

ACT No. 51

Regular Session, 2002

HOUSE BILL NO. 36

BY REPRESENTATIVES STELLY AND FAUCHEUX

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§32. Rates of tax

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

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

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

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

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§112. Income tax withheld at source

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

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§287.445. Special adjustment for long-term contracts

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

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§293. Definitions

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

* * *

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

* * *

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

* * *

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

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§295. Tax imposed on individuals; administration

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

nonresident. The amount of the tax shall be determined from tax tables imposing the maximum tax allowed under the rates of tax and brackets set forth in R.S. 47:32 promulgated by the secretary under authority of this Section in accordance with the Administrative Procedure Act. However, the tax imposed by this Part shall never exceed the rates of tax and brackets set forth in R.S. 47:32.

B. The secretary shall establish tax tables that calculate the tax owed by taxpayers based upon where their taxable income falls within a range that shall not exceed two hundred fifty dollars. The secretary shall provide in the tax tables that the combined personal exemption, standard deduction, and other exemption deductions in R.S. 47:294 shall be deducted from the two percent bracket. If such combined exemptions and deductions exceed the two percent bracket, the excess shall be deducted from the four percent bracket. If such combined exemptions and deductions exceed the two and four percent brackets, the excess shall be deducted from the six percent bracket.

C. The secretary of the Department of Revenue shall administer and enforce this Part. He may adopt, prescribe, and from time to time alter and enforce reasonable rules, orders, and regulations for the purpose of implementing this Part. He may, with the approval of the Board of Tax Appeals, upon making a record of his reasons therefor, waive, reduce, or compromise any of the taxes, penalties, or interest or other amounts provided by this Part.

D. The secretary may require that a complete copy of the taxpayer's federal income tax return, or any part thereof, be filed.

When so filed, the federal income tax return, or part thereof, shall constitute and become part of the return required to be filed under this Part.

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§1623. Prescription of refunds or credits

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

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

Section 3. This Act shall take effect and become operative for all taxable periods beginning after December 31, 2002, but only if and when the proposed amendment of Article VII, Section 4(A) and addition of Article VII, Section 2.2 of the Constitution of Louisiana contained in the Act which originated as House Bill No. 31 of this 2002 Regular Session of the

Legislature is adopted at the statewide election to be held on November 5, 2002, and becomes effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____