

2015 Regular Session

HOUSE BILL NO. 805

BY REPRESENTATIVE ADAMS

TAX CREDITS: Provides for the carry forward rather than the refund of the tax credits for ad valorem taxes paid to local governments

1 AN ACT

2 To amend and reenact R.S. 47:6006(A) and (B), 6006.1(C) and (D), and 6014(D) and (E)(2),  
3 relative to income and corporation franchise tax credits; to provide with respect to  
4 the tax credit for ad valorem taxes paid on inventory and certain natural gas; to  
5 provide with respect to the tax credit for ad valorem taxes paid on certain offshore  
6 vessels; to provide with respect to the tax credit for ad valorem taxes paid on certain  
7 properties owned by telephone companies; to provide with respect to authorization  
8 for issuance of refunds for tax credits which exceed taxpayer tax liability; to provide  
9 for certain limitations; to provide for effectiveness; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:6006(A) and (B), 6006.1(C) and (D), and 6014(D) and (E)(2) are  
13 hereby amended and reenacted to read as follows:

14 §6006. Tax credits for local inventory taxes paid

15 A.(1) There shall be allowed a credit against any Louisiana income or  
16 corporation franchise tax for ad valorem taxes paid to political subdivisions on  
17 inventory held by manufacturers, distributors, and retailers ~~and~~.

18 (2) There shall be allowed a credit against any Louisiana income or  
19 corporation franchise tax for ad valorem taxes paid to political subdivisions on

1 natural gas held, used, or consumed in providing natural gas storage services or  
2 operating natural gas storage facilities.

3 B. Credit for taxes paid by corporations shall be applied to state corporate  
4 income and corporation franchise taxes. Credit for taxes paid by unincorporated  
5 persons shall be applied to state personal income taxes. ~~The taxpayer shall be~~  
6 ~~entitled to a refund for any allowable credit which exceeds the aggregate tax liability~~  
7 ~~of the taxpayer for the taxes imposed by Chapter 1 and Chapter 5 of Subtitle H of~~  
8 ~~this Title. The secretary shall make such refund to the taxpayer in the amount to~~  
9 ~~which he is entitled from the current collections of the taxes collected pursuant to~~  
10 ~~Chapter 1 and Chapter 5 of such Subtitle H. If the amount of the credit authorized~~  
11 ~~pursuant to Subsection (A) of this Section exceeds the amount of tax liability for the~~  
12 ~~tax year, then any unused credit may be carried forward as a credit against~~  
13 ~~subsequent Louisiana income or corporation franchise tax liability for a period not~~  
14 ~~to exceed five years.~~

15 \* \* \*

16 §6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental  
17 Shelf Lands Act Waters

18 \* \* \*

19 C. ~~Notwithstanding any other provision of law to the contrary in Title 47 of~~  
20 ~~the Louisiana Revised Statutes of 1950, as amended, any excess of allowable credit~~  
21 ~~established by this Section over the aggregate tax liabilities against which such credit~~  
22 ~~can be applied, as provided in this Section, shall constitute an overpayment, as~~  
23 ~~defined in R.S. 47:1621(A), and the secretary shall make a refund of such~~  
24 ~~overpayment from the current collections of the taxes imposed by Chapter 1 or~~  
25 ~~Chapter 5 of Subtitle H of Title 47 of the Louisiana Revised Statutes of 1950, as~~  
26 ~~amended, together with interest as provided in R.S. 47:1624. The right to a credit~~  
27 ~~or refund of any such overpayment shall not be subject to the requirements of R.S.~~  
28 ~~47:1621(B). If the amount of the credit exceeds the amount of tax liability for the~~  
29 ~~tax year, then any unused credit may be carried forward as a credit against~~

1 subsequent Louisiana income or corporation franchise tax liability for a period not  
2 to exceed five years. All credits ~~and refunds, together with interest thereon,~~ must be  
3 paid or disallowed within ninety days of receipt by the secretary, of any ~~such claim~~  
4 ~~for refund or~~ claim for a credit. Failure of the secretary to pay or disallow, in whole  
5 or in part, any claim for a credit ~~or a refund~~ shall entitle the aggrieved taxpayer to  
6 proceed with the remedies provided in R.S. 47:1625.

7 D.(1) For the purpose of allowing the credit ~~or refund~~ for ad valorem taxes  
8 paid to political subdivisions as provided herein, the term "vessel" shall include  
9 ships, oceangoing tugs, towboats, and barges. The term "Outer Continental Shelf  
10 Lands Act Waters" as used herein shall have the meaning ascribed to it in R.S.  
11 47:1702.

12 (2) The acceptance by the sheriff and ex officio tax collector of the ad  
13 valorem taxes paid without protest by a taxpayer as certified under R.S. 47:1956(B)  
14 shall conclusively establish: that such property was properly classified as a "vessel",  
15 for purpose of this Section; that such vessel was "principally operated" in Outer  
16 Continental Shelf Lands Act Waters during the applicable tax year; and that such  
17 taxpayer shall be entitled to a credit ~~or refund~~ pursuant to this Section.

18 \* \* \*  
19 §6014. Credit for property taxes paid by certain telephone companies; fund  
20 \* \* \*

21 ~~D. The excess, if any, of the credit allowed by this Section over the~~  
22 ~~aggregate tax liabilities against which such allowable credit may be applied, as~~  
23 ~~provided in this Section, shall constitute an overpayment, as defined in R.S.~~  
24 ~~47:1621(A), and the secretary shall make a refund of such overpayment from the~~  
25 ~~current collections of the taxes imposed under Chapter 2 of Subtitle II of this Title,~~  
26 ~~together with interest as provided in R.S. 47:1624. The right to a refund of any such~~  
27 ~~overpayment shall not be subject to the requirements of R.S. 47:1621(B). Any such~~  
28 ~~refund, together with interest thereon, shall be paid by the secretary within ninety~~  
29 ~~days of receipt by the secretary of the return on which the credit allowed by this~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1        ~~Section is claimed. Failure of the secretary to pay such refund, in whole or in part,~~  
2        ~~shall entitle the aggrieved taxpayer to proceed with the remedies provided in R.S.~~  
3        ~~47:1625. If the amount of the credit exceeds the amount of tax liability for the tax~~  
4        ~~year, then any unused credit may be carried forward as a credit against subsequent~~  
5        ~~Louisiana income or corporation franchise tax liability for a period not to exceed five~~  
6        ~~years.~~

7                    E.

8    \*        \*        \*

9                    (2) The monies in the fund shall be used solely and exclusively for the  
10          purpose of providing funds to pay the credits ~~or refunds~~ as provided in this Section.  
11          The treasurer shall annually transfer to the state general fund an amount equal to the  
12          credits taken ~~and refunds issued~~ pursuant to this Section.

13    \*        \*        \*

14          Section 2. The provisions of this Act shall be applicable to tax years beginning on  
15          or after January 1, 2015.

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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)]

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HB 805 Original                              2015 Regular Session                              Adams

**Abstract:** Changes the tax credit for ad valorem taxes paid on certain inventory, natural gas, vessels in Outer Continental Shelf Lands Act Waters, and public service property owned by telephone companies from refundable credits to credits in which amounts of the credit above the tax liability may be carried forward and applied against subsequent tax liability for up to five years.

Present law provides for an income or corporation franchise tax credit for ad valorem taxes paid to political subdivisions on inventory held by manufacturers, distributors, and retailers and on natural gas held or consumed in providing natural gas storage services or operating natural gas storage facilities. The amount of the credit shall be equal to 100% of the taxes paid to political subdivisions.

Present law provides that the taxpayer is entitled to a refund for any allowable credit which exceeds the aggregate tax liability of the taxpayer. Further requires the Dept. of Revenue to refund the excess tax credit amount to the taxpayer from current tax collections.

Proposed law changes the tax credit from a refundable credit to one in which credit amounts which exceed taxpayer liability may be carried forward against subsequent income or corporation franchise tax liability for up to five years.

Present law provides for a La. income or corporation franchise tax credit for ad valorem taxes paid without protest to political subdivisions on vessels in Outer Continental Shelf Lands Act Waters as certified to the assessor pursuant to present law within the calendar year immediately preceding the taxable year of assessment of the vessel. The amount of the credit shall be equal to 100% of the ad valorem taxes paid to political subdivisions.

Present law provides that the taxpayer is entitled to a refund for any allowable credit which exceeds the aggregate tax liability of the taxpayer. Further requires the Dept. of Revenue to refund the excess tax credit amount to the taxpayer from current tax collections and to pay or disallow claims for credits, refunds, and interest within 90 days of receiving a tax credit or refund claim.

Proposed law changes the tax credit from a refundable credit to one in which credit amounts which exceed taxpayer liability may be carried forward against subsequent income or corporation franchise tax liability for up to five years. Proposed law removes references to refunds and interest from the requirement that the secretary pay tax credit amounts within one year of receipt of the tax credit claim.

Present law provides for an income or corporation franchise tax credit for ad valorem taxes paid to political subdivisions after Dec. 31, 2000, by a telephone company for public service property owned by the telephone company which is assessed by the La. Tax Commission at 25% of fair market value pursuant to present law. The amount of the credit shall be equal to 40% of the taxes paid to political subdivisions.

Present law provides that the taxpayer is entitled to a refund for any allowable credit which exceeds the aggregate tax liability of the taxpayer. Further requires the Dept. of Revenue to refund the excess tax credit amount and interest to the taxpayer from current tax collections within 90 days of receiving a tax credit claim.

Proposed law changes the tax credit from a refundable credit to one in which credit amounts which exceed taxpayer liability may be carried forward against subsequent income or corporation franchise tax liability for up to five years. Proposed law deletes the requirement of paying refunds within 90 days of receiving a tax credit claim.

Present law requires the avails of sales and use taxes collected on the furnishing of interstate and international telecommunication services to be deposited into the Telephone Company Property Assessment Relief Fund for payment of credits and refunds as provided for in present law.

Proposed law retains present law but deletes references to the payment of refunds.

Applicable to tax years beginning on or after Jan. 1, 2015.

(Amends R.S. 47:6006(A) and (B), 6006.1(C) and (D), and 6014(D) and (E)(2))