

Revenue Information Bulletin No. 13-006*

January 16, 2013

Corporation Franchise Tax

Application of R.S. 47:605.1

This RIB applies to franchise tax periods beginning after December 31, 2010. Starting with the 2010 income/2011 franchise tax return, borrowed capital is no longer included in the franchise tax taxable base.

R.S. 47:605.1 was enacted in Act 2 of the First Extraordinary Session, 2004. R.S. 47:605.1 provides that if the total of debt to all related parties exceeds capital stock and surplus and undivided profits, then fifty percent of the excess is included as capital stock and surplus and undivided profits for franchise tax purposes.

The Section provides that in applying the provisions of R.S. 47:605.1:

- “Related Party” means any member of a controlled group of corporations as defined in 26 U.S.C. Section 1563, or any other person that would be a member of a controlled group if rules similar to those of 26 U.S.C 1563 were applied to that person,
- “Debt” shall not include trade debt that is less than 180 days old,
- “Debt” shall not include deposit liabilities to related parties, and
- “Debt” shall not be reduced by receivables.

Application

The following example illustrates the application of R.S. 47:605.1.

Taxpayer XYZ, a calendar year taxpayer, has the following balance sheet on December 31, 2010:

Assets:	
Cash.....	\$ 10,000
Accounts Receivable.....	\$ 90,000
Loan to Related Party (ABC Corp.).....	\$ 10,000
Land, Buildings, Facilities	\$100,000
Inventory	\$ 10,000
Total assets.....	<u>\$220,000</u>
Liabilities:	
Accounts Payable to Related Party (ABC Corp. Less than 180 days old)	\$ 25,000
Accounts Payable to Related Party (DEF Corp. Over 180 days old)	\$ 40,000
Accounts Payable to Unrelated Parties	\$ 60,000
Security Deposit on Oxygen Cylinders:	
Related Party—ABC Corp.....	\$ 1,000
Unrelated Parties	\$ 6,000
Mortgages on Facilities—Unrelated Parties	\$ 48,000

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**The initial document issued on January 11, 2013 should not be relied upon. This document is the corrected version.*

Loan from Related Party (ABC Corp.).....	\$ 10,000
Capital Stock.....	\$ 15,000
Retained Earnings.....	\$ 15,000
Total Liabilities.....	<u>\$220,000</u>

Before beginning to compute the franchise tax base, the provisions of R.S. 47:605.1 are applied to include, if necessary, related party debt in the franchise tax base.

In this example the comparison of debt to related parties with capital stock and surplus and undivided profits would be as follows:

Capital Stock, Surplus and Undivided Profits:

Capital Stock	\$ 15,000
Surplus and Undivided Profits.....	\$ 15,000
Total.....	<u>\$ 30,000</u>

Debt to Related Parties:

Accounts Payable to DEF Corp.....	\$ 40,000
Loans from ABC Corp.	\$ 10,000
Total.....	<u>\$ 50,000</u>

In this case debt to related parties exceeds capital stock, surplus and undivided profits by \$20,000. As a result, capital stock, surplus and undivided profits will be increased by \$10,000 (50% of the \$20,000 excess). This taxpayer's December 31, 2010, balance sheet is used in computing its 2011 franchise tax which is imposed and computed on January 1, 2011. Zero (0.00%) percent of debt is included in the franchise tax base for this period, and the taxable base would be:

	Taxable Base
Additional Capital Stock, Surplus, & Undivided Profits	\$10,000
Capital Stock	\$15,000
Retained Earnings	\$15,000
Total Liabilities	\$40,000

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History: July 6, 2004 (new document Revenue Information Bulletin No. 04-018); October 12, 2005 (Revenue Information Bulletin 05-026 issued to reflect amendment to La. Rev. Stat. Ann. § 47:605.1 by 2005 La. Acts 355); January 16, 2013 (Revenue Information Bulletin 13-006 issued to reflect amendment to La. Rev. Stat. Ann. § 47:605.1 by 2008 La. Acts 10).

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