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HOUSE FLOOR AMENDMENTS

2015 Regular Session

Amendments proposed by Representative Stokes to Engrossed House Bill No. 531 by Representative Stokes

1 AMENDMENT NO. 1

- On page 1, line 2, after "enact" and before the comma "," delete R.S. 47:287.82" and insert
 "R.S. 47:287.73(B)(6)"
- 4 AMENDMENT NO. 2
- 5 On page 1, line 5, after "limitations;" and before "and" insert "to provide for certain 6 definitions; to provide for applicability;"
- 7 AMENDMENT NO. 3
- 8 On page 1, line 7, after "Section 1." and before "is" delete R.S. 47:287.82" and insert "R.S.
 9 47:287.73(B)(6)"
- 10 AMENDMENT NO. 4

On page 1, delete lines 8 through 20 in their entirety, delete page 2 in its entirety and on page
3, delete lines 1 through 11 in their entirety and insert the following:

- 13 "§287.73. Modifications to deductions from gross income allowed by federal law
- 14 * *
- B. Deletions. The following deductions allowed by federal law are declared
 inoperative and shall not form a part of allowable deductions in the computation of
 net income:

*

- 18 * *
- 19(6) Related member royalty and interest payments as provided in this20Paragraph.

(a) For the purpose of computing net income, otherwise deductible royalty
 payments and interest expense as defined in Subparagraph (c) of this Paragraph paid
 to a related member during the taxable year must be added-back to the extent the
 payments were deducted in calculating federal taxable income, but only to the extent
 the royalty payments and interest expense do not satisfy one or more of the
 exceptions set forth in Subparagraph (b) of this Paragraph.

(b) The add-back of royalty payments and interest expense paid to a related
 member during the taxable year shall not be required if and to the extent that the
 payments meet any of the following conditions:

30 (i) The related member during the same taxable year directly or indirectly
 31 paid, received, accrued or incurred an arm's length amount to or from a person or
 32 entity that is not a related member, provided that this Paragraph shall not be

1 construed to require that the related member pay, receive, accrue or incur the 2 amount in an identical transaction to that giving rise to the expense that is subject to 3 add-back under Subparagraph (a) of this Paragraph; 4 (ii) The item of income corresponding to the royalty payment or interest 5 expense is subject to a tax measured in whole or in part by net income or receipts in Louisiana, in any other state or possession of the United States, or in a country other 6 7 than the United States; 8 (iii) The related member receiving the royalty payments regularly engages 9 in transactions involving intangible property with one or more unrelated parties on 10 terms substantially similar to those of the subject transaction; 11 (iv) The related member receiving the royalty payments or interest expense 12 payments directly or indirectly acquired the intangible assets, for which the 13 payments are being made, from a person or entity that was not a related member, and 14 the transaction was done for a valid business purpose other than the avoidance of 15 taxes; 16 (v) The taxpayer demonstrates that the add-back amounts otherwise required 17 by this Paragraph are unreasonable. (c) As used in this Paragraph, the following terms have the following 18 19 meanings: 20 (i) "Related member" means a person, corporation, or other entity, including 21 an entity that is treated as a partnership or other pass-through entity for purposes of 22 federal taxation, whether the person, corporation, or entity is a taxpayer or not, where 23 one person, corporation, or entity, or set of related persons, corporations, or entities, 24 directly or indirectly owns or controls a majority interest in another entity. 25 (ii) "Majority interest" means, in the case of a corporation, either more than 26 fifty percent of the total combined voting power of all classes of stock of the 27 corporation, or more than fifty percent of the capital, profits, or beneficial interest 28 in the voting stock of the corporation, and, in the case of a partnership, association, 29 trust, or other entity, more than fifty percent of the capital, profits, or beneficial 30 interest in the partnership, association, trust, or other entity. 31 (iii) "Royalty payments" means payments or accruals directly connected to 32 the acquisition, use, maintenance, management, or ownership of patents, patent applications, licenses, trademarks, copyrights, trade names, trade dress, service 33 34 marks, mask works, trade secrets, and patents, to the extent those amounts are allowed as deductions in the calculation of federal taxable income. "Royalty 35 36 payments" shall also include amounts allowable as interest deductions under §163 37 of the Internal Revenue Code to the extent those amounts are directly for the 38 acquisition, use, maintenance, management or ownership of intangible assets. 39 (iv) "Interest expense" means amounts directly or indirectly allowed as 40 deductions under §163 of the Internal Revenue Code for purposes of determining 41 taxable income under the Internal Revenue Code. * *" 42 *