely may be treated as timely if the secretary determines there was reasonable cause for the failure to make the election timely.

Proposed law prohibits an entity from making an election in accordance with proposed law for the same taxable year if they file a composite partnership return.

Proposed law applies to all taxable years beginning on or after Jan. 1, 2019.

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

(Amends R.S. 47:287.732(B)(1), 293(10), and 1675(G); Adds R.S. 47:287.732(B)(6), 287.732.2, 293(9)(a)(xviii), 297.14, and 1675(F)(4))

Summary of Amendments Adopted by House

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

1. Change the timing for an entity to make its S corporation election from on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month of the taxable year to on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month *after the end of the taxable year*.
2. Prohibit an entity from making an election in accordance with proposed law for the same taxable year if they file a composite partnership return.