

2015 Regular Session

HOUSE BILL NO. 506

BY REPRESENTATIVE JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TAX/CORP INCOME: Requires pro forma income tax returns relative to the potential for the use of a combined unitary reporting system as a method of income apportionment

1 AN ACT

2 To enact R.S. 47:287.733(C), relative to corporation income tax; to establish a pilot program  
3 adopting combined unitary reporting for income tax purposes; to provide for  
4 definitions; to require the reporting of certain information related to corporation  
5 income and groups of corporations; to provide for effectiveness; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:287.733(C) is hereby enacted is enacted to read as follows:

9 §287.733. Corporations filing consolidated federal returns

10 \* \* \*

11 C. Combined Reporting.

12 (1) Statement of Intent. In recognition of the fact that corporate business is  
13 increasingly conducted on a national and international basis, it is the intent of the  
14 Legislature of Louisiana to adopt a unitary combined system of income tax reporting  
15 for corporations. Louisiana's separate accounting system is inadequate to measure  
16 accurately the income of a corporation with non-Louisiana affiliates and creates tax  
17 disadvantages for Louisiana corporations which compete with multistate and  
18 multinational corporations doing business in Louisiana. It is the intent of the  
19 Legislature of Louisiana, in adopting a unitary combined reporting system, to put all  
20 corporations doing business in Louisiana on an equal income tax footing.

1           (2) Definitions. For purposes of this Subsection, the following words and  
2           phrases shall have the following meanings unless the context indicates otherwise:

3           (a) "Combined group" means a group of two or more corporations in which  
4           more than fifty percent of the voting stock of each member corporation is directly  
5           or indirectly owned by a common owner or owners, either corporate or  
6           non-corporate, or by one or more of the member corporations, and that are engaged  
7           in a unitary business.

8           (b) "Unitary business" means the activities of a group of two or more  
9           corporations under common ownership that are sufficiently interdependent,  
10           integrated, or interrelated through their activities so as to provide mutual benefit and  
11           produce a significant sharing or exchange of value among them or a significant flow  
12           of value between the separate parts. The term unitary business shall be construed to  
13           the broadest extent permitted under the United States Constitution.

14           (3) Combined reporting.

15           (a) For tax periods beginning on January 1, 2015, and January 1, 2016, each  
16           corporation which is part of a unitary business with one or more other corporations  
17           must file a pro forma return, to be known as a "combined report", for the combined  
18           group comprising the unitary business, to include the combined income of the  
19           members of the group. The secretary shall prescribe the manner of and directions  
20           for filing the return.

21           (b) The use of a combined report does not disregard the separate identities  
22           of the taxpayer members of the combined group. Each taxpayer member is  
23           responsible for tax based on its taxable income or loss apportioned to this state.

24           (c) Therefore the members of the unitary business group shall determine  
25           their Louisiana taxable income as follows:

26           (i) Each company will be treated as a separate entity and must each file its  
27           own income and franchise tax returns. However, the unitary business group will  
28           make a combined income statement as the first step in the computation of the  
29           Louisiana income tax owed by each company.

1           (ii) The unitary business group's combined net income will be calculated by  
2           including the income and deductions of all members of the group.

3           (iii) Each company will compute its Louisiana net income or loss by  
4           apportioning and allocating its share of the combined net income to its separate  
5           return using the provisions of R.S. 47:287.92 through 287.95. The specific  
6           apportionment formula to be used by each corporation will be determined based on  
7           the primary business of the group as a whole. Both the Louisiana revenue, wages,  
8           and property and the combined revenue, wages, and property are to be determined  
9           after inter-company eliminations. The apportionment ratio so computed shall be  
10           applied to combined net apportionable income to determine the separate company's  
11           Louisiana apportionable income. Items of allocable income and expense, after  
12           eliminations, are attributed to the entity that produced the income.

13           (4) Filing requirements. Each combined report shall include all of the  
14           following information:

15           (a) A list of the companies included in the combined statement and their  
16           federal and Louisiana taxpayer identification numbers.

17           (b) A combined profit and loss statement disclosing each company's  
18           statement of profit and loss.

19           (c) A schedule of inter-company eliminations.

20           (d) Apportionment formula calculations disclosing the total combined  
21           amount of property, payroll, and sales and each separate company's Louisiana  
22           amount of property, payroll, and sales.

23           (e) Schedules showing the computation of each company's Louisiana  
24           apportionable and allocable income.

25           (f) Schedules showing the computation of each company's tax credits,  
26           Louisiana net operating loss, and federal income tax deduction.

27           (5) The secretary shall prepare a report of findings based upon the filing of  
28           the pro forma combined reports for purposes of this pilot program. The report shall  
29           be delivered to the House Committee on Ways and Means and the Senate Committee

1           on Revenue and Fiscal Affairs no later than sixty days before commencement of the  
2           2017 Regular Session of the Legislature.

3           Section 2. The provisions of this Act shall apply to all taxable periods beginning on  
4 or after January 1, 2016.

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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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HB 506 Engrossed

2015 Regular Session

James

**Abstract:** Establishes a pilot program for the use of combined unitary reporting for purposes of La. corporation income tax and the method for determination of income subject to the tax.

Present law levies a tax on corporations at the following rates:

- (1) 4% of the first \$25,000 of La. taxable income.
- (2) 5% of the amount of La. taxable income above \$25,000 and less than \$50,000
- (3) 6% of the amount of La. taxable income above \$50,000 and less than \$100,000
- (4) 7% of the amount of La. taxable income above \$100,000 and less than \$200,000
- (5) 8% on all La. taxable income above \$200,000

Proposed law establishes a pilot program for the use of the combined unitary reporting method for determination of income subject to the tax.

Proposed law requires the filing of informational returns by certain corporate entities to include specific information regarding income of the members of the combined group.

Proposed law provides for the various methods of determining the apportionable income of corporations and certain groups of corporations.

Proposed law requires the secretary of the Dept. of Revenue to prepare a report of findings based on the pilot program, and to provide the report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than 60 days before the 2017 R.S.

Applicable to taxable periods beginning on Jan. 1, 2015, and Jan. 1, 2016.

(Adds R.S. 47:297.733(C))

Summary of Amendments Adopted by House

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

1. Change the period of time for the pilot program from tax periods beginning on or after Jan. 1, 2016, to tax periods beginning on Jan. 1, 2015, and Jan. 1, 2016.
2. Add a requirement for the secretary of the Dept. of Revenue to prepare a report of findings based on the pilot program, and to provide the report to the House Committee on Ways and Means and Senate Committee on Revenue and Fiscal Affairs no later than 60 days before the 2017 R.S.