

2020 Second Extraordinary Session

HOUSE BILL NO. 37

BY REPRESENTATIVES BEAULLIEU AND CHARLES OWEN

TAX CREDITS: Authorizes an income tax credit for certain businesses whose operations were interrupted as a result of the COVID-19 pandemic (Items #26 and 65)

1 AN ACT

2 To enact R.S. 47:6041, relative to income tax credits; to authorize an income tax credit for
3 certain businesses; to provide for the amount of the credit; to provide for
4 requirements and limitations; to authorize the carryforward of unused amounts of the
5 credit; to provide for the claiming of credits; to provide for applicability; to provide
6 for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6041 is hereby enacted to read as follows:

9 §6041. Tax credits for restaurants and bars affected by the COVID-19 pandemic;
10 2020 tax year

11 A.(1) There shall be allowed a one-time credit against Louisiana income tax
12 for the amount of annual state license or permit fees imposed by the commissioner
13 of alcohol and tobacco control and paid by the owners or operators of restaurant
14 establishments and establishments licensed to sell or serve alcoholic beverages for
15 consumption on their premises by paying customers. In order for a taxpayer to be
16 eligible for the credit authorized in this Section, the total sales made by the taxpayer's
17 business from March 1, 2020, through December 31, 2020, must be less than the
18 total sales made by the taxpayer's business from March 1, 2019, through December

1 31, 2019, as a result of the operations of the business being interrupted by the
2 COVID-19 pandemic. However, a restaurant establishment or establishment
3 licensed to sell or serve alcoholic beverages for consumption on its premises by
4 paying customers that commenced operations on or after August 1, 2019, shall be
5 eligible for the credit authorized pursuant to this Section if its business operations
6 were interrupted by the COVID-19 pandemic between March 1, 2020, and
7 December 31, 2020.

8 (2) The taxpayer claiming this credit shall submit documentation, as required
9 by the secretary, which evidences that the taxpayer's total sales from March 1, 2020,
10 through December 31, 2020, was less than the taxpayer's total sales from March 1,
11 2019, through December 31, 2019, as a result of the operations of the business being
12 interrupted by the COVID-19 pandemic. The documentation shall include the
13 taxpayer's total sales from March 1 through December 31 for both the 2019 and 2020
14 taxable periods, the taxpayer's Louisiana sales tax account number for each location
15 of the taxpayer's business, the taxpayer's office of alcohol and tobacco control permit
16 number for each location of the taxpayer's business, and any other documentation
17 required by the secretary. However, any business eligible for the credit authorized
18 pursuant to the provisions of this Section that commenced operations on or after
19 August 1, 2019, shall not be required to produce documentation evidencing total
20 sales for taxable periods in 2019.

21 B. The amount of the credit shall equal the amount of the annual state license
22 or permit fee for calendar year 2020. The provisions of this Section shall also apply
23 to the renewal of annual state licenses or permits imposed by the commissioner of
24 alcohol and tobacco control for calendar year 2020. If a license or permit is issued
25 on a two-year basis, the amount of the credit authorized pursuant to the provisions
26 of this Section shall be the equivalent of one-half of the total license or permit fee
27 if any part of the license or permit authorized the business to be operational during
28 calendar year 2020.

1 C. Unused amounts of the tax credit may be carried forward as a tax credit
2 against subsequent Louisiana income tax liability for a period not to exceed three
3 years.

4 D. Credits may be claimed in accordance with the following:

5 (1) Any entity taxed as a corporation for Louisiana income tax purposes shall
6 claim any credit authorized according to the provisions of this Section on its
7 corporation income and franchise tax return.

8 (2) Any individual, estate, or trust shall claim any credit authorized
9 according to the provisions of this Section on its income tax return.

10 (3) Any entity not taxed as a corporation shall claim any credit authorized
11 according to the provisions of this Section on the returns of the partners or members
12 as follows:

13 (a) Corporate partners or members shall claim their share of the credit on
14 their corporation income tax returns.

15 (b) Individual partners or members shall claim their share of the credit on
16 their individual income tax returns.

17 (c) Partners or members that are estates or trusts shall claim their share of the
18 credit on their fiduciary income tax returns.

19 Section 2. The provisions of this Act shall be applicable to income taxable periods
20 beginning on or after January 1, 2020.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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 37 Reengrossed

2020 Second Extraordinary Session

Beaulieu

Abstract: Authorizes a one-time income tax credit for the amount of annual state license or permit fees imposed by the commissioner of alcohol and tobacco control paid by the owners of restaurants and bars whose sales for calendar year 2020 were affected by the COVID-19 pandemic.

Proposed law authorizes a one-time income tax credit for the amount of annual state license or permit fees imposed by the commissioner of alcohol and tobacco control and paid by the owners or operators of restaurant establishments and establishments licensed to sell or serve alcoholic beverages for consumption on their premises by paying customers.

Proposed law provides that in order for a taxpayer to be eligible for the credit, the total sales made by the taxpayer's business from March 1, 2020, through Dec. 31, 2020, must be less than the total sales made by the taxpayer's business for those same dates in 2019 as a result of the operations of the business being interrupted by the COVID-19 pandemic. Additionally authorizes eligible businesses that commenced operations on or after August 1, 2019, to be eligible for the credit if their business operations were interrupted by the COVID-19 pandemic between March 1, 2020, and Dec. 31, 2020.

Proposed law requires the submission of documentation to the secretary evidencing the taxpayer's total sales from March 1 through Dec. 31 for both the 2019 and 2020 taxable periods, the taxpayer's La. sales tax account number for each location of the taxpayer's business, the taxpayer's office of alcohol and tobacco control permit number for each location of the taxpayer's business, and any other documentation required by the secretary.

Proposed law exempts any eligible business that commenced operations on or after August 1, 2019, from the requirement to produce documentation evidencing total sales for taxable periods in 2019.

Proposed law provides that the amount of the credit shall equal the amount of the annual state license or permit fee for calendar year 2020. The renewal of annual state licenses or permits for calendar year 2020 shall also be eligible for the tax credit. If a license or permit is issued on a two-year basis, the amount of the credit shall be the equivalent of one-half of the total license or permit fee if any part of the license or permit authorized the business to be operational during calendar year 2020.

Proposed law provides that unused amounts of the tax credit may be carried forward as a tax credit against subsequent La. income tax liability for a period not to exceed three years and provides for the claiming of the credit.

Proposed law is applicable to income taxable periods beginning on or after Jan. 1, 2020.

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

(Adds R.S. 47:6041)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add provisions relative to the claiming of the credit provided for in proposed law.
2. Decrease the number of years unused amounts of tax credits may be carried forward from five to three.
3. Add requirement that proposed law is applicable to income taxable periods beginning on or after Jan. 1, 2020.

The House Floor Amendments to the engrossed bill:

1. Change the criteria for eligibility of the tax credit from income derived from sales made by the business in 2019 and 2020 to the total sales made by the taxpayer's business from March 1, 2020, through Dec. 31, 2020, compared to those same dates in 2019.
2. Authorize eligible businesses that commenced operations on or after August 1, 2019, to be eligible for the credit if its operations were interrupted by the COVID-19 pandemic between March 1, 2020, and Dec. 31, 2020.
3. Add provisions relative to the documentation required to be submitted to the secretary in order to claim the credit and clarify the returns in which the credit may be claimed.