

2016 First Extraordinary Session

HOUSE BILL NO. 50

BY REPRESENTATIVE ABRAMSON

TAX/CORP INCOME: Provides relative to the state taxation of corporations (Items #3 and 19)

1 AN ACT

2 To amend and reenact R.S. 47:287.12 and 601 and to enact R.S. 47:1675(A)(7), relative to
3 corporate taxation; to provide relative to the rate of the corporation income tax; to
4 provide for a flat tax on corporate income; to cap the amount by which corporate
5 income tax liability may be reduced by income tax credits; to phase-out the
6 corporation franchise tax; to provide for effectiveness; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:287.12 is hereby amended and reenacted to read as follows:

10 §287.12. Rates of tax

11 The tax to be assessed, levied, collected, and paid upon the Louisiana taxable
12 income of every corporation shall be computed at the rate of: five percent of
13 Louisiana taxable income.

14 ~~(1) Four percent upon the first twenty-five thousand dollars of Louisiana~~
15 ~~taxable income.~~

16 ~~(2) Five percent upon the amount of Louisiana taxable income above~~
17 ~~twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

18 ~~(3) Six percent on the amount of Louisiana taxable income above fifty~~
19 ~~thousand dollars but not in excess of one hundred thousand dollars.~~

1 ~~(4) Seven percent on the amount of Louisiana taxable income above one~~
2 ~~hundred thousand dollars but not in excess of two hundred thousand dollars.~~

3 ~~(5) Eight percent on all Louisiana taxable income in excess of two hundred~~
4 ~~thousand dollars.~~

5 Section 2. R.S. 47:601 is hereby amended and reenacted to read as follows:

6 §601. Imposition of tax; reduction

7 A.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, every
8 Every domestic corporation and every foreign corporation, exercising its charter, or
9 qualified to do business or actually doing business in this state, or owning or using
10 any part or all of its capital, plant, or any other property in this state, subject to
11 compliance with all other provisions of law, except as otherwise provided for in this
12 Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each one
13 thousand dollars, or major fraction thereof on the first three hundred thousand dollars
14 of taxable capital and at the rate of three dollars for each one thousand dollars, or
15 major fraction thereof, which exceeds three hundred thousand dollars of taxable
16 capital. Taxable capital shall be determined as hereinafter provided. The tax levied
17 herein is due and payable on any one or all of the following alternative incidents:

18 ~~(1)~~(a) The qualification to carry on or do business in this state or the actual
19 doing of business within this state in a corporate form. The term "doing business"
20 as used herein shall mean and include each and every act, power, right, privilege, or
21 immunity exercised or enjoyed in this state, as an incident to or by virtue of the
22 powers and privileges acquired by the nature of such organizations, as well as, the
23 buying, selling, or procuring of services or property.

24 ~~(2)~~(b) The exercising of a corporation's charter or the continuance of its
25 charter within this state.

26 ~~(3)~~(c) The owning or using any part or all of its capital, plant, or other
27 property in this state in a corporate capacity.

1 (2) For taxable years beginning January 1, 2017, the tax levied pursuant to
2 the provisions of this Chapter shall be limited to the following percentages of the
3 amount otherwise levied:

4 (a) For taxable years beginning on or after January 1, 2017, and before
5 January 1, 2018, eighty percent.

6 (b) For taxable years beginning on or after January 1, 2018, and before
7 January 1, 2019, sixty percent.

8 (c) For taxable years beginning on or after January 1, 2019, and before
9 January 1, 2020, forty percent.

10 (d) For taxable years beginning on or after January 1, 2020, and before
11 January 1, 2021, twenty percent.

12 (3) For taxable years beginning on or after January 1, 2021, no corporation
13 franchise tax shall be assessed, levied, or collected by the state nor paid by domestic
14 or foreign corporations on taxable capital.

15 B. It is the purpose of this Section to require the payment of this tax to the
16 state of Louisiana by domestic corporations for the right granted by the laws of this
17 state to exist as such an organization, and by both domestic and foreign corporations
18 for the enjoyment, under the protection of the laws of this state, of the powers, rights,
19 privileges, and immunities derived by reason of the corporate form of existence and
20 operation. The tax ~~hereby~~ imposed pursuant to the provisions of this Chapter shall
21 be in addition to all other taxes levied by any other statute.

22 C.(1) As used herein the term "domestic corporation" shall mean and include
23 all corporations, joint stock companies, or associations, or other business
24 organizations organized under the laws of this state which have privileges, powers,
25 rights, or immunities not possessed by individuals or partnerships.

26 (2) The term "foreign corporation" shall mean and include all such business
27 organizations as ~~hereinbefore~~ described in ~~this~~ Paragraph (1) of this Subsection
28 which are organized under the laws of any other state, territory, or district, or foreign
29 country.

1 Section 3. R.S. 47:1675(A)(7) is hereby enacted to read as follows:

2 §1675. General administrative provisions for credits against income and corporation
3 franchise tax

4 A. Unless specifically provided for herein or in the statute granting the credit
5 against income or corporation franchise tax:

6 * * *

7 (7) Notwithstanding any other provision of law to the contrary, with respect
8 to all claims for credits authorized under this Title against corporate income tax,
9 except for the credit authorized in R.S. 47:6006, the aggregate of all credits claimed
10 for a single corporate taxpayer shall not reduce a taxpayer's corporate tax liability
11 below zero. Any portion of a credit disallowed by this provision shall be allowed as
12 a carryforward against subsequent tax liability for five years.

13 * * *

14 Section 4. The provisions of this Act shall become effective January 1, 2017.

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 50 Original 2016 First Extraordinary Session Abramson

Abstract: Provides relative to state taxation of corporations.

Present law provides that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation shall be computed at the following rates:

- (1) 4% on the first \$25,000 of La. taxable income.
- (2) 5% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) 6% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) 7% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) 8% on all La. taxable income in excess of \$200,000.

Proposed law eliminates the tiered tax rate schedule in favor of a flat 5% tax on La. taxable corporate income.

Present law (R.S. 47:601 et seq.) establishes the corporation franchise tax which tax is levied on every domestic and foreign corporation exercising its charter, qualified to do business,

or actually doing business in La. It is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in Louisiana.

Present law provides that the tax shall be levied at the following rates:

- (1) \$1.50 per \$1,000 of taxable capital, up to \$300,000.
- (2) \$3.00 per \$1,000 of taxable capital above \$300,001.

Proposed law retains present law but provides that the amount levied under present law shall be reduced by a cumulative 20% each year beginning Jan. 1, 2017, over the next five years until the amount levied is eliminated. Proposed law further provides that in taxable years beginning on or after Jan. 1, 2021, no corporation franchise tax shall be assessed or paid.

Present law provides for general administrative provisions governing the claiming of tax credits on income and corporation franchise taxes.

Proposed law retains present law but adds a limitation that the aggregate of all credits claimed, except for the inventory tax credit, against corporate income tax liability shall not reduce the corporate income tax liability below zero. Further authorizes the carryforward of any disallowed portion of a tax credit against a taxpayer's subsequent tax liability based on proposed law for five years.

Effective Jan. 1, 2017.

(Amends R.S. 47:287.12 and 601; Adds R.S. 47:1675(A)(7))