

2015 Regular Session

HOUSE BILL NO. 624

BY REPRESENTATIVE JACKSON

TAX/CORP INCOME: Reduces the amount of certain corporate income tax exclusions and deductions

1 AN ACT

2 To amend and reenact R.S. 6:662, R.S. 12:302(L) and 425, R.S. 47:48, 51, 158(C) and (D),
3 246(A), 287.71(B)(2), (3), (4), and (6), 287.73(C)(4), 287.86(A)(introductory
4 paragraph), 287.732(B)(2), 287.738(F)(1) and (G), and 287.745(B), and R.S.
5 51:3092, relative to corporate income tax; to provide for corporate tax expenditures;
6 to provide for corporate income tax exclusions and deductions; to reduce the amount
7 of certain corporate income tax exclusions and deductions; to provide for an effective
8 date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 6:662 is hereby amended and reenacted to read as follows:

11 §662. Taxation

12 A. A credit union is an institution for savings. ~~It, together with all~~
13 ~~accumulations therein, is not~~ Except as provided for in this Section, a credit union
14 shall not be subject to taxation except as to immovable property owned and a certain
15 portion of the stock transfer tax.

16 B. The shares of a credit union ~~are not~~ shall only be subject to a twenty
17 percent of the stock transfer tax when issued by the corporation or when transferred
18 from one member to another. No fees ~~or taxes~~ nor any of the stipulations as to
19 capital stock set forth in general statutes for corporations apply to credit unions.

20 Section 2. R.S. 12:302(L) and 425 are hereby amended and reenacted to read as
21 follows:

1 §302. Acts not considered transacting business

2 Without excluding other activities which may not constitute transacting
3 business in this state, a foreign corporation or a business association shall not be
4 considered to be transacting business in this state, for the purpose of being required
5 to procure a certificate of authority pursuant to R.S. 12:301, by reason of carrying
6 on in this state any one or more of the following activities:

7 * * *

8 L. No foreign corporation or business association of the type described in
9 Subsection K of this section and confining its business operations in Louisiana to the
10 activities described in said Subsection K shall be required to pay ~~any~~ greater than
11 twenty percent of any tax or any fee required to be paid by foreign corporations or
12 business associations under any law of this state; such exemption, however, shall not
13 include ad valorem taxes assessed against any real property which such foreign
14 corporations or business associations may own in this state. Nothing in this section
15 shall be construed to permit any foreign corporation or business association to do
16 business in violation of the small loan law of this state, nor of the laws of Louisiana
17 governing the organization and operation of homesteads, building and loan
18 associations or societies, or savings and loan associations or societies.

19 * * *

20 §425. Taxation

21 Each cooperative shall pay annually, on or before the first day of July, to the
22 department of revenue, a fee of ten dollars for each one hundred persons or fraction
23 thereof to whom electricity is supplied within the state by it, but shall be exempt
24 from eighty percent of all other excise and income taxes whatsoever.

25 Section 3. R.S. 47:48, 51, 158(C) and (D), 246(A), 287.71(B)(2), (3), (4),
26 and (6), 287.73(C)(4), 287.86(A)(introductory paragraph), 287.732(B)(2),
27 287.738(F)(1) and (G), and 287.745(B) are hereby amended and reenacted to read
28 as follows:

1 §48. Exclusion from gross income; interest on Louisiana state or local government
2 obligations

3 ~~The~~ Eighty percent of the amount of interest received upon obligations of the
4 State of Louisiana, or any political or municipal subdivision thereof, to such extent
5 as is now exempt by law shall not be included in gross income.

6 * * *

7 §51. Exclusions from gross income; governmental subsidies

8 ~~Funds~~ Eighty percent of funds accrued by a corporation engaged in operating
9 a public transportation system from any federal, state or municipal governmental
10 entity to subsidize the operation and maintenance of such a transportation system
11 shall not be included in gross income and shall be exempt from taxation under this
12 Chapter. All expenses of operating the transit system incurred by the corporation
13 shall be deductible in arriving at net income.

14 * * *

15 §158. Basis for depletion

16 * * *

17 C. Percentage depletion for oil and gas wells. In the case of oil and gas wells
18 the allowance for depletion under R.S. 47:66 shall be ~~twenty-two per centum~~ eighteen
19 percent of the gross income from the property during the taxable year, excluding
20 from such gross income an amount equal to eighty percent of any rents or royalties
21 paid or incurred by the taxpayer in respect of the property. Such allowance shall not
22 exceed ~~fifty~~ forty percent of the net income of the taxpayer, computed without
23 allowance for depletion, from the property except that in no case shall the depletion
24 allowance under R.S. 47:66 be less than it would be if computed without reference
25 to this Subsection.

26 D. Percentage depletion for coal and metal mines and sulphur. The
27 allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, ~~five per~~
28 ~~centum (5%)~~ four percent, in the case of metal mines, ~~fifteen per centum (15%)~~
29 twelve percent, and in the case of sulphur mines or deposits, ~~twenty-three per centum~~

1 ~~(23%)~~ eighteen percent, of the gross income from the property during the taxable
2 year, excluding from such gross income an amount equal to eighty percent of any
3 rents or royalties paid or incurred by the taxpayer in respect of the property. Such
4 allowance shall not exceed ~~fifty per centum (50%)~~ forty percent of the net income
5 of the taxpayer (computed without allowance for depletion) from the property. A
6 taxpayer making his first return under this Chapter or under Act 21 of 1934 in
7 respect of a property, shall state whether he elects to have the depletion allowance
8 for such property for the taxable year for which the return is made computed with or
9 without regard to percentage depletion, and the depletion allowance in respect of
10 such property for such year and all succeeding taxable years shall be computed
11 according to the election thus made. If the taxpayer fails to make such statement in
12 the return, the depletion allowance for such property for all taxable years shall be
13 computed without reference to percentage depletion. This Sub-section shall not be
14 construed as granting a new election to any taxpayer relative to any property with
15 respect to which he has filed a return under Act 21 of 1934.

* * *

17 §246. Corporations; deduction from net income from Louisiana sources

18 A. Subject to the limitations provided herein, there shall be deducted from
19 any net income from Louisiana sources determined under the provisions of R.S.
20 47:241 of a corporation for any year following the close of the first taxable year
21 which commenced on or after January 1, 1979 and prior to January 1, 2015, the
22 amount of net Louisiana loss incurred in a preceding year determined as provided in
23 Subsection B of this Section. For taxable years beginning on or after January 1,
24 2015, the amount of the deduction allowed shall be eighty percent of the amount of
25 net Louisiana loss incurred in a preceding year determined as provided in Subsection
26 B of this Section.

* * *

28 §287.71. Modifications to federal gross income

* * *

1 B. There shall be subtracted from gross income determined under federal
2 law, unless already excluded therefrom, the following items:

3 * * *

4 (2) ~~Funds~~ Eighty percent of the funds accrued by a corporation engaged in
5 operating a public transportation system from any federal, state, or municipal
6 governmental entity to subsidize the operation and maintenance of such a
7 transportation system.

8 (3) ~~Refunds~~ Eighty percent of the refunds of Louisiana corporation income
9 tax received during the taxable year.

10 (4) ~~Interest~~ Eighty percent of the interest on obligations or securities issued
11 by the state of Louisiana or its political or municipal subdivisions.

12 * * *

13 (6) ~~Amounts~~ Eighty percent of the amounts received as dividend income
14 from banking corporations organized under the laws of Louisiana, from national
15 banking corporations doing business in Louisiana, and from capital stock
16 associations whose stock is subject to ad valorem taxation.

17 * * *

18 §287.73. Modifications to deductions from gross income allowed by federal law

19 * * *

20 C. Additions. The following items are declared allowable as deductions in
21 the computation of net income and shall be added to the deductions allowed under
22 federal law to the extent not already included therein:

23 * * *

24 (4) Expenses disallowed by I.R.C. Section 280(C). ~~Expenses~~ Eighty percent
25 of expenses which would otherwise be deductible under federal law, but for the
26 disallowance provisions of I.R.C. Section 280(C), relative to certain expenses for
27 which credits are allowable.

28 * * *

1 §287.86. Net operating loss deduction

2 A. Deduction from Louisiana net income. Except as otherwise provided,
3 there shall be allowed for the taxable year an adjustment reducing Louisiana net
4 income in an amount equal to eighty percent of the aggregate of:

5 * * *

6 §287.732. S Corporations

7 * * *

8 B. S corporation exclusion. This Subsection provides an exclusion to
9 corporations classified as S corporations under federal law for the taxable year, as
10 follows:

11 * * *

12 (2) The excludable percentage of Louisiana net income is determined by
13 multiplying eighty percent of Louisiana net income for a taxable year by a ratio, the
14 numerator of which is the number of issued and outstanding shares of capital stock
15 of the S corporation which are owned by Louisiana resident individuals on the last
16 day of the corporation's taxable year, and the denominator of which is the total
17 number of issued and outstanding shares of capital stock of the corporation on the
18 last day of the corporation's taxable year, provided that no share shall be allowed to
19 be counted in the numerator unless its owner has for the taxable year of inclusion
20 filed a correct and complete Louisiana individual income tax return as a resident.

21 * * *

22 §287.738. Other inclusions and exclusions from gross income

23 * * *

24 F. Deduction for interest and dividends.

25 (1) Effective for taxable years beginning after December 31, 2005, there
26 shall be allowed for each taxable year a deduction equal to eighty percent of the
27 amount of dividends that would otherwise be included in gross income.

28 * * *

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 624 Engrossed

2015 Regular Session

Jackson

Abstract: Reduces the amount of certain corporate income tax exclusions and deductions by 20%.

Present law (R.S. 6:662) provides that credit unions are exempt from all taxes except for immovable property owned. Further provides that the shares of a credit union are not subject to a stock-transfer tax and that no fees or taxes apply to credit unions.

Proposed law changes present law by requiring credit unions to pay 20% of the stock transfer tax.

Present law (R.S. 12:302) exempts from state corporation income tax certain foreign corporations if their La. operations are limited to certain activities related to making, acquiring, or participating in loans.

Proposed law changes present law by requiring those foreign corporations to pay 20% of any tax or any fee required to be paid by other foreign corporations or business associations under present law.

Present law (R.S. 12:425) exempts certain electric cooperatives from all excise and income taxes.

Proposed law retains present law but reduces the exemption from all excise and income taxes to 80% of excise and income taxes that would have been required to be paid.

Present law (R.S. 47:48) excludes from gross income for corporations all interest earned on state or local obligations issued by the state or its political municipal subdivisions.

Proposed law retains present law but reduces the exemption from all interest to 80% of the amount of interest received.

Present law (R.S. 47:51) excludes from corporation gross income any funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system.

Proposed law retains present law but reduces the exclusion from any funds received to 80% of the funds received by a corporation.

Present law (R.S. 47:158) provides an additional deduction in determining net income for oil and gas depletion. The deduction equals 22% of gross income from the property, excluding any rents or royalties paid or incurred by the taxpayer due to the property. The deduction is further limited to 50% of the net income from the property calculated without the deduction for depletion.

Proposed law retains present law but reduces the deduction from 22% of the gross income from the property during the taxable year, excluding any rents or royalties, to 18% of the gross income from the property during the taxable year, excluding 80% of rents or royalties. Further reduces allowable deduction from an amount not to exceed 50% of the net income of the taxpayer to an amount not to exceed 40% of the net income.

Present law (R.S. 47:246) provides a deduction for net operating loss of a corporation. The amount of the deduction is equal to the amount of the net operating loss.

Proposed law retains present law but reduces the amount of the deduction from the entire amount of the net operating loss to 80% of the net operating loss.

Present law (R.S. 47:287.71) excludes from corporation gross income any funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system.

Proposed law retains present law but reduces the exclusion from any funds received to 80% of the funds received by a corporation.

Present law (R.S. 47:287.73) provides for a deduction from corporate income tax any expenses disallowed under I.R.C. Section 280C. Further requires a taxpayer who elects to claim certain credits that are based on an expense to reduce the federal deduction for the expense by the dollar amount of the credit claimed.

Proposed law retains present law but reduces the amount of the deduction from disallowed expenses to 80% of disallowed expenses.

Present law (R.S. 47:287.86) provides a deduction from corporate income for the amount of the net operating loss incurred in La.

Proposed law retains present law but reduces the amount of the deduction from the entire amount of the net operating loss to 80% of the net operating loss.

Present law (R.S. 47:287.732) authorizes a deduction from gross income of a corporation in an amount equal to interest and dividend income included on the federal income tax return.

Proposed law retains present law but reduces the amount of the deduction from the full amount of dividends to 80% of the amount of dividends that would be included in income.

Present law (R.S. 47:287.738) authorizes a deduction from gross income of an amount equal to interest and dividend income included on the federal income tax return.

Proposed law retains present law but reduces the deduction from the amount of interest and dividend income to 80% of the interest and dividend income.

Present law (R.S. 47:287.745) provides an additional deduction in determining net income for oil and gas depletion. The deduction is 22% of gross income from the property, excluding any rents or royalties paid or incurred by the taxpayer due to the property. The deduction is further limited to 50% of the net income from the property calculated without the deduction for depletion.

Proposed law retains present law but reduces the deduction from 22% of the gross income from the property during the taxable year, excluding any rents or royalties, to 18% of the gross income from the property during the taxable year, excluding 80% of rents or royalties. Further reduces allowable deduction from an amount not to exceed 50% of the net income of the taxpayer to an amount not to exceed 40% of the net income.

Present law (R.S. 51:3092) exempts from corporation income and franchise taxes, certain La. Community Development Financial Institutions for 5 consecutive taxable periods, commencing with the taxable period in which the capital company is certified by the commissioner.

Proposed law retains present law but reduces the exemption from five consecutive taxable periods to four consecutive taxable periods.

Effective beginning July 1, 2015 and applicable for all exclusions from taxable income and all claims for deductions made on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

(Amends R.S. 6:662, R.S. 12:302(L) and 425, R.S. 47:48, 51, 158(C) and (D), 246(A), 287.71(B)(2), (3), (4), and (6), 287.73(C)(4), 287.86(A)(intro. para.), 287.732(B)(2), 287.738(F)(1) and (G), and 287.745(B), and R.S. 51:3092)

Summary of Amendments Adopted by House

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

1. Add the following corporate income tax deductions and exclusions and reduce the amount of the deductions and exclusions by 20%:
 - (1) R.S. 6:662 - Taxation (credit unions)
 - (2) R.S. 12:302 - Acts not considered transacting business (foreign corporations)
 - (3) R.S. 12:425 - Taxation (electric cooperatives)
 - (4) R.S. 47:48 - Exclusion from gross income; interest on La. state or local government obligations
 - (5) R.S. 47:51 - Exclusions from gross income; governmental subsidies
 - (6) R.S. 47:158 - Basis for depletion (oil and gas wells)
 - (7) R.S. 47:246 - Corporations; deduction from net income from La. sources
 - (8) R.S. 47:287.71 - Modifications to federal gross income
 - (9) R.S. 47:287.73 - Modifications to deductions from gross income allowed by federal law
 - (10) R.S. 47:287.86 - Net operating loss deduction
 - (11) R.S. 47:287.738 - Deduction for interest income and dividend income
 - (12) R.S. 47:287.745 - Deductions from gross income; depletion (oil and gas wells)
 - (13) R.S. 51:3092 - Corporation income and franchise tax exemption (LCDFI)