HLS 23RS-174 ENGROSSED

2023 Regular Session

HOUSE BILL NO. 428

1

BY REPRESENTATIVE PRESSLY

TAX/INCOME TAX: Extends to estates, trusts, and partnerships the flow-through entity income exclusion allowed to individuals

AN ACT

2 To enact R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d), relative to state income tax; 3 to provide relative to computation of income of estates, trusts, and partnerships 4 subject to state income tax; to provide relative to income derived from flow-through 5 entities; to provide for an exclusion of such income from the taxable income of 6 estates, trusts, and partnerships subject to certain conditions; to provide for 7 requirements and limitations associated with the exclusion; to provide for 8 applicability; and to provide for related matters. 9 Be it enacted by the Legislature of Louisiana: 10 Section 1. R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d) are hereby enacted 11 to read as follows: 12 §203. Partnership computations 13 C.(1) In computing the taxable income of a partnership, the partnership shall 14 15 exclude net income or losses received from an entity of which the partnership is a 16 shareholder, partner, or member if the entity properly filed a Louisiana corporation 17 income tax return pursuant to R.S. 47:287.732.2 which included the net income or loss. However, no such exclusion shall be allowed for any amount attributable to 18 19 income that, for any reason, will not bear the tax due pursuant to R.S. 47:287.732.2.

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(2)(a) A partnership whose federal income tax return is adjusted due to S
2	corporation or partnership income or losses for which the partnership used the
3	exclusion provided in Paragraph (1) of this Subsection shall furnish a statement to
4	the secretary disclosing the nature and amounts of such adjustments within sixty days
5	after the federal adjustments have been made and accepted by the partnership.
6	However, if the partnership does not receive a statement of the federal adjustments
7	until after it accepts the adjustments, it shall have sixty days from the receipt of such
8	statement within which to furnish the required statement to the secretary.
9	(b) For purposes of Subparagraph (a) of this Paragraph, paying the federal
10	tax shown due or signing a consent to immediate assessment shall constitute an
11	acceptance of the federal adjustments.
12	* * *
13	§300.6. Louisiana taxable income of resident estate or trust
14	* * *
15	B. Modification. For purposes of this Section, federal taxable income shall
16	be modified by adding or subtracting the items set forth below:
17	* * *
18	(2) There shall be subtracted from federal taxable income, unless already
19	excluded therefrom:
20	* * *
21	(e)(i) Net income or losses received from an entity of which the estate or
22	trust is a shareholder, partner, or member if the entity properly filed a Louisiana
23	corporation income tax return pursuant to R.S. 47:287.732.2 which included the net
24	income or loss. However, no such exclusion shall be allowed for any amount
25	attributable to income that, for any reason, will not bear the tax due pursuant to R.S.
26	<u>47:287.732.2.</u>
27	(ii)(aa) An estate or trust whose federal income tax return is adjusted due to
28	S corporation or partnership income or losses for which the estate or trust used the
29	exclusion provided in Item (i) of this Subparagraph shall furnish a statement to the

1	secretary disclosing the nature and amounts of such adjustments within sixty days
2	after the federal adjustments have been made and accepted by the estate or trust.
3	However, if the estate or trust does not receive a statement of the federal adjustments
4	until after it accepts the adjustments, it shall have sixty days from the receipt of such
5	statement within which to furnish the required statement to the secretary.
6	(bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown
7	due or signing a consent to immediate assessment shall constitute an acceptance of
8	the federal adjustments.
9	§300.7. Louisiana taxable income of nonresident estate or trust
10	* * *
11	C. Modification. For purposes of this Section, federal taxable income shall
12	be modified by adding or subtracting the items set forth below:
13	* * *
14	(2) There shall be subtracted from federal taxable income, unless already
15	excluded therefrom:
16	* * *
17	(d)(i) Net income or losses received from an entity of which the estate or
18	trust is a shareholder, partner, or member if the entity properly filed a Louisiana
19	corporation income tax return pursuant to R.S. 47:287.732.2 which included the net
20	income or loss. However, no such exclusion shall be allowed for any amount
21	attributable to income that, for any reason, will not bear the tax due pursuant to R.S.
22	<u>47:287.732.2.</u>
23	(ii)(aa) An estate or trust whose federal income tax return is adjusted due to
24	S corporation or partnership income or losses for which the estate or trust used the
25	exclusion provided in Item (i) of this Subparagraph shall furnish a statement to the
26	secretary disclosing the nature and amounts of such adjustments within sixty days
27	after the federal adjustments have been made and accepted by the estate or trust.
28	However, if the estate or trust does not receive a statement of the federal adjustments

until after it accepts the adjustments, it shall have sixty days from the receipt of such
statement within which to furnish the required statement to the secretary.
(bb) For purposes of Subitem (aa) of this Item, paying the federal tax shown
due or signing a consent to immediate assessment shall constitute an acceptance of
the federal adjustments.
Section 2. The provisions of this Act shall be applicable for taxable periods
beginning on or after January 1, 2023.

## **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 428 Engrossed

2023 Regular Session

Pressly

**Abstract:** Extends to estates, trusts, and partnerships the flow-through entity income exclusion allowed to individuals and provides for conditions and requirements relative to the exclusion.

Present law provides for all of the following:

- (1) An election that authorizes Subchapter S corporations and other flow-through entities to file income tax returns and pay tax on their La. income as if they were Subchapter C corporations (R.S. 47:287.732.2).
- (2) An exclusion from taxable income for individual taxpayers for net income or losses received from a flow-through entity which properly filed a La. corporation income tax return that included the net income or loss (R.S. 47:297.14(A)).
- (3) A requirement that any individual taxpayer who utilizes the flow-through entity exclusion described in paragraph (2) above shall notify the Dept. of Revenue if changes are made to his federal income tax return due to adjustments to an S corporation's income or losses (R.S. 47:297.14(B)).

<u>Proposed law</u> retains <u>present law</u> and extends to estates, trusts, and partnerships the flow-through entity income exclusion described in paragraph (2) above that <u>present law</u> allows for individual taxpayers. <u>Proposed law</u> also requires estates, trusts, and partnerships to notify the Dept. of Revenue if changes are made to their federal income tax returns due to adjustments to an S corporation's income or losses in the same manner as required by present law for individual taxpayers as described in paragraph (3) above.

Proposed law is applicable for taxable periods beginning on or after Jan. 1, 2023.

(Adds R.S. 47:203(C), 300.6(B)(2)(e), and 300.7(C)(2)(d))