

2021 Regular Session

SENATE BILL NO. 240

BY SENATOR LUNEAU

TAX/TAXATION. Limits the utilization of income and corporation franchise tax credits to total tax liability. (gov sig)

1 AN ACT

2 To enact R.S. 47:1675(K), relative to the utilization of income and corporation franchise tax
3 credits; to provide that the total corporation income and franchise tax credits claimed
4 in a tax year cannot exceed the corporation's tax liability for the tax year; to provide
5 that the total amount of certain business-related individual income tax credits cannot
6 exceed the taxpayer's individual income tax liability for the tax year; to limit
7 refundabilty of refundable credits; to provide for effectiveness; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:1675(K) is hereby enacted to read as follows:

11 §1675. General administrative provisions for credits against income and corporation
12 franchise tax

13 * * *

14 **K. Limitation on the utilization of income and corporation franchise tax**

15 **credits:**

16 **(1) For all taxable years beginning on or after January 1, 2022,**

17 **notwithstanding any provision of law to the contrary including contrary**

1 provisions in applicable tax credit statutes, total tax credits allowed pursuant
2 to Subtitle VII of this Title, other than the credit provided for in R.S. 47:6006
3 granted to dealers licensed under the provisions of R.S. 32:1254 or R.S.
4 51:911.24, shall not exceed the total corporation income and corporation
5 franchise tax liability of any taxpayer required to file a corporate income or
6 corporation franchise tax return. If the total amount of applicable tax credits
7 authorized pursuant to Subtitle VII of this Title exceeds the amount of
8 corporation income and corporation franchise tax liability for the tax year, the
9 excess credits shall not be refundable , other than the credit provided for in R.S.
10 47:6006 granted to dealers licensed under the provisions of R.S. 32:1254 or R.S.
11 51:911.24.

12 (2) For all taxable years beginning on or after January 1, 2022,
13 notwithstanding any provision of law to the contrary including contrary
14 provisions in applicable tax credit statutes, total tax credits allowed pursuant
15 to Subtitle VII of this Title, other than the credits provided for in R.S. 47:6104
16 and 6106 and the credit provided for in R.S. 47:6006 granted to dealers licensed
17 under the provisions of R.S. 32:1254 or R.S. 51:911.24, shall not exceed the total
18 individual income tax liability of any taxpayer required to file an individual
19 income tax return. If the total amount of applicable tax credits authorized
20 pursuant to Subtitle VII of this Title exceeds the amount of individual income
21 tax liability for the tax year, the excess credits shall not be refundable, other
22 than the credits provided for in R.S. 47:6104 and 6106 and the credit provided
23 for in R.S. 47:6006 granted to dealers licensed under the provisions of R.S.
24 32:1254 or R.S. 51:911.24.

25 (3) For all taxable years beginning on or after January 1, 2022,
26 notwithstanding any provision of law to the contrary including contrary
27 provisions in applicable tax credit statutes, total tax credits allowed pursuant
28 to Subtitle VII of this Title shall not exceed the total fiduciary income tax
29 liability of any taxpayer required to file a fiduciary income tax return. If the

1 total amount of applicable tax credits authorized pursuant to Subtitle VII of this
 2 Title exceeds the amount of tax liability for the tax year, the excess credits shall
 3 not be refundable.

4 (4) Tax credits that are in excess of the taxpayer's tax liability for a
 5 taxable year that would be refundable but for the provisions of this Subsection
 6 may be carried forward as a credit against subsequent Louisiana income or
 7 corporation franchise tax liability for a period not to exceed five years.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument was prepared by Leonore Heavey. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Cheryl Serrett.

DIGEST

SB 240 Reengrossed

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Luneau

Present law authorizes a variety of tax credits that can be utilized to reduce income and corporation franchise tax due dollar-for-dollar and further provides that for a limited number of these credits that any tax credit balance in excess of the current year's tax liability shall be refunded to the taxpayer.

Proposed law provides that the total tax credits available to a corporate taxpayer shall not reduce the taxpayer's corporate income and corporate franchise tax liability below zero and any excess credit shall not be refundable even if the statute creating the credit provides for refundability.

Proposed law provides that the total business tax credits available to an individual taxpayer shall not reduce the taxpayer's individual tax liability below zero and any excess credit shall not be refundable even if the statute creating the credit provides for refundability, except for the School Readiness child care expense tax credit, the child care directors and staff tax credit, and certain inventory tax credits.

Proposed law provides that beginning on or after January 1, 2022, the total tax credits authorized in present law shall not exceed the total fiduciary income tax liability of any taxpayer required to file a fiduciary income tax return. If the total amount of applicable tax credits exceeds the amount of tax liability for the tax year, the excess credits are not refundable.

Proposed law authorizes credits that would be refundable but for the provisions of proposed law to be carried forward to be used against subsequent tax liability for up to five years.

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

(Adds R.S. 47:1675(K))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Adds the child care directors and staff tax credit to the list of exceptions for individual income tax only.
2. Provides that the total tax credits shall not exceed the total fiduciary income tax liability of any taxpayer required to file a fiduciary income tax return and any excess credits are not refundable.
3. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Add inventory tax credits paid by certain vehicle dealers to the list of exceptions for individual income tax.