

ACT No. 418

2017 Regular Session

HOUSE BILL NO. 425

BY REPRESENTATIVE MAGEE

1 AN ACT

2 To amend and reenact R.S. 47:6006.1(A), (D)(2), (F), and (G), relative to tax credits; to
3 provide with respect to the tax credit for ad valorem taxes paid with respect to
4 vessels in Outer Continental Shelf Lands Waters; to provide for eligibility for
5 claiming the credit; to authorize the recapture of tax credits under certain
6 circumstances; to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6006.1(A), (D)(2), (F), and (G), are hereby amended and
9 reenacted to read as follows:

10 §6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental
11 Shelf Lands Act Waters

12 A. There shall be allowed a credit against any Louisiana income or
13 corporation franchise tax for ad valorem taxes paid ~~without protest~~ to political
14 subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to
15 the assessor pursuant to R.S. 47:1956(B) within the calendar year immediately
16 preceding the taxable year of assessment of such vessel. For purposes of this
17 Section, ad valorem taxes shall be deemed to be paid to political subdivisions when
18 they are paid ~~without protest~~ either in money or by applying credits established
19 pursuant to ~~R.S. 47:2108.1~~ R.S. 47:2132.

20 * * *

21 D.

22 * * *

1 (2) The acceptance by the sheriff and ex officio tax collector of the ad
2 valorem taxes paid ~~without protest~~ by a taxpayer as certified under R.S. 47:1956(B)
3 shall conclusively establish: that such property was properly classified as a "vessel",
4 for purpose of this Section; that such vessel was "principally operated" in Outer
5 Continental Shelf Lands Act Waters during the applicable tax year; and that such
6 taxpayer shall be entitled to a credit or refund pursuant to this Section.

7 * * *

8 F.(1) Nothing herein and any taxes paid by a taxpayer relative to any vessel,
9 as defined herein, shall in any way prohibit any taxpayer from the payment of ad
10 valorem taxes under protest or to otherwise resist the collection of such ad valorem
11 taxes. Further, nothing in this Section shall affect, define, interpret, in whole or in
12 part, or otherwise determine the applicability of the international trade exemption in
13 Article VII, Section 21(C)(16) of the Constitution of Louisiana or any other
14 applicable rights, exemptions, exclusions, preemptions, or peremptions under the
15 Constitution of Louisiana as amended, the Constitution of the United States as
16 amended, all treaties and executive agreements of the United States, all intrastate
17 agreements and compacts between Louisiana and other states, all laws of Louisiana
18 as amended, and all laws of the United States of America as amended.

19 (2)(a) If a taxpayer pays ad valorem taxes under protest, the taxpayer shall
20 notify the Department of Revenue by submitting a copy of the payment under protest
21 notice, along with a copy of the lawsuit that was filed. Notice shall be provided to
22 the department within five business days of the date the lawsuit is filed. If the
23 taxpayer prevails in the suit against the political subdivision, the amount of the credit
24 issued under the provisions of this Section for ad valorem taxes paid by the taxpayer
25 that the court determined not to be due shall be subject to recapture by the
26 department as provided for in R.S. 47:1621(E), with interest at the rate provided in
27 R.S. 9:3500(B)(1), except as may be otherwise provided in Subsection G of this
28 Section. The taxpayer and the local taxing authorities shall notify the department of
29 the decision by submitting a copy of the final, non-appealable judgment to the
30 department.

1 **(b) Any action by the Department of Revenue to recapture the tax credits**
2 **shall be initiated within two years from the date that the department receives notice**
3 **of the final judgment in the suit related to the payment of the taxes under protest.**

4 ~~G. Commencing no later than January 31, 2016, the House Committee on~~
5 ~~Ways and Means and the Senate Committee on Revenue and Fiscal Affairs shall~~
6 ~~review the credit authorized pursuant to the provisions of this Section to determine~~
7 ~~if the economic benefit provided by such credit outweighs the loss of revenue~~
8 ~~realized by the state as a result of awarding such credit. The House and Senate~~
9 ~~committees shall make a specific recommendation no later than March 1, 2017, to~~
10 ~~either continue the credit or to terminate the credit. (1) Notwithstanding any~~
11 ~~contrary provision of R.S. 47:2134(C), if a suit is timely filed and the sole challenge~~
12 ~~in the suit is a challenge of the legality of the ad valorem tax on vessels in Outer~~
13 ~~Continental Shelf Lands Act waters, the collecting officer or officers shall not be~~
14 ~~required to segregate the amount paid under protest or hold the amount paid under~~
15 ~~protest in escrow pending the outcome of the suit.~~

16 **(2) The Department of Revenue shall not pursue any action to recapture**
17 **credits issued for ad valorem taxes related to a suit challenging the legality of the ad**
18 **valorem tax on vessels in Outer Continental Shelf Lands Act waters if the taxpayer**
19 **prevails, the collecting officer or officers was not required to segregate or escrow the**
20 **amount paid in accordance with this Subsection, and the taxpayer does not receive**
21 **a refund of the ad valorem taxes paid from the collecting officer or officers.**

22 **(3) In the event the taxpayer prevails in a suit challenging the legality of the**
23 **ad valorem tax on vessels in Outer Continental Shelf Lands Acts waters and the**
24 **collecting officer or officers refunds any amount paid under protest that was not**
25 **required to be segregated or held in escrow, the taxpayer shall file an amended tax**
26 **return within sixty days of the date of issuance of the refund reflecting the amount**
27 **of the refund and any interest paid on the refunded amount as a reduction in the ad**
28 **valorem tax credit originally received for the taxes paid under protest. Any taxpayer**
29 **failing to file an amended return as set forth in this Subsection shall be subject to the**
30 **penalty provided for in R.S. 47:1602.**

1 (4) This Subsection shall not apply to any payment under protest made by a
 2 taxpayer challenging the correctness of an assessment as provided in R.S.
 3 47:2134(B).

4 Section 2. The provisions of this Act shall apply to income tax periods beginning on
 5 and after January 1, 2017, and corporation franchise tax periods beginning on and after
 6 January 1, 2018.

7 Section 3. This Act shall become effective on July 1, 2017.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____