

2023 Regular Session

HOUSE BILL NO. 363

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. 47:287.11(A), 287.12, 601(B), (C)(2), and (D)(2), to enact R.S.

3 47:287.13, 601.3, and 611(C), and to repeal R.S. 47:601.1 and 601.2, relative to

4 corporate taxes; to provide for the rate of the corporate income tax; to provide for a

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

6 rate of the corporate franchise tax; to provide for a reduction and eventual

7 elimination of the corporate franchise tax; to prohibit the levy of an initial corporate

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

9 income and franchise tax exemptions, deductions, and credits; to repeal the

10 automatic reduction in the corporate franchise tax rate under certain circumstances;

11 to provide for applicability; to provide for an effective date; and to provide for

12 related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:287.11(A), 287.12, 601(B), (C)(2), and (D)(2) are hereby amended
15 and reenacted and R.S. 47:287.13, 601.3, and 611(C) are hereby enacted to read as follows:

16 §287.11. Tax imposed

17 A.(1) For taxable years beginning prior to January 1, 2027, there ~~There~~ shall

18 be levied, collected, and paid for each taxable year a tax upon the Louisiana taxable

19 income of corporations and other entities taxed as corporations for federal income

1 tax purposes, which entities shall be considered to be corporations for the purposes
2 of this Chapter only, other than insurance companies as hereinafter provided.

3 (2) For tax years beginning on or after January 1, 2027, no tax shall be
4 assessed, levied, collected, or paid upon the Louisiana taxable income of
5 corporations.

6 * * *

7 §287.12. Rates of tax

8 A. For taxable years beginning prior to January 1, 2024, the ~~The~~ tax to be
9 assessed, levied, collected, and paid upon the Louisiana taxable income of every
10 corporation shall be computed at the rate of:

11 (1) Three and one-half percent upon the first fifty thousand dollars of
12 Louisiana taxable income.

13 (2) Five and one-half percent on the amount of Louisiana taxable income
14 above fifty thousand dollars but not in excess of one hundred fifty thousand dollars.

15 (3) Seven and one-half percent on the amount of Louisiana taxable income
16 above one hundred fifty thousand dollars.

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

20 (1) Two and sixty-three one hundredths percent upon the first fifty thousand
21 dollars of Louisiana taxable income.

22 (2) Four and thirteen one hundredths percent upon the amount of Louisiana
23 taxable income above fifty thousand dollars but not in excess of one hundred fifty
24 thousand dollars.

25 (3) Five and sixty-three one hundredths percent on the amount of Louisiana
26 taxable income above one hundred fifty thousand dollars.

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

1 (1) One and seventy-five one hundredths percent upon the first fifty thousand
2 dollars of Louisiana taxable income.

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

6 (3) Three and seventy-five one hundredths percent on the amount of
7 Louisiana taxable income above one hundred fifty thousand dollars.

8 D. For taxable years beginning on or after January 1, 2026, but before
9 January 1, 2027, the tax to be assessed, levied, collected, and paid upon the
10 Louisiana taxable income of every corporation shall be computed at the rate of:

11 (1) Eighty-eight one hundredths percent upon the first fifty thousand dollars
12 of Louisiana taxable income.

13 (2) One and thirty-eight one hundredths percent upon the amount of
14 Louisiana taxable income above fifty thousand dollars but not in excess of one
15 hundred fifty thousand dollars.

16 (3) One and eighty-eight one hundredths percent on the amount of Louisiana
17 taxable income above one hundred fifty thousand dollars.

18 E. For taxable years beginning on or after January 1, 2027, no tax shall be
19 assessed, levied, collected, or paid upon the Louisiana taxable income of any
20 corporation.

21 §287.13. Utilization of corporate income tax exemptions, deductions and credits;
22 limitations

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

1 * * *

2 D.

3 * * *

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

9 (a) For taxable years beginning on or after January 1, 2023, but before
10 January 1, 2024, two dollars and seventy-five cents.

11 (b) For taxable years beginning on or after January 1, 2024, but before
12 January 1, 2025, two dollars and six cents.

13 (c) For taxable years beginning on or after January 1, 2025, but before
14 January 1, 2026, one dollar and thirty-eight cents.

15 (d) For taxable years beginning on or after January 1, 2026, but before
16 January 1, 2027, sixty-nine cents.

17 (e) For taxable years beginning on or after January 1, 2027, no corporation
18 franchise tax shall be assessed, levied, or collected by the state nor paid by domestic
19 or foreign corporations on taxable capital.

20 §601.3. 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, 26, 39, and 39-C of Title 51 of the Louisiana Revised Statutes of 1950, claimed
26 on a tax return to limit the corporate franchise tax liability of a taxpayer shall be
27 reduced as follows:

28 (1) For taxable years beginning on or after January 1, 2024, but before
29 January 1, 2025, the value of each exemption, deduction, and credit claimed on a tax

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, 2025, but before
4 January 1, 2026, 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, 2026, but before
7 January 1, 2027, 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, 2027, 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, 2027, 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. 47:601.1 and 601.2 are hereby repealed in their entirety.

20 Section 3. The provisions of this Act shall be applicable to corporate income and
21 corporate franchise taxable periods beginning on or after January 1, 2024.

22 Section 4. This Act shall take effect and become operative if and when the proposed
23 amendment of Article VII of the Constitution of Louisiana contained in the Act which
24 originated as House Bill No. ____ of this 2023 Regular Session of the Legislature is adopted
25 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 363 Original

2023 Regular Session

Nelson

Abstract: Phases-out corporate income and franchise taxes over four years, reduces the amount of exemptions, deductions, and credits that may be claimed on tax returns to reduce corporate income and franchise tax liability, and repeals the automatic reduction in the corporate franchise rate if certain revenue thresholds are met.

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) 3.5% on the first \$50,000 of La. taxable income.
- (2) 5.5% on La. taxable income above \$50,000 but not in excess of \$150,000.
- (3) 7.5% on La. taxable income above \$150,000.

Proposed law changes present law for taxable years beginning on or after Jan. 1, 2024, but before Jan. 1, 2025, by reducing the tax rates as follows:

- (1) From 3.5% to 2.63% on the first \$50,000 of La. taxable income
- (2) From 5.5% to 4.13% on La. taxable income above \$50,000 but not in excess of \$150,000.
- (3) From 7.5% to 4.63% on La. taxable income above \$150,000.

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 2.63% to 1.75% on the first \$50,000 of La. taxable income
- (2) From 4.13% to 2.75% on La. taxable income above \$50,000 but not in excess of \$150,000.
- (3) From 4.63% to 3.75% on La. taxable income above \$150,000.

Proposed law provides for the further reduction of corporate income tax rates beginning on or after Jan. 1, 2026, but before Jan. 1, 2027, as follows:

- (1) From 1.75% to .88% on the first \$50,000 of La. taxable income
- (2) From 2.75% to 1.38% on La. taxable income above \$50,000 but not in excess of \$150,000.
- (3) From 3.75% to 1.88% on La. taxable income above \$150,000.

Proposed law prohibits tax from being assessed, levied, collected, or paid on the La. taxable income of any corporation for tax years beginning on or after Jan. 1, 2027.

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, beginning Jan. 1, 2023, that the rate of the tax shall be \$2.75 per \$1,000 of taxable capital above \$300,000.

Proposed law provides for a four-year phase-out of the corporate franchise tax by reducing the tax rate levied on each \$1,000 of taxable capital, or major fraction thereof, in excess of \$300,000 as follows:

- (1) For taxable years beginning on or after Jan. 1, 2024, and before Jan. 1, 2025, from \$2.75 to \$2.06.
- (2) For taxable years beginning on or after Jan. 1, 2025, and before Jan. 1, 2026, from \$2.06 to \$1.38.
- (3) For taxable years beginning on or after Jan. 1, 2026, and before Jan. 1, 2027, from \$1.38 to \$0.69.
- (4) For taxable years beginning on or after Jan. 1, 2027, no corporation franchise tax shall be assessed, levied, or collected by the state nor paid by domestic or foreign corporations on taxable capital.

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.

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, 2027.

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, 2024, but before Jan. 1, 2025, by 25%.
- (2) For taxable years beginning on or after Jan. 1, 2025, but before Jan. 1, 2026, by 50%.
- (3) For taxable years beginning on or after Jan. 1, 2026, but before Jan. 1, 2027, by 75%.
- (4) For taxable years beginning on or after Jan. 1, 2027, by 100%.

Present law suspends the state corporation franchise tax levied on corporations at the rate of \$1.50 for each \$1,000 of taxable capital, or major fraction thereof, on the first \$300,000

for small business corporations that have taxable capital of \$1M or less for franchise tax periods beginning between July 1, 2020, and July 1, 2023.

Proposed law repeals present law.

Present law requires the reduction of the corporate franchise tax rate if, beginning April 1, 2024, and each April first thereafter the prior fiscal year's actual corporate income and franchise tax collections as reported in the state's accounting system exceed the actual corporate income and franchise tax collections for the fiscal year ending June 30, 2019, adjusted annually by the growth factor provided for in existing constitution. If the conditions in present law are met, corporate franchise tax rates are reduced beginning the following January first.

Present law requires the reduced rate to be calculated by multiplying the current rate by the difference between one and the percentage change in corporate income and franchise tax collections in excess of the corporate income and franchise tax collections for Fiscal Year 2018-2019 adjusted annually by the growth factor as provided for in present constitution. Further prohibits this reduction unless both of the following conditions are met:

- (1) 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 provided for in existing constitution.
- (2) The Budget Stabilization Fund balance as determined by the treasurer is at least 2.5% of the total state revenue receipts from the prior fiscal year.

Proposed law repeals present law.

Proposed law applies to all corporate income and corporate franchise taxable periods beginning on or after Jan. 1, 2024.

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

(Amends R.S. 47:287.11(A), 287.12, 601(B), (C)(2), and (D)(2); Adds R.S. 47:287.13, 601.3, and 611(C); Repeals R.S. 47:601.1 and 601.2)