

Regular Session, 2002

HOUSE BILL NO. 36

BY REPRESENTATIVE STELLY

TAX/INCOME TAX: Revises the state individual income tax brackets and repeals the deduction for excess federal itemized deductions

1 AN ACT

2 To amend and reenact R.S. 47:32(A), 112(A), 287.445(C), 293(6)(a)(iv) and
3 (7), 295, and 1623(D) and to repeal R.S. 47:112(B) and (C), 293(2) and
4 (6)(a)(i), and 296, relative to the individual income tax; to revise the tax
5 brackets; to repeal the deduction for excess federal itemized
6 deductions; to authorize the secretary of the Department of Revenue to
7 promulgate income tax and withholding tax tables; to provide for an
8 effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:32(A), 112(A), 287.445(C), 293(6)(a)(iv) and (7),
11 295, and 1623(D) are hereby amended and reenacted to read as follows:

12 §32. Rates of tax

13 A. On individuals. The tax to be assessed, levied, collected,
14 and paid upon the taxable income of an individual shall be computed
15 at the following rates:

16 (1) Two ~~per centum~~ percent on that portion of the first ~~ten~~
17 twelve thousand five hundred dollars of net income which is in excess
18 of the credits against net income provided for in R.S. 47:79;

19 (2) Four ~~per centum~~ percent on the next ~~forty~~ twelve thousand
20 five hundred dollars of net income;

1 (3) Six ~~per centum~~ percent on any amount of net income in
2 excess of ~~fifty~~ twenty-five thousand dollars of net income.

3 * * *

4 §112. Income tax withheld at source

5 A. Requirement of withholding. Every employer making
6 payment of wages ~~on or after July 1, 1984,~~ shall deduct and withhold
7 from such wages (~~except as provided in Subsection K of this Section~~)
8 a tax ~~equal to rates specified in Subsection B of this Section which is~~
9 ~~applied to wages which exceed the sum of the withholding exemptions~~
10 ~~claimed, as shown in Subsection B(1) of this Section~~ in amounts to be
11 provided in withholding tables promulgated by the secretary.

12 * * *

13 §287.445. Special adjustment for long-term contracts

14 * * *

15 C. S corporations. With respect to a corporation which for a
16 taxable year is classified as an S corporation, the principles of I.R.C.
17 Section 460(b)(4)(A) shall apply with respect to its excludible
18 percentage of Louisiana net income attributable to any long-term
19 contract, there shall be no exceptions for S corporations which are
20 closely held pass-through entities and "highest rate" shall mean the
21 highest rate of tax specified in ~~R.S. 47:296~~ R.S. 47:32.

22 * * *

23 §293. Definitions

24 The following definitions shall apply throughout this Part, unless
25 the context requires otherwise:

26 * * *

1 (6)(a) "Tax table income", for resident individuals, means
 2 adjusted gross income plus interest on obligations of a state or political
 3 subdivision thereof, other than Louisiana and its municipalities, title to
 4 which obligations vested with the resident individual on or subsequent
 5 to January 1, 1980, and less:

6 * * *

7 (iv) The excess, if any, of the personal exemptions and
 8 deductions provided for in R.S. 47:294 over the amount of the personal
 9 exemptions and deductions already included in the tax tables ~~in R.S.~~
 10 47:296 promulgated by the secretary under authority of R.S. 47:295.

11 * * *

12 (7) "Tax table income", for nonresident individuals, means the
 13 amount of Louisiana income, as provided in this Part, allocated and
 14 apportioned under the provisions of R.S. 47:241 through 247, plus the
 15 total amount of the personal exemptions and deductions already
 16 included in the tax tables ~~in R.S. 47:296~~ promulgated by the secretary
 17 under authority of R.S. 47:295, less the proportionate amount of the
 18 federal income tax liability, ~~excess federal itemized personal~~
 19 ~~deductions~~, and personal exemptions and deductions provided for in
 20 R.S. 47:294. The proportionate amount is to be determined by the ratio
 21 of Louisiana income to federal adjusted gross income. When federal
 22 adjusted gross income is less than Louisiana income, the ratio shall be
 23 one hundred percent.

24 * * *

25 §295. Tax imposed on individuals; administration

26 A. There is imposed an income tax for each taxable year upon
 27 the Louisiana income of every individual, whether resident or

1 §1623. Prescription of refunds or credits

2 * * *

3 D. Provided that in any case where a refund of taxes imposed
4 by ~~R.S. 47:296~~ R.S. 47:295 relates to an overpayment attributable to a
5 net operating loss deduction carry-back election, in lieu of the three-
6 year period of limitation prescribed in Subsection A of this Section, the
7 period shall be the period which ends three years from the thirty-first
8 day of December of the year in which the tax for the loss year would
9 become due, or the period prescribed in Subsection B or E of this
10 Section with respect to such taxable year, whichever expires later. The
11 provisions of this Subsection would be effective for net operating loss
12 deduction carry-back elections made for taxable periods ending on or
13 after December 31, 1987.

14 * * *

15 Section 2. R.S. 47:112(B) and (C), 293(2) and (6)(a)(i), and 296 are
16 hereby repealed in their entirety.

17 Section 3. This Act shall take effect and become operative for all
18 taxable periods beginning after December 31, 2002, but only if and when the
19 proposed amendment of Article VII, Section 4(A) and addition of Article VII,
20 Section 2.2 of the Constitution of Louisiana contained in the Act which
21 originated as House Bill No. 31 of this 2002 Regular Session of the
22 Legislature is adopted at the statewide election to be held on November 5,
23 2002, and becomes effective.

DIGEST

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

Stelly

HB No. 36

Abstract: Revises the state individual income tax brackets and repeals the deduction for excess federal itemized deductions only if imposition of state sales and use tax on certain items is prohibited.

Present law levies an income tax on individuals at the following rates for the following brackets:

<u>Rates</u>	<u>2% of</u> <u>net income</u>	<u>4% of</u> <u>net income</u>	<u>6% of</u> <u>net income</u>
Single	Up to \$10,000	\$10,000 to \$50,000	over \$50,000
Joint	Up to \$20,000	\$20,000 to \$100,000	over \$100,000

Proposed law changes the income tax rate and bracket structure in the following manner:

<u>Rates</u>	<u>2% of</u> <u>net income</u>	<u>4% of</u> <u>net income</u>	<u>6% of</u> <u>net income</u>
Single	Up to \$12,500	\$12,500 to \$25,000	over \$25,000
Joint	Up to \$25,000	\$25,000 to \$50,000	over \$50,000

Present law provides specific tax tables, based on the income tax brackets and rates provided for in R.S. 47:32, for individual taxpayers to utilize when determining the proper amount of income tax due each year.

Proposed law deletes these tax tables and requires the secretary of the Dept. of Revenue to establish tax tables to calculate the tax owed by taxpayers based upon where their income falls within a range that shall not exceed \$250. The tables shall be based upon the tax brackets and rates set forth in R.S. 47:32.

Present law requires employers to deduct and withhold a tax according to the percentage method of withholding or wage bracket withholding. The percentage method provides for the deduction and withholding from employee wages according to the following rates:

<u>Filing Status</u>	<u>Tax Rate</u>
One Exemption	2% of the first \$5,000 of annual taxable wages
Two Exemptions	2% of the first \$15,000 of annual taxable wages and 3% of the excess of annual taxable wages over \$15,000

Present law further provides for wage bracket withholding, which allows an employer to deduct withholding tax from employee wages according to tables prescribed by the secretary.

Proposed law repeals the percentage method withholding and wage bracket withholding scheme and authorizes the secretary to promulgate withholding tax tables for employers to utilize in deducting withholding tax from employee wages.

Present law allows for the excess federal itemized deductions, such as home mortgage interest, to be deducted from state income tax.

Proposed law deletes this deduction.

Present law provides for tax tables pursuant to present law.

Proposed law provides for the secretary of the Dept. of Revenue to promulgate such tables pursuant to the then current law.

Effective for taxable years beginning after December 31, 2002. Effective if and when the constitutional amendment proposed in House Bill No. 31 of this 2002 Regular Session, which allows for a new limit on state individual income tax rates and prohibits the imposition of state sales and use tax on certain items is adopted and becomes effective.

(Amends R.S. 47:32(A), 112(A), 287.445(C), 293(6)(a)(iv) and (7), 295, and 1623(D); Repeals R.S. 47:112(B) and (C), 293(2) and (6)(a)(i), and 296)