

Enacted Louisiana law addresses timing of expiring corporate income tax provisions

Overview

On June 12, 2018, Governor John Bel Edwards signed into law House Bill 13 (H.B. 13),¹ which includes the following modifications to Louisiana law:

- Expressly states that provisions of 2015 legislation (Act No. 123) limiting certain Louisiana tax benefits and deductions for corporate taxpayers, and which sunset on June 30, 2018, are applicable to taxable years beginning during calendar years 2015, 2016, and 2017, regardless of the date the relevant return is filed.
- Expressly states that certain deductions disallowed under Act No. 123 may not be claimed on amended returns filed on or after July 1, 2018 if the original return was filed on or after July 1, 2015.

This tax alert summarizes these law changes that are effective June 12, 2018.²

Act 123 of the 2015 legislative session

Act 123,³ enacted on June 19, 2015, reduced various income tax deductions and exclusions for corporate taxpayers by 28 percent (effectively reducing to 72% of the amount otherwise allowed) the following deductions and income exclusions:

- Dividends received by corporate taxpayers.
- Funds received by a corporation operating a public transportation system.
- Dividends received by corporate taxpayers from Louisiana banks.
- Refunds of Louisiana income taxes paid.
- Certain recovery benefits.⁴

Act No. 123 also reduced certain deductions as follows:

- Allowable depletion was reduced from 22 percent to 15.8 percent.
- Expenses disallowed by IRC Section 280C (i.e., expenses relating to federal tax credits), which were previously wholly deductible, were limited to 72 percent.
- The amount of NOL that a taxpayer could use to offset current-year income could not exceed 72 percent of the total NOL available for use.⁵

These reductions, effective for returns filed on or after July 1, 2015 regardless of the taxable year to which the return relates,⁶ sunset on June 30, 2018, whereupon the law reverted to that applicable prior to Act No. 123.⁷

H.B. 13 - provisions of Act No. 123 apply expressly to taxable years

H.B. 13 amends Section 6 of Act No. 123 such that the above provisions of Act 123 apply to *taxable years* beginning during calendar years 2015, 2016, and 2017, regardless of the date the original or any amended returns for such

¹ Act No. 4, 2018 Extraordinary Session (2nd Extraordinary Sess.) H.B. 13 (Jun. 12, 2018). A copy of the adopted law is accessible [here](#).

² *Id.* at Sec. 2.

³ Act No. 123, 2015 Reg. Sess. (1st Reg. Sess.) H.B. 624 (Jun. 19, 2015). A copy of H.B. 624 is available [here](#). For additional information on Act 123 of 2015, please see our External MTS Alert issued on June 9, 2015, available [here](#).

⁴ Act No. 123, 2015 Reg. Sess. Section 1.

⁵ *Id.*

⁶ *Id.* at Sec. 5(A).

⁷ Act No. 123, 2015 Reg. Sess. Section 6. The limited deductions and exclusions sunset on June 30, 2018, but remain applicable to taxable years beginning during calendar year 2017. Therefore, full deductions and exclusions will be available for taxable years beginning in 2018. Note, however, the limitation for NOLs was made permanent by Act No. 6, 2016 Extraordinary Session (1st Extraordinary Sess.) H.B. 20 (Mar. 9, 2016).

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taxable years are filed.⁸ These provisions of Act No. 123 originally applied to *all returns* filed on or after July 1, 2015, and before July 1, 2018. H.B. 13 makes it clear that the reductions apply to taxable years beginning during calendar years 2015, 2016, and 2017 regardless of when returns are filed or amended.

Furthermore, H.B. 13 adds that if a return is filed on or after July 1, 2015, regardless of the taxable year to which the return relates, and a reduction in exclusions or deductions applied, then no portion of such disallowed exclusion or deduction is allowed on an amended return for the same tax year filed on or after July 1, 2018.⁹

As stated above, H.B. 13 expressly states that a 72% dividend exclusion will apply to taxable years beginning during calendar year 2017. As such, taxpayers should revisit the Louisiana tax effects of H.B. 13, most notably how it may impact the DRD claimed on a 2017 Louisiana corporate income return relative to deemed repatriation income recognized pursuant to IRC Section 965.

2018 Third Extraordinary Session

On June 24, 2018, the Third, and final, 2018 Extraordinary Session adjourned with no further amendments relating to the provisions enacted in Act No. 123 or any other corporate income tax provisions.

Considerations

Taxpayers potentially impacted by the enactment of H.B. 13 should consult with their Louisiana tax advisors for further assistance.

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⁸ H.B. 13, Sec. 1, amending Sec. 6 of Act No. 123 of the 2015 Reg. Sess.

⁹ *Id.*