

SENATE BILL NO. 161

BY SENATOR ALLAIN

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AN ACT

To amend and reenact R.S. 47:601(A)(introductory paragraph) and 601.1(A)(1) and to enact R.S. 47:601(D) and 601.2, relative to the corporation franchise tax and the suspension of the corporation franchise tax on the first three hundred thousand dollars of taxable capital for small business corporations; to provide for the applicable tax periods of the suspension; to provide for the rates of tax; to provide an automatic rate reduction trigger; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:601(A)(introductory paragraph) is hereby amended and reenacted and R.S. 47:601(D) and 601.2 are hereby enacted to read as follows:

§601. Imposition of tax

A. Every domestic corporation and every foreign corporation, exercising its charter, or qualified to do business or actually doing business in this state, or owning or using any part or all of its capital, plant, or any other property in this state, subject to compliance with all other provisions of law, except as otherwise provided for in this Chapter shall pay an annual tax ~~at the rate of one dollar and fifty cents for each one thousand dollars, or major fraction thereof on the first three hundred thousand dollars of taxable capital and at the rate of three dollars for each one thousand dollars, or major fraction thereof, which exceeds three hundred thousand dollars of~~ **based on its taxable capital at the rates provided in Subsection D of this Section.** Taxable capital shall be determined as ~~hereinafter~~ **provided in this Chapter.** The tax levied ~~herein~~ **in this Section** is due and payable on any one or all of the following alternative incidents:

\* \* \*

**D. (1) For taxable periods beginning before January 1, 2023, the annual rates of tax shall be one dollar and fifty cents for each one thousand dollars, or major fraction thereof, on the first three hundred thousand dollars of taxable capital and three dollars for each one thousand dollars, or major fraction thereof, in excess of three hundred thousand dollars of taxable capital.**

**(2) Except as otherwise provided in R.S. 47:601.1 or 601.2, for taxable periods beginning on or after January 1, 2023, the annual rate of tax shall be two dollars and seventy-five cents for each one thousand dollars, or major fraction thereof, in excess of three hundred thousand dollars of taxable capital.**

\* \* \*

**§601.2. Automatic rate reduction**

**A.(1) Beginning April 1, 2024, and each April first thereafter, if the prior fiscal year's actual corporation income and franchise tax collections as reported in the state's accounting system exceed the actual corporation income and franchise tax collections for the fiscal year ending June 30, 2019, as reported in the state's accounting system, adjusted annually by the growth factor provided for in Article VII, Section 10(C) of the Constitution, the corporation franchise tax rate in R.S. 47:601 for the tax year beginning the following January first shall be reduced as provided in Paragraph (2) of this Subsection.**

**(2) The reduced rate shall be calculated by multiplying the current rate by the difference between one and the percentage change in corporation income and franchise tax collections in excess of the corporation income and franchise tax collections for Fiscal Year 2018-2019 adjusted annually by the growth factor as provided in Paragraph (1) of this Subsection. A rate reduction shall be made only if both of the following conditions are met:**

**(a) The prior fiscal year's actual total tax, licenses, and fees exceed the actual total tax, licenses, and fees for Fiscal Year 2018-2019, adjusted annually by the growth factor in Article VII, Section 10(C) of the Constitution of Louisiana.**

1                   **(b) The Budget Stabilization Fund balance as determined by the**  
 2                   **treasurer is at least two and one-half percent of the total state revenue receipts**  
 3                   **from the prior fiscal year.**

4                   **B. The actual corporation income and franchise tax collections and**  
 5                   **actual total tax, licenses, and fees used in the calculations required by this**  
 6                   **Section shall be certified by the Office of Statewide Reporting and Accounting**  
 7                   **Policy.**

8                   **C. (1) "Growth factor provided for in Article VII, Section 10(C) of the**  
 9                   **Constitution" means the positive growth factor that is the most recent average**  
 10                  **annual percentage rate of change of personal income for Louisiana as defined**  
 11                  **and reported by the United States Department of Commerce for the three**  
 12                  **calendar years prior to the fiscal year in which this calculation is made.**

13                  **(2) "Actual total tax, licenses, and fees" means actual total tax, licenses,**  
 14                  **and fees as reported to the Revenue Estimating Conference.**

15                  Section 2. R.S. 47:601.1(A)(1) is hereby amended and reenacted to read as follows:  
 16                  §601.1. Suspension of the corporate franchise tax applicable to small business  
 17    corporations

18                  A.(1) Notwithstanding any provision of law to the contrary, the state  
 19                  corporation franchise tax levied on corporations at the rate of one dollar and fifty  
 20                  cents for each one thousand dollars, or major fraction thereof, on the first three  
 21                  hundred thousand dollars of taxable capital pursuant to the provisions of R.S.  
 22                  47:601(A) shall not apply to small business corporations for franchise taxable  
 23                  periods beginning between July 1, 2020, and ~~June 30, 2021~~ **July 1, 2023.**

24    \*           \*           \*

25                  Section 3. Section 1 of this Act shall take effect for franchise taxable periods  
 26                  beginning on and after January 1, 2023 if the proposed amendment of Article VII, Section  
 27                  4(A) of the Constitution of Louisiana contained in the Act which originated as Senate Bill  
 28                  No. 159 of this 2021 Regular Session of the Legislature is adopted at the statewide election  
 29                  to be held on October 9, 2021, and becomes effective and if both of the Acts that originated  
 30                  as House Bill No. 278 and House Bill No. 292 of this 2021 Regular Session of the

1 Legislature are enacted and become law.

2 Section 4. This Section, Section 2, and Section 3 of this Act shall become effective  
3 upon signature by the governor or, if not signed by the governor, upon expiration of the time  
4 for bills to become law without signature by the governor, as provided by Article III, Section  
5 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved  
6 by the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_