

ACT No. 123

2015 Regular Session

HOUSE BILL NO. 624

BY REPRESENTATIVE JACKSON

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§51. Exclusions from gross income; governmental subsidies

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

* * *

§158. Basis for depletion

* * *

C. Percentage depletion for oil and gas wells. In the case of oil and gas wells the allowance for depletion under R.S. 47:66 shall be ~~twenty-two percentum~~ fifteen and eight-tenths of one percent of the gross income from the property during the

1 taxable year, excluding from such gross income an amount equal to eighty percent
 2 of any rents or royalties paid or incurred by the taxpayer in respect of the property.
 3 Such allowance shall not exceed ~~fifty~~ thirty-six percent of the net income of the
 4 taxpayer, computed without allowance for depletion, from the property except that
 5 in no case shall the depletion allowance under R.S. 47:66 be less than it would be if
 6 computed without reference to this Subsection.

7 D. Percentage depletion for coal and metal mines and sulphur. The
 8 allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, ~~five per~~
 9 ~~centum (5%)~~ three and six-tenths of one percent, in the case of metal mines, ~~fifteen~~
 10 ~~per centum (15%)~~ ten and eight-tenths of one percent, and in the case of sulphur
 11 mines or deposits, ~~twenty-three per centum (23%)~~ fifteen and eight-tenths of one
 12 percent, of the gross income from the property during the taxable year, excluding
 13 from such gross income an amount equal to seventy-two percent of any rents or
 14 royalties paid or incurred by the taxpayer in respect of the property. Such allowance
 15 shall not exceed ~~fifty per centum (50%)~~ thirty-six percent of the net income of the
 16 taxpayer (~~computed without allowance for depletion~~), computed without allowance
 17 for depletion from the property. A taxpayer making his first return under this
 18 Chapter or under Act 21 of 1934 in respect of a property, shall state whether he
 19 elects to have the depletion allowance for such property for the taxable year for
 20 which the return is made computed with or without regard to percentage depletion,
 21 and the depletion allowance in respect of such property for such year and all
 22 succeeding taxable years shall be computed according to the election thus made. If
 23 the taxpayer fails to make such statement in the return, the depletion allowance for
 24 such property for all taxable years shall be computed without reference to percentage
 25 depletion. This ~~Sub-section~~ Subsection shall not be construed as granting a new
 26 election to any taxpayer relative to any property with respect to which he has filed
 27 a return under Act 21 of 1934.

28 * * *

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

2 A. Subject to the limitations provided herein, there shall be deducted from
3 any net income from Louisiana sources determined under the provisions of R.S.
4 47:241 of a corporation for any year following the close of the first taxable year
5 which commenced on or after January 1, 1979 and prior to January 1, 2015, the
6 amount of net Louisiana loss incurred in a preceding year determined as provided in
7 Subsection B of this Section. For taxable years beginning on or after January 1,
8 2015, the amount of the deduction allowed shall be seventy-two percent of the
9 amount of net Louisiana loss incurred in a preceding year determined as provided in
10 Subsection B of this Section.

11 * * *

12 §287.71. Modifications to federal gross income

13 * * *

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

16 * * *

17 (2) ~~Funds~~ Seventy-two percent of the funds accrued by a corporation
18 engaged in operating a public transportation system from any federal, state, or
19 municipal governmental entity to subsidize the operation and maintenance of such
20 a transportation system.

21 (3) ~~Refunds~~ Seventy-two percent of the refunds of Louisiana corporation
22 income tax received during the taxable year.

23 * * *

24 (6) ~~Amounts~~ Seventy-two percent of the amounts received as dividend
25 income from banking corporations organized under the laws of Louisiana, from
26 national banking corporations doing business in Louisiana, and from capital stock
27 associations whose stock is subject to ad valorem taxation.

28 * * *

29 §287.73. Modifications to deductions from gross income allowed by federal law

30 * * *

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

4 * * *

5 (4) Expenses disallowed by I.R.C. Section 280(C). ~~Expenses~~ Seventy-two
6 percent of expenses which would otherwise be deductible under federal law, but for
7 the disallowance provisions of I.R.C. Section 280(C), relative to certain expenses for
8 which credits are allowable.

9 * * *

10 §287.86. Net operating loss deduction

11 A. Deduction from Louisiana net income. Except as otherwise provided,
12 there shall be allowed for the taxable year an adjustment reducing Louisiana net
13 income in an amount equal to seventy-two percent of the aggregate of:

14 * * *

15 §287.738. Other inclusions and exclusions from gross income

16 * * *

17 F. Deduction for interest and dividends.

18 ~~(1) Effective for taxable years beginning after December 31, 2005, there~~

19 (1) There shall be allowed for each taxable year a deduction equal to
20 seventy-two percent of the amount of dividends that would otherwise be included in
21 gross income.

22 * * *

23 G. Deduction for hurricane recovery benefits. ~~Any~~ Seventy-two percent of
24 any gratuitous grant, loan, or other benefit directly or indirectly provided to a
25 taxpayer by a hurricane recovery entity as defined in R.S. 47:293 shall be allowed
26 as a deduction if such benefit was included in federal adjusted gross income.

27 * * *

28 §287.745. Deductions from gross income; depletion

29 * * *

1 B. In the case of oil and gas wells, the percentage depletion provided for in
 2 Subsection A shall be ~~twenty-two~~ fifteen and eight-tenths of one percent of gross
 3 income from the property during the taxable year, excluding from such gross income
 4 an amount equal to seventy-two percent of any rents or royalties paid or incurred by
 5 the taxpayer in respect of the property. Such allowance shall not exceed ~~fifty~~ thirty-
 6 six percent of the net income of the taxpayer, computed without allowance for
 7 depletion, from the property. In determining net income from the property, federal
 8 income taxes shall be considered an expense.

9 Section 2. R.S. 51:3092 is hereby amended and reenacted to read as follows:

10 §3092. Corporation income and franchise tax exemption

11 Notwithstanding any other provision of law to the contrary, any corporation
 12 that is a LCDFI as provided for in this Chapter shall be exempt from the corporation
 13 income tax and the corporation franchise tax levied pursuant to Title 47 of the
 14 Louisiana Revised Statutes of 1950 for ~~five~~ four consecutive taxable periods. The
 15 exemption from the corporation income tax shall commence with the taxable period
 16 in which the capital company is certified by the commissioner. The exemption from
 17 the corporation franchise tax shall commence with the taxable period next following
 18 the taxable period in which certification as a LCDFI is obtained from the
 19 commissioner.

20 Section 3. R.S. 47:51, 158(C) and (D), 246(A), 287.71(B)(2), (3), and (6),
 21 287.73(C)(4), 287.86(A)(introductory paragraph), 287.738(F)(1) and (G), and 287.745(B)
 22 are hereby enacted to read as follows:

23 §51. Exclusions from gross income; governmental subsidies

24 Funds accrued by a corporation engaged in operating a public transportation
 25 system from any federal, state or municipal governmental entity to subsidize the
 26 operation and maintenance of such a transportation system shall not be included in
 27 gross income and shall be exempt from taxation under this Chapter. All expenses
 28 of operating the transit system incurred by the corporation shall be deductible in
 29 arriving at net income.

30 * * *

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

2 A. Subject to the limitations provided herein, there shall be deducted from
3 any net income from Louisiana sources determined under the provisions of R.S.
4 47:241 of a corporation for any year following the close of the first taxable year
5 which commenced on or after January 1, 1979, the amount of net Louisiana loss
6 incurred in a preceding year determined as provided in Subsection B of this Section.

7 * * *

8 §287.71. Modifications to federal gross income

9 * * *

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

12 * * *

13 (2) Funds accrued by a corporation engaged in operating a public
14 transportation system from any federal, state, or municipal governmental entity to
15 subsidize the operation and maintenance of such a transportation system.

16 (3) Refunds of Louisiana corporation income tax received during the taxable
17 year.

18 * * *

19 (6) Amounts received as dividend income from banking corporations
20 organized under the laws of Louisiana, from national banking corporations doing
21 business in Louisiana, and from capital stock associations whose stock is subject to
22 ad valorem taxation.

23 * * *

24 §287.73. Modifications to deductions from gross income allowed by federal law

25 * * *

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

29 * * *

1 (4) Expenses disallowed by I.R.C. Section 280(C). Expenses which would
2 otherwise be deductible under federal law, but for the disallowance provisions of
3 I.R.C. Section 280(C), relative to certain expenses for which credits are allowable.

4 * * *

5 §287.86. Net operating loss deduction

6 A. Deduction from Louisiana net income. Except as otherwise provided,
7 there shall be allowed for the taxable year an adjustment reducing Louisiana net
8 income in an amount equal to the aggregate of:

9 * * *

10 §287.738. Other inclusions and exclusions from gross income

11 * * *

12 F. Deduction for interest and dividends.

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

16 * * *

17 G. Deduction for hurricane recovery benefits. Any gratuitous grant, loan,
18 or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery
19 entity as defined in R.S. 47:293 shall be allowed as a deduction if such benefit was
20 included in federal adjusted gross income.

21 * * *

22 §287.745. Deductions from gross income; depletion

23 * * *

24 B. In the case of oil and gas wells, the percentage depletion provided for in
25 Subsection A shall be twenty-two percent of gross income from the property during
26 the taxable year, excluding from such gross income an amount equal to any rents or
27 royalties paid or incurred by the taxpayer in respect of the property. Such allowance
28 shall not exceed fifty percent of the net income of the taxpayer, computed without
29 allowance for depletion, from the property. In determining net income from the
30 property, federal income taxes shall be considered an expense.

1 Section 4. R.S. 51:3092 is hereby enacted to read as follows:

2 §3092. Corporation income and franchise tax exemption

3 Notwithstanding any other provision of law to the contrary, any corporation
4 that is a LCDFI as provided for in this Chapter shall be exempt from the corporation
5 income tax and the corporation franchise tax levied pursuant to Title 47 of the
6 Louisiana Revised Statutes of 1950 for five consecutive taxable periods. The
7 exemption from the corporation income tax shall commence with the taxable period
8 in which the capital company is certified by the commissioner. The exemption from
9 the corporation franchise tax shall commence with the taxable period next following
10 the taxable period in which certification as a LCDFI is obtained from the
11 commissioner.

12 Section 5.(A) Except as provided for in Subsection (B) of this Section, the
13 provisions of Sections 1 and 2 of this Act shall apply to an exclusion from taxable income
14 and a claim for a deduction made on a return filed on or after July 1, 2015, regardless of the
15 taxable year to which the return relates.

16 (B) The provisions of Sections 1 and 2 of this Act shall not apply to an amended
17 return filed on or after July 1, 2015, relating to an exclusion from taxable income or a claim
18 for a deduction properly claimed on an original return filed prior to July 1, 2015.

19 (C) If a return is filed after July 1, 2015, for which a valid filing extension has been
20 allowed prior to July 1, 2015, then any portion of an exclusion or deduction disallowed by
21 the provisions of Sections 1 or 2 of this Act shall be allowed as an exclusion or a deduction
22 in the amount of one-third of the disallowed portion of the exclusion or deduction on the
23 taxpayer's return for each of the taxable years beginning during calendar years 2017, 2018,
24 and 2019.

25 Section 6. The provisions of Sections 1 and 2 of this Act shall become effective on
26 July 1, 2015, and shall remain effective through June 30, 2018. The provisions of Sections
27 3 and 4 of this Act shall become effective on July 1, 2018.

1 Section 7. The provisions of Sections 6 and 7 of this Act shall become effective on
2 July 1, 2015.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____