

CONFERENCE COMMITTEE REPORT

HB 292

2021 Regular Session

Riser

June 9, 2021

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 292 by Representative Riser, recommend the following concerning the Engrossed bill:

1. That Senate Committee Amendment Nos. 1, 2, and 4 by the Committee on Revenue and Fiscal Affairs (#2951) be rejected.
2. That Senate Committee Amendment Nos. 3 and 5 through 10 by the Committee on Revenue and Fiscal Affairs (#2951) be adopted.
3. That the set of Senate Floor Amendments by Senator Allain (#3182) be rejected.
4. That the following amendments be adopted:

AMENDMENT NO. 1

In Amendment No. 5 by the Senate Committee on Revenue and Fiscal Affairs (#2951), on page 1, delete lines 17 through 39 in their entirety and insert the following:

"C. On corporations. The tax to be assessed, levied, collected, and paid upon the ~~net taxable~~ income of every corporation shall be computed at the ~~rate of: rates~~ provided for in R.S. 47:287.12.

~~(1) Four percentum upon the first twenty-five thousand dollars of net income.~~

~~(2) Five percentum upon the amount of net income above twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

~~(3) Six percentum on the amount of net income above fifty thousand dollars but not in excess of one hundred thousand dollars.~~

~~(4) Seven percentum on the amount of net income above one hundred thousand dollars but not in excess of two hundred thousand dollars.~~

~~(5) Eight percentum on all net income in excess of two hundred thousand dollars."~~

AMENDMENT NO. 2

In Amendment No. 5 by the Senate Committee on Revenue and Fiscal Affairs (#2951), on page 2, delete lines 20 through 35 in their entirety and insert the following:

"§287.12. Rates of tax

The tax to be assessed, levied, collected, and paid upon the Louisiana taxable income of every corporation shall be computed at the rate of:

- (1) ~~Four~~ Three and one-half percent upon the first ~~twenty-five~~ fifty thousand dollars of Louisiana taxable income.

~~(2) Five percent upon the amount of Louisiana taxable income above twenty-five thousand dollars but not in excess of fifty thousand dollars.~~

~~(3) Six Five and one-half percent on the amount of Louisiana taxable income above fifty thousand dollars but not in excess of one hundred fifty thousand dollars.~~

~~(4)(3) Seven and one-half percent on the amount of Louisiana taxable income above one hundred fifty thousand dollars but not in excess of two hundred thousand dollars.~~

~~(5) Eight percent on all Louisiana taxable income in excess of two hundred thousand dollars."~~

AMENDMENT NO. 3

In Amendment No. 6 by the Senate Committee on Revenue and Fiscal Affairs (#2951), on page 2, between lines 38 and 39, insert the following:

"§287.442. Exceptions to taxable year of inclusion; taxable year deductions taken

* * *

B. Period for which deductions and credits shall be taken.

~~(1) The taxable year in which to claim the federal income tax deduction allowed by R.S. 47:287.85 shall be determined as follows, regardless of the method of accounting regularly employed by the taxpayer:~~

~~(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)(a) Taxable year for adjustments to taxpayer's federal income tax return. Except as otherwise provided in this ~~Subparagraph~~ Paragraph, 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)(2) 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.

~~(3)~~(3) 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.

~~(2)~~(4) If a deduction is claimed and allowed in any period, the same deduction cannot again be claimed in a subsequent period in which it otherwise would be properly deductible, unless the taxpayer, prior to the running of prescription with respect to the first period, shall have amended his return for that period so as to eliminate the deduction and shall have paid any additional tax which may be due as a result thereof, together with any interest and penalties that may be applicable thereto.

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AMENDMENT NO. 4

On page 1, line 2, after "reenact" delete the remainder of the line in its entirety and at the beginning of line 3, delete "and 287.442(B)(1)," and insert the following:

"R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B) and to repeal R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C),"

AMENDMENT NO. 5

On page 1, line 8, after "Section 1." and before "are" delete "R.S. 47:241 and 287.69" and insert "R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B)"

AMENDMENT NO. 6

On page 2, line 24, after "Section 2." delete the remainder of the line in its entirety and insert the following:

"R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C) are hereby repealed"

Respectfully submitted,

Representative Neil Riser

Senator Patrick Page Cortez

Representative Stuart J. Bishop

Senator R. L. Bret Allain II

Representative Gerald "Beau" Beaulieu, IV

Senator Mike Reese

 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)]

CONFERENCE COMMITTEE REPORT DIGEST
HB 292
2021 Regular Session
Riser
Keyword and oneliner of the instrument as it left the House

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

Report adopts Senate amendments to:

1. Repeal provisions of present law authorizing certain S corporations to deduct federal income taxes paid on returns.
2. Reduce income tax rates for S corporations that elect to be taxed at the corporate level.
3. Change the applicability provisions of proposed law from taxable periods beginning on or after Jan. 1, 2023, to taxable periods beginning on or after Jan. 1, 2022.
4. Condition the effectiveness of proposed law on the statewide adoption of either House Bill No. 275 or Senate Bill No. 159 of this 2021 R.S. of the Legislature and the enactment of both House Bill No. 278 and Senate Bill No. 161 of this 2021 R.S. of the Legislature.

Report rejects Senate amendments which would have:

1. Decreased the number of brackets applicable to corporation income tax from 5 brackets to four brackets and reduced the corporation income tax rates.

Report amends the bill to:

1. Decrease the number of brackets applicable to corporation income tax from 5 brackets to three brackets and reduce the corporation income tax rates.

Digest of the bill as proposed by the Conference Committee

Present constitution and present law authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period. Present law further authorizes an S corporation that elects to be taxed at the corporate level to claim a federal income tax deduction.

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating corporation income taxes and repeals the deduction for S corporations that elect to be taxed at the corporate level.

Present law requires the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation 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 the corporate income tax brackets in present law and reduces the corporate income tax rates in present law as follows:

- (1) 3.5% on the first \$50,000 of La. taxable income.
- (2) 5.5% on La. taxable income above \$50,000 but not in excess of \$150,000.
- (4) 7.5% on all La. taxable income in excess of \$150,000.

Present law provides for the rate of tax on the taxable income of every S corporation that elects to be taxed at the corporate level at the rates of:

- (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 above \$100,000.

Proposed law reduces the rate of tax on the taxable income of every S corporation that elects to be taxed at the corporate level as follows:

- (1) From 2% to 1.85% on the first \$25,000 of La. taxable income.
- (2) From 4% to 3.5% on La. taxable income above \$25,000 but not in excess of \$100,000.
- (3) From 6% to 4.25% on La. taxable income in excess of \$100,000.

Applicable for taxable periods beginning on or after Jan. 1, 2022.

Effective Jan. 1, 2022, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 275 of this 2021 R.S. of the Legislature or the Act which originated as Senate Bill No. 159 of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective and if both of the Acts that originated as House Bill No. 278 and Senate Bill No. 161 of this 2021 R.S. of the Legislature are enacted and become law.

(Amends R.S. 47:32(C), 241, 287.12, 287.69, 287.442(B), and 287.732.2(B); Repeals R.S. 47:55(5), 287.79, 287.83, 287.85, and 287.732.2(C))