DIGEST

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HB 629 Original | 2021 Regular Session | Ivey

Abstract: Provides for the reform of individual income tax, corporate income tax, corporate franchise tax, and ad valorem taxes.

Present law provides for a tax to be assessed, levied, collected, and paid upon the taxable income of an individual at the following rates:

(1) 2% on the first $12,500 of net income;

(2) 4% on the next $37,500 of net income;

(3) 6% on net income in excess of $50,000.

Proposed law removes the graduated schedule of rates in favor of a flat 4% individual income tax rate.

Present law provides that in cases where taxpayers file a joint return of husband and wife, the combined tax shall be twice the combined tax of single filers.

Proposed law retains present law.

Present law provides that all personal exemptions and deductions for dependents allowed in determining federal income tax liability shall be allowed in determining La. tax liability. Further provides for a combined personal exemption of $4,500 for single, individual filers; $9,000 for married, joint filers; $4,500 for married, separate filers; and $9,000 for filers who are the head of household.

Proposed law increases the combined personal exemption to $12,500 for single, individual and married, separate filers. Also increases to $25,000 the combined personal exemption for married, joint filers, qualified surviving spouses, and filers who are the head of household.

Present law authorizes a credit of $400 for each dependent who meets certain criteria.

Proposed law repeals present law in favor of a $1,000 deduction for each dependent as defined in present law.

Present law authorizes an additional deduction of $1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under present law (R.S. 47:294(A)).

Proposed law provides an exemption of $1,000 for a taxpayer who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Provides a deduction of $1,000 for each dependent allowed, in determining federal income tax liability, who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Additionally, provides a deduction of $1,000 for each dependent as allowed in determining federal income tax liability. Provides definitions and requirements for claiming the exemptions.

Present law requires the secretary to establish tax tables that calculate the tax owed by taxpayers based upon where their taxable income falls within a range that does not exceed $250.

Present law further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in present law which are deducted from the 2% bracket. If the combined exemptions and deductions exceed the 2% bracket, the excess is deducted from the 4% bracket, and then the 6% bracket. Proposed law requires the tax tables to use the brackets provided for in proposed law.

Proposed law repeals present law.

Present law authorizes a deduction from individual income taxes for excess federal itemized personal deductions. The term "excess federal itemized personal deductions" is defined to mean the amount by which the federal itemized personal deductions exceed the amount of federal standard deduction designated for the filing status used for the taxable period on the individual income tax return.

Proposed law changes the present law definition of "excess federal itemized personal deductions" to mean the amount by which the federal itemized personal deductions, excluding La. state income taxes paid, exceed the amount of the federal standard deduction *or the state standard deduction*, whichever is greater, designated for the filing status used for the taxable period on the individual income tax return.

Present law defines "tax table income" for resident individuals as the adjusted gross income plus interest on certain state or political subdivision obligations less items such as gratuitous grants, loans, or other disaster benefits included in federal adjusted gross income, federal income tax liability, amount deposited into medical or educational savings accounts, and excess personal exemptions and deductions.

Proposed law retains present law but adds to the list of income not included in "tax table income" the standard, personal, and dependent deductions provided for in proposed law as well as state income tax paid which are included in federal adjusted gross income.

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

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating individual and corporate income taxes and income taxes for estates and trusts.

Present law 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.

Present law provides for a tax to be assessed, levied, collected, and paid on the La. taxable income of an estate or trust at the following rates:

(1) 2% on the first $10,000 of La. taxable income.

(2) 4% on the next $40,000 of La. taxable income.

(3) 6% on La. taxable income in excess of $50,000.

Proposed law removes the graduated schedule of rates in favor of a flat 4% rate on taxable income of an estate or trust.

Present law requires that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation is to be computed at the following rates:

(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.

Proposed law changes present law by eliminating the graduated schedule of rates dependant on the amount of taxable income of the taxpayer in favor of a flat 6.5% corporate income tax rate.

Present law (R.S. 47:601 et seq.) establishes the corporation franchise tax which is levied on every domestic and foreign corporation exercising its charter, qualified to do business, or actually doing business in La. The corporation franchise tax is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in La.

Present law provides that the tax shall be levied at the following rates:

(1) $1.50 per $1,000 of taxable capital, up to $300,000.

(2) $3 per $1,000 of taxable capital above $300,001.

Present law levies the 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.

Present law provides for the determination of taxable capital for purposes of levying the corporation franchise tax as well as the tax treatment of capital stock, surplus and undivided profits, and the allocation of taxable capital. Present law further provides for the administration of the tax as well as the collection and payment of the tax.

Proposed law provides for the phase-out of the corporate franchise tax for taxable years beginning on or after Jan. 1, 2023, by reducing the amount of the tax by 25% each year until no tax is levied on the taxable capital of corporations for tax years beginning on or after Jan. 1, 2026.

Present law requires every corporation or other entity subject to the franchise tax to pay only an initial tax of $110 in the first accounting period in which it becomes subject to the tax. After the first closing of the corporate books, the tax is payable as provided in present law.

Proposed law retains present law but clarifies that no initial tax shall be levied or collected by the state nor paid by domestic or foreign corporations for taxable years beginning on and after Jan. 1, 2026.

Present constitution provides for the exclusive list of ad valorem tax exemptions.

Proposed law provides definitions for the terms "board", "department", "local authorities", and "parish authorities".

Proposed law requires the Department of Economic Development hereinafter ("Dept."), to adopt and promulgate rules to administer the program in compliance with present law.

Proposed law establishes a notification process that requires the Dept. to notify parish authorities within 10 days of the creation or modification of a capital investment program. Proposed law further provides that the notification shall include program details, deadlines, language for resolutions, and specific forms.

Proposed law establishes an enrollment process for the program. A parish can enroll in a program upon the approval of all parish authorities evidenced by a resolution submitted to the Dept.

Proposed law provides that if a parish disapproves participation in a program it shall submit a resolution to the Dept. stating such. Proposed law further provides that if no parish authority notifies the Dept. that it disapproves participation within 60 days of the program's effective date, the parish shall be automatically enrolled.

Proposed law authorizes a parish to change disapproval to approval by rescinding the disapproval resolution.

Proposed law authorizes a parish to withdraw from a program within five years following enrollment. Proposed law further provides a parish can withdraw if all parish authorities submit a resolution stating such. The withdrawal is effective 90 days following the Dept.'s receipt of the resolution.

Proposed law provides that if the legislature passes a law that substantively changes a capital investment program a parish may withdraw from the program by resolution stating such. The resolution must be submitted no later than 60 days after the effective date of the applicable legislation.

Proposed law identifies businesses that constitute the manufacturing, technology, telecommunication, healthcare, logistic, warehouse, and distribution sectors for the purposes of this program.

Proposed law creates a standard ad valorem tax exemption for capital investment projects.

Proposed law requires the Dept. to establish an application procedure for the standard exemption in accordance with the constitution. Proposed law further provides that the Board of Commerce and Industry shall review a standard ad valorem tax exemption in a timely manner and confirm program eligibility for each application. Within 10 days of confirmation, the board shall provide the applicant and local authorities with a copy of the conditional approval.

Proposed law creates a local ad valorem tax exemption for capital investment projects.

Proposed law establishes an application for a local ad valorem tax exemption and requires the Dept. to design and provide the application forms.

Proposed law requires that the Dept. forward a copy of an application to each impacted local authority that levies a millage and in whose district the project will be located.

Proposed law requires the Dept. to provide the local governing authority and all relevant political subdivisions with an analysis of every proposed project requesting an exemption in the parish.

Proposed law requires a local authority within 60 days of receipt to review each project application in conjunction with the Dept.'s analysis and issue a resolution or a letter, in the case of a sheriff, approving or rejecting the application. During this time local authorities may hold public meetings to receive public input.

Proposed law provides that if the local authority approves the application, the local authority and the applicant, with the assistance of the Dept., shall enter into a cooperative endeavor agreement evidencing the exemption.

Proposed law requires the local authority to provide the board with a copy of the cooperative endeavor agreement and a copy of any resolution or letter approving the exemption.

Proposed law creates an executive ad valorem tax exemption for capital investment projects.

Proposed law provides that the governor may offer any entity an executive exemption. The exemption may be for up to 100% of the property taxes of the project and for a specific term to be decided by the governor.

Proposed law requires local approval prior to the execution of the executive order providing for an exemption. A local authority must evidence rejection of the exemption within 30 days of receipt or the exemption will be deemed approved.

Proposed law requires the executive exemption to be evidenced by a gubernatorial executive order providing the terms and conditions of the exemption.

Proposed law requires the Dept. to produce a cost-benefit analysis for the project that specifically identifies the projected state and local fiscal impact, information related to employment, state and local revenues, state and local infrastructure requirements, and the effect of using state and local public services.

Present constitution authorizes the imposition of ad valorem property taxes by local governments, school boards, and other special districts.

Present constitution establishes a list of exclusive ad valorem tax exemptions.

Proposed law authorizes local governmental subdivisions to enter into cooperative endeavor agreements for payments in lieu of ad valorem taxes in the form of an abatement with an owner of non-residential immovable property located within the parish.

Proposed law provides the terms of the cooperative endeavor agreement shall be limited to advance cash payments in exchange for an abatement which shall be used to offset future tax liability as provided for in the agreement.

Proposed law provides the abatement shall be equal to the amount of the cash advance payment plus the calculated amortized accrued interest. Proposed law further provides the interest rate shall not exceed the judicial interest rate as provided in present law (R.S. 13:4202) plus two percent.

Proposed law provides the cooperative endeavor agreement shall include the abatement schedule and a copy shall be submitted to the assessor within 10 days of the execution of the cooperative endeavor agreement.

Proposed law provides that cooperative endeavor agreements may be entered into by any local taxing authority after approval evidenced by a resolution adopted by the taxing authority or by letter of approval from the sheriff.

Proposed law requires that a public hearing be conducted by a taxing authority before adoption of any resolution approving a cooperative endeavor agreement providing for payments in lieu of taxes.

Proposed law requires notice of the hearing to be published no earlier than 14 days prior to the hearing. The notice shall inform the public where a copy of the proposed cooperative endeavor agreement may be obtained and the time and place of the hearing.

Proposed law provides that a cooperative endeavor agreement applies only to the taxing authorities that are parties to the agreement and that nonparticipating taxing authorities are not bound by the agreement.

Proposed law provides that before entering into a cooperative endeavor agreement providing for payments in lieu of taxes, a taxing authority shall submit a request to the Dept. of Economic Development (department) which shall respond to the taxing authority within 30 days from the date the request is received and that the findings and advice of the department are not binding.

Proposed law requires that any property subject to a cooperative endeavor agreement that provides for payments in lieu of taxes remain on the assessment rolls for the parish or parishes where the property is located.

Proposed law requires the assessor to record the abatement schedule and provide for the application of the abatement to future property tax liabilities as provided for in the cooperative endeavor agreements.

Proposed law provides that matters relating to the payment and collection of payments in lieu of taxes shall be set forth in the cooperative endeavor agreement.

Present constitution authorizes the levy of ad valorem tax on property within Louisiana.

Present constitution provides for the classifications of property and percentages of fair market value to be used in the assessment of property for purposes of ad valorem property taxes.

Proposed law, which is contingent upon the passage of a proposed constitutional amendment provides for the same classifications of property and percentages of fair market value to be used in the assessment of property for purposes of ad valorem property taxes as is provided in present constitution.

Applicable to income tax periods beginning on or after Jan. 1, 2023, and corporate income tax periods beginning on or after Jan. 1, 2023.

Effective Jan. 1, 2023, if and when the proposed amendment of Article VII of the Constitution of

La. contained in the Act which originated as House Bill No. ___ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 33:9022(2) and R.S. 47:32(A), 241, 287.12, 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 300.6(A), 300.7(A), and 601(A), (B), and (C)(2); Adds R.S. 33:2759 and R.S. 47:293(9)(a)(xx), 611(C), 1721 through 1731, and 1890; Repeals R.S. 47:79(B), 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298)