

2023 Regular Session

HOUSE BILL NO. 618

BY REPRESENTATIVE WILLARD

TAX CREDITS: Provides with respect to the credit and the deduction for taxes paid to other states

1 AN ACT

2 To amend and reenact R.S. 47:33 and Section 4 of Act No. 109 of the 2015 Regular Session
3 of the Legislature as amended by Act No. 6 of the 2018 Second Extraordinary
4 Session of the Legislature, relative to income tax credits and deductions; to provide
5 with respect to the income tax credit for taxes paid to other states; to provide with
6 respect to the deduction for taxes paid to other states; to provide for certain
7 requirements and limitations; to repeal certain limitations; 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. 47:33 is hereby amended and reenacted to read as follows:

11 §33. Credit for taxes paid in other states

12 ~~A.~~ Subject to the following conditions, resident individuals shall be allowed
13 a credit against the taxes imposed by this Chapter for net income taxes imposed by
14 and paid to another state on income taxable under this Chapter, provided that:

15 (1) The credit shall be allowed only for taxes paid to the other state on
16 income which is taxable under its law irrespective of the residence or domicile of the
17 recipient.

18 (2) If accrued taxes when paid differ from the amounts claimed as credits by
19 the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall
20 notify the secretary who shall redetermine the amount of the tax for the year or years

1 affected, and the amount of tax due upon such redetermination, if any, shall be paid
2 by the taxpayer upon notice and demand by the secretary, or the amount of tax
3 overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the
4 provisions of R.S. 47:261 et seq. In the case of such tax accrued but not paid, the
5 secretary as a condition precedent to the allowance of this credit may require the
6 taxpayer to give a bond with sureties approved by the secretary in such sum as the
7 secretary may require, conditioned upon the payment by the taxpayer of any amount
8 of tax found due upon any such redetermination, and the bonds herein prescribed
9 shall contain such further conditions as the secretary may require.

10 (3) The credits provided for in this Section shall be allowed only for the
11 same taxable period as that for which the tax liability to the other state arose,
12 irrespective of the method of accounting employed by the taxpayer. No deduction
13 shall be allowed under R.S. 47:55 for any net income taxes paid to another state if
14 any portion of such tax has been claimed as a credit under this Section.

15 ~~(4) The credit shall be allowed only if the other state provides a similar credit~~
16 ~~for Louisiana income taxes paid on income derived from property located in, or from~~
17 ~~services rendered in, or from business transacted in Louisiana.~~

18 (5)(a) The credit shall be limited to the amount of Louisiana income tax that
19 would have been imposed if the income earned in the other state had been earned in
20 Louisiana.

21 (b) The credit shall not be allowed for tax paid on income that is not subject
22 to tax in Louisiana. The amount of the credit shall not exceed the ratio which shall
23 be determined by multiplying the taxpayer's Louisiana income tax liability before
24 consideration of any credit described in this Section by a fraction, the numerator of
25 which is the taxpayer's Louisiana tax table income attributable to other states to
26 which net income taxes were paid by a resident individual, and the denominator of
27 which is total Louisiana tax table income.

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

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 618 Reengrossed

2023 Regular Session

Willard

Abstract: Specifies that the deduction for taxes paid to other states by individual partners, members, or shareholders that pay another state's entity-level tax that is based solely on net income included in the entity's federal taxable income without any capital component is in lieu of the income tax credit for taxes paid to other states.

Present law authorizes an income tax credit for resident individuals for net income taxes imposed by and paid to another state on income taxable in La. if certain conditions are met.

Present law limits the credit to the amount of La. income tax that would have been imposed if the income earned in the other state had been earned in La. and prohibits the credit for tax paid on income that is not subject to tax in La. Present law provides that the amount of the credit shall not exceed the ratio of multiplying the taxpayer's La. income tax liability before consideration of the credit authorized in present law by a fraction, the numerator of which is the taxpayer's La. tax table income attributable to other states to which net income taxes were paid by a resident individual, and the denominator of which is total La. tax table income.

Present law prohibits the credit for income taxes paid to a state that allows a nonresident a credit against the income taxes imposed by that state for taxes paid or payable to the state of residence.

Proposed law retains present law. Provides that certain provisions of present law providing for prospective repeal do not become effective.

Present law provides that the credit shall be allowed only if the other state provides a similar credit for La. income taxes paid on income derived from property located in, or from services rendered in, or from business transacted in La.

Proposed law repeals present law.

Present law provides that for taxes paid on or after Jan. 1, 2018, an individual partner, member, or shareholder that pays another state's entity-level tax that is based solely upon net income included in the entity's federal taxable income without any capital component shall be allowed a deduction equal to their proportionate share of the entity-level tax paid. The deduction shall only be allowed to the extent that the proportionate share of the related income on the tax paid to the other state is included in the calculation of La. taxable income that is reported on the La. return of the individual partner or member.

Proposed law retains present law but specifies that the deduction authorized in present law is in lieu of the credit authorized in present law.

Proposed law limits the credit for taxes paid to other states to taxes paid and reported to the other state on taxable income which is computed in accordance with income tax laws and regulations of the other state.

Proposed law applies to taxable years beginning on or after Jan. 1, 2023.

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

(Amends R.S. 47:33 and §4 of Act No. 109 of 2015 R.S. as amended by Act No. 6 of 2018 2 E.S.)

Summary of Amendments Adopted by House

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

1. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Remove the limitation that the credit for taxes paid to other states is applicable to taxes paid and reported to the other state on taxable income which is computed in accordance with income tax laws and regulations of the other state.
2. Add applicability provisions for proposed law to taxable years beginning on or after Jan. 1, 2023.