

## RÉSUMÉ DIGEST

ACT 418 (HB 425)

2017 Regular Session

Magee

Existing law authorizes a state income and corporation franchise tax credit for ad valorem taxes paid on vessels in Outer Continental Shelf Lands Act Waters which have been certified by the taxpayer to the assessor as being principally located in such areas within the calendar year immediately preceding the taxable year of assessment of the vessel.

Prior law required that in order for a taxpayer to be eligible for the credit, the taxes had to be paid without protest.

New law removes the restriction on eligibility for the credit for taxes which have been paid under protest.

New law adds requirements for document submission and timing concerning taxpayer notification to the Dept. of Revenue that they have paid ad valorem taxes under protest.

New law provides that if the taxpayer prevails in the suit against the political subdivision, the amount of the credit issued under new law for ad valorem taxes paid by the taxpayer that are determined by the court to not be due to the political subdivision shall be subject to recapture by the department for up to two years, with judicial interest.

Existing law requires that collectors of ad valorem taxes segregate payments under protest and hold the payment pending the outcome of a suit challenging the tax that is filed within 30 days of the date the payment under protest is made.

New law provides an exception to the requirement in existing law for segregation of taxes paid under protest in the case where the sole challenge in the suit is a challenge of the legality of the ad valorem tax on vessels in Outer Continental Shelf Lands Act waters.

New law prohibits the Dept. of Revenue from pursuing action to recapture credits issued for ad valorem taxes related to a suit for taxes paid under protest if the taxpayer prevails in the suit and if the sole challenge in the suit is a challenge of the legality of the ad valorem tax on vessels in Outer Continental Shelf Lands Act waters, the collecting officer was not required to segregate or escrow the amount paid in accordance with new law, and the taxpayer does not receive a refund of the taxes paid from the collecting officer.

New law requires the filing of an amended tax return by a taxpayer who prevails in a suit for taxes paid under protest if the sole challenge in the suit is that of the legality of the ad valorem tax on vessels in Outer Continental Shelf Lands Act waters and the collecting officer refunds any amount paid under protest that was not required to be segregated or held in escrow. The amended return shall be filed within 60 days of the issuance of the refund and reflect the amount of the refund and any interest paid on the refunded amount as a reduction in the ad valorem tax credit originally received for the taxes paid under protest. A taxpayer who fails to file an amended return as set forth in new law shall be subject to penalties as provided in existing law.

Prior law required that beginning Jan. 1, 2016, the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs review the tax credit for purposes of determining whether the economic benefit of the credit outweighs the cost to the state. The committees were required to make a recommendation to the House of Representatives and the Senate by March 1, 2017, regarding whether to retain or terminate the credit.

New law repeals prior law.

Applicable to income tax periods beginning on and after Jan. 1, 2017, and franchise tax periods beginning on and after Jan. 1, 2018.

Effective July 1, 2017.

(Amends R.S. 47:6006.1(A), (D)(2), (F), and (G))