HLS 17RS-404 ENGROSSED

2017 Regular Session

HOUSE BILL NO. 357

1

BY REPRESENTATIVE IVEY

TAX/CORP INCOME: Repeals the state income tax deduction for federal income taxes paid for purposes of calculating corporate income tax

AN ACT

2 To amend and reenact R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A), 3 to enact R.S. 47:55(6), and to repeal R.S. 47:287.79, 287.83, and 287.85, relative to 4 income tax; to provide relative to the deductibility of federal income taxes; to repeal 5 deductibility of federal income taxes paid for purposes of calculating corporate 6 income taxes; to provide for applicability; to provide for an effective date; and to 7 provide for related matters. 8 Be it enacted by the Legislature of Louisiana: 9 Section 1. R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A) are 10 hereby amended and reenacted and R.S. 47:55(6) is hereby enacted to read as follows: 11 §55. Deductions from gross income; taxes generally 12 In computing net income, there shall be allowed as deductions all taxes paid 13 or accrued within the taxable year except: 14 15 (6) Federal income taxes paid by corporations and entities taxed as 16 corporations. 17 18 §93. Period for which deductions and credits shall be taken 19

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:

- (1) The amount of tax shown to be due upon the federal income tax return of the <u>individual</u> taxpayer, as filed, shall be allowed as a deduction in the state <u>individual 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 on the state individual income tax 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.

16 * * *

§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

2 a ratio of the amount of net income of a particular class, both the numerator and the 3 denominator of the fraction used in determining the ratio shall be computed on the 4 basis that such net income is determined for federal income tax purposes. 5 B. The net income of a corporation subject to the tax imposed by this 6 Chapter shall be the sum of the net allocable income earned within or derived from 7 sources within this state, as defined in R.S. 47:243, and the net apportionable income 8 derived from sources in this state, as defined in R.S. 47:244. Proper adjustment shall 9 be made for the actual tax rates applying to different classes of income and for all 10 differences in the computation of net income for purposes of federal income taxation 11 as compared to the computation of net income under this Chapter. Where the 12 allocation of the tax is to be based on a ratio of the amount of net income of a 13 particular class, both the numerator and the denominator of the fraction used in 14 determining the ratio shall be computed on the basis that such net income is determined for federal income tax purposes. 15 16 17 §287.69. Louisiana taxable income defined 18 "Louisiana taxable income" means Louisiana net income; after adjustments; 19 less the federal income tax deduction allowed by R.S. 47:287.85. "After adjustments" 20 means after the application of the net operating loss adjustment allowed by R.S. 21 47:287.86. 22 23 §287.442. Exceptions to taxable year of inclusion; taxable year deductions taken 24 25 B. Period for which deductions and credits shall be taken. 26 (1) The taxable year in which to claim the federal income tax deduction 27 allowed by R.S. 47:287.85 shall be determined as follows, regardless of the method 28 of accounting regularly employed by the taxpayer:

of net income under this Chapter. Where the allocation of the tax is to be based on

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

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

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

(c) Taking federal adjustments into account. A payment of additional federal tax upon income which has borne Louisiana tax shall be taken into account by decreasing taxable income. That portion, if any, of such additional federal tax payment which would be disallowed 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

1	holding company income, and tax from recomputation of investment credit. For
2	purposes of federal income taxation as compared to the computation of net income
3	under this Part, proper adjustment shall be made for the actual tax rates as applied
4	to different classes of income and for all differences in the computation of net
5	income. The amount of the federal income tax deduction shall be that portion of the
6	total federal income tax, after application of all credits, which is levied on income
7	derived solely from sources in this state as computed under the rules and regulations
8	prescribed by the secretary.
9	(4) As used in this Subsection, the term "credits" shall not include
10	overpayments of prior year taxes allowed as a credit, estimated tax payments or
11	similar prepayments, credit for prior year alternative minimum tax that is allowed as
12	a credit against the current regular federal income tax, or federal income tax credits
13	determined by the secretary to be presidential disaster area disaster relief credits.
14	* * *
15	§300.7. Louisiana taxable income of nonresident estate or trust
16	A. Definition. "Louisiana taxable income" of a nonresident estate or trust
17	means such the portion of the taxable income of the nonresident estate or trust
18	determined in accordance with federal law for the same taxable year, as specifically
19	modified by the provisions contained in Subsection C of this Section, that was earned
20	within or derived from sources within this state, less a federal income tax deduction
21	to be computed following the provisions of R.S. 47:287.83 and 287.85 R.S. 47:300.6.
22	* * *
23	Section 2. R.S. 47:287.79, 287.83, and 287.85 are hereby repealed in their entirety.
24	Section 3. The provisions of this Act shall be applicable for all taxable periods
25	beginning on and after January 1, 2018.
26	Section 4. This Act shall take effect on January 1, 2018, and only become operative
27	if the proposed amendment of Article VII of the Constitution of Louisiana contained in the
28	Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature
29	is adopted at a statewide election and becomes effective and if the Acts which originated as

- 1 House Bill Nos. 119, 355, and 358 of this 2017 Regular Session of the Legislature are
- 2 enacted and become effective.

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 357 Engrossed

2017 Regular Session

Ivey

Abstract: Repeals the deductibility of federal income taxes paid for purposes of calculating corporate income taxes.

<u>Present constitution</u> and <u>present law</u> authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

<u>Proposed law</u> repeals the <u>present law</u> provisions that authorize a state deduction for federal income taxes paid for purposes of calculating corporate income taxes.

<u>Present law</u> provides for the computation of La. taxable income for a resident estate or trust, including provisions for the federal income tax deduction, limitations of deductions for net income, provisions for the federal deduction for alternative minimum tax, and the authority of the secretary of the Dept. of Revenue to consider reductions to the federal income tax deduction and the determination of the deductible portion of an alternative minimum tax.

<u>Proposed law</u> retains <u>present law</u> except as it applies to the deductibility of federal income taxes.

Applicable for all taxable periods beginning on or after Jan. 1, 2018.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 119, 355, and 358 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends R.S. 47:93(B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A); Adds R.S. 47:55(6); Repeals R.S. 47:287.79, 287.83, and 287.85)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Ways and Means</u> to the original bill:

1. Add contingent effectiveness on Jan. 1, 2018, for <u>proposed law</u> if the Acts which originated as House Bill Nos. 119, 355, and 358 of this 2017 R.S. of the Legislature are enacted and become effective.