

2016 Second Extraordinary Session

SENATE BILL NO. 13

BY SENATOR MORRELL

TAX/TAXATION. Legislates with regard to the net capital gains deduction. (gov sig) (Item No. 41)

1 AN ACT

2 To amend and reenact R.S. 47:293(9)(a)(xvii), relative to the individual income tax

3 deduction for net capital gains; to provide for certain deductions for purposes of

4 calculating individual income tax liability; to reduce the deduction for certain net

5 capital gains; to provide for an effective date; 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 \* \* \*

1 (xvii) Income from net capital gains, which shall be limited to gains  
2 recognized and treated for federal income tax purposes as arising from the sale or  
3 exchange of an equity interest in or substantially all of the assets of a nonpublicly  
4 traded corporation, partnership, limited liability company, or other business  
5 organization commercially domiciled in this state. The provisions of this Item shall  
6 apply only to the sale or exchange of an equity interest in or the assets of a  
7 nonpublicly traded business that have been held by the taxpayer for a minimum  
8 of five years immediately prior to the sale or exchange. The amount of the  
9 deduction shall be limited as follows:

10 (aa) For the sale or exchange of an equity interest in or substantially all  
11 of the assets of an entity domiciled in the state for five years or greater, but less  
12 than ten years, prior to the sale or exchange, the capital gains deduction shall  
13 be fifty percent.

14 (bb) For the sale or exchange of an equity interest in or substantially all  
15 of the assets of an entity domiciled in the state for ten years or greater, but less  
16 than fifteen years, prior to the sale or exchange, the capital gains deduction  
17 shall be sixty percent.

18 (cc) For the sale or exchange of an equity interest in or substantially all  
19 of the assets of an entity domiciled in the state for fifteen years or greater, but  
20 less than twenty years, prior to the sale or exchange, the capital gains deduction  
21 shall be seventy percent.

22 (dd) For the sale or exchange of an equity interest in or substantially all  
23 of the assets of an entity domiciled in the state for twenty years or greater, but  
24 less than twenty-five years, prior to the sale or exchange, the capital gains  
25 deduction shall be eighty percent.

26 (ee) For the sale or exchange of an equity interest in or substantially all  
27 of the assets of an entity domiciled in the state for twenty-five years or greater,  
28 but less than thirty years, prior to the sale or exchange, the capital gains  
29 deduction shall be ninety percent.

1                    **(ff) For the sale or exchange of an equity interest in or substantially all**  
 2                    **of the assets of an entity domiciled in the state for thirty years or greater, the**  
 3                    **capital gains deduction shall be one hundred percent.**

4                    \*           \*           \*

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

7                    Section 3. This Act shall become effective upon signature by the governor or, if not  
 8                    signed by the governor, upon expiration of the time for bills to become law without signature  
 9                    by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10                    vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11                    effective on the day following such approval.

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The original instrument was prepared by Leonore F. Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

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#### DIGEST

SB 13 Engrossed

2016 Second Extraordinary Session

Morrell

Present law provides for an individual income tax deduction for net capital gains attributable to the sale or exchange of an equity interest in or the assets of a privately held business commercially domiciled in this state.

Present law provides that acts of the legislature are severable and that the invalidity of one provision of the act does not invalidate other provisions of the act that can be given effect without the invalid provision.

Proposed law retains the capital gains deduction provided in present law.

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.

Proposed law provides that proposed law shall be applicable to sales or exchanges of equity interests or substantially all of the assets that occur on or after the effective date of proposed law.

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

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Makes technical changes.
2. Provides limits for the deduction.
3. Provides for applicability.