

Regular Session, 2000

HOUSE BILL NO. 198

BY REPRESENTATIVE HAMMETT

TAX/INCOME TAX: Combines Subchapter S corporations and qualified Subchapter S subsidiary corporations for state income tax purposes

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AN ACT

To amend and reenact R.S. 47:287.732(A) and to enact R.S. 47:287.732(C) and 287.732.1, relative to the state income tax liability of S corporations and qualified Subchapter S subsidiary corporations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:287.732(A) is hereby amended and reenacted and R.S. 47:287.732(C) and 287.732.1 are hereby enacted to read as follows:

§287.732. S Corporations

A. Taxation of S corporation. A corporation classified under Subchapter S of the Internal Revenue Code as an S corporation shall be taxed and required to comply with this Part the same as any other corporation. Except as provided in R.S. 47:287.732(C), the provisions of this Part shall apply as if the S corporation had been required to file an income tax return with the Internal Revenue Service as a C corporation for the current and all prior taxable years, in accordance with federal law.

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1           C. Qualified Subchapter S subsidiary income. The income of  
2           a corporation for which an S corporation has made a valid election  
3           under the Internal Revenue Code to treat the corporation as a qualified  
4           Subchapter S subsidiary shall be included in the income of the S  
5           corporation unless the qualified Subchapter S subsidiary is treated as  
6           a separate corporation under the provisions of R.S. 47:287.732.1.

7           §287.732.1. Qualified Subchapter S subsidiaries

8           A. Taxation of a qualified Subchapter S subsidiary. Except as  
9           provided by Subsection C of this Section, a corporation treated as a  
10           qualified Subchapter S subsidiary for purposes of the Internal Revenue  
11           Code shall be required to comply with this Part the same as any other  
12           corporation. The provisions of this Part shall apply as if the qualified  
13           Subchapter S subsidiary and its parent had been required to file income  
14           tax returns with the Internal Revenue Service as C corporations for the  
15           current and all prior taxable years in accordance with federal law.

16           B. Special adjustments by the secretary. In addition to the  
17           authority granted by R.S. 47:287.480, whenever a qualified Subchapter  
18           S subsidiary does not qualify for the exclusion provided by Subsection  
19           C of this Section, the secretary may require such combined or  
20           consolidated reports or returns as may be necessary to properly reflect  
21           the taxable income earned in Louisiana. This authority shall not limit  
22           the secretary's authority to require use of the separate accounting  
23           method as provided by R.S. 47:287.94 when the apportionment method  
24           produces a manifestly unfair result.

25           C. Qualified Subchapter S subsidiary exclusion. This  
26           Subsection provides an exclusion for corporations classified as



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

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Hammett

HB No. 198

**Abstract:** Combines Subchapter S corporations and their qualified Subchapter S subsidiary corporations for state income tax purposes.

Present law provides that Subchapter S corporations are subject to state income tax and provides an exclusion from the tax for certain Subchapter S corporations.

Present law levies a tax on each separate corporation and "piggybacks" on federal taxes for certain income and expense items.

Proposed law reflects recent federal law changes and combines Qualified Subchapter S subsidiaries with their parent companies for state income tax purposes.

(Amends R.S. 47:287.732(A); Adds R.S. 47:287.732(C) and 287.732.1)