HLS 161ES-170 ORIGINAL

2016 First Extraordinary Session

HOUSE BILL NO. 102

1

BY REPRESENTATIVE BROADWATER

TAX/INCOME TAX: Repeals the corporate income tax and franchise taxes and prohibits certain corporate taxpayers from claiming certain refundable tax credits (Items #3, 5, 19, 26, and 28)

AN ACT

2 To amend and reenact R.S. 47:6006(A) and (B), 6006.1(A) and (B), 6014(A), (B), and (C), 3 6020(D)(2)(a) and (3), 6022(D)(1)(introductory paragraph) and (E)(2), 6025(A), 4 6032(A) and (D) and to repeal R.S. 47:51, 158, 246, Subparts A through D of Part 5 II-A of Chapter 1 of Title 47 of the Louisiana Revised Statutes of 1950, comprised 6 of R.S. 47:287.2 through 287.95, 287.738, 287.745, and Chapter 5 of Subtitle II of 7 Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:601 through 8 618, relative to corporate taxes; to repeal the corporate income tax; to repeal the 9 corporation franchise tax; to repeal provisions relative to the computation of taxable 10 income for purposes of the corporate income tax; to repeal provisions relative to 11 certain deductions, including the federal deduction and net operating loss deduction; 12 to repeal provisions with respect to the calculation of taxable capital for purposes of 13 levying the corporate franchise tax; the to provide with respect to the applicability 14 of certain tax credits, exemptions and deductions against certain state taxes; to 15 provide for an effective date; and to provide for related matters. 16 Be it enacted by the Legislature of Louisiana: 17 Section 1. R.S. 47:6006(A) and (B), 6006.1(A) and (B), 6014(A), (B), and (C), 18 6020(D)(2)(a) and (3), 6022(D)(1)(introductory paragraph) and (E)(2), 6025(A), 6032(A) 19 and (D) are hereby amended and reenacted to read as follows:

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1	§6006. Tax credits for local inventory taxes paid
2	A.(1)(a) There shall be allowed a credit against any Louisiana individual
3	income or corporation franchise tax for ad valorem taxes paid to political
4	subdivisions on inventory held by manufacturers, distributors, and retailers.
5	(2)(b) There shall be allowed a credit against any Louisiana individual
6	income or corporation franchise tax for ad valorem taxes paid to political
7	subdivisions on natural gas held, used, or consumed in providing natural gas storage
8	services or operating natural gas storage facilities.
9	(2) Beginning January 1, 2017, the state corporate income and corporation
10	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
11	for the credit provided for pursuant to the provisions of this Section. Corporate
12	taxpayers shall be prohibited from applying this credit against individual income
13	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
14	B. Credit for taxes paid by corporations shall be applied to state corporate
15	income and corporation franchise taxes. Credit for taxes paid by unincorporated
16	persons shall be applied to state personal income taxes. The secretary shall make
17	a refund to the taxpayer in the amount to which he is entitled from the current
18	collections of the taxes collected pursuant to Chapter 1 and Chapter 5 of Subtitle II.
19	If the amount of the credit authorized pursuant to Subsection A of this Section
20	exceeds the amount of tax liability for the tax year, the following amounts of the
21	excess credit shall either be refundable or may be carried forward as a credit against
22	subsequent Louisiana individual income or corporation franchise tax liability for a
23	period not to exceed five years, as follows:
24	* * *
25	§6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental
26	Shelf Lands Act Waters
27	A. There shall be allowed a credit against any Louisiana individual income
28	or corporation franchise tax for ad valorem taxes paid without protest to political

subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to

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1 the assessor pursuant to R.S. 47:1956(B) within the calendar year immediately 2 preceding the taxable year of assessment of such vessel. For purposes of this 3 Section, ad valorem taxes shall be deemed to be paid to political subdivisions when 4 they are paid without protest either in money or by applying credits established pursuant to R.S. 47:2108.1. 5 6 B.(1) Notwithstanding anything to the contrary in either Chapter 1 or 7 Chapter 5 of Subtitle II of this Title, as amended, the following rules shall apply with 8 respect to the application of the credit established in Subsection A of this Section: 9 (1) The credit for taxes paid by or on behalf of a corporation shall be applied 10 against Louisiana corporate income and corporation franchise taxes of such 11 corporation. However, any such credit allowable to any member of an affiliated 12 group of corporations, as defined in Section 1504 of the Internal Revenue Code of 13 1954, as amended, shall be applied against Louisiana corporate income and 14 corporation franchise taxes of such member and any other member of such affiliated 15 group of corporations until the entire amount of the credit has been applied against 16 such Louisiana corporate income taxes or corporation franchise taxes. 17 (2)(a) The credit for taxes paid by an individual shall be applied against 18 Louisiana personal income taxes. 19 (3) The credit for taxes paid by or on behalf of a corporation classified under 20 Subchapter S of the Internal Revenue Code of 1954, as amended, as an S corporation 21 shall be applied first against any Louisiana corporate income and corporation 22 franchise taxes due by such S corporation, and the remainder of any such credit shall 23 be allocated to the shareholder or shareholders of such S corporation in accordance 24 with their respective interests and applied against the Louisiana income tax of such shareholder or shareholders of the S corporation. 25 26 (4)(b) The credit for taxes paid by or on behalf of a partnership shall be

franchise tax liability of such partners.

allocated to the partners according to their distributive shares of partnership gross

income and applied against any Louisiana individual income tax and corporation

December 31, 2001.

1	(5)(c) The character of the credit for taxes paid by or on behalf of a
2	partnership or S corporation and allocated to the partners or shareholders,
3	respectively, of such partnership or S corporation, shall be determined as if such
4	credit were incurred by such partners or shareholders, as the case may be in the same
5	manner as incurred by the partnership or S corporation, as the case may be.
6	(6)(d) The credit for taxes paid by an estate or trust shall be applied against
7	the Louisiana income tax imposed on estates and trusts.
8	(2) Beginning January 1, 2017, the state corporate income and corporation
9	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
10	for the credit provided for pursuant to the provisions of this Section. Corporate
11	taxpayers shall be prohibited from applying this credit against individual income
12	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
13	* * *
14	§6014. Credit for property taxes paid by certain telephone companies; fund
15	A. Pursuant to the provisions of this Section, there shall be allowed a credit
16	against Louisiana corporation or individual income taxes and Louisiana corporation
17	franchise tax for, and in an amount equal to, forty percent of the aggregate ad
18	valorem taxes paid to political subdivisions of this state after December 31, 2000, by
19	a telephone company, as defined in R.S. 47:1851(Q), with respect to such telephone
20	company's public service properties, as defined in R.S. 47:1851(M), which are
21	assessed by the Louisiana Tax Commission at twenty-five percent of fair market
22	value pursuant to R.S. 47:1854.
23	B. The credit allowed under this Section shall be applied against any
24	Louisiana individual income or corporation franchise tax shown on a return filed by
25	a person as defined in R.S. 47:2, entitled to such credit as determined under
26	Subsection C of this Section for income or franchise tax years ending on or after

1	C.(1) Notwithstanding any provision of law to the contrary, the following
2	provisions shall apply with respect to the application of the credit established in
3	Subsection A of this Section:
4	(1) The credit for ad valorem taxes paid by or on behalf of a corporation
5	shall be applied against Louisiana corporation income and corporation franchise
6	taxes of such corporation. However, any such credit allowable to any member of an
7	affiliated group of corporations, as defined in Section 1504 of the Internal Revenue
8	Code of 1986, as amended, shall be applied against Louisiana corporation income
9	and corporation franchise taxes of such member and any other member of such
10	affiliated group of corporations until the entire amount of the credit has been applied
11	against such Louisiana corporation income taxes or corporation franchise taxes.
12	(2)(a) The credit for taxes paid by an individual shall be applied against the
13	Louisiana individual income tax.
14	(3) The credit for taxes paid by or on behalf of a corporation classified under
15	Subchapter S of the Internal Revenue Code of 1986, as amended, as an S corporation
16	shall be applied first against any Louisiana corporation income and corporation
17	franchise taxes due by such S corporation, and the remainder of any such credit shall
18	be allocated to the shareholder or shareholders of such S corporation in accordance
19	with their respective interests and applied against the Louisiana income tax of such
20	shareholder or shareholders of the S corporation.
21	(4)(b) The credit for taxes paid by or on behalf of a partnership shall be
22	allocated to the partners according to their distributive shares of partnership gross
23	income and applied against any Louisiana individual income tax and corporation
24	franchise tax liability of such partners.
25	(5)(c) The credit for taxes paid by or on behalf of a limited liability company
26	shall be allocated to the members according to their distributive shares of such
27	limited liability company's gross income and applied against any Louisiana
28	individual income tax and corporation franchise tax liability of such members;
29	however, the credit for taxes paid by or on behalf of a limited liability company

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2	the Louisiana corporation income taxes of such limited liability company.
3	(6)(d) The character of the credit for taxes paid by or on behalf of a
4	partnership, S corporation, or limited liability company not treated as a corporation
5	for Louisiana income tax purposes and allocated to the partners, shareholders, or
6	members, respectively, of such partnership, S corporation, or limited liability
7	company, shall be determined as if such credit were incurred by such partners,
8	shareholders, or members, in the same manner as incurred by such partnership, S
9	corporation, or limited liability company.
10	(7)(e) The credit for taxes paid by an estate or trust shall be applied against
11	the Louisiana income tax imposed on estates and trusts.
12	(2) Beginning January 1, 2017, the state corporate income and corporation
13	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
14	for the credit provided for pursuant to the provisions of this Section. Corporate
15	taxpayers shall be prohibited from applying this credit against individual income
16	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
17	* * *
18	§6020. Angel Investor Tax Credit Program
19	* * *
20	D. Tax credits.
21	* * *
22	(2)(a) An investor may apply for and, if qualified, be granted a credit on any
23	individual income or corporation franchise tax liability owed to the state by the
24	taxpayer seeking to claim the credit in the amount approved by the secretary of the
25	department. The amount of the tax credit shall be based upon the amount of money
26	invested by the investor in the Louisiana Entrepreneurial Business, which investment
27	shall not exceed seven hundred twenty thousand dollars per year per business and
28	one million four hundred forty thousand dollars total per business. Except as

treated as a corporation for Louisiana income tax purposes may be applied against

otherwise provided in Subparagraph (b) of this Paragraph, the credit shall be allowed

1	against the <u>individual</u> income tax for the taxable period in which the credit is earned
2	and the franchise tax for the taxable period following the period in which the credit
3	is earned. The credits approved by the department shall be granted at the rate of
4	twenty-five and two tenths percent of the amount of the investment with the credit
5	divided in equal portions for five years.
6	* * *
7	(3)(a) All entities taxed as corporations for Louisiana income or corporation
8	franchise tax purposes shall claim any credit allowed under this Section on their
9	corporation income and corporation franchise tax return.
10	(b) Individuals shall claim any credit allowed under this Section on their
11	individual income tax return.
12	(c)(b) Estates or trusts shall claim any credit allowed under this Section on
13	their fiduciary income tax returns.
14	(d)(c) Entities not taxed as corporations shall claim any credit allowed under
15	this Section on the returns of the partners or members as follows:
16	(i) Corporate partners or members shall claim their share of the credit on
17	their corporation income or corporation franchise tax returns.
18	(ii)(i) Individual partners or members shall claim their share of the credit on
19	their individual income tax returns.
20	(iii)(ii) Partners or members that are estates or trusts shall claim their share
21	of the credit on their fiduciary income tax returns.
22	* * *
23	§6022. Digital interactive media and software tax credit
24	* * *
25	D. Tax credit; specific projects.
26	(1) For applications for state-certified productions submitted to the office
27	prior to July 1, 2009, and subsequently approved by the office and secretary, there
28	is hereby authorized a tax credit against state individual income tax which shall be

1	earned by producers at the time funds are expended in Louisiana on a state-certified
2	production as follows:
3	* * *
4	E.
5	* * *
6	(2) For tax credits earned for expenditures made on or after January 1, 2012:
7	(a) The tax credits shall be refundable and allowed against the individual or
8	corporate income tax liability of the companies or financiers of the project in
9	accordance with their share of the credit as provided for in the application for
10	certification for the project. The credit shall be allowed for the taxable period in
11	which expenditures eligible for a credit are expended as set forth in the final tax
12	credit certification letter. Any excess of the credit over the income tax liability
13	against which the credit may be applied shall constitute an overpayment, as defined
14	in R.S. 47:1621(A), and the secretary of the Department of Revenue shall make a
15	refund of such overpayment from the current collections of the taxes imposed by
16	Chapter 1 of Subtitle II of this Title, as amended. The right to a refund of any such
17	overpayment shall not be subject to the requirements of R.S. 47:1621(B).
18	(b) At the time of final certification of tax credits, a company may elect, on
19	a one-time basis, to receive a rebate of the credits. The amount of the rebate shall be
20	eighty-five percent of the face value of the credits. Upon receipt of the final tax
21	credit certification letter and any necessary additional information, the secretary of
22	the Department of Revenue shall make payment to the company, or its irrevocable
23	designee, which may include but not be limited to a bank or other lender, in the
24	amount to which he is entitled from the current collections of the taxes collected
25	pursuant to Chapter 1 of Subtitle II of this Title, as amended
26	(c) Beginning January 1, 2017, the state corporate income and corporation
27	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
28	for the credit provided for pursuant to the provisions of this Section. Corporate

1	taxpayers shall be prohibited from applying this credit against individual income
2	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
3	* * *
4	§6025. Tax credit for Louisiana Citizens Property Insurance Corporation assessment
5	A.(1)(a) There shall be allowed a credit against Louisiana individual income
6	tax due in a taxable year for seventy-two percent of the amount of surcharges, market
7	equalization charges, or assessments paid by a taxpayer during the taxable year as
8	a result of the 2005 regular assessment or the emergency assessments levied due to
9	Hurricanes Katrina and Rita by Louisiana Citizens Property Insurance Corporation
10	for the FAIR Plan and Coastal Plan, as they are defined in R.S. 22:2292.
11	(b) Beginning January 1, 2017, the state corporate income and corporation
12	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
13	for the credit provided for pursuant to the provisions of this Section. Corporate
14	taxpayers shall be prohibited from applying this credit against individual income
15	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
16	* * *
17	§6032. Tax credit for certain milk producers
18	A.(1) A resident taxpayer engaged in the business of producing milk for sale
19	shall be allowed a refundable tax credit based on the amount of milk produced and
20	sold. The credit may be claimed against any Louisiana individual income tax and
21	the corporation franchise tax. The credit shall be allowed when the USDA Uniform
22	Price in Federal Order Number 7 drops below the announced production price any
23	time during the calendar year.
24	(2) Beginning January 1, 2017, the state corporate income and corporation
25	franchise taxes shall be repealed; therefore, no corporate taxpayer shall be eligible
26	for the credit provided for pursuant to the provisions of this Section. Corporate
27	taxpayers shall be prohibited from applying this credit against individual income
28	taxes or any other taxes imposed in Title 47 of the Revised Statutes of 1950.
29	* * *

1 D. The credit provided by this Section shall be earned on the last day of each 2 calendar year and may be claimed against the individual income tax for the taxable 3 year that includes the day on which the credit is earned or for the succeeding 4 franchise tax year. The credit shall be prorated on a quarterly basis. 5 6 Section 2. R.S. 47:51, 158, 246, Subparts A through D of Part II-A of Chapter 1 of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:287.2 through 7 8 287.95, 287.738, 287.745, and Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised 9 Statutes of 1950, comprised of R.S. 47:601 through 618, are hereby repealed in their 10 entirety. 11 Section 3. This Act shall become effective upon signature by the governor or, if not 12 signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If 13 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become 15 effective on the day following such approval.

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)]

HB 102 Original

2016 First Extraordinary Session

Broadwater

Abstract: Beginning Jan. 1, 2017, repeals corporate income and corporate franchise taxes and prohibits corporate taxpayers from claiming certain refundable credits.

<u>Present law</u> provides that the tax to be assessed, levied, collected, and paid on the La. taxable income of every corporation shall 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.
- (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 repeals the present law levy of corporate income taxes beginning Jan. 1, 2017.

<u>Proposed law</u> further repeals all provisions of <u>present law</u> relative to the computation of Louisiana taxable income for purposes of levying the corporate income tax, including but not limited to the federal income tax deduction, net operating loss deduction, computation

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of net allocable income from La. sources, computation of net apportionable income from La. sources, and determination of La. apportionment percent.

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

<u>Present law</u> 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) \$3.00 per \$1,000 of taxable capital above \$300,001.

<u>Proposed law</u> repeals <u>present law</u> levy of corporation franchise taxes beginning January 1, 2017. <u>Proposed law</u> repeals all provisions of <u>present law</u> relative to the determination of taxable capital for purposes of levying the corporation franchise tax including the allocation of taxable capital and the payment of the tax.

<u>Present law</u> provides for the following refundable tax credits which may be applied against Louisiana income and corporation franchise taxes:

- (1) R.S. 47:6006 -Tax credits for local inventory taxes
- (2) R.S. 47:6006.1 Tax credits for vessels in Outer Continental Shelf Lands Act Waters
- (3) R.S. 47:6014 Credit for property taxes paid by certain telephone companies
- (4) R.S. 47:6020 Angel Investor Tax Credit Program
- (5) R.S. 47:6022 Digital interactive media and software tax credit
- (6) R.S. 47:6025 Credit for La. Citizens Property Insurance Corporation assessment
- (7) R.S. 47:6030 Solar energy systems tax credit
- (8) R.S. 47:6032 Tax credit for certain milk producers

<u>Proposed law</u> retains <u>present law</u> but specifically provides that the refundable credits are applicable against individual income taxes. <u>Proposed law</u> further provides that beginning Jan. 1, 2017, since the state corporate income and corporation franchise taxes are repealed, no corporate taxpayer shall be eligible for the refundable tax credits in <u>present law</u>. Further prohibits corporate taxpayers from applying these credits against individual income taxes or any other taxes imposed in <u>present law</u>.

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

(Amends R.S. 47:6006(A) and (B), 6006.1(A) and (B), 6014(A), (B), and (C), 6020(D)(2)(a) and (3), 6022(D)(1)(intro. para.) and (E)(2), 6025(A), 6032(A) and (D); Repeals R.S. 47:51, 158, 246, 287.2-287.95, 287.738, 287.745, and 601-618)