

2018 First Extraordinary Session

HOUSE BILL NO. 21

BY REPRESENTATIVE LEGER

TAX/CORP INCOME: Reduces the amount of certain corporate income tax deductions and provides for continued effectiveness of reductions to certain corporate income tax deductions and exclusions (Item #4)

1 AN ACT

2 To amend and reenact R.S. 47:158(C) and (D) and 287.745(B) and Section 6 of Act No. 123

3 of the 2015 Regular Session of the Legislature and to repeal Sections 3 and 4 of Act

4 No. 123 of the 2015 Regular Session of the Legislature, relative to corporate income

5 tax; to provide relative to certain exclusions, exemptions, and deductions; to provide

6 for continued effectiveness of reductions; to provide for an effective date; and to

7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:158(C) and (D) and 287.45(B) are hereby amended and reenacted

10 to read as follows:

11 §158. Basis for depletion

12 * * *

13 C. Percentage depletion for oil and gas wells. In the case of oil and gas wells

14 the allowance for depletion under R.S. 47:66 shall be ~~fifteen and eight-tenths of one~~

15 sixteen percent of the gross income from the property during the taxable year,

16 excluding from such gross income an amount equal to eighty percent of any rents or

17 royalties paid or incurred by the taxpayer in respect of the property. Such allowance

18 shall not exceed thirty-six percent of the net income of the taxpayer, computed

19 without allowance for depletion, from the property except that in no case shall the

1 depletion allowance under R.S. 47:66 be less than it would be if computed without
2 reference to this Subsection.

3 D. Percentage depletion for coal and metal mines and sulphur. The
4 allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, ~~three~~
5 ~~and six-tenths of one~~ four percent, in the case of metal mines, ~~ten and eight-tenths~~
6 ~~of one~~ eleven percent, and in the case of sulphur mines or deposits, ~~fifteen and eight-~~
7 ~~tenths of one~~ sixteen percent, of the gross income from the property during the
8 taxable year, excluding from such gross income an amount equal to seventy-two
9 percent of any rents or royalties paid or incurred by the taxpayer in respect of the
10 property. Such allowance shall not exceed thirty-six percent of the net income of the
11 taxpayer, computed without allowance for depletion from the property. A taxpayer
12 making his first return under this Chapter or under Act 21 of 1934 in respect of a
13 property, shall state whether he elects to have the depletion allowance for such
14 property for the taxable year for which the return is made computed with or without
15 regard to percentage depletion, and the depletion allowance in respect of such
16 property for such year and all succeeding taxable years shall be computed according
17 to the election thus made. If the taxpayer fails to make such statement in the return,
18 the depletion allowance for such property for all taxable years shall be computed
19 without reference to percentage depletion. This Subsection shall not be construed
20 as granting a new election to any taxpayer relative to any property with respect to
21 which he has filed a return under Act 21 of 1934.

22 * * *

23 §287.745. Deductions from gross income; depletion

24 * * *

25 B. In the case of oil and gas wells, the percentage depletion provided for in
26 Subsection A shall be ~~fifteen and eight-tenths of one~~ sixteen percent of gross income
27 from the property during the taxable year, excluding from such gross income an
28 amount equal to seventy-two percent of any rents or royalties paid or incurred by the
29 taxpayer in respect of the property. Such allowance shall not exceed thirty-six

- (2) Deduction of net operating loss of a corporation; 72% deduction is retained rather than return to 100%. (R.S. 47:246)
- (3) Exclusion of funds received from a governmental entity to subsidize the operation and maintenance of a public transportation system; 72% deduction is retained rather than return to 100%. (R.S. 47:287.71)
- (4) Deduction of various corporate expenses that are not allowed as deductions by I.R.C. Section 280C; 72% deduction is retained rather than return to 100%. (R.S. 47:287.73)
- (5) Deduction of net operating loss incurred in La.; 72% deduction is retained rather than return to 100%. (R.S. 47:287.86)
- (6) Deduction of an amount equal to interest and dividend income included on the federal income tax return; 72% deduction is retained rather than return to 100%. (R.S. 47:287.738)
- (7) Exemption from corporation income and franchise taxes for certain La. Community Development Institutions; a four-year exemption is retained rather than return to five years. (R.S. 51:3092)

Present law provides that the allowance for depletion for oil and gas wells is 15.8% of the gross income from the property during the taxable year. Proposed law changes that rate from 15.8% to 16%. Present law, effective now, provides that 80% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion allowance is 22%; 100% of rents or royalties paid by the taxpayer are excluded from income; and this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:158(C))

Proposed law, relative to the allowance for depletion for certain mines, changes the rate for coal mines from 3.6% to 4%; for metal mines from 10.8% to 11%; and for sulphur mines from 15.8% to 16%. Present law, effective now, provides that 72% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion allowances are 5% for coal mines, 15% for metal mines, and 23% for sulphur mines; 100% of rents or royalties paid by the taxpayer are excluded from income; and this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:158(D))

Present law provides that the deduction from gross income tax for depletion for oil and gas wells is 15.8% of the gross income from the property during the taxable year. Proposed law changes that rate from 15.8% to 16%. Present law, effective now, provides that 72% of rents or royalties paid by the taxpayer are excluded from income in calculating the depletion and that this allowance shall not exceed 36% of the net income of the taxpayer. Present law, effective July 1, 2018, provides that: the depletion deduction is 22%; 100% of rents or royalties paid by the taxpayer are excluded from income; and that this allowance shall not exceed 50% of the net income of the taxpayer. Proposed law repeals present law that would become effective July 1, 2018, thereby retaining present law as currently effective. (R.S. 47:287.745(B))

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

(Amends R.S. 47:158(C) and (D) and 287.745(B) and §6 of Act No. 123 of 2015 R.S.; Repeals §§3 and 4 of Act No. 123 of 2015 R.S.)