

2015 Regular Session

HOUSE BILL NO. 824

BY REPRESENTATIVE JAY MORRIS

TAX/STATE: Establishes an alternative minimum tax for certain corporations

1 AN ACT

2 To enact Part II-C of Chapter 1 of Title 47 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 47:289.1 and 289.2, relative to state taxes; to provide with respect
4 to the minimum tax liability of certain corporations; to provide for the amount of tax;
5 to provide for definitions; to provide for applicability; to provide for effectiveness;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part II-C of Chapter 1 of Title 47 of the Louisiana Revised Statutes of
9 1950, to be comprised of R.S. 47:289.1 and 289.2 is hereby enacted to read as follows:

10 §298.1. Alternative Minimum Tax; definitions

11 As used in this Part, the following words and phrases shall have the following
12 meanings:

13 A. "Corporation" means any corporation as defined by the laws of this state
14 or any organization of any kind which is treated and taxed as a corporation for
15 federal income tax purposes, wherever located, which if it were doing business in
16 this state would be a "taxpayer". The business conducted by a partnership which is
17 directly or indirectly held by a corporation shall be considered the business of the
18 corporation to the extent of the corporation's distributive share of the partnership
19 income, inclusive of guaranteed payments to the extent prescribed by regulation.

1 B. "Louisiana economic activity" means an amount equal to fifty percent of
2 the sum of:

3 (a) The taxpayer's total amount of taxable capital attributable to Louisiana as
4 determined under R.S. 47:601 through 618.

5 (b) The taxpayer's Louisiana net income pursuant to R.S. 47:287.91 less any
6 amount paid in corporation franchise tax within the same taxable period.

7 C. "Taxpayer" for purposes of this Part means a member of a unitary
8 business that has reported Louisiana taxable income as determined under the
9 provisions of Part II-B of this Chapter and is subject to the tax imposed by this Part.

10 D. "Unitary business" also known as a "controlled group" or a "combined
11 group" means:

12 (1) A single economic enterprise that is made up either of separate parts of
13 a single business entity or of a commonly controlled group of business entities that
14 are sufficiently interdependent, integrated and interrelated through their activities so
15 as to provide a synergy and mutual benefit that produces a sharing or exchange of
16 value among them and a significant flow of value to the separate parts. If the unitary
17 business is a joint venture between two publicly traded companies, for purposes of
18 this Chapter, each shall be considered separately proportionate to their respective
19 interest in the unitary business.

20 (2) The group of all persons whose income and apportionment factors are
21 required to be taken into account pursuant to R.S. 47:288.20(A) or (B) in
22 determining a taxpayer's share of income or loss attributable to this state.

23 289.2. Alternative minimum tax

24 A. Purpose. The legislature finds that corporations benefit from public
25 infrastructure, publicly enforced respect for contracts and property rights, an
26 educated workforce, and other taxpayer investments. The purpose of the alternative
27 minimum tax is to ensure that profitable corporations that engage in significant
28 business in Louisiana pay a minimum amount of income tax to maintain these
29 investments.

1 B. Imposition. There is hereby imposed an alternative minimum tax at the
2 rate provided in Subsection C of this Section, which shall be paid under certain
3 circumstances set forth in this Section. Each taxpayer member of a unitary business
4 shall pay the greater of either:

5 (1) The tax determined pursuant to the provisions of Part II-A of this Chapter
6 as reduced by tax credits authorized under Titles 47 and 51 of the Louisiana Revised
7 Statutes of 1950, as amended; or

8 (2) The alternative minimum tax imposed under this Part.

9 C. Rates of tax. The tax to be assessed, levied, collected, and paid under the
10 provisions of this Part shall be computed at the rate of:

11 (1) No tax upon the first one hundred thousand dollars of Louisiana
12 economic activity.

13 (2) Three-quarters of one percent upon Louisiana economic activity above
14 one hundred thousand dollars but not in excess of five hundred thousand dollars.

15 (3) One and one-half percent upon all Louisiana economic activity in excess
16 of five hundred thousand dollars.

17 D. Exception. The provisions of this Part shall not apply to any taxpayer
18 with a contract with the Board of Commerce and Industry or Department of
19 Economic Development that provides for exemption from corporation income or
20 corporation franchise taxes in existence on the effective date of this Act.

21 Section 2. The provisions of this Act shall be effective for taxable periods beginning
22 on and after January 1, 2016.

23 Section 3. This Act shall take effect and become operative on if and when the Act
24 which originated as House Bill No. 775 of this 2015 Regular Session of the Legislature is
25 enacted 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 824 Original

2015 Regular Session

Jay Morris

Abstract: Establishes an alternative minimum tax for purposes of taxation based upon certain corporations' economic activity in La.

Present law imposes a tax upon corporation income as follows:

- (1) 4% on the first \$25,000 of net income.
- (2) 5% on net income above \$25,000 but less than \$50,000.
- (3) 6% on net income above \$50,000 but less than \$100,000.
- (4) 7% on net income above \$100,000 but less than \$200,000.
- (5) 8% on all net income in excess of \$200,000.

Proposed law retains present law and establishes a new tax, the alternative minimum tax, for purposes of a minimum level of taxation upon the economic activity in La. of certain corporations and other entities which are treated and taxed as part of a unitary business or combined group for federal income tax purposes. Each such corporation is subject to the state corporation income tax under present law, and shall pay the greater of the corporation income tax or the alternative minimum tax imposed under proposed law.

Proposed law provides definitions including those for "corporation", "La. business activity", and "unitary business."

Proposed law defines "La. business activity" as follows:

- (1) Fifty percent of the sum of:
 - (a) The taxpayer's total amount of taxable capital attributable to Louisiana as determined for purposes of state corporation franchise tax.
 - (b) The taxpayer's Louisiana net income pursuant to R.S. 47:287.91 less any amount paid in corporation franchise tax within taxable period.

Proposed law provides that the rate of the tax shall be computed as follows:

- (1) No tax upon the first \$100,000 of La. economic activity.
- (2) 0.75% upon La. economic activity in excess of \$100,000 but less than \$500,000.
- (3) 1.5% upon all La. economic activity in excess of \$500,000.

Applicable for taxable periods beginning on and after January 1, 2016.

Effective if and when House Bill No. 775 of this 2015 R.S. is enacted and becomes effective.

(Adds R.S. 47:289.1 and 289.2)