

CONFERENCE COMMITTEE REPORT

SB 223

2019 Regular Session

Allain

June 5, 2019

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 223 by Senator Allain, recommend the following concerning the Engrossed bill:

1. That all House Floor Amendments proposed by Representative Stokes and adopted by the House of Representatives on June 2, 2019, be rejected.

Respectfully submitted,

Senators:

Representatives:

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Senator R.L. Bret Allain, II

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Representative Neil C. Abramson

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Senator Jean-Paul J. Morrell

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Representative Phillip DeVillier

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Senator Jack Donahue

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Representative John Stefanski

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The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore F. Heavey.

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**CONFERENCE COMMITTEE REPORT DIGEST**

**SB 223**

**2019 Regular Session**

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**Keyword and summary of the bill as proposed by the Conference Committee**

TAX/TAXATION. Provides relative to state income taxation of Subchapter S corporations and other flow through entities. (gov sig)

**Report rejects House amendments to:**

Add a provision to suspend prescription for certain state income tax refunds.

**Digest of the bill as proposed by the Conference Committee**

Present law requires Subchapter S corporations to pay Louisiana income tax using the corporate income tax rate and bracket schedule as follows:

- (1) 4% on the first \$25,000 of La. taxable income.
- (2) 5% on La. taxable income above \$25,000 but not in excess of \$50,000.
- (3) 6% on La. taxable income above \$50,000 but not in excess of \$100,000.
- (4) 7% on La. taxable income above \$100,000 but not in excess of \$200,000.
- (5) 8% on all La. taxable income in excess of \$200,000.

Present law requires income from flow through entities such as partnerships and limited liabilities companies that elect federal partnership treatment (referred to as "flow through entities") to be reported on the partner or member's individual income tax return.

Proposed law provides an election that authorizes S corporations and other flow through entities to file and pay tax on their Louisiana income as if they were C corporations.

Proposed law changes the Subchapter S corporation state income tax rates to the married individual income tax rates and brackets for S corporations that elect to be taxed at the corporate level:

- (1) 2% on the first \$25,000 of La. taxable income.
- (2) 4% on La. taxable income above \$25,000 but not in excess of \$100,000.
- (3) 6% on La. taxable income in excess of \$100,000.

Proposed law applies the married individual income tax rates and brackets to the income of all flow through entities that elect to be taxed as corporations for Louisiana tax purposes.

Present law provides a deduction for federal income tax paid on Louisiana income for the taxable year.

Proposed law authorizes Subchapter S corporations and other flow through entities that elect to file and pay Louisiana income tax as if they were a corporation a deduction for the amount of federal income tax the entities would have paid on its Louisiana income if it had been taxed as a C corporation for federal income tax purposes.

Present law provides a corporation income tax exclusion for Subchapter S income that is reported on a Louisiana individual resident or nonresident income tax return.

Proposed law retains present law Subchapter S exclusion for S corporations not making the proposed law election and further provides an individual income tax exclusion for Louisiana Subchapter S income and flow through entity income that is included in Louisiana individual income taxpayer's federal adjusted gross income for that taxable year.

Proposed law provides that all provisions in the corporation income taxation law apply to entities making the proposed law election.

Proposed law prohibits an entity from making the proposed law election if the entity files a composite partnership return for the same tax year.

Present law requires individual income taxpayers to inform the secretary of revenue of federal income tax adjustments.

Proposed law retains present law and requires individual income taxpayers who use the proposed law S corporation and flow through entity exclusion to notify the secretary if changes are made to their federal income tax return due to adjustments to an S corporation's income or losses.

Present law provides that credits earned by flow through entities shall flow through to partners or members as provided in the operating agreement of the entity.

Proposed law provides that credits earned by flow through entities that have made the proposed law election shall not flow through to the partners or members but shall be applied at the entity level.

Present law requires S corporations to use corporation income tax credits at the corporation level unless the S corporation annually elects to flow corporation income tax credits to shareholders.

Proposed law retains the present law requiring S corporations to use credits at the corporation level and ends the annual election to flow through credits on Jan. 1, 2019.

Proposed law applies to all taxable years beginning on or after Jan. 1, 2019.

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

(Amends R.S. 47:287.732(B)(1), and 293(10); adds R.S. 47:287.732(B)(6), 287.732.2, 293(9)(a)(xviii), 297.14, 1623(G), and 1675(F)(4))