2017 Regular Session

HOUSE BILL NO. 247

BY REPRESENTATIVE JACKSON

TAX/CORP INCOME: Provides relative to corporate income tax deductions

AN ACT

To amend and reenact R.S. 47:158(C) and (D) and 287.745(B) and Section 6 of Act No. 123 of the 2015 Regular Session of the Legislature and to repeal Sections 3 and 4 of Act No. 123 of the 2015 Regular Session of the Legislature, relative to corporate income tax; to provide relative to certain exclusions, exemptions, and deductions; to provide for continued effectiveness of reductions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:158(C) and (D) and 287.745(B), and Section 6 of Act No. 123 of the 2015 Regular Session of the Legislature are hereby amended and reenacted to read as follows:

§158. Basis for depletion

* * *

C. Percentage depletion for oil and gas wells. In the case of oil and gas wells, the allowance for depletion under R.S. 47:66 shall be ~~fifteen and eight-tenths of one~~ sixteen percent of the gross income from the property during the taxable year, excluding from such gross income an amount equal to eighty percent of any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed thirty-six percent of the net income of the taxpayer, computed without allowance for depletion, from the property except that in no case shall the depletion allowance under R.S. 47:66 be less than it would be if computed without reference to this Subsection.

D. Percentage depletion for coal and metal mines and sulphur. The allowance for depletion under R.S. 47:66 shall be, in the case of coal mines, ~~three and six-tenths of one~~ four percent, in the case of metal mines, ~~ten and eight-tenths of one~~ eleven percent, and in the case of sulphur mines or deposits, ~~fifteen and eight-tenths of one~~ sixteen percent, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to seventy-two percent of any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed thirty-six percent of the net income of the taxpayer, computed without allowance for depletion from the property. A taxpayer making his first return under this Chapter or under Act 21 of 1934 in respect of a property, shall state whether he elects to have the depletion allowance for such property for the taxable year for which the return is made computed with or without regard to percentage depletion, and the depletion allowance in respect of such property for such year and all succeeding taxable years shall be computed according to the election thus made. If the taxpayer fails to make such statement in the return, the depletion allowance for such property for all taxable years shall be computed without reference to percentage depletion. This Subsection shall not be construed as granting a new election to any taxpayer relative to any property with respect to which he has filed a return under Act 21 of 1934.

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§287.745. Deductions from gross income; depletion

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B. In the case of oil and gas wells, the percentage depletion provided for in Subsection A shall be ~~fifteen and eight-tenths of one~~ sixteen percent of gross income from the property during the taxable year, excluding from such gross income an amount equal to seventy-two percent of any rents or royalties paid or incurred by the taxpayer in respect of the property. Such allowance shall not exceed thirty-six percent of the net income of the taxpayer, computed without allowance for depletion, from the property. In determining net income from the property, federal income taxes shall be considered an expense.

* * *

Section 2. Section 6 of Act No. 123 of the 2015 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 6. The provisions of Sections 1 and 2 of this Act shall become effective on July 1, 2015<u>.</u> ~~, and shall remain effective through June 30, 2018. The provisions of Sections 3 and 4 of this Act shall become effective on July 1, 2018.~~

Section 3. Sections 3 and 4 of Act No. 123 of the 2015 Regular Session of the Legislature are hereby repealed in their entirety.

Section 4. This Act shall become effective upon signature by the governor or, if not 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 vetoed by the governor and subsequently approved by the legislature, this Act shall become 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 247 Original 2017 Regular Session Jackson

Abstract: Repeals the sunset for reductions in corporate income tax exclusions and deductions by Act No. 123 of the 2015 R.S.

<u>Proposed law</u> repeals the June 30, 2018, sunset of the following reductions to corporate income tax exclusions and reductions, thereby providing for their continued effectiveness:

(1) Exclusion from corporation gross income any funds received by a corporation from a governmental entity to subsidize the operation and maintenance of a public transportation system. (R.S. 47:51) Exclusion of 72% of funds received is continued.

(2) Additional deduction in determining net income for oil and gas depletion. (R.S. 47:158 and 287.745) (See below.)

(3) Deduction for net operating loss of a corporation. (R.S. 47:246) Deduction of 72% of net loss is continued.

(4) Exclusion from corporate gross income funds received from a governmental entity to subsidize the operation and maintenance of a public transportation system. (R.S. 47:287.71) Exclusion of 72% of funds received is continued.

(5) Deduction from corporate income tax expenses disallowed under I.R.C. Section 280C. Further requires a taxpayer who elects to claim certain credits that are based on an expense to reduce the federal deduction for the expense by the dollar amount of the credit claimed. (R.S. 47:287.73) Deduction of 72% of disallowed expenses is continued.

(6) Deduction from corporate income for the amount of the net operating loss incurred in La. (R.S. 47:287.86) Deduction of 72% of net loss is continued.

(7) Deduction from gross income of an amount equal to interest and dividend income included on the federal income tax return. (R.S. 47:287.738) Deduction of 72% of such income is continued.

(8) Exemption from corporation income and franchise taxes certain La. Community Development Financial Institutions. (R.S. 51:3092) Four-year exemption is continued.

Present law provides that the basis for the allowance for depletion for oil and gas wells is 15 and 8/10ths% of the gross income from the property during the taxable year. Proposed law changes that rate from 15 and 8/10ths% to 16%. (R.S. 47:158(C))

Proposed law, relative to the basis for the allowance for depletion for certain mines, changes the rate for coal mines from 3 and 6/10ths% to 4%; for metal mines from 10 and 8/10ths % to 11%; and for sulphur mines from 15 and 8/10ths% to 16%. (R.S. 47:158(D))

Present law provides that the deduction from gross income tax for the percentage depletion for oil and gas wells is 15 and 8/10ths% of the gross income from the property during the taxable year. Proposed law changes that rate from 15 and 8/10ths% to 16%. (R.S. 47:287.745(B))

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

(Amends R.S. 47:158(C) and (D) and 287.745(B) and §6 of Act No. 123 of 2015 R.S.; Repeals §§3 and 4 of Act No. 123 of 2015 R.S.)