

2017 Regular Session

HOUSE BILL NO. 361

BY REPRESENTATIVE IVEY

TAX/CORP FRANCHISE: Phases-out the corporation franchise tax beginning January 1, 2019

1 AN ACT

2 To amend and reenact R.S. 47:601(A), (B), and (C)(2) and to enact R.S. 47:611(C), relative
3 to the corporate franchise tax; to provide for the rate of the corporate franchise tax;
4 to provide for a reduction and eventual elimination of the corporate franchise tax; to
5 prohibit the levy of an initial tax under certain circumstances; to provide for
6 applicability; 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. 47:601(A), (B), and (C)(2) are hereby amended and reenacted and
9 R.S. 47:611(C) is hereby enacted to read as follows:

10 §601. Imposition of tax

11 A. (1) Except as provided for in Paragraph (2) of this Subsection, every
12 ~~Every~~ domestic corporation and every foreign corporation, exercising its charter, or
13 qualified to do business or actually doing business in this state, or owning or using
14 any part or all of its capital, plant, or any other property in this state, subject to
15 compliance with all other provisions of law, except as otherwise provided for in this
16 Chapter shall pay an annual tax at the rate of one dollar and fifty cents for each one
17 thousand dollars, or major fraction thereof on the first three hundred thousand dollars
18 of taxable capital and at the rate of three dollars for each one thousand dollars, or
19 major fraction thereof, which exceeds three hundred thousand dollars of taxable
20 capital. Taxable capital shall be determined as hereinafter provided. The tax levied
21 herein is due and payable on any one or all of the following alternative incidents:

1 ~~(1)~~(a) The qualification to carry on or do business in this state or the actual
2 doing of business within this state in a corporate form. The term "doing business"
3 as used herein shall mean and include each and every act, power, right, privilege, or
4 immunity exercised or enjoyed in this state, as an incident to or by virtue of the
5 powers and privileges acquired by the nature of such organizations, as well as, the
6 buying, selling, or procuring of services or property.

7 ~~(2)~~(b) The exercising of a corporation's charter or the continuance of its
8 charter within this state.

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

13 (2) The tax levied pursuant to the provisions of this Chapter shall be limited
14 to the following percentages of the amount otherwise levied pursuant to the
15 provisions of this Chapter:

16 (a) For taxable years beginning on or after January 1, 2019, and before
17 January 1, 2020, seventy-five percent.

18 (b) For taxable years beginning on or after January 1, 2020, and before
19 January 1, 2021, fifty percent.

20 (c) For taxable years beginning on or after January 1, 2021, and before
21 January 1, 2022, twenty-five percent.

22 (d) For taxable years beginning on or after January 1, 2022, no corporation
23 franchise tax shall be assessed, levied, or collected by the state nor paid by domestic
24 or foreign corporations on taxable capital.

25 B. It is the purpose of this Section to require the payment of this tax to the
26 state of Louisiana by domestic corporations for the right granted by the laws of this
27 state to exist as such an organization, and by both domestic and foreign corporations
28 for the enjoyment, under the protection of the laws of this state, of the powers, rights,
29 privileges, and immunities derived by reason of the corporate form of existence and

1 operation. The tax ~~hereby~~ imposed pursuant to the provisions of this Chapter shall
2 be in addition to all other taxes levied by any other statute.

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

5 * * *

6 (2) The term "foreign corporation" shall mean and include all such business
7 organizations as ~~hereinbefore~~ described in ~~this~~ Paragraph (1) of this Subsection
8 which are organized under the laws of any other state, territory or district, or foreign
9 country.

10 * * *

11 §611. Newly taxable corporation

12 * * *

13 C. For taxable years beginning on and after January 1, 2022, no initial tax
14 shall be assessed, levied, or collected by the state nor paid by domestic or foreign
15 corporations.

16 Section 2. The provisions of this Act shall be applicable to all corporate franchise
17 tax periods beginning on and after January 1, 2019.

18 Section 3. This Act shall take effect on January 1, 2018, and only become operative
19 if the proposed amendment of Article VII of the Constitution of Louisiana contained in the
20 Act which originated as House Bill No. 356 of this 2017 Regular Session of the Legislature
21 is adopted at a statewide election and becomes effective and if the Acts which originated as
22 House Bill Nos. 357, 358, 359, 360, 362, 363, and 364 of this 2017 Regular Session of the
23 Legislature are enacted and become effective.

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 361 Engrossed

2017 Regular Session

Ivey

Abstract: Phases-out the corporate franchise tax over four years beginning Jan. 1, 2019.

Present law (R.S. 47:601 et seq.) establishes the corporation franchise tax which is levied on every domestic and foreign corporation exercising its charter, qualified to do business,

or actually doing business in La. The corporation franchise tax is also levied on any domestic or foreign corporation owning or using any part of its capital, plant, or other property in La.

Present law 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 per \$1,000 of taxable capital above \$300,001.

Present law levies the corporation franchise tax on a corporation when any of the following occurs:

- (1) An organization does business within this state in a corporate form.
- (2) A corporation exercises its charter or the continuance of its charter within La.
- (3) An entity owns or uses part or all of its capital, plant, or other property in La. in a corporate capacity.

Present law provides for the determination of taxable capital for purposes of levying the corporation franchise tax as well as the tax treatment of capital stock, surplus and undivided profits, and the allocation of taxable capital. Present law further provides for the administration of the tax as well as the collection and payment of the tax.

Proposed law provides for the phase-out of the corporate franchise tax for taxable years beginning on or after Jan. 1, 2019, by reducing the amount of the tax by 25% each year until no tax is levied on the taxable capital of corporations for tax years beginning on or after Jan. 1, 2022.

Present law requires every corporation or other entity subject to the franchise tax to pay only an initial tax of \$110 in the first accounting period in which it becomes subject to the tax. After the first closing of the corporate books, the tax is payable as provided in present law.

Proposed law retains present law but clarifies that no initial tax shall be levied or collected by the state nor paid by domestic or foreign corporations for taxable years beginning on and after Jan. 1, 2022.

Proposed law applies to all corporate franchise tax periods beginning on and after Jan. 1 2019.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 357, 358, 359, 360, 362, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends R.S. 47:601(A), (B) and (C)(2); Adds R.S. 47:611(C))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Phase-out the corporate franchise tax over four years beginning on and after Jan. 1, 2019 by reducing the taxpayer's tax liability by 25% until the entire amount of the tax is eliminated for taxable years beginning on and after Jan. 1, 2022, rather than repeal the tax.
2. Add provision that for tax years beginning on and after Jan. 1, 2022, no initial corporate franchise tax is due for newly established businesses.

3. Change the applicability provisions of the bill from taxable years beginning on and after Jan. 1, 2018 to all corporate franchise tax periods beginning on and after Jan. 1, 2019.
4. Add contingent effectiveness on Jan. 1, 2018, for proposed law if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as House Bill Nos. 357, 358, 359, 360, 362, 363, and 364 of this 2017 R.S. of the Legislature become effective.