

RÉSUMÉ DIGEST

ACT 442 (SB 223)

2019 Regular Session

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Prior law required 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.

Prior law required 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.

New 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.

New 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.

New 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.

Prior law provided a deduction for federal income tax paid on Louisiana income for the taxable year.

New 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.

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

New law retains prior law Subchapter S exclusion for S corporations not making the new 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.

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

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

Prior law required individual income taxpayers to inform the secretary of revenue of federal income tax adjustments.

New law retains prior law and requires individual income taxpayers who use the new 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.

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

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

Prior law required 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.

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

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

Effective upon signature of the governor (June 22, 2019).

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