

2023 Regular Session

SENATE BILL NO. 9

BY SENATOR FOIL

TAX/FRANCHISE/CORPORATE. Exempts certain real estate investment trusts from the corporate franchise tax. (gov sig)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 47:601(C)(1) and R.S.

3 47:601(C)(1)(c), relative to exemptions from the corporation franchise tax for limited

4 liability companies that file as real estate investment trusts for federal income tax

5 purposes; to exempt these companies filing as a real estate investment trust for

6 federal income tax purposes when one hundred percent of the company's shares of

7 common stock are owned by a tax-exempt organization; to provide for limitations;

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. The introductory paragraph of R.S. 47:601(C)(1) and R.S. 47:601(C)(1)(c)

11 are hereby amended and reenacted to read as follows:

12 §601. Imposition of tax

13 * * *

14 C.(1) As used ~~herein~~ **in this Chapter** the term "domestic corporation" shall

15 mean and include any of the following:

16 * * *

17 (c) ~~Nothing in this Subsection shall extend franchise tax liability to any~~ **The**

1 **term "domestic corporation" shall not include either:**

2 (i) A limited liability company qualified and eligible to make an election to
3 be taxed in accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1,
4 Subchapter S on the first day of its fiscal or annual year or to any other entity that
5 was acquired before January 1, 2014, but not earlier than January 1, 2012, by an
6 entity that was taxed pursuant to 26 U.S.C.; Subtitle A, Chapter 1, Subchapter S.

7 (ii) A limited liability company filing as a real estate investment trust for
8 federal income tax purposes in which one hundred percent of the limited
9 liability company's shares of common stock are owned by a tax-exempt
10 organization and the limited liability company met these requirements on or
11 before July 1, 2023.

12 * * *

13 Section 2. This Act shall become effective upon signature by the governor or, if not
14 signed by the governor, upon expiration of the time for bills to become law without signature
15 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
16 vetoed by the governor and subsequently approved by the legislature, this Act shall become
17 effective on the day following such approval.

18 Section 3. The provisions of this Act shall apply to all franchise taxable periods
19 beginning on and after January 1, 2024.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 9 Engrossed

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Present law levies a corporation franchise tax on domestic corporations and foreign corporations that exercising their charter, or qualified to do business or actually doing business in this state, or owning or using any part or all of their capital, plant, or any other property in this state.

Present law provides that the term "domestic corporation" includes business organizations organized under the laws of this state which have privileges, powers, rights, or immunities not possessed by individuals or partnerships.

Present law further provides that the term "domestic corporation" includes all entities taxed as corporations for federal income tax purposes.

Present law makes an exception for certain entities that would otherwise meet the definition

of "domestic corporation" that are organized as limited liability companies (LLCs) that were qualified and eligible to file as a Subchapter S corporation or were acquired by an entity taxed as a Subchapter S corporation.

Proposed law provides for an additional exception for LLCs filing as a real estate investment trust (REIT) for federal income tax purposes if 100% of the LLC's common stock is owned by a tax-exempt organization provided that both the stock ownership and REIT filing requirements were met no later than July 1, 2023.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:601(C)(1)(intro para) and (c))