RÉSUMÉ DIGEST

ACT 12 (HB 19) **2016 First Extraordinary Session** **James**

Existing law establishes the corporation franchise tax. The tax is levied on every domestic and foreign corporation exercising its charter, qualified to do business, or actually doing business in La.

Existing law levies corporation franchise tax on a corporation when any of the following occurs:

(1) An organization does business within this state in a corporate form.

(2) A corporation exercises its charter or the continuance of its charter within La.

(3) An entity owns or uses part or all of its capital, plant, or other property in La. in a corporate capacity.

Existing law establishes that, with respect to state income tax, limited liability companies are treated and taxed in the same manner that they are treated and taxed for federal income tax purposes.

New law expands existing law so that, for purposes of the corporation franchise tax, limited liability companies are treated and taxed in the same manner that they are treated and taxed for federal income tax purposes.

Prior law required franchise tax to be levied on the taxable capital of an entity owning or using part or all of it's capital, plant, or other property in La. in a corporate capacity.

New law requires franchise tax to be levied on the taxable capital of an entity owning or using part or all of it's capital, plant, or other property in La. whether owned directly or indirectly by or through a partnership, joint venture, or any other business organization of which the domestic or foreign corporation is a related party.

Existing law defines "domestic corporation" as a corporation, joint stock company or association, or other business organization organized under the laws of this state that has privileges, powers, rights, or immunities not possessed by individuals or partnerships.

New law adds Subchapter C entities taxed as corporations pursuant to federal law to the definition of "domestic corporation". Further requires that these entities be treated and taxed in the same manner that they are taxed for federal income tax purposes.

New law prohibits application of franchise tax liability to any limited liability company qualified and eligible to make an election to be taxed as a Subchapter S corporation or to any entity that was acquired before Jan. 1, 2014, but not earlier than Jan. 1, 2012, by an entity that was taxed as a Subchapter S corporation.

New law authorizes a holding company deduction to be applied towards a company's taxable capital whereby a corporation that has one or more subsidiaries may deduct from its taxable capital any amounts of investments in or advances to one or more of its subsidiaries.

New law defines "subsidiaries" as a corporation in which at least 80% of the voting and nonvoting power of all classes of their stock, membership, partnership, or other ownership interests are owned by a corporation subject to the franchise tax.

Prior law required every newly taxable corporation to pay an initial franchise tax of $10 for the first accounting period.

New law increases the rate of the initial franchise tax from $10 to $110.

New law requires any entity in existence and conducting business in La. during the prior calendar year to pay an initial tax based on its corporate books on the first day of the calendar or fiscal year in which the tax becomes due and payable.

New law applies to all taxable periods beginning on or after Jan. 1, 2017.

Effective upon signature of governor (March 10, 2016).

(Amends R.S. 12:1368 and R.S. 47:601(A)(3) and (C)(1), 602(G), and 611; Adds R.S. 47:601(C)(3) and 602(H))