

2016 Second Extraordinary Session

HOUSE BILL NO. 17

BY REPRESENTATIVE STOKES

TAX/INCOME TAX: Changes the rates and brackets for purposes of calculating individual income tax liability and eliminates certain deductions (Items #40 and 43)

1 AN ACT

2 To amend and reenact R.S. 47:32(A), 79, 293(10), and 295(B) and to repeal R.S. 47:293(3)
3 and (9)(a)(xi) and 294, relative to the individual income tax; to provide for the
4 calculation of individual income tax liability; to provide for the rates and brackets
5 on individual income tax; to provide for certain deductions and credits; to reduce
6 certain deductions and credits; to repeal the deduction for excess federal itemized
7 personal deductions; to provide for effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:32(A), 79, 293(10), and 295(B) are hereby amended and
10 reenacted to read as follows:

11 §32. Rates of tax

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

14 (1) ~~Two percent~~ No tax shall be assessed on that portion of the first twelve
15 thousand five hundred dollars of net income ~~which is in excess of the credits against~~
16 ~~net income provided for in R.S. 47:79;.~~ As an offset for the exemption of the first
17 twelve thousand five hundred dollars of net income from state income taxation, no
18 taxpayer shall be allowed to claim the personal exemptions and credits for
19 individuals and dependents provided for in R.S. 47:79 and R.S. 47:294.

1 B. Credit Deductions for dependents.

2 ~~(1) In general. A credit of four hundred dollars is allowed for each~~
3 ~~dependent (as defined in Subsection C of this Section);~~

4 ~~(a) whose gross income for the calendar year in which the taxable year of the~~
5 ~~taxpayer begins is less than \$600 or~~

6 ~~(b) who is a child of the taxpayer and who (i) has not attained the age of~~
7 ~~nineteen at the close of the calendar year in which the taxable year of the taxpayer~~
8 ~~begins, or (ii) is a student.~~

9 ~~(2) Credit denied in case of certain married dependents. No credit is allowed~~
10 ~~under this Subsection for any dependent who has made a joint return with his spouse~~
11 ~~under R.S. 47:101(B), for the taxable year beginning in the calendar year in which~~
12 ~~the taxable year of the taxpayer begins.~~

13 ~~(3) Child defined. For purposes of this Subsection (B)(1)(b) of this~~
14 ~~Subsection, the term "child" means an individual who (within the meaning of~~
15 ~~Subsection C of this Section) is a son, stepson, daughter, or stepdaughter of the~~
16 ~~taxpayer.~~

17 ~~(4) Student and educational institution defined. For purposes of Item~~
18 ~~(B)(1)(b)(ii) of this Subsection, the term "student" means an individual who during~~
19 ~~each of five calendar months during the calendar year in which the taxable year of~~
20 ~~the taxpayer begins,~~

21 ~~(a) is a full-time student at an educational institution; or~~

22 ~~(b) is pursuing a full-time course of institutional on-farm training under the~~
23 ~~supervision of an accredited agent of an educational institution or of a state or~~
24 ~~political subdivision of a state. For purposes of this Subsection, the term~~
25 ~~"educational institution" means only an educational institution which normally~~
26 ~~maintains a regular faculty and curriculum and normally has a regularly organized~~
27 ~~body of students in attendance at the place where its educational activities are carried~~
28 ~~on.~~

1 ~~(5) Credit for certain dependents.~~ (1) A credit deduction of one thousand
 2 dollars is allowed for each dependent ~~as defined in Subsection C of this Section~~
 3 allowed in determining federal income tax liability who is blind or deaf or who has
 4 sustained the loss of one or more limbs or who has an intellectual disability. As
 5 herein used the word "blind" shall be defined as in ~~Paragraph (A)(2)~~ Subsection A
 6 of this Section. For purposes herein, the word "deaf" shall mean and refer to persons
 7 whose hearing is so impaired that it is insufficient for use in an occupation or activity
 8 for which hearing is essential. The taxpayer claiming ~~credit~~ the deduction as herein
 9 provided shall be able to prove such claim by certificate of a qualified physician or
 10 optometrist issued for each such dependent for which a ~~credit~~ deduction is claimed.

11 (2) In addition to the deduction authorized in Paragraph (1) of this
 12 Subsection, an additional deduction of one thousand dollars shall be allowed for each
 13 dependent as allowed in determining federal income tax liability.

14 C. ~~Dependent defined.~~

15 ~~(1) General definition.~~ For purposes of this Chapter, the term "dependent"
 16 means ~~any of the following individuals over half of whose support, for the calendar~~
 17 ~~year in which the taxable year of the taxpayer begins, was received from the taxpayer~~
 18 ~~(or is treated under Paragraph (C)(3) of this Subsection as received from the~~
 19 ~~taxpayer):~~

- 20 ~~(a) a son or daughter of the taxpayer, or a descendant of either,~~
 21 ~~(b) a stepson or stepdaughter of the taxpayer,~~
 22 ~~(c) a brother, sister, stepbrother, or stepsister of the taxpayer,~~
 23 ~~(d) the father or mother of the taxpayer, or an ancestor of either,~~
 24 ~~(e) a stepfather or stepmother of the taxpayer,~~
 25 ~~(f) a son or daughter of a brother or sister of the taxpayer,~~
 26 ~~(g) a brother or sister of the father or mother of the taxpayer,~~
 27 ~~(h) a son-in-law, daughter-in-law, father-in-law, mother-in-law,~~
 28 ~~brother-in-law, or sister-in-law of the taxpayer,~~

1 ~~(i) an individual who, for the taxable year of the taxpayer, has as his~~
2 ~~principal place of abode the home of the taxpayer and is a member of the taxpayer's~~
3 ~~household, or~~

4 ~~(j) an individual who,~~

5 ~~(i) is a descendant of a brother or sister of the father or mother of the~~
6 ~~taxpayer,~~

7 ~~(ii) for the taxable year of the taxpayer received institutional care required~~
8 ~~by reason of a physical or mental disability, and~~

9 ~~(iii) before receiving such institutional care, was a member of the same~~
10 ~~household as the taxpayer.~~

11 ~~(2) Rules relating to general definition. For purposes of this Section the rules~~
12 ~~set forth below will apply.~~

13 ~~(a) The terms "brother" and "sister" include a brother or sister by the~~
14 ~~halfblood.~~

15 ~~(b) In determining whether any of the relationships specified in this Section~~
16 ~~exists, a child legally adopted by an individual shall be treated as if he were the child~~
17 ~~of such individual by blood.~~

18 ~~(c) The term "dependent" does not include any individual who is not a citizen~~
19 ~~of the United States unless such individual is a resident of the United States, of a~~
20 ~~country contiguous to the United States, of the Canal Zone, or of the Republic of~~
21 ~~Panama. The preceding sentence shall not exclude from the definition of~~
22 ~~"dependent" any child of the taxpayer born to him, or legally adopted by him, in the~~
23 ~~Philippine Islands before January 1, 1956, if the child is a resident of the Republic~~
24 ~~of the Philippines, and if the taxpayer was a member of the Armed Forces of the~~
25 ~~United States at the time the child was born to him or legally adopted by him.~~

26 ~~(d) A payment to a wife which is includible in the gross income of the wife~~
27 ~~under R.S. 47:42(C) shall not be treated as a payment by her husband for the support~~
28 ~~of any dependent.~~

1 ~~(3) Multiple support agreements. For purposes of Paragraph (C)(1) of this~~
2 ~~Subsection, over half of the support of an individual for a calendar year shall be~~
3 ~~treated as received from the taxpayer if:~~

4 ~~(a) no one person contributed over half of such support;~~

5 ~~(b) over half of such support was received from persons each of whom, but~~
6 ~~for the fact that he did not contribute over half of such support, would have been~~
7 ~~entitled to claim such individual as a dependent for a taxable year beginning in such~~
8 ~~calendar year;~~

9 ~~(c) the taxpayer contributed over ten per cent of such support; and~~

10 ~~(d) each person described in Subparagraph (C)(3)(b) of this Section (other~~
11 ~~than the taxpayer) who contributed over ten per cent of such support files a written~~
12 ~~declaration (in such manner and form as the collector may by regulations prescribe)~~
13 ~~that he will not claim such individual as a dependent for any taxable year beginning~~
14 ~~in such calendar year.~~

15 ~~(4) Special support test in case of students. Amounts received as~~
16 ~~scholarships for study at an educational institution by an individual who is:~~

17 ~~(a) a son, stepson, daughter, or stepdaughter of the taxpayer (within the~~
18 ~~meaning of this Section), and~~

19 ~~(b) a student, shall not be taken into account in determining whether such~~
20 ~~individual received more than half of his support from the taxpayer.~~

21 ~~D. Exception for certain heads of families. If the taxpayer would not occupy~~
22 ~~the status of head of family except by reason of there being one or more dependents~~
23 ~~for whom he would be entitled to credit under Subsection C above the credit under~~
24 ~~such paragraph shall be disallowed with respect to one of such dependents.~~

25 ~~E. Limitation on portion of credit deduction allowable. There shall be~~
26 ~~allowed only that portion of the credits deductions set forth in the preceding~~
27 ~~Subsections of this Section which the net income of the individual taxable under this~~
28 ~~Chapter bears to the total net income of such individual.~~

29 * * *

1 §293. Definitions

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

4 * * *

5 (10) "Tax table income", for nonresident individuals, means the amount of
6 Louisiana income, as provided in this Part, allocated and apportioned under the
7 provisions of R.S. 47:241 through 247, ~~plus the total amount of the personal~~
8 ~~exemptions and deductions already included in the tax tables promulgated by the~~
9 ~~secretary under authority of R.S. 47:295~~, less the proportionate amount of the federal
10 income tax liability, ~~excess federal itemized personal deductions~~, the temporary
11 teacher deduction, the recreation volunteer and volunteer firefighter deduction, the
12 construction code retrofitting deduction, any gratuitous grant, loan, or other benefit
13 directly or indirectly provided to a taxpayer by a hurricane recovery entity if such
14 benefit was included in federal adjusted gross income, the exclusion provided for in
15 R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by
16 I.R.C. Section 280C, the deduction for net capital gains, and personal exemptions
17 and deductions provided for in R.S. 47:294. The proportionate amount is to be
18 determined by the ratio of Louisiana income to federal adjusted gross income. When
19 federal adjusted gross income is less than Louisiana income, the ratio shall be one
20 hundred percent.

21 * * *

22 §295. Tax imposed on individuals; administration

23 * * *

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

mean the amount by which the federal itemized personal deductions exceed the amount of the federal standard deduction designated for the filing status used for the taxable period on the individual income tax return.

Proposed law repeals present law that allows taxpayers to deduct excess federal itemized personal deductions on their state individual income tax returns beginning Jan. 1, 2017.

Present law provides that all personal exemptions and deductions for dependents allowed in determining federal income tax liability shall be allowed in determining La. tax liability. Further provides for a combined personal exemption of \$4,500 for single, individual filers, \$9,000 for married, joint filers, \$4,500 for married, separate filers, and \$9,000 for filers who are the head of household.

Proposed law repeals present law.

Present law authorizes a credit of \$400 for each dependent who meets certain criteria and authorizes an additional deduction of \$1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under present law.

Proposed law changes present law by specifying that as offset for the exemption of the first \$12,500 of net income from state income taxation, no taxpayer shall be allowed to claim the personal exemptions and credits for individuals and dependents provided for in present law.

Present law requires the secretary to establish tax tables that calculate the tax owed by taxpayers based upon where their taxable income falls within a range that does not exceed \$250. Further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in present law which is deducted from the 2% bracket. If the combined exemptions and deductions exceed the 2% bracket, the excess is deducted from the 4% bracket, and then the 6% bracket.

Proposed law deletes the provisions authorizing the combined personal exemption, standard deduction, and other exemption deductions to be deducted from the income tax brackets.

Applicable to taxable periods on and after Jan. 1, 2017.

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 7 of this 2016 2nd E.S. of the Legislature is adopted at a statewide election and becomes effective, and if the Act which originated as House Bill No. 33 of the 2016 Second Extraordinary Session is enacted into law and becomes effective.

(Amends R.S. 47:32(A), 79, 293(10), and 295(B); Repeals R.S. 47:293(3) and (9)(a)(xi) and 294)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the individual income tax rate provided for in proposed law to be imposed on net income in excess of \$12,500 from 3.95% to 3.80%.
2. Add effectiveness for proposed law contingent upon enactment of House Bill No. 33 of the 2016 Second Extraordinary Session.