

2016 Second Extraordinary Session

HOUSE BILL NO. 50

BY REPRESENTATIVE MONTOUCET

TAX/INCOME TAX: Reduces the individual income tax deduction for net capital gains  
(Item #41)

1 AN ACT

2 To amend and reenact R.S. 47:293(9)(a)(xvii), relative to individual income tax; to provide  
3 for certain deductions for purposes of calculating individual income tax liability; to  
4 reduce the deduction for certain net capital gains; to provide for an effective date;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 47:293(9)(a)(xvii) is hereby amended and reenacted to read as  
8 follows:

9 §293. Definitions

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

12 \* \* \*

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

17 \* \* \*

18 (xvii) Income from net capital gains, which shall be limited to gains  
19 recognized and treated for federal income tax purposes as arising from the sale or  
20 exchange of an equity interest in or substantially all of the assets of a nonpublicly

1 traded corporation, partnership, limited liability company, or other business  
2 organization commercially domiciled in this state. The provisions of this Item shall  
3 apply only to a business in which the taxpayer was employed or in which the  
4 taxpayer materially participated for five years and which has been held for a  
5 minimum of five years immediately prior to its sale. The amount of the deduction  
6 shall be limited as follows:

7 (I) For the sale or exchange of an equity interest of an entity domiciled in the  
8 state for five years or greater, but less than ten years, prior to the sale or exchange,  
9 the capital gains deduction shall be fifty percent.

10 (II) For the sale or exchange of an equity interest of an entity domiciled in  
11 the state for ten years or greater, but less than fifteen years, prior to the sale or  
12 exchange, the capital gains deduction shall be sixty percent.

13 (III) For the sale or exchange of an equity interest of an entity domiciled in  
14 the state for fifteen years or greater, but less than twenty years, prior to the sale or  
15 exchange, the capital gains deduction shall be seventy percent.

16 (IV) For the sale or exchange of an equity interest of an entity domiciled in  
17 the state for twenty years or greater, but less than twenty-five years, prior to the sale  
18 or exchange, the capital gains deduction shall be eighty percent.

19 (V) For the sale or exchange of an equity interest of an entity domiciled in  
20 the state for twenty-five years or greater, but less than thirty years, prior to the sale  
21 or exchange, the capital gains deduction shall be ninety percent.

22 (VI) For the sale or exchange of an equity interest of an entity domiciled in  
23 the state for thirty years or greater, the capital gains deduction shall be one hundred  
24 percent.

25 \* \* \*

26 Section 2. The provisions of this Act shall be applicable to sales or exchanges in  
27 equity interests that occur on or after the effective date of this Act.

28 Section 3. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 3 effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 50 Engrossed

2016 Second Extraordinary Session

Montoucet

**Abstract:** Requires a business be domiciled in La. for a minimum of five years prior to the sale of the business to be eligible for the net capital gains deduction and provides a tiered individual income tax deduction for net capital gains.

Present law provides for a deduction from tax table income for income derived from net capital gains, which shall be limited to gains recognized and treated for federal tax purposes as arising from the sale or exchange of an equity interest in or substantially all of the assets of a nonpublicly traded corporation, partnership, limited liability company, or other business organization commercially domiciled in the state.

Proposed law requires a business to be domiciled in the state for a minimum of five years prior to becoming eligible to claim the deduction. Further reduces the amount of the deduction in the following tier percentage rates:

- (1) 50% for a business domiciled in the state for 5 years or more, but less than 10 years.
- (2) 60% for a business domiciled in the state for 10 years or more, but less than 15 years.
- (3) 70% for a business domiciled in the state for 15 years or more, but less than 20 years.
- (4) 80% for a business domiciled in the state for 20 years or more, but less than 25 years.
- (5) 90% for a business domiciled in the state for 25 years or more, but less than 30 years.
- (6) 100% for a business domiciled in the state for 30 years or more.

Applicable to sales and exchanges occurring on or after the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:293(9)(a)(xvii))

Summary of Amendments Adopted by House

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

1. Delete provisions of proposed law reducing the amount of the net capital gains deduction from 100% to 50%.
2. Require a business be domiciled in the state for a minimum of five years to be eligible to claim the deduction.

3. Reduce the amount of the deduction in the following tiers:
  - a. 50% for a business domiciled in the state for 5 years or more, but less than 10 years.
  - b. 60% for a business domiciled in the state for 10 years or more, but less than 15 years.
  - c. 70% for a business domiciled in the state for 15 years or more, but less than 20 years.
  - d. 80% for a business domiciled in the state for 20 years or more, but less than 25 years.
  - e. 90% for a business domiciled in the state for 25 years or more, but less than 30 years.
  - f. 100% for a business domiciled in the state for 30 years or more.
4. Change applicability date from taxable years beginning on or after Jan. 1, 2016, to sales and exchanges occurring on or after the effective date of this Act.