

2016 First Extraordinary Session

HOUSE BILL NO. 95

BY REPRESENTATIVE LEGER

1 AN ACT

2 To amend and reenact R.S. 47:93(A) and (B), 241, 287.69, 287.442(B)(1), 300.6(A), and  
3 300.7(A), to enact R.S. 47:55(6), and to repeal R.S. 47:287.79, 287.83, and 287.85,  
4 relative to corporation income tax; to provide relative to the deductibility of federal  
5 income taxes; to repeal deductibility of federal income taxes paid for purposes of  
6 calculating corporate income taxes; to provide for applicability; to provide for an  
7 effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:93(A) and (B), 241, 287.69, 287.442(B)(1), 300.6(A), and  
10 300.7(A) are hereby amended and reenacted and R.S. 47:55(6) is hereby enacted to read as  
11 follows:

12 §55. Deductions from gross income; taxes generally

13 In computing net income, there shall be allowed as deductions all taxes paid  
14 or accrued within the taxable year except:

15 \* \* \*

16 (6) Federal income taxes paid by corporations and entities taxed as  
17 corporations.

18 \* \* \*

19 §93. Period for which deductions and credits shall be taken

20 A. Except as hereinafter provided in this ~~section~~ Section, the deductions and  
21 credits provided for in this Chapter shall be taken for the taxable year in which "paid

1 or accrued" or "paid or incurred," dependent upon the method of accounting upon the  
 2 basis of which the net income is computed, unless in order to clearly reflect the  
 3 income the deductions or credits should be taken as of a different period.

4 B. The proper year in which to claim deductions for federal income and  
 5 excess profits taxes allowable under the provisions of R.S. 47:55 shall be determined  
 6 as follows, regardless of the method of accounting regularly employed by the  
 7 taxpayer:

8 (1) The amount of tax shown to be due upon the federal income tax return  
 9 of the individual taxpayer, as filed, shall be allowed as a deduction in the state  
 10 individual income tax return for the same period as that for which such federal return  
 11 is filed.

12 (2) Federal income and excess profits taxes paid after the filing of the federal  
 13 return in addition to the amount disclosed to be due by the return as filed shall be  
 14 allowed as a deduction ~~in~~ on the state individual income tax return for that period if  
 15 it is not prescribed. If it is prescribed, the deduction for such additional taxes shall  
 16 be allowed as a deduction in the state return for the period in which such additional  
 17 tax is paid. ~~This Subsection shall apply to all such payments after December 31,~~  
 18 ~~1973.~~

19 \* \* \*

20 §241. Net income subject to tax

21 A. The net income of a nonresident individual ~~or a corporation~~ subject to the  
 22 tax imposed by this Chapter shall be the sum of the net allocable income earned  
 23 within or derived from sources within this state, as defined in R.S. 47:243, and the  
 24 net apportionable income derived from sources in this state, as defined in R.S.  
 25 47:244, less the amount of federal income taxes attributable to the net allocable  
 26 income and net apportionable income derived from sources in this state. The amount  
 27 of federal income taxes to be so deducted shall be that portion of the total federal  
 28 income tax which is levied with respect to the particular income derived from

1 sources in this state to be computed in accordance with rules and regulations of the  
 2 collector of revenue. Proper adjustment shall be made for the actual tax rates  
 3 applying to different classes of income and for all differences in the computation of  
 4 net income for purposes of federal income taxation as compared to the computation  
 5 of net income under this Chapter. Where the allocation of the tax is to be based on  
 6 a ratio of the amount of net income of a particular class, both the numerator and the  
 7 denominator of the fraction used in determining the ratio shall be computed on the  
 8 basis that such net income is determined for federal income tax purposes.

9 B. The net income of a corporation subject to the tax imposed by this  
 10 Chapter shall be the sum of the net allocable income earned within or derived from  
 11 sources within this state, as defined in R.S. 47:243, and the net apportionable income  
 12 derived from sources in this state, as defined in R.S. 47:244. Proper adjustment shall  
 13 be made for the actual tax rates applying to different classes of income and for all  
 14 differences in the computation of net income for purposes of federal income taxation  
 15 as compared to the computation of net income under this Chapter. Where the  
 16 allocation of the tax is to be based on a ratio of the amount of net income of a  
 17 particular class, both the numerator and the denominator of the fraction used in  
 18 determining the ratio shall be computed on the basis that such net income is  
 19 determined for federal income tax purposes.

20 \* \* \*

21 §287.69. Louisiana taxable income defined

22 "Louisiana taxable income" means Louisiana net income; after adjustments;  
 23 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After  
 24 adjustments" means after the application of the net operating loss adjustment allowed  
 25 by R.S. 47:287.86.

26 \* \* \*

27 §287.442. Exceptions to taxable year of inclusion; taxable year deductions taken

28 \* \* \*

1 B. Period for which deductions and credits shall be taken.

2 (1) ~~The taxable year in which to claim the federal income tax deduction~~  
3 ~~allowed by R.S. 47:287.85 shall be determined as follows, regardless of the method~~  
4 ~~of accounting regularly employed by the taxpayer:~~

5 (a) ~~The federal income tax deduction may be claimed for the same taxable~~  
6 ~~year in which the federal income tax sought to be deducted is incurred, provided the~~  
7 ~~taxpayer files a federal income tax return for such taxable year or is included with~~  
8 ~~affiliates in a consolidated federal income tax return for such taxable year.~~

9 ~~(b)(i)~~ Taxable year for adjustments to taxpayer's federal income tax return.  
10 Except as otherwise provided in this Subparagraph, adjustments affecting federal  
11 taxable income which are made to the taxpayer's income tax return subsequent to  
12 filing, whether made because of a deficiency proposed by the government, a court  
13 order, an amended return, or other appropriate instrument or act, showing an  
14 overpayment or a deficiency shall be taken into account for purposes of this Part in  
15 the period for which the return was filed, unless the prescriptive period for the  
16 collection of tax or the refund or credit of overpayments, as the case may be, has  
17 expired. If the applicable prescriptive period has expired, the additional tax paid by  
18 the taxpayer in the case of an underpayment or the refund or credit received by the  
19 taxpayer in the case of an overpayment shall be for the taxable year such tax was  
20 paid, such refund was received, or such credit was allowed, as the case may be.

21 ~~(ii)(b)~~ When a federal refund results from transactions or conditions which  
22 arise after the close of the taxable year for which the refund is made, such federal  
23 refund shall be taken into account, for purposes of this Part, for the taxable year in  
24 which arose the transactions or conditions causing the refund.

25 (c) Taking federal adjustments into account. ~~A payment of additional federal~~  
26 ~~tax upon income which has borne Louisiana tax shall be taken into account by~~  
27 ~~decreasing taxable income. That portion, if any, of such additional federal tax~~  
28 ~~payment which would be disallowed as a deduction under either R.S. 47:287.81 or~~  
29 ~~R.S. 47:287.83 shall be excluded from such adjustment.~~ Refunds or credits of federal

1 overpayments, including refunds or credits created by the carryback of a federal net  
 2 operating loss, shall be taken into account by increasing Louisiana net income or  
 3 decreasing the Louisiana net loss, as the case may be. That portion, if any, of the  
 4 federal refund or credit of an overpayment which has not previously been charged  
 5 against or deducted from Louisiana net income shall be excluded from such  
 6 adjustment.

7 (d) Adjustments made to the Louisiana return. Adjustments to a return filed  
 8 pursuant to this Part, whether initiated by the secretary or the taxpayer, shall be taken  
 9 into account in the taxable year for which the return was filed in accordance with  
 10 rules, regulations, or forms prescribed by the secretary.

11 \* \* \*

12 §300.6. Louisiana taxable income of resident estate or trust

13 A. Definition. "Louisiana taxable income" of a resident estate or trust means  
 14 the taxable income of the estate or trust determined in accordance with federal law  
 15 for the same taxable year, as specifically modified by the provisions contained in  
 16 Subsection B of this Section, less a federal income tax deduction to be computed  
 17 ~~following the provisions of R.S. 47:287.83 and 287.85.~~ in accordance with the  
 18 following provisions:

19 (1) In computing Louisiana taxable income, no federal income tax deduction  
 20 shall be allowed on net income upon which no Louisiana income tax has been  
 21 incurred, or upon which, for any reason whatsoever, no Louisiana income tax will  
 22 be paid. For purposes of this Section, the federal income tax deduction may be  
 23 recomputed and reduced to reflect the application of a net operating loss adjustment.  
 24 When computing Louisiana taxable income, the secretary may consider reductions  
 25 to the federal income tax deduction in accordance with the provisions of this  
 26 Paragraph.

27 (2) The alternative minimum tax is a federal income tax deductible to the  
 28 extent that it is applicable to regular federal taxable income. Any alternative  
 29 minimum tax paid on tax preference items shall not be deductible. In accordance

1 with the provisions of this Paragraph, the secretary may determine the deductible  
2 portion of the alternative minimum tax.

3 (3) For purposes of this Section, federal income taxes shall include taxes  
4 based on net income, accumulated earnings, war profits, excess profits, personal  
5 holding company income, and tax from recomputation of investment credit. For  
6 purposes of federal income taxation as compared to the computation of net income  
7 under this Part, proper adjustment shall be made for the actual tax rates as applied  
8 to different classes of income and for all differences in the computation of net  
9 income. The amount of the federal income tax deduction shall be that portion of the  
10 total federal income tax, after application of all credits, which is levied on income  
11 derived solely from sources in this state as computed under the rules and regulations  
12 prescribed by the secretary.

13 (4) As used in this Subsection, the term "credits" shall not include  
14 overpayments of prior year taxes allowed as a credit, estimated tax payments or  
15 similar prepayments, credit for prior year alternative minimum tax that is allowed as  
16 a credit against the current regular federal income tax, or federal income tax credits  
17 determined by the secretary to be presidential disaster area disaster relief credits.

18 \* \* \*

19 §300.7. Louisiana taxable income of nonresident estate or trust

20 A. Definition. "Louisiana taxable income" of a nonresident estate or trust  
21 means ~~such~~ the portion of the taxable income of the nonresident estate or trust  
22 determined in accordance with federal law for the same taxable year, as specifically  
23 modified by the provisions contained in Subsection C of this Section, that was earned  
24 within or derived from sources within this state, less a federal income tax deduction  
25 to be computed following the provisions of ~~R.S. 47:287.83 and 287.85~~ R.S. 47:300.6.

26 \* \* \*

27 Section 2. R.S. 47:287.79, 287.83, and 287.85 are hereby repealed in their entirety.

28 Section 3. The provisions of this Act shall be applicable for all taxable periods  
29 beginning on and after January 1, 2017.

1           Section 4. This Act shall become operative and take effect on January 1, 2017, if the  
2 proposed amendment of Article VII of the Constitution of Louisiana contained in the Act  
3 which originated as House Bill No. 31 of the 2016 First Extraordinary Session of the  
4 Legislature is adopted at a statewide election and becomes effective.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_