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HOUSE FLOOR AMENDMENTS

2017 Regular Session

Amendments proposed by Representative Stokes to Engrossed House Bill No. 360 by Representative Ivey

1 AMENDMENT NO. 1

- 2 Delete the set of House Floor Amendments by Representative Ivey (#3275)
- 3 AMENDMENT NO. 2

4 On page 1, line 2, after "reenact" delete the remainder of the line and delete lines 3 through 5 11 in their entirety and insert the following:

6	"R.S. 47:93(B), 241, 287.12, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A),
7	to enact R.S. 47:55(6), and to repeal R.S. 47:287.79, 287.83, and 287.85,
8	relative to income tax; to provide relative to the rate of the corporation
9	income tax; to provide relative to the deductibility of federal income taxes;
10	to repeal deductibility of federal income taxes paid for purposes of
11	calculating corporate income taxes; to provide for"

12 AMENDMENT NO. 3

On page 1, line 14, after "Section 1." delete the remainder of the line, delete lines 15 through
18 in their entirety, and delete pages 2 through 4 in their entirety and insert the following:

- "R.S. 47:93(B), 241, 287.12, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A)
 are hereby amended and reenacted and R.S. 47:55(6) is hereby enacted to
 read as follows:
- 18 §55. Deductions from gross income; taxes generally

19 In computing net income, there shall be allowed as deductions all 20 taxes paid or accrued within the taxable year except:

21 * *

22 (6) Federal income taxes paid by corporations and entities taxed as
 23 corporations.

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

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B. The proper year in which to claim deductions for federal income and excess profits taxes allowable under the provisions of R.S. 47:55 shall be determined as follows, regardless of the method of accounting regularly employed by the taxpayer: 32

Page 1 of 5

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

(1) The amount of tax shown to be due upon the federal income tax return of the <u>individual or fiduciary</u> taxpayer, as filed, shall be allowed as a deduction in <u>on</u> the state <u>individual or fiduciary income tax</u> return for the same period as that for which such federal return is filed.

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

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§241. Net income subject to tax

A. The net income of a nonresident individual or a corporation subject to the tax imposed by this Chapter shall be the sum of the net allocable income earned within or derived from sources within this state, as defined in R.S. 47:243, and the net apportionable income derived from sources in this state, as defined in R.S. 47:244, less the amount of federal income taxes attributable to the net allocable income and net apportionable income derived from sources in this state. The amount of federal income taxes to be so deducted shall be that portion of the total federal income tax which is levied with respect to the particular income derived from sources in this state to be computed in accordance with rules and regulations of the collector of revenue. Proper adjustment shall be made for the actual tax rates applying to different classes of income and for all differences in the computation of net income for purposes of federal income taxation as compared to the computation of net income under this Chapter. Where the allocation of the tax is to be based on a ratio of the amount of net income of a particular class, both the numerator and the denominator of the fraction **4**1s chall h +ho data hat h that

32	used in determining the ratio shall be computed on the basis that such net
33	income is determined for federal income tax purposes.
34	
35	B. The net income of a corporation subject to the tax imposed by this
36	Chapter shall be the sum of the net allocable income earned within or derived
37	from sources within this state, as defined in R.S. 47:243, and the net
38	apportionable income derived from sources in this state, as defined in R.S.
39	47:244.
40	* * *
10	
41	§287.12. Rates of tax
11	3207.12. Rates of ar
42	The tax to be assessed, levied, collected, and paid upon the Louisiana
43	taxable income of every corporation shall be computed at the rate of:
44	······································
45	(1) Four percent upon the first twenty-five thousand dollars of
46	Louisiana taxable income.
47	
48	(2) Five percent upon the amount of Louisiana taxable income above
49	twenty-five thousand dollars but not in excess of fifty thousand dollars.
	twenty-five mousand donars but not in excess of fifty mousand donars.
50	
51	(3) Six percent on the amount of Louisiana taxable income above
52 53	fifty thousand dollars but not in excess of one hundred thousand dollars.

1 2	(4) Seven percent on the amount of Louisiana taxable income above one hundred thousand dollars but not in excess of two hundred thousand
3	dollars.
4	
	(5) Fight assess to a set of the help of the manual tensor in the set of the
5 6	(5) Eight percent six and one-half of one percent on all Louisiana taxable income in excess of two hundred thousand dollars.
7	* * *
8 9	§287.69. Louisiana taxable income defined
	"I enisione tenelle income" moone I enisione net income offen
10	"Louisiana taxable income" means Louisiana net income, after
11	adjustments, less the federal income tax deduction allowed by R.S.
12	47:287.85. "After adjustments" means after the application of the net
13	operating loss adjustment allowed by R.S. 47:287.86.
14	* * *
15	§287.442. Exceptions to taxable year of inclusion; taxable year deductions
16	taken
17	* * *
18	
19	B. Period for which deductions and credits shall be taken.
	D . Teriod for which deductions and credits shall be taken.
20	
21	(1) The taxable year in which to claim the federal income tax
22	deduction allowed by R.S. 47:287.85 shall be determined as follows,
23	regardless of the method of accounting regularly employed by the taxpayer:
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25	(a) The federal income tax deduction may be claimed for the same
26	taxable year in which the federal income tax sought to be deducted is
27	incurred, provided the taxpayer files a federal income tax return for such
28	taxable year or is included with affiliates in a consolidated federal income tax
29	return for such taxable year.
30	
31	(b)(i) Taxable year for adjustments to taxpayer's federal income tax
32	return. Except as otherwise provided in this Subparagraph, adjustments
33	affecting federal taxable income which are made to the taxpayer's income tax
34	return subsequent to filing, whether made because of a deficiency proposed
35	by the government, a court order, an amended return, or other appropriate
36	instrument or act, showing an overpayment or a deficiency shall be taken into
37	account for purposes of this Part in the period for which the return was filed,
38	unless the prescriptive period for the collection of tax or the refund or credit
39	of overpayments, as the case may be, has expired. If the applicable
40	prescriptive period has expired, the additional tax paid by the taxpayer in the
41	case of an underpayment or the refund or credit received by the taxpayer in
42	the case of an overpayment shall be for the taxable year such tax was paid,
43	such refund was received, or such credit was allowed, as the case may be.
44	such forund was received, of such creat was anowed, as the case may be.
	(ii) (b) When a fadoral rational manulta from transactions on any litican
45	(ii) (b) When a federal refund results from transactions or conditions
46	which arise after the close of the taxable year for which the refund is made,
47	such federal refund shall be taken into account, for purposes of this Part, for
48	the taxable year in which arose the transactions or conditions causing the
49	refund.
50	
51	(c) Taking federal adjustments into account. A payment of additional
52	federal tax upon income which has borne Louisiana tax shall be taken into
53	account by decreasing taxable income. That portion, if any, of such
55 54	additional federal tax payment which would be disallowed as a deduction
~ I	additional reasons and payment which would be disanowed as a deduction

under either R.S. 47:287.81 or R.S. 47:287.83 shall be excluded from such adjustment. Refunds or credits of federal overpayments, including refunds or credits created by the carryback of a federal net operating loss, shall be taken into account by increasing Louisiana net income or decreasing the Louisiana net loss, as the case may be. That portion, if any, of the federal refund or credit of an overpayment which has not previously been charged against or deducted from Louisiana net income shall be excluded from such adjustment.

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

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§300.6. Louisiana taxable income of resident estate or trust

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

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

(2) The alternative minimum tax is a federal income tax deductible to the extent that it is applicable to regular federal taxable income. Any alternative minimum tax paid on tax preference items shall not be deductible. In accordance with the provisions of this Paragraph, the secretary may determine the deductible portion of the alternative minimum tax.

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

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

1	* * *
2	§300.7. Louisiana taxable income of nonresident estate or trust
3	
4	A. Definition. "Louisiana taxable income" of a nonresident estate or
5	trust means such the portion of the taxable income of the nonresident estate
6	or trust determined in accordance with federal law for the same taxable year,
7	as specifically modified by the provisions contained in Subsection C of this
8	Section, that was earned within or derived from sources within this state, less
9	a federal income tax deduction to be computed following the provisions of
10	R.S. 47:287.83 and 287.85 R.S. 47:300.6.
11	* * *
12	Section 2. R.S. 47:287.79, 287.83, and 287.85 are hereby repealed
13	in their entirety.
14	Section 3. The provisions of this Act shall be applicable to all tax
15	years beginning on and after January 1, 2018.
16	Section 4. This Act shall become effective on January 1, 2018, if the
17	proposed amendment of Article VII of the Constitution of Louisiana
18	contained in the Act which originated as House Bill No. 356 of this 2017
19	Regular Session of the Legislature is adopted at a statewide election and
20	becomes effective."