

ACT No. 12

2016 First Extraordinary Session

HOUSE BILL NO. 19

BY REPRESENTATIVE JAMES

1 AN ACT

2 To amend and reenact R.S. 12:1368 and R.S. 47:601(A)(3) and (C)(1), 602(G), and 611 and
3 to enact R.S. 47:601(C)(3) and 602(H), relative to corporate franchise tax; to provide
4 relative to the entities to which the tax applies; to provide for applicability; to
5 provide for certain deductions for taxable capital; to provide for initial payment of
6 the franchise tax; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 12:1368 is hereby amended and reenacted to read as follows:

9 §1368. Taxation

10 A limited liability company created under this Chapter or entering the state
11 pursuant to this Chapter shall pay such taxes as are imposed by the laws of this state
12 or any political subdivision thereof on domestic and foreign limited partnerships on
13 an identical basis therewith. ~~However, for~~ For state income and franchise tax
14 purposes, a limited liability company shall be treated and taxed in the same manner
15 that it is treated and taxed for federal income tax purposes.

16 Section 2. R.S. 47:601(A)(3) and (C)(1), 602(G), and 611 are hereby amended and
17 reenacted and R.S. 47:601(C)(3) and 602(H) are hereby enacted to read as follows:

18 §601. Imposition of tax

19 A. Every domestic corporation and every foreign corporation, exercising its
20 charter, or qualified to do business or actually doing business in this state, or owning
21 or using any part or all of its capital, plant, or any other property in this state, subject
22 to compliance with all other provisions of law, except as otherwise provided for in
23 this Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each
24 one thousand dollars, or major fraction thereof on the first three hundred thousand
25 dollars of taxable capital and at the rate of three dollars for each one thousand

1 dollars, or major fraction thereof, which exceeds three hundred thousand dollars of
2 taxable capital. Taxable capital shall be determined as hereinafter provided. The tax
3 levied herein is due and payable on any one or all of the following alternative
4 incidents:

5 * * *

6 (3) The owning or using any part or all of its capital, plant, or other property
7 in this state ~~in a corporate capacity~~; whether owned directly or indirectly by or
8 through a partnership, joint venture, or any other business organization of which the
9 domestic or foreign corporation is a related party as defined in R.S. 47:605.1.

10 * * *

11 C.(1) As used herein the term "domestic corporation" shall mean and include
12 all any of the following:

13 (a) ~~corporations~~; Corporations, joint stock companies or associations, or
14 other business organizations organized under the laws of this state which have
15 privileges, powers, rights, or immunities not possessed by individuals or
16 partnerships.

17 (b) All entities taxed as corporations pursuant to 26 U.S.C. Subtitle A,
18 Chapter 1, Subchapter C for federal income tax purposes, notwithstanding any
19 provision of law to the contrary. Such entities shall be treated and taxed in the same
20 manner that such entities are treated and taxed for federal income tax purposes.

21 (c) Nothing in this Subsection shall extend franchise tax liability to any
22 limited liability company qualified and eligible to make an election to be taxed in
23 accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1, Subchapter S on
24 the first day of its fiscal or annual year or to any other entity that was acquired before
25 January 1, 2014, but not earlier than January 1, 2012, by an entity that was taxed
26 pursuant to 26 U.S.C, Subtitle A, Chapter1, Subchapter S.

27 * * *

28 (3) For purposes of this Chapter, "corporation" shall mean a domestic
29 corporation or foreign corporation as provided for in this Section.

30 * * *

1 §611. Newly taxable corporation

2 A. Every corporation or other entity subject to the franchise tax shall pay
3 only an initial tax of one hundred ten dollars in the first accounting period or fraction
4 thereof in which it becomes subject to the tax levied herein. The tax is first due
5 immediately on the corporation's becoming taxable under this Chapter and is payable
6 on or before the fifteenth day of the third month after the month in which the tax is
7 due. After the first closing of the corporate books, the tax is payable as provided in
8 R.S. 47:609, subject to the minimum tax as provided in this Subsection.

9 B. Notwithstanding the provisions of this Section, the initial tax of an entity
10 in existence and actually conducting business in Louisiana during its previous
11 calendar or fiscal year shall be calculated pursuant to R.S. 47:609, based on its
12 corporate books on the first day of the calendar or fiscal year in which the tax levied
13 under this Chapter becomes due and shall be payable on or before the date otherwise
14 required by this Section.

15 Section 3. The provisions of this Act shall be applicable to taxable periods beginning
16 on or after January 1, 2017.

17 Section 4. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____