

2016 First Extraordinary Session

HOUSE BILL NO. 58

BY REPRESENTATIVE JACKSON

TAX/CORP INCOME: Provides relative to the apportionment formula for computing corporate income tax (Item #5)

1 AN ACT

2 To amend and reenact R.S. 47:287.95(A), (C)(1)(a), (D), and (F)(1) and (2)(a) and (b),
3 relative to corporate income tax; to provide for the calculation of apportionment
4 income for certain businesses; to provide for the weighing of certain ratios in the
5 calculation of Louisiana apportionment percent; to provide for applicability; to
6 provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:287.95(A), (C)(1)(a), (D), and (F)(1) and (2)(a) and (b) are hereby
9 amended and reenacted to read as follows:

10 §287.95. Determination of Louisiana apportionment percent

11 A.(1) Air transportation. The Louisiana apportionment percent of any
12 taxpayer whose net apportionable income is derived primarily from the business of
13 transportation by aircraft shall be the arithmetical average of two ratios, as follows:

14 ~~(1)~~(a) The ratio of the value of immovable and corporeal movable property,
15 other than aircraft, owned by the taxpayer and located in Louisiana to the value of
16 all immovable and corporeal movable property, other than aircraft, owned by the
17 taxpayer and used in the production of apportionable income.

18 ~~(2)~~(b) The ratio of the amount of gross apportionable income derived from
19 Louisiana sources to the total gross apportionable income of the taxpayer.

1 counted twice, and the Louisiana apportionment percent shall be the arithmetical
2 average of the three ratios.

3 * * *

4 D.(1) Service enterprises. The Louisiana apportionment percent of any
5 taxpayer whose net apportionable income is derived primarily from a service
6 business in which the use of property is not a substantial income-producing factor
7 shall be the arithmetical average of two ratios, as follows:

8 ~~(1)~~(a) The ratio of the amount paid by the taxpayer for salaries, wages, and
9 other compensation for personal services rendered in Louisiana to the total amount
10 paid by the taxpayer for salaries, wages, and other compensation for personal
11 services in connection with the production of the net apportionable income.

12 ~~(2)~~(b) The ratio of the gross apportionable income of the taxpayer from
13 Louisiana sources to the total gross apportionable income of the taxpayer.

14 (c) For taxable periods beginning on or after January 1, 2016, for purposes
15 of this Subsection, the Louisiana apportionment percent of any taxpayer whose net
16 apportionable income is derived primarily from a service business in which the use
17 of property is not a substantial income-producing factor shall be computed by means
18 of the ratios provided in Subparagraphs (a) and (b) of this Paragraph, except that the
19 ratio of gross apportionable income as provided in Subparagraph (b) of this
20 Paragraph shall be double-weighted or counted twice, and the Louisiana
21 apportionment percent shall be the arithmetical average of the three ratios.

22 (2) For the purposes of this Subsection, the gross apportionable income from
23 Louisiana sources shall include the revenue from services performed in this state,
24 and any other gross income derived entirely from sources within this state.

25 * * *

26 F.(1) Manufacturing, merchandising, and other business. Except as provided
27 in this Subsection, the Louisiana apportionment percent of any taxpayer whose net
28 apportionable income is derived primarily from the business of transportation by

1 pipeline or from any business not included in Subsections A through E of this
2 Section shall be the arithmetical average of ~~three~~ four ratios, as follows:

3 (a) The ratio of the value of the immovable and corporeal movable property
4 owned by the taxpayer and located in Louisiana to the value of all immovable and
5 corporeal movable property owned by the taxpayer and used in the production of the
6 net apportionable income.

7 (b) The ratio of the amount paid by the taxpayer for salaries, wages, and
8 other compensation for personal services rendered in this state to the total amount
9 paid by the taxpayer for salaries, wages, and other compensation for personal
10 services in connection with the production of net apportionable income.

11 (c) The double-weighted ratio of net sales made in the regular course of
12 business and other gross apportionable income attributable to this state to the total
13 net sales made in the regular course of business and other gross apportionable
14 income of the taxpayer.

15 ~~(2)(a) For taxable periods beginning on or after January 1, 1997, and ending~~
16 ~~on or before December 31, 2005, and for the purpose of this Subsection, the~~
17 ~~Louisiana apportionment percent of any taxpayer whose net apportionable income~~
18 ~~is derived primarily from the business of manufacturing or merchandising shall be~~
19 ~~computed by means of the ratios provided in Subparagraphs (1)(a) through (c) of this~~
20 ~~Subsection, except that the ratio of net sales as provided in Subparagraph (c) shall~~
21 ~~be double-weighted or counted twice, and the Louisiana apportionment percent shall~~
22 ~~be the arithmetical average of the four ratios.~~

23 (b) For taxable periods beginning on or after January 1, 2006, through
24 December 31, 2015, and for the purpose of this Subsection, the Louisiana
25 apportionment percent of any taxpayer whose net apportionable income is derived
26 primarily from the business of manufacturing or merchandising shall be computed
27 by means of a single ratio consisting of the ratio provided for in Subparagraph (1)(c)
28 of this Subsection.

1 (b) For taxable periods beginning on or after January 1, 2016, for purposes
2 of this Subsection, the Louisiana apportionment percent of any taxpayer whose net
3 apportionable income is derived primarily from the business of manufacturing and
4 merchandising shall be computed by means of the ratios provided in Subparagraphs
5 (1)(a) through (c) of this Subsection, except that the ratio of net sales provided in
6 Subparagraph (1)(c) of this Subsection shall be double-weighted or counted twice,
7 and the Louisiana apportionment percent shall be the arithmetical average of the four
8 ratios.

* * *

10 Section 2. The provisions of this Act shall be applicable to all taxable periods
11 beginning on and after January 1, 2016.

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

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 58 Original 2016 First Extraordinary Session Jackson

Abstract: Changes the apportionment percent for apportionable income derived for certain transportation, service, and manufacturing and merchandising industry sectors to a ratio calculation that double-weighs certain income.

TRANSPORTATION BY AIRCRAFT

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation by aircraft shall be calculated from the average of following ratios:

- (1) The ratio of the value of immovable and movable property, other than aircraft, owned by the taxpayer located in La. to the value of all immovable and movable property, other than aircraft, owned by the taxpayer used in the production of apportionable income.
- (2) The ratio of gross apportionable income derived from La. sources to the total gross apportionable income of the taxpayer.

Present law provides that "gross apportionable income from La. sources" shall include all gross receipts derived from passenger journeys and cargo shipments originating in La. and other items of gross apportionable income or receipts derived entirely from sources in La.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed in accordance with the ratios in present law; however, the ratio relative to gross apportionable income shall be double-weighted or counted twice, and the La. apportionment percent shall be calculated from the average of the three ratios.

TRANSPORTATION OTHER THAN AIRCRAFT OR PIPELINE

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from transportation other than by aircraft or pipeline, shall be calculated from the average of the following ratios:

- (1) The ratio of the value of immovable and movable property owned by the taxpayer located in La. to the value of all immovable and movable property owned by the taxpayer used in the production of apportionable income.
- (2) The ratio of gross apportionable income from La. sources to the total amount of gross apportionable income of the taxpayer.

Present law provides that "gross apportionable income from La. sources" shall include all income derived entirely from sources within the state and a portion of revenue from transportation partly in and partly outside this state, prorated with deference given to the proportion of service performed in La.

Present law further provides that the value of immovable and movable property owned by the taxpayer used in La. shall include the value of property regularly situated in this state plus a pro rata of the value of all rolling stock and other mobile equipment owned by the taxpayer used in the production of apportionable income, with deference given for the mileage operated and traffic density inside and outside of this.

Present law provides for special provisions for trucking companies.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed in accordance with the ratios in present law; however, the ratio relative to gross apportionable income shall be double-weighted or counted twice, and the La. apportionment percent shall be calculated from the average of the three ratios.

SERVICE ENTERPRISES

Present law provides that the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from a service business in which the use of property is not a substantial income-producing factor shall be calculated from the following ratios:

- (1) The ratio of the amount paid by the taxpayer for salaries, wages, and other compensation for personal services rendered in La. to the total amount paid by the taxpayer for salaries, wages, and other compensation for personal services in connection with the production of the net apportionable income.
- (2) The ratio of the gross apportionable income of the taxpayer from La. sources to the total gross apportionable income of the taxpayer.

Present law provides that "gross apportionable income from La. sources" shall include revenue from services performed in this state, and any other gross income derived entirely from sources within this state.

Proposed law changes present law to provide that for taxable periods beginning on or after Jan. 1, 2016, the La. apportionment percent of these taxpayers shall be computed in accordance with the ratios in present law; however, the ratio relative to gross apportionable income shall be double-weighted or counted twice, and the La. apportionment percent shall be calculated from the average of the three ratios.

MANUFACTURING AND MERCHANDISING

Present law provides that the La. apportionment percent of a taxpayer whose net apportionable income is derived primarily from the transportation by pipeline or from any business not included in other provisions of present law (manufacturing and merchandising) shall be calculated from the following three ratios:

- (1) The ratio of the value of the immovable and movable property owned by the taxpayer located in La. to the value of all immovable and movable property owned by the taxpayer used in the production of the net apportionable income.
- (2) The ratio of the amount paid by the taxpayer for salaries, wages, and other compensation for personal services rendered in this state to the total amount paid by the taxpayer for salaries, wages, and other compensation for personal services in connection with the production of net apportionable income.
- (3) The ratio of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer.

Present law provides that since Jan. 1, 2006, the La. apportionment percent of any taxpayer whose net apportionable income is derived primarily from manufacturing or merchandising shall be computed by a *single ratio* of net sales made in the regular course of business and other gross apportionable income attributable to this state to the total net sales made in the regular course of business and other gross apportionable income of the taxpayer.

Present law defines a manufacturing or merchandising business as a taxpayer whose net apportionable income is derived primarily from the manufacture, production, or sale of tangible personal property.

Proposed law changes present law by deleting the single sales ratio for manufacturers and merchandisers beginning on or after Jan. 1, 2016, in favor of the four ratio calculation that double-weighs sales.

Proposed law changes present law with respect to the apportionment percent for net apportionable income derived primarily from the transportation by pipeline or from any business not included in other provisions of present law (manufacturing and merchandising) from a three ratio calculation to a four ratio calculation that double-weighs sales.

Applicable to all taxable periods beginning on and after Jan. 1, 2016.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:287.95(A), (C)(1)(a), (D), and (F)(1) and (2)(a) and (b))