

2021 Regular Session

HOUSE BILL NO. 520

BY REPRESENTATIVE NELSON

TAX/TAXATION: Phases-out the corporation income and franchise taxes and reduces the amount of exemptions, deductions, and credits that may be claimed to reduce corporate income and franchise tax liability

1 AN ACT

2 To amend and reenact R.S. 47:287.12, 287.69, and 601(A), (B), and (C)(2), to enact R.S.

3 47:287.13, 601.2, and 611(C), and to repeal R.S. 47:287.79, 287.83, 287.85, and

4 287.442(B)(1), relative to corporate taxes; to provide for the rate of the corporate

5 income tax; to provide for a reduction and eventual elimination of the corporate

6 income tax; to provide for the rate of the corporate franchise tax; to provide for a

7 reduction and eventual elimination of the corporate franchise tax; to prohibit the levy

8 of an initial corporate franchise tax under certain circumstances; to provide for the

9 claiming of corporate income and franchise tax exemptions, deductions, and credits;

10 to repeal the deductibility of federal income taxes paid for purposes of calculating

11 corporate income tax; to provide for applicability; to provide for an effective date;

12 and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:287.12, 287.69, and 601(A), (B), and (C)(2) are hereby amended
15 and reenacted and R.S. 47:287.13, 601.2, and 611(C) are hereby enacted to read as follows:

16 §287.12. Rates of tax

17 A. Until January 1, 2023, the ~~The~~ tax to be assessed, levied, collected, and

18 paid upon the Louisiana taxable income of every corporation shall be computed at

19 the rate of:

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

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

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

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

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

11 B. For tax years beginning on or after January 1, 2023, but before January
12 1, 2024, the tax to be assessed, levied, collected, and paid upon the Louisiana taxable
13 income of every corporation shall be computed at the rate of:

14 (1) Three percent upon the first twenty-five thousand dollars of Louisiana
15 taxable income.

16 (2) Three and seventy-five one hundredths percent upon the amount of
17 Louisiana taxable income above twenty-five thousand dollars but not in excess of
18 fifty thousand dollars.

19 (3) Four and one-half percent on the amount of Louisiana taxable income
20 above fifty thousand dollars but not in excess of one hundred thousand dollars.

21 (4) Five and twenty-five one hundredths percent on the amount of Louisiana
22 taxable income above one hundred thousand dollars but not in excess of two hundred
23 thousand dollars.

24 (5) Six percent on all Louisiana taxable income in excess of two hundred
25 thousand dollars.

26 C. For tax years beginning on or after January 1, 2024, but before January
27 1, 2025, the tax to be assessed, levied, collected, and paid upon the Louisiana taxable
28 income of every corporation shall be computed at the rate of:

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

3 (2) Two and one-half percent upon the amount of Louisiana taxable income
4 above twenty-five thousand dollars but not in excess of fifty thousand dollars.

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

7 (4) Three and one-half of one percent on the amount of Louisiana taxable
8 income above one hundred thousand dollars but not in excess of two hundred
9 thousand dollars.

10 (5) Four percent on all Louisiana taxable income in excess of two hundred
11 thousand dollars.

12 D. For tax years beginning on or after January 1, 2025, but before January
13 1, 2026, the tax to be assessed, levied, collected, and paid upon the Louisiana taxable
14 income of every corporation shall be computed at the rate of:

15 (1) One percent upon the first twenty-five thousand dollars of Louisiana
16 taxable income.

17 (2) One and twenty-five one hundredths percent upon the amount of
18 Louisiana taxable income above twenty-five thousand dollars but not in excess of
19 fifty thousand dollars.

20 (3) One and one-half percent on the amount of Louisiana taxable income
21 above fifty thousand dollars but not in excess of one hundred thousand dollars.

22 (4) One and seventy-five one hundredths percent on the amount of Louisiana
23 taxable income above one hundred thousand dollars but not in excess of two hundred
24 thousand dollars.

25 (5) Two percent on all Louisiana taxable income in excess of two hundred
26 thousand dollars.

27 E. For tax years beginning on or after January 1, 2026, no tax shall be
28 assessed, levied, collected, and paid upon the Louisiana taxable income of every
29 corporation.

1 §287.13. Utilization of corporate income tax exemptions, deductions and credits;
2 limitations

3 The value of each exemption, deduction, and credit included in Chapter 26
4 of Title 25 of the Louisiana Revised Statutes of 1950; this Chapter, Chapters 3 and
5 5 of Subtitle V, and Chapters 1, 2, and 3 of Subtitle VII of this Title; and Chapters
6 21, 23, 26, 39, and 39-C of Title 51 of the Louisiana Revised Statutes of 1950, which
7 limits the corporate income tax liability of a taxpayer shall be reduced as follows:

8 (1) For taxable years beginning on or after January 1, 2023, but before
9 January 1, 2024, the value of each exemption, deduction, and credit claimed on a tax
10 return to limit corporate income tax liability shall be reduced by twenty-five percent.

11 (2) For taxable years beginning on or after January 1, 2024, but before
12 January 1, 2025, the value of each exemption, deduction, and credit claimed on a tax
13 return to limit corporate income tax liability shall be reduced by fifty percent.

14 (3) For taxable years beginning on or after January 1, 2025, but before
15 January 1, 2026, the value of each exemption, deduction, and credit claimed on a tax
16 return to limit corporate income tax liability shall be reduced by seventy-five
17 percent.

18 (4) For taxable years beginning on or after January 1, 2026, the value of each
19 exemption, deduction, and credit claimed on a tax return to limit corporate income
20 tax liability shall be reduced by one hundred percent.

21 * * *

22 §287.69. Louisiana taxable income defined

23 "Louisiana taxable income" means Louisiana net income, after adjustments;
24 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After adjustments"
25 means after the application of the net operating loss adjustment allowed by R.S.
26 47:287.86.

27 * * *

28 §601. Imposition of tax

29 A.(1) Except as provided for in Paragraph (2) of this Subsection, every
30 ~~Every~~ domestic corporation and every foreign corporation, exercising its charter, or

1 qualified to do business or actually doing business in this state, or owning or using
2 any part or all of its capital, plant, or any other property in this state, subject to
3 compliance with all other provisions of law, except as otherwise provided for in this
4 Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each one
5 thousand dollars, or major fraction thereof on the first three hundred thousand dollars
6 of taxable capital and at the rate of three dollars for each one thousand dollars, or
7 major fraction thereof, which exceeds three hundred thousand dollars of taxable
8 capital. Taxable capital shall be determined as hereinafter provided. The tax levied
9 herein is due and payable on any one or all of the following alternative incidents:

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

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

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

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

25 (a) For taxable years beginning on or after January 1, 2023, but before
26 January 1, 2024, seventy-five percent.

27 (b) For taxable years beginning on or after January 1, 2024, but before
28 January 1, 2025, fifty percent.

1 (c) For taxable years beginning on or after January 1, 2025, but before
2 January 1, 2026, twenty-five percent.

3 (d) For taxable years beginning on or after January 1, 2026, no corporation
4 franchise tax shall be assessed, levied, or collected by the state nor paid by domestic
5 or foreign corporations on taxable capital.

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

13 C.
14 * * *

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

19 * * *

20 §601.2. Utilization of corporate franchise tax exemptions, deductions, and credits;
21 limitations

22 The value of each exemption, deduction, and credit included in Chapter 26
23 of Title 25 of the Louisiana Revised Statutes of 1950; this Chapter, Chapters 3 and
24 5 of Subtitle V, and Chapters 1, 2, and 3 of Subtitle VII of this Title; and Chapters
25 21, 23, 26, 39, and 39-C of Title 51 of the Louisiana Revised Statutes of 1950, which
26 limits the corporate franchise tax liability of a taxpayer shall be reduced as follows:

27 (1) For taxable years beginning on or after January 1, 2023, but before
28 January 1, 2024, the value of each exemption, deduction, and credit claimed on a tax

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 return to limit corporate franchise tax liability shall be reduced by twenty-five
2 percent.

3 (2) For taxable years beginning on or after January 1, 2024, but before
4 January 1, 2025, the value of each exemption, deduction, and credit claimed on a tax
5 return to limit corporate franchise tax liability shall be reduced by fifty percent.

6 (3) For taxable years beginning on or after January 1, 2025, but before
7 January 1, 2026, the value of each exemption, deduction, and credit claimed on a tax
8 return to limit corporate franchise tax liability shall be reduced by seventy-five
9 percent.

10 (4) For taxable years beginning on or after January 1, 2026, the value of each
11 exemption, deduction, and credit claimed on a tax return to limit corporate franchise
12 tax liability shall be reduced by one hundred percent.

13 * * *

14 §611. Newly taxable corporation

15 * * *

16 C. For taxable years beginning on or after January 1, 2026, no initial tax
17 shall be assessed, levied, or collected by the state nor paid by domestic or foreign
18 corporations.

19 Section 2. R.S. 47:287.79, 287.83, 287.85, and 287.442(B)(1) are hereby repealed
20 in their entirety.

21 Section 3. The provisions of this Act shall be applicable to corporate income and
22 corporate franchise tax periods beginning on or after January 1, 2023.

23 Section 4. This Act shall take effect and become operative on January 1, 2023, if the
24 proposed amendment of Article VII of the Constitution of Louisiana contained in the Act
25 which originated as House Bill No. ___ of this 2021 Regular Session of the Legislature is
26 adopted at a statewide election and becomes effective.

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 520 Original

2021 Regular Session

Nelson

Abstract: Phases-out corporate income and franchise taxes over four years, repeals the deductibility of federal income taxes paid for purposes of calculating corporate income tax liability, and reduces the amount of exemptions, deductions, and credits that may be claimed on tax returns to reduce corporate income and franchise tax liability.

Present law requires that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation to 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 for tax years beginning on or after Jan. 1, 2023, but before Jan. 1, 2024, by reducing the tax rates as follows:

- (1) From 4% to 3% on the first \$25,000 of La. taxable income.
- (2) From 5% to 3.75% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) From 6% to 4.5% on La. taxable income above \$50,000 but not in excess \$100,000.
- (4) From 7% to 5.25% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) From 8% to 6% on all La. taxable income in excess of \$200,000.

Proposed law provides for the further reduction of corporate income tax rates beginning on or after Jan. 1, 2024, but before Jan. 1, 2025, as follows:

- (1) From 3% to 2% on the first \$25,000 of La. taxable income.
- (2) From 3.75% to 2.5% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) From 4.5% to 3% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) From 5.25% to 3.5% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) From 6% to 4% on all La. taxable income in excess of \$200,000.

Proposed law provides for the further reduction of corporate income tax rates beginning on or after Jan. 1, 2025, but before Jan. 1, 2026, as follows:

- (1) From 2% to 1% on the first \$25,000 of La. taxable income.
- (2) From 2.5% to 1.25% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) From 3% to 1.5% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) From 3.5% to 1.75% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) From 4% to 2% on all La. taxable income in excess of \$200,000.

Proposed law prohibits tax from being assessed, levied, collected, and paid on the La. taxable income of any corporation for tax years beginning on or after Jan. 1, 2026.

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, 2023, 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, 2026.

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 provides that no initial tax shall be levied or collected by the state nor paid by domestic or foreign corporations for taxable years beginning on or after Jan. 1, 2026.

Present law includes various tax incentives in the form of credits, deductions and exemptions from corporate income and franchise taxes which reduce a taxpayer's overall tax liability.

Proposed law retains present law but reduces the overall value of the amount of tax credits, deductions, and exemptions that may be claimed on a tax return to reduce a taxpayer's corporate income or franchise tax liability as follows:

- (1) For taxable years beginning on or after Jan. 1, 2023, but before Jan. 1, 2024, by 25%.
- (2) For taxable years beginning on or after Jan. 1, 2024, but before Jan. 1, 2025, by 50%.

- (3) For taxable years beginning on or after Jan. 1, 2025, but before Jan. 1, 2026, by 75%.
- (4) For taxable years beginning on or after Jan. 1, 2026, by 100%.

Present constitution and present law authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating corporate income taxes.

Proposed law applies to all corporate income and corporate franchise tax periods beginning on or after Jan. 1, 2023.

Effective Jan. 1, 2023, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. ____ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:287.12, 287.69, and 601(A), (B), and (C)(2); Adds R.S. 47:287.13, 601.2, and 611(C); Repeals R.S. 47:287.79, 287.83, 287.85, and 287.442(B)(1))