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Legislation Affecting Revenue and Taxation

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The 1956 session of the Louisiana Legislature probably considered more and passed fewer revenue and taxation measures than any previous Legislature. Of great significance was the highly controversial and most unusual constitutional provision requiring a two-thirds vote to impose new or to raise existing taxes.¹ The Legislature, at its regular session voted to submit this limitation on its authority to the people again in the 1956 general election,² but at the special session reversed itself and withdrew the proposed constitutional amendment.³

INCOME TAX

Several changes, designed for the most part to make Louisiana law conform more closely to the federal law, were made in the income tax provisions. Section 53.2⁴ was added to Title 47 to provide a specific exclusion from gross income of the amount of income which is attributable to certain discharges of indebtedness, in whole or in part. To obtain the benefit of this optional exclusion, the taxpayer must agree to the use of the applicable regulations relating to the adjustment of basis of property held. Section 156 was amended by adding subsection C,⁵ relating to the adjustment of basis for amounts excluded under section 53.2.

The most far reaching change to the income tax law was the amendment to section 65 of Title 47 concerning depreciation and amortization.⁶ The new provision recognizes several methods of determining depreciation available for federal purposes, including the declining balance and the sum of the years—digits methods. These new methods, although effective for taxable years beginning after December 31, 1955, are applicable to prop-

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1. LA. CONST. art. X, § 1a, as added by La. Acts 1955, No. 140.

2. La. Acts 1956, No. 623.

3. House Concurrent Resolution No. 1 of Extraordinary Session of 1956.

4. La. Acts 1956, No. 433, incorporated as LA. R.S. 47:53.2 (Supp. 1956).

5. La. Acts 1956, No. 435, incorporated as LA. R.S. 47:156 (Supp. 1956).

6. La. Acts 1956, No. 242, incorporated as LA. R.S. 47:65 (Supp. 1956).

erties completed after December 31, 1953. In order to bring Louisiana basis into agreement with federal basis, where the property is acquired after December 31, 1953, but before January 1, 1956, the section contains a provision which permits a supplemental allowance to be claimed over a period of five years.

Section 65 was also amended to provide an option with respect to certified defense facilities.⁷ Where such facilities are completed in taxable years beginning after December 31, 1955, taxpayers may, at their option, amortize the facilities over a period of not less than sixty months, just as they may do under the federal income tax laws. This will make the federal and state allowances in future years the same for new facilities

Section 79 of Title 47 concerning credits of individuals against net income was amended to eliminate the requirement that those credits be apportioned where a change of status occurs during the taxable year.⁸ Under the amendment, the credits for dependents or dependent students are allowed in full so long as the age limitations are not exceeded at the beginning of the taxable year and the other conditions are met. The amendment makes it clear that a taxpayer may not claim a credit for a dependent and a credit for a dependent student if the dependent involved is the same one. The exemption for head of family is not allowed unless that status exists during the entire taxable year. The amendment also dropped from the law the obsolete paragraph concerning the World War II readjustment exemption.

Section 133E of Title 47 was amended to make more liberal the provisions governing the transfer of property to a controlled corporation in return for stock or securities.⁹ Prior to this change, gain or loss was recognized unless the amounts received by each of two or more transferors were substantially in proportion to the interest of each in the property prior to the exchange. Under the change, no gain or loss is recognized if the person or persons making the transfer have control after the transfer regardless of proportionate interest. Furthermore, if money or property is received in addition to stock or securities, gain, if any, is recognized, but only to the extent of the amount

7. *Ibid.*

8. La. Acts 1956, No. 473, incorporated as LA. R.S. 47:79 (Supp. 1956).

9. La. Acts 1956, No. 434, incorporated as LA. R.S. 47:133 (Supp. 1956).

of money received plus the fair market value of the other property.

Notice was also taken of the rising costs of administration incurred in an efficient administration of the income tax laws by increasing the allowance of the Department of Revenue for collection to five hundred thousand dollars per annum.¹⁰

SALES TAX

Although many proposals concerning the sales tax law were considered, the only change made by the Legislature was the addition of section 306.1 to Title 47.¹¹ This section provides a formula for determining the sales tax liability of interstate and foreign carriers. Carriers may register as dealers and accrue and pay sales and use taxes directly to the Collector of Revenue after applying to the total amount of the purchases and importations the ratio of Louisiana miles operated to total mileage to determine the amount of tax owed.

Of more than passing interest was the continued policy on the part of the Legislature to allow local governing authorities to levy sales taxes under certain conditions. Two such bills¹² were passed at the regular session and one¹³ at the special session.

OCCUPATIONAL LICENSE TAX

The occupational license tax law was amended by adding a new section specifically taxing the business of operating a live-stock auction.¹⁴ The annual license is based on the amount of the gross annual commissions with the schedule being identical to the schedule provided in the omnibus section.¹⁵ Since this schedule is lower than that previously used by some political subdivisions and since political subdivisions of the state are prohibited from imposing any greater license tax than is imposed for state purposes,¹⁶ this legislation will be of interest to cities and parishes levying occupational license taxes.

10. La. Acts 1956, No. 6 (formerly \$300,000.00), incorporated as LA. R.S. 47:284 (Supp. 1956).

11. La. Acts 1956, No. 438.

12. La. Acts 1956, No. 401 (East Baton Rouge Parish), incorporated as LA. R.S. 33:2741 (Supp. 1956); La. Acts 1956, No. 139 (West Feliciana Parish).

13. La. Acts 1956 (E.S.), No. 27 (East Feliciana Parish, Iberville Parish).

14. La. Acts 1956, No. 148, incorporated as LA. R.S. 47:385.1 (Supp. 1956).

15. LA. R.S. 47:395 (1950).

16. LA. CONST. art. X, § 8, as amended.

VEHICLE REGISTRATION LICENSE TAX

The Legislature amended the exemption section of the Vehicle Registration License Tax Law so as to provide a specific exemption for two and four wheel, rubber-tired, farm wagons or trailers up to two ton capacity.¹⁷ Heretofore a license tax of three dollars per load carrying axle was imposed.¹⁸ Existing definitions limit the exemption to trailers owned by actual farmers and by them used exclusively in carrying farm produce raised on their farms to market and returning to the farm.¹⁹

CORPORATION FRANCHISE TAX

The changes concerning depreciation and amortization made in the income tax law were also made for corporation franchise tax purposes.²⁰ However, to be recognized for franchise tax purposes such allowances must be recorded on the books of the taxpayer.

SEVERANCE TAX

With a view towards encouraging development of the several low value deposits of lignite in Louisiana the 1956 Legislature repealed the severance tax of ten cents per ton of two thousand pounds.²¹ Since the severance tax on lignite produced no revenue for the state,²² it cannot be said that this action of the Legislature indicates a tax-repealing trend.

MISCELLANEOUS

One administrative change was made in the gasoline tax law relative to reports by dealers and distribution of collections.²³ Dealers are required to report sales directly to parishes each year on or before February 20. The parishes in turn certify these totals to the Collector of Revenue and the State Treasurer in order to receive credit in the Parish One Cent Gasoline Fund. Prior to the change, reports were made directly to the State Treasurer.

17. La. Acts 1956, No. 348, incorporated as LA. R.S. 47:479 (Supp. 1956).

18. LA. R.S. 47:462B (1950).

19. LA. R.S. 47:451(12) (1950).

20. La. Acts 1956, No. 328, incorporated as LA. R.S. 47:605 (Supp. 1956)
See also page 75 *supra* for changes in the income tax law.

21. La. Acts 1956, No. 102, incorporated as LA. R.S. 47:633 (Supp. 1956).

22. ANNUAL REPORT OF THE COLLECTOR OF REVENUE FOR FISCAL YEAR 1954-1955, at 22-23.

23. La. Acts 1956, No. 81, incorporated as LA. R.S. 47:722 (Supp. 1956).

Sections 821 through 827 of Title 47, regulating the handling and selling of petroleum solvents, were repealed.²⁴ These sections originated with the Legislature of 1938, when control of petroleum solvents was deemed necessary to protect the public from improper dilution of gasoline with solvents. In repealing these sections the Legislature simply disposed of an obsolete statute with its useless burden on industry.

Provision was made for newly incorporated towns to share the tobacco tax proceeds. This act also made some adjustment in the distribution schedule.²⁵

Three changes were made in the laws affecting alcoholic beverages. The administration of the laws concerning permits for beverages of high alcoholic content was transferred from the Department of Revenue to the recreated ABC Board.²⁶ An additional tax of ten cents per gallon on such beverages was imposed in order to defray the costs of the ABC Board.²⁷ Several changes were made concerning qualifications of applicants for permits for beverages of low alcoholic content.²⁸ This same act also defined malt beverages as not being "liquors" — thus avoiding the state statute forbidding the sale of liquor on Sunday — and changed the designation of "saloon" to "beer outlet."

The special session saw the passage of an act²⁹ increasing the license tax for conducting race meetings after attempts to do so during the regular session failed to get the necessary two-thirds vote. In place of the graduated scale previously provided, the new act substitutes a flat seven percent tax on all money handled, with the minimum fee to be \$1,000.00 per day, just as before. The moneys received from the tax, after expenses are dedicated in prescribed amounts to the Legislative Council, the municipality in which the track is located, Isaac Delgado Trade School, Louisiana State University, for enumerated purposes, and the balance, if any, to the general fund of the state. The graduated commissions which were allowed the operators under

24. La. Acts 1956, No. 342.

25. La. Acts 1956, No. 171, incorporated as LA. R.S. 47:869 (Supp. 1956).

26. La. Acts 1956, No. 36, incorporated as LA. R.S. 26:1 *et seq.* (Supp. 1956).

27. La. Acts 1956, No. 152, incorporated as LA. R.S. 26:341 (Supp. 1956).

28. La. Acts 1956, No. 123, incorporated as LA. R.S. 26:241, 26:272, 26:279, 26:286, 26:286.1, 26:459 (Supp. 1956).

29. La. Acts 1956(E.S.), No. 40, incorporated as LA. R.S. 4:153 (Supp. 1956).

the old law were discarded in favor of a flat eight per cent allowance.

An act of the special session³⁰ settles the apparent conflict of two acts³¹ of the regular session concerning fees of attorneys for the inheritance tax collectors of the state. It increases the fees allowed the attorney in Orleans Parish, but requires him to employ an appraiser and pay for his services out of the fees provided by the act. It also provides a graduated fee schedule for all attorneys appointed to assist the inheritance tax collectors in cases where there is no inheritance tax due — the fees in such cases ranging from one dollar to twenty dollars.

The due date of inheritance taxes for purposes of prescription was clarified.³² If no administration has been applied for, inheritance taxes are declared to be due six months after death.

AD VALOREM TAXES

Several amendments to the laws governing ad valorem taxes were passed by the Legislature. One change increased the salaries of the members of the Tax Commission.³³ Another increased the allowance of assessors for clerical and other expenses.³⁴ Several acts made changes in the Assessors' Retirement Fund.³⁵ The statute controlling the salary and expense fund of Orleans Parish assessors was also amended.³⁶ Tax collectors may now use the new certified mail as well as registered mail for tax notices.³⁷ Another act³⁸ establishes a separate class of property for the purpose of assessing and taxing lands, trees, improvements, plants, and inventories used primarily in the production and processing of tung nuts. The act provides that such property shall be listed at ten percent of assessed valuation of cultivated agricultural lands in one case, and of actual value in the other. This listing is also binding for local assessment purposes.

30. La. Acts 1956 (E.S.), No. 8, incorporated as LA. R.S. 47:2417, 47:2419 (Supp. 1956).

31. La. Acts 1956, No. 129, incorporated as LA. R.S. 47:2417, 47:2419 (Supp. 1956); La. Acts 1956, No. 423, incorporated as LA. R.S. 47:2419 (Supp. 1956).

32. La. Acts 1956, No. 542, incorporated as LA. R.S. 47:2422 (Supp. 1956).

33. La. Acts 1956, No. 125, incorporated as LA. R.S. 47:1832 (Supp. 1956).

34. La. Acts 1956, No. 20, incorporated as LA. R.S. 47:1908 (Supp. 1956).

35. La. Acts 1956, Nos. 4, 19, incorporated as LA. R.S. 47:1918 (Supp. 1956).

36. La. Acts 1956, No. 363, incorporated as LA. R.S. 47:1910 (Supp. 1956).

37. La. Acts 1956, No. 344, incorporated as LA. R.S. 47:2180 (Supp. 1956).

38. La. Acts 1956, No. 115.