

2017 Regular Session

HOUSE BILL NO. 362

BY REPRESENTATIVE IVEY

TAX CREDITS: Provides with respect to income and corporation franchise tax credits

1 AN ACT

2 To amend and reenact R.S. 47:6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and

3 (cc), to enact R.S. 47:6006(D)(6) and 6007(C)(1)(d)(ii)(dd), (ee), and (ff), and to

4 repeal R.S. 47:34, 297(H), 297.6, 6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034,

5 6035, Part VI of Chapter 39 of Title 51 of the Louisiana Revised Statutes of 1950,

6 comprised of R.S. 51:2351 through 2364, and Chapter 39-C of Title 51 of the

7 Louisiana Revised Statutes of 1950, comprised of R.S. 51:2399.1 through 2399.6,

8 relative to income and corporation franchise tax credits; to modify certain income

9 and corporation franchise tax credits; to repeal certain income and corporation

10 franchise tax credits; to provide for the limit in the amount of motion picture

11 production tax credits allowed each year; to provide for certain limitations; ro repeal

12 certain income and corporation franchise tax credits; to provide for applicability; to

13 provide for effectiveness; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 47:6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and (cc)

16 are hereby amended and reenacted and R.S. 47:6006(D)(6) and 6007(C)(1)(d)(ii)(dd), (ee),

17 and (ff) are hereby enacted to read as follows:

18 §6006. Tax credits for local inventory taxes paid

19 * * *

20 B.(+) Credit for taxes paid by corporations shall be applied to state corporate

21 income and corporation franchise taxes. Credit for taxes paid by unincorporated

22 persons shall be applied to state personal income taxes. ~~The secretary shall make a~~

1 ~~refund to the taxpayer in the amount to which he is entitled from the current~~
2 ~~collections of the taxes collected pursuant to Chapter 1 and Chapter 5 of Subtitle H~~
3 ~~of this Title. If the amount of the credit authorized pursuant to Subsection A of this~~
4 ~~Section exceeds the amount of tax liability for the tax year, the following amounts~~
5 ~~of the excess credit shall either be refundable or may be carried forward as a credit~~
6 ~~against subsequent Louisiana income or corporation franchise tax liability for a~~
7 ~~period not to exceed five years, as follows:~~

8 ~~(a) Taxpayers whose ad valorem taxes eligible for the credit authorized~~
9 ~~pursuant to this Section paid to all political subdivisions in the taxable year was less~~
10 ~~than or equal to five hundred thousand dollars shall be refunded all of the excess~~
11 ~~credit.~~

12 ~~(b) Taxpayers whose ad valorem taxes eligible for the credit authorized~~
13 ~~pursuant to this Section paid to all political subdivisions in the taxable year was more~~
14 ~~than five hundred thousand dollars, but less than or equal to one million dollars, shall~~
15 ~~be refunded seventy-five percent of the excess credit, and the remaining twenty-five~~
16 ~~percent of the excess credit shall be carried forward as a credit against subsequent~~
17 ~~tax liability for a period not to exceed five years.~~

18 ~~(c) Taxpayers whose ad valorem taxes eligible for the credit authorized~~
19 ~~pursuant to this Section paid to all political subdivisions in the taxable year was more~~
20 ~~than one million dollars shall be refunded seventy-five percent of the first one~~
21 ~~million dollars of excess credit, and the remaining amount of the credit shall be~~
22 ~~carried forward as a credit against subsequent tax liability for a period not to exceed~~
23 ~~five years.~~

24 ~~(2) Each taxpayer allowed a credit under this Section shall claim the credit~~
25 ~~on its separately filed income or corporate franchise tax return, however for purposes~~
26 ~~of the application of the limitations on refundability of excess credit provided for in~~
27 ~~Subparagraphs (1)(a) through (c) of this Subsection, all taxpayers included in one~~
28 ~~consolidated federal income tax return filed under the Internal Revenue Code shall~~
29 ~~be treated as a single taxpayer. The secretary shall promulgate rules to ensure that~~

1 ~~taxpayers affiliated with or related to any other entity through common ownership~~
2 ~~by the same interests or as parent or subsidiary shall be considered one taxpayer for~~
3 ~~the purpose of the limitations on refunds provided for in Subparagraphs (1)(a)~~
4 ~~through (c) of this Subsection.~~

5 ~~(3)(a) Subparagraphs (1)(a) and (b) of this Subsection shall not apply to any~~
6 ~~new business entity formed or registered to do business in this state after April 15,~~
7 ~~2016.~~

8 ~~(b) New business entities formed or first registered to do business in this~~
9 ~~state after April 15, 2016, whose ad valorem taxes paid to all political subdivisions~~
10 ~~in the taxable year was less than ten thousand dollars shall be refunded all of the~~
11 ~~excess credit.~~

12 ~~(c) New business entities formed or first registered to do business in this~~
13 ~~state after April 15, 2016, whose ad valorem taxes paid to all political subdivisions~~
14 ~~in the taxable year was ten thousand dollars or more, but no more than one million~~
15 ~~dollars shall be refunded seventy-five percent of the excess credit, and the remaining~~
16 ~~twenty-five percent of the credit shall be carried forward as a credit against~~
17 ~~subsequent tax liability for a period not to exceed five years.~~

18 ~~(4) Notwithstanding any provision in this Section to the contrary, for a~~
19 ~~manufacturer, as defined in Subparagraph (C)(3)(b) of this Section, and for all~~
20 ~~related parties, affiliates, subsidiaries, parent companies, or owners of such~~
21 ~~manufacturer for the inventory held that is related to the business of such~~
22 ~~manufacturer, if the amount of the credit authorized pursuant to Subsection A of this~~
23 ~~Section exceeds the amount of tax liability for the tax year, the excess credit may~~
24 ~~only be carried forward as a credit against subsequent Louisiana income or~~
25 ~~corporation franchise tax liability for a period not to exceed five years and shall not~~
26 ~~be refundable. The secretary shall promulgate rules to ensure that taxpayers~~
27 ~~affiliated with or related to any other entity through common ownership by the same~~
28 ~~interests or as a parent or subsidiary shall be considered one taxpayer for the purpose~~
29 ~~of the limitations on refundability provided for in this Paragraph. This rulemaking~~

1 authority shall be in addition to the rulemaking authority provided for elsewhere in
2 ~~this Title.~~ then any unused credit may be carried forward as a credit against
3 subsequent Louisiana income and corporation franchise tax liability for a period not
4 to exceed five years.

5 C. For purposes of this Section, the following terms shall have the meanings
6 ascribed to them:

7 * * *

8 (3) "Manufacturer" shall mean ~~one of the following:~~

9 ~~(a) A~~ a person engaged in the business of working raw materials into wares
10 suitable for use or which gives new shapes, qualities, or combinations to matter
11 which already has gone through some artificial process.

12 ~~(b) A person who meets the definition of "manufacturer" as provided in~~
13 ~~Subparagraph (a) of this Paragraph and who has claimed the ad valorem exemption~~
14 ~~under Article VII, Section 21(F) of the Constitution of Louisiana during the taxable~~
15 ~~year in which the local inventory taxes were levied.~~

16 * * *

17 D. The credit provided in this Section shall be allowed as follows:

18 * * *

19 (5) For inventory taxes paid to political subdivisions on or after July 1, 1996,
20 and on or before December 31, 2017, the credit shall be one hundred percent of such
21 taxes paid.

22 (6) For inventory taxes paid to political subdivisions on or after January 1,
23 2018, the credit shall be fifty percent of such taxes paid.

24 * * *

25 §6007. Motion picture production tax credit

26 * * *

27 C. Production tax credit; specific productions and projects.

28 (1)

29 * * *

1 (d)

2 * * *

3 (ii)(aa) For Fiscal Years 2015-2016, ~~2016-2017, and 2017-2018~~ through
4 2024-2025, claims against state income tax allowed on returns for tax credits or
5 transfers of such tax credits to the office as provided for in Paragraph (4) of this
6 Subsection shall be limited to an aggregate total of one hundred eighty million
7 dollars each fiscal year. Claims for tax credits or transfers of tax credits to the office
8 shall be allowed on a first-come-first-served basis. Any taxpayer whose claim for
9 such tax credits or transfer to the office is disallowed may use the tax credits against
10 state income tax due in a return filed in the next fiscal year or may transfer tax
11 credits to the office the next fiscal year, and his claim or transfer shall have priority
12 over other claims filed or transfers applied for after the date and time of his original
13 claim or application for transfer.

14 * * *

15 (cc) ~~Beginning in Fiscal Year 2018-2019, the cap on the aggregate amount~~
16 ~~of tax credits that may be paid by the state or transferred to the state shall be~~
17 ~~inapplicable, inoperable, and of no effect.~~ For Fiscal Year 2025-2026, claims against
18 state income tax allowed on returns for tax credits or transfers of such tax credits to
19 the office as provided for in Paragraph (4) of this Subsection shall be limited to an
20 aggregate total of one hundred thirty-five million dollars for the fiscal year. Claims
21 for tax credits or transfers of tax credits to the office shall be allowed on a first-
22 come-first-served basis. Any taxpayer whose claim for such tax credits or transfer
23 to the office is disallowed may use the tax credits against state income tax due in a
24 return filed in the next fiscal year or may transfer tax credits to the office the next
25 fiscal year, and his claim or transfer shall have priority over other claims filed or
26 transfers applied for after the date and time of his original claim or application for
27 transfer.

28 (dd) For Fiscal Year 2026-2027, claims against state income tax allowed on
29 returns for tax credits or transfers of such tax credits to the office as provided for in

1 application to franchise tax, the provisions of this Act shall apply to all taxable periods
2 beginning on or after January 1, 2019.

3 Section 4. This Act shall take effect on January 1, 2018, and only become operative
4 if the proposed amendment of Article VII of the Constitution of Louisiana contained in the
5 Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature
6 is adopted at a statewide election and becomes effective and if the Acts which originated as
7 House Bill Nos. 357, 358, 359, 360, 361, 363, and 364 of this 2017 Regular Session of the
8 Legislature are 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 362 Engrossed

2017 Regular Session

Ivey

Abstract: Modifies and repeals certain income and corporation franchise tax credits and extends the cap on the motion picture production credit until Fiscal Year 2027-2028 with a gradual elimination of the credit on July 1, 2028.

Present law (R.S. 47:6006) provides for an income or corporation franchise tax credit for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers and on natural gas held, used, or consumed in providing natural gas storage services or operating natural gas storage facilities.

Present law requires full refundability of any amount in excess of the taxpayer's state tax liability for taxpayers whose total payments of ad valorem tax eligible for the credit is less than \$500,000 and for taxpayers formed or first registered to do business in La. after April 1, 2016 whose payments of ad valorem taxes paid to all political subdivisions was less than \$10,000.

Present law requires that 75% of any amount in excess of the taxpayer's state tax liability be refunded and the remaining 25% be carried forward as a credit against subsequent tax liability for five years for the following taxpayers:

- (1) Taxpayers whose total payments of ad valorem tax eligible for the credit is at least \$500,000, but less than or equal to \$1M.
- (2) Taxpayers first registered to do business in La. after April 1, 2016, and whose total payments of ad valorem tax is at least \$10,000 or more, but no more than \$1M.

Present law requires that, for taxpayers whose total payments of ad valorem taxes eligible for the credit is \$1M or more, 75% of the first \$1,000,000 of excess credit shall be refunded and the remaining amount shall be carried forward as a credit against subsequent tax liability for five years.

Present law requires that, 75% of the first \$1,000,000 of excess credit be refunded and the remaining amount be carried forward as a credit against subsequent tax liability for five years.

Present law requires taxpayers that are members of a federal consolidated group combine their ad valorem taxes paid in order to determine the amount of the excess credit that is refundable.

Proposed law changes present law and makes the excess credit for any taxpayer nonrefundable. Further requires the remaining amount to be carried forward as a credit against subsequent tax liability for five years.

Present law defines "manufacturer" as one of the following:

- (1) A person engaged in the business of working raw materials into wares suitable for use or which give new shapes, qualities, or combinations to matter which already has gone through some artificial process.
- (2) A person who meets the qualifications of (1) and who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Proposed law repeals the portion of present law defining a manufacturer as one who claimed the ad valorem exemption under present constitution during the taxable year in which the local inventory taxes were levied.

Present law requires any excess credit claimed by a manufacturer who received an ad valorem tax exemption under present constitution to be carried forward as a credit against subsequent tax liability for five years. This carry-forward requirement is applicable to all related parties, affiliates, subsidiaries, parent companies, or owners of the manufacturer that held inventory related to the business of the manufacturer.

Proposed law repeals present law.

Present law (R.S. 47:6007) provides for an income tax credit for La. taxpayers for investment in state-certified productions earned at the time expenditures are made by a motion picture production company in a state-certified production.

Present law caps the total aggregate amount of claims against state income tax allowed on returns for tax credits or transfers of tax credits to the office of entertainment industry development at \$180M each fiscal year for FY 2015-2016, 2016-2017, and 2017-2018. Claims for credits or transfers shall be allowed on a first-come-first-served basis.

Proposed law extends the \$180M cap established in present law for each fiscal year through FY 24-25. Further reduces the cap as follows:

- (1) FY 2025-2026: \$135M
- (2) FY 2026-2027: \$90M
- (3) FY 2027-2028: \$45M

Proposed law prohibits any new productions being approved by the office of the secretary of the Dept. of Economic Development on or after July 1, 2028.

Present law provides for the following income and corporation franchise tax credits:

- (1) R.S. 47:34 Corporation tax credit
- (2) R.S. 47:287.749 Jobs credit
- (3) R.S. 47:297(H) Reduction to tax due for small town doctors

- (4) R.S. 47:297.6 Credit for rehabilitation of residential structures
- (5) R.S. 47:6005 Qualified new recycling manufacturing equipment and service contracts
- (6) R.S. 47:6009 Louisiana Basic Skills Training Tax Credit
- (7) R.S. 47:6012 Employer tax credits for donations of materials, equipment, advisors, or instructors
- (8) R.S. 47:6019 Credit for rehabilitation of historic structures (commercial)
- (9) R.S. 47:6020 Angel Investor tax credit program
- (10) R.S. 47:6023 Sound recording investor tax credit
- (11) R.S. 47:6025 Credit for La. Citizens Property Insurance Corp. assessment
- (12) R.S. 47:6034 Musical and theatrical production income tax credit
- (13) R.S. 47:6035 Credit for conversion of vehicles to alternative fuel usage
- (14) R.S. 51:2354 Technology commercialization credit
- (15) R.S. 51:2399.3 Modernization tax credit

Present law (R.S. 47:34 and R.S. 47:287.749) provides for an income tax credit to be used against the tax liability of corporate income taxpayers who generate new full-time and part-time jobs in the state. This tax credit is allowed in lieu of any tax exemptions granted pursuant to the Louisiana Enterprise Zone Act, any ad valorem property tax exemptions for business or industry, or any ad valorem tax exemption allowed through the State Board of Commerce and Industry pursuant to La. Const. Art. VII, Sec. 21(F). The amount of the credit is equal to the number of new employees multiplied by varying amounts.

Present law (R.S. 47:297(H)) provides for an income tax credit for certain medical doctors and dentists who practice in designated rural areas.

Present law (R.S. 47:297.6) provides for an income tax credit for individual income tax for the amount of eligible costs and expenses incurred during the rehabilitation of an owner-occupied residential or owner-occupied mixed use structure located in certain specific locations.

Present law (R.S. 47:6005) provides an income tax or corporation franchise tax credit for taxpayers who purchase qualified new recycling manufacturing or process equipment or qualified service contracts to be used or performed exclusively in the state.

Present law (R.S. 47:6009) provides for an income or corporation franchise tax credit for a La. business or industry that supports and encourages employee basic skills training by satisfying criteria established in present law and that submits proper and complete applications.

Present law (R.S. 47:6012) provides for an income and corporation franchise tax credit for employers within the state to donate materials, equipment, or instructors to public training providers registered with the La. Workforce Commission, or community colleges to assist in the development of training programs designed to meet industry needs.

Present law (R.S. 47:6019) provides for an income or corporation franchise tax credit for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district or a cultural district.

Present law (R.S. 47:6020) provides for an income tax credit for qualifying individuals or entities that invest in a La. Entrepreneurial Business. This income tax credit is known as the Angel Investor tax credit.

Present law (R.S. 47:6023) provides for an income or franchise tax credit for La. taxpayers for investment in state-certified productions for sound recordings earned at the time expenditures are made on a state-certified production.

Present law (R.S. 47:6025) provides an income tax credit against La. income tax for 25% amount of surcharges, market equalization charges, or assessments paid by a taxpayer for the La. Citizens Property Insurance Corporation assessments due to Hurricanes Katrina and Rita.

Present law (R.S. 47:6034) provides for an individual or corporate income tax credit for qualified production expenditures on investments in a state-certified musical or theatrical production or infrastructure project.

Present law (R.S. 47:6035) provides for an income tax credit for qualified clean-burning motor vehicle fuel property purchased and installed on certain motor vehicles.

Present law (R.S. 51:2354) provides an income and corporation franchise tax credit for investments by the taxpayer in commercialization costs for certain business locations.

Present law (R.S. 51:2399.3) provides for an income or corporation franchise tax credit for amounts of qualified expenditures incurred by an employer for modernization.

Applicable to income tax periods beginning on or after Jan. 1, 2018 and franchise tax periods beginning on or after Jan. 1, 2019.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of Louisiana 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. 357, 358, 359, 360, 361, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends R.S. 47:6006(B), (C)(3), and (D)(5) and 6007(C)(1)(d)(ii)(aa) and (cc); Adds R.S. 47:6006(D)(6) and 6007(C)(1)(d)(ii)(dd), (ee), and (ff); Repeals R.S. 47:34, 297(H), 297.6, 6005, 6009, 6012, 6019, 6020, 6023, 6025, 6034, 6035, R.S. 51:2351-2364 and 2399.1-2399.6)

Summary of Amendments Adopted by House

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

1. Add applicability provisions for proposed law to be applicable for income tax periods beginning on or after Jan. 1, 2018 and franchise tax periods beginning on or after Jan. 1, 2019.

2. Add contingent effectiveness on Jan. 1, 2018, for proposed law if the proposed amendment of Art. VII of the Constitution of Louisiana 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. 357, 358, 359, 360, 361, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.