

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 117

BY REPRESENTATIVE STOKES

TAX/INCOME-CREDIT: Provides for the legislative intent of Act No. 6 from the 2018 Second Extraordinary Session of the Legislature

1                           A CONCURRENT RESOLUTION

2     To express the intent of the legislature regarding Act No. 6 of the 2018 Second  
3                           Extraordinary Session of the Legislature.

4                           WHEREAS, R.S. 24:177(B)(2)(b) provides that the "legislature may express the  
5     intended meaning of a law in a duly adopted concurrent resolution, by the same vote and,  
6     except for gubernatorial veto and time limitations for introduction, according to the same  
7     procedures and formalities required for enactment of that law"; and

8                           WHEREAS, during the 2018 Second Extraordinary Session of the Legislature, Act  
9     No. 6 was enacted into law which imposed restrictions on the credit for taxes paid to other  
10    states, including a restriction which limited the credit to situations in which the other state  
11    to which the taxes were paid allows a similar credit for Louisiana income taxes paid on  
12    income derived from property located in, or from services rendered in, or from business  
13    transacted in Louisiana; and

14                          WHEREAS, Act No. 6 of the 2018 Second Extraordinary Session of the Louisiana  
15    Legislature enacted R.S. 47:33(A)(7) which provides an individual income tax deduction for  
16    an individual partner, member, or shareholder's proportionate share of an entity-level tax  
17    paid to another state that is based solely upon net income included in the entity's federal  
18    taxable income without any capital component; and

19                          WHEREAS, on December 5, 2018, the Louisiana Supreme Court rendered its  
20    decision in the case of *Smith v. Robinson*, La. S. Ct. Dkt. No. 2018-CA-0728, and ruled that  
21    the provisions of R.S. 47:33(A)(4) were unconstitutional, and

1        WHEREAS, the Louisiana Supreme Court's decision in *Smith v. Robinson* left open  
2 the possibility that individual income taxpayers could claim both the credit and the deduction  
3 for taxes paid to other states under certain situations for the same taxes paid to other states;  
4 and

5        WHEREAS, allowing both the credit and the deduction would lead to an absurd  
6 result because both the credit and deduction are calculated based on the same taxes paid to  
7 the other states.

8        THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
9 express its intent regarding the meaning of the language in Act No. 6 of the 2018 Second  
10 Extraordinary Session of the Legislature with respect to the tax credit for taxes paid to other  
11 states to allow the deduction in R.S. 47:33(A)(7) to those taxpayers who were no longer  
12 eligible for the credit found in R.S. 47:33(A) because of the various restrictions in Act No.  
13 109 of the 2015 Regular Session of the Louisiana Legislature. The Legislature of Louisiana  
14 does hereby clarify that it intends that the deduction in R.S. 47:33(A)(7) shall be in lieu of  
15 and not in addition to the credit found in R.S. 47:33(A), and that the credit and the deduction  
16 not be allowed for the same taxes paid to another state for tax periods beginning on or after  
17 January 1, 2018.

18        BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
19 secretary of the Department of Revenue.

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#### 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)]

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HCR 117 Original

2019 Regular Session

Stokes

Present law (R.S. 24:117(B)(2)) authorizes the legislature to express the intended meaning of a law in a duly adopted concurrent resolution, by the same vote and, except for gubernatorial veto and time limitations for introduction, according to the same procedures and formalities required for enactment of that law.

Present law (R.S. 47:33(A)(7)) which was enacted pursuant to Act No. 6 of the 2018 2nd E.S. of the Legislature provides for an individual income tax deduction for an individual partner, member, or shareholder's proportionate share of an entity-level tax paid to another state that is based solely upon net income included in the entity's federal taxable income without any capital component.

Proposed resolution expresses the intent of the legislature regarding Act No. 6 of the 2018 2nd E.S. of the Legislature with respect to the tax credit for taxes paid to other states to allow

the deduction in R.S. 47:33(A)(7) to those taxpayers who were no longer eligible for the credit found in R.S. 47:33(A) because of the various restrictions in Act No. 109 of the 2015 R.S. of the Legislature. The Legislature clarifies that it intends that the deduction found in R.S. 47:33(A)(7) shall be in lieu of and not in addition to the credit found in R.S. 47:33(A), and that the credit and the deduction not be allowed for the same taxes paid to another state for tax periods beginning on or after Jan. 1, 2018.

Requires a copy of the Resolution be transmitted to the secretary of the Dept. of Revenue.