AN ACT

SENATE BILL NO. 223

BY SENATOR ALLAIN

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2	To amend and reenact R.S. 47:287.732(B)(1), 293(10), and 1675(G), and to enact R.S.
3	47:287.732(B)(6), 287.732.2, 293(9)(a)(xviii), 297.14, and 1675(F)(4), relative to
4	income taxation of Subchapter S corporations and other flow-through entities; to
5	reduce the tax rates applicable to the income of Subchapter S corporations that elect
6	to be taxed at the corporation level; to authorize certain flow-through entities not
7	taxed as corporations to elect to file as corporations for state income tax purposes;
8	to provide for a modification to exclude certain Subchapter S corporation and flow-
9	through income from income subject to state individual income tax; to provide for
10	tax credits earned by Subchapter S corporations and other flow-through entities; and
11	to provide for related matters.
12	Be it enacted by the Legislature of Louisiana:
13	Section 1. R.S. 47:287.732(B)(1), 293(10), and 1675(G) are hereby amended and
14	reenacted and R.S. 47:287.732(B)(6), 287.732.2, 293(9)(a)(xviii), 297.14, and 1675(F)(4)
15	are hereby enacted to read as follows:
16	§287.732. S Corporations
17	* * *
18	B. S corporation exclusion. This Subsection provides an exclusion to
19	corporations classified as S corporations under federal law for the taxable year, as
20	follows:
21	(1) In computing Louisiana taxable income pursuant to this Part, an S
22	corporation that does not make an election pursuant to R.S. 47:287.732.2 may
23	exclude such percentage of its Louisiana net income for the taxable year as is
24	provided in R.S. 47:287.732(B)(2).
25	* * *

SB NO. 223 ENROLLED

1	(6) S corporations that elect to pay tax at the corporation level pursuant
2	to R.S. 47:287.732.2 shall not be eligible for this exclusion.
3	* * *
4	§287.732.2. Election for S corporations and other flow-through entities
5	A.(1) Any S corporation or entity taxed as a partnership for federal
6	income tax purposes may elect to be taxed and to comply with this Part in the
7	same manner as if the entity had been required to file an income tax return with
8	the Internal Revenue Service as a C corporation. S corporations that make this
9	election shall not be eligible for the exclusion provided in R.S. 47:287.732.
10	(2) The election shall be made in writing and may be made at any time
11	during the preceding taxable year, or at any time during the taxable year and
12	on or before the fifteenth day of the fourth month after the close of the taxable
13	year. The secretary may treat an election made after the fifteenth day of the
14	fourth month after the close of the taxable year as timely made for the taxable
15	year if the secretary determines that there was reasonable cause for the failure
16	to make the election timely.
17	(3) The election shall be effective for the taxable year of the entity for
18	which it is made and for all succeeding taxable years of the entity, until the
19	election is terminated by the secretary.
20	(4)(a) An entity that has made an election pursuant to this Section may
21	apply to the secretary for termination of the election if shareholders, partners,
22	or members holding more than one-half of the ownership interest in the entity
23	on the day on which the revocation is requested consent to the revocation
24	request.
25	(b) The secretary may terminate an entity's election if the entity shows
26	a material change in circumstances. A significant change in federal tax law may
27	be considered by the secretary as a material change in circumstances.
28	B. Notwithstanding any provision of law to the contrary, the tax on the
29	Louisiana taxable income of every entity that makes the election pursuant to
30	this Section shall be computed at the rates of:

2 taxable income. (2) Four percent upon the amount of Louisiana taxable twenty-five thousand dollars but not in excess of one hundred thousand dollars. (3) Six percent upon the amount of Louisiana taxable income hundred thousand dollars. C. An entity that has made the election provided in this Stable allowed a deduction in an amount equal to the federal income would have paid on its Louisiana net income for the taxable yea had been required to file an income tax return with the Inte Service as a C corporation for the current and all prior taxable accordance with federal law. D. The secretary may require the electronic filling of the reports filed by entities making an election pursuant to this Section shall apply to all entities making an election pursuant to this Section is shall apply to all entities making an election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the election pursuant to this Section is prohibited from making the el
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23 requires otherwise: 24 * * * *
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25 (0)(a) "Tay table income" for regident individuals, many
25 (9)(a) "Tax table income", for resident individuals, means
26 income plus interest on obligations of a state or political subdivision
27 than Louisiana and its municipalities, title to which obligations ve
resident individual on or subsequent to January 1, 1980, and less:
resident individual on or subsequent to January 1, 1980, and less: * * *

SB NO. 223 ENROLLED

(10) "Tax table income", for nonresident individuals, means the amount of Louisiana income, as provided in this Part, allocated and apportioned under the provisions of R.S. 47:241 through 247, plus the total amount of the personal exemptions and deductions already included in the tax tables promulgated by the secretary under authority of R.S. 47:295, less the proportionate amount of the federal income tax liability, excess federal itemized personal deductions, the temporary teacher deduction, the recreation volunteer and volunteer firefighter deduction, the construction code retrofitting deduction, any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity if such benefit was included in federal adjusted gross income, the exclusion provided for in R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by I.R.C. Section 280C, salaries, wages or other compensation received for disaster or emergency-related work rendered during a declared state disaster or emergency, the deduction for net capital gains, the pass-through entity exclusion provided in R.S. 47:297.14, and personal exemptions and deductions provided for in R.S. 47:294. The proportionate amount is to be determined by the ratio of Louisiana income to federal adjusted gross income. When federal adjusted gross income is less than Louisiana income, the ratio shall be one hundred percent.

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§297.14. Flow-through entity exclusion

A.(1) In computing Louisiana tax table income, an individual shall exclude net income or losses received from an entity of which the individual is a shareholder, partner, or member provided that the entity properly filed a Louisiana corporation income tax return pursuant to R.S. 47:287.732.2 that included the net income or loss.

(2) No exclusion shall be allowed for any amount that is attributable to income that, for any reason whatsoever, will not bear the tax due pursuant to R.S. 47:287.732.2.

B. A taxpayer whose federal individual income tax return is adjusted due to S corporation or partnership income or losses for which the taxpayer used

SB NO. 223 ENROLLED

1	this exclusion shall furnish a statement to the secretary, disclosing the nature
2	and amounts of such adjustments within sixty days after the federal
3	adjustments have been made and accepted by the taxpayer, provided that if the
4	taxpayer does not receive a statement of the federal adjustments until after he
5	accepts the adjustments, he shall have sixty days from the receipt of such
6	statement within which to furnish the required statement to the collector.
7	Paying the federal tax shown due or signing a consent to immediate assessment
8	shall constitute an acceptance of the federal adjustments.
9	* * *
10	§1675. General administrative provisions for credits against income and corporation
11	franchise tax
12	* * *
13	F. Credits granted, allocated, or transferred to entities not subject to Louisiana
14	income tax or corporation franchise tax.
15	* * *
16	(4) The provisions of this Subsection shall not apply to entities that make
17	an election pursuant to R.S. 47:287.732.2. Beginning with the taxable year for
18	which the election is first made, the entity shall apply any credits earned at the
19	entity level.
20	G. Credits granted or allocated to Subchapter S Corporations.
21	(1) Credits earned by, allocated to, or transferred to an S corporation during
22	a year in which the corporation operated as a C corporation must shall be used at the
23	corporation level.
24	(2)(a) Unless otherwise provided in the statute granting the credit, credits
25	earned by, allocated to, or transferred to a corporation during a year in which the
26	corporation operates as an S corporation do not flow through to the shareholders, but
27	must shall be used at the corporation level unless the S corporation makes the annual
28	election provided for in Subparagraph (b) of this Paragraph.
29	(b) Flow-through election for S corporations. An S corporation that earns or

otherwise receives a tax credit through allocation or transfer during a year in which

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SB NO. 223 ENROLLED the corporation operates as an S corporation may annually elect to flow through the 1 2 entire amount of the credit to its shareholders. The election may be made for each 3 credit received by the S corporation and shall be made annually. The election shall 4 be in writing and may not be revoked. S corporations that file their corporation 5 income tax returns pursuant to R.S. 47:287.732.2 shall not be eligible to make this flow-through election beginning with the taxable year for which the election 6 7 is first made. 8 Section 2. This Act shall be effective for all tax years beginning on or after 9 10 January 1, 2019. 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 effective on the day following such approval. 15 PRESIDENT OF THE SENATE SPEAKER OF THE HOUSE OF REPRESENTATIVES GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____