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## DIGEST

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HB 389 Original

2015 Regular Session

Leger

**Abstract:** Requires corporations to add back otherwise deductible interest expenses and costs incurred in connection with transactions with one or more related members.

Proposed law provides that for purposes of computing a corporation's La. net income, a corporation shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection with one or more direct or indirect transactions, with one or more related members. However, to the extent a corporation shows that the corresponding item of income was, in the same taxable year, either subject to a tax based on or measured by the related member's net income in La. or any other state or, was subject to a tax based on or measured by the related member's net income by a foreign nation with an enforceable income tax treaty with the U.S.

Proposed law defines the term "subject to a tax based on or measured by the related member's net income" as the receipt of payment by the recipient related member is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor. Any portion of an item of income not attributed to the taxing jurisdiction, as determined by that jurisdiction's allocation and apportionment methodology shall not be considered subject to a tax. That portion of an item of income attributed to a taxing jurisdiction having a tax on net income shall be considered subject to a tax even if no actual taxes are paid on the item of income in the taxing jurisdiction by reason of deductions.

Proposed law adds provisions for when the adjustments required in proposed law shall not apply such as if a corporation establishes that the transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any La. income tax and the related member is not primarily engaged in the acquisition, use, licensing, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related entities.

Proposed law exempts from the mandatory adjustments for interest expenses and costs and intangible expenses and costs that the corporation establishes was paid, accrued or incurred, directly or indirectly, by the related member during the same taxable year to a person that is not a related member.

Proposed law requires the adjustments to these deductions to be made unless the corporation and the secretary agree in writing to the application or use of alternative adjustments and computations.

Applicable to all tax years beginning on and after Jan. 1, 2015.

(Adds R.S. 47:287.82)