

SENATE BILL NO. 90

BY SENATORS N. GAUTREAUX, MURRAY AND MARIONNEAUX AND REPRESENTATIVES BALDONE, FARRAR, FAUCHEUX, HONEY, KENNEY, ODINET, RICHMOND, RITCHIE, JANE SMITH AND TOOMY

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AN ACT

To amend and reenact R.S. 47:2401(B) and Code of Civil Procedure Article 2953(C)(1), to enact R.S. 47:297.7(A) and 2451(A)(5) and 6026, and to repeal Chapter 14 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, comprised of R.S. 47:1201 through 1212, relative to individual and corporate income tax; to provide a tax credit for the installation of certain renewable energy systems; to provide for the promulgation of rules and regulations; to repeal the tax on income of individuals transferred as gifts; to eliminate the tax on income and assets purchased by such income when inherited; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:2401(B) is hereby amended and reenacted and R.S. 47:2451(A)(5) and 6026 are hereby enacted to read as follows:

§2401. Levy of tax

* * *

B.(1) For deaths occurring after June 30, 2004, the tax levied under this Part shall not apply ~~when a judgment of possession is rendered or when the succession is judicially opened no later than the last day of the ninth month following the death of the decedent.~~

1 (2) With respect to a revocable inter vivos trust ~~in which a succession has~~
 2 ~~been judicially opened no later than the last day of the ninth month following the~~
 3 ~~death of the decedent,~~ the tax levied under this Part shall not apply and a trust
 4 declaration as provided in R.S. 47:2426 shall not be required.

5 ~~(3) With respect to a revocable inter vivos trust in which no succession has~~
 6 ~~been judicially opened on or prior to the last day of the ninth month following the~~
 7 ~~death of the decedent,~~ the tax levied under this Part shall not apply to the trust assets
 8 if a trust declaration is filed with the secretary of the Department of Revenue in
 9 accordance with the provisions of R.S. 47:2426.

10 * * *

11 §2451. Claims and suits for refund

12 A. Claims for refund of any erroneous payment or overpayment made of
 13 inheritance, succession, legacy, or estate taxes paid to the secretary of the
 14 Department of Revenue shall be filed with the secretary by the latest of the
 15 following:

16 * * *

17 (5) For deaths occurring after June 30, 2004, by June 30, 2008. All
 18 persons who paid the tax levied under R.S. 47:2401 based on deaths occurring
 19 after June 30, 2004 may claim a refund between August 1, 2008 and December
 20 31, 2009.

21 * * *

22 §6026. Wind or solar energy systems tax credit

23 A. There shall be a credit against the income tax for the cost of purchase
 24 and installation of a wind energy system or solar energy system, or both, by a
 25 resident individual at his residence located in this state or by the owner of a
 26 residential rental apartment project. The credit may be claimed in cases where
 27 the resident individual purchases a newly constructed home with such a system
 28 already installed or where such a system is purchased and installed at an
 29 existing home, or where such systems are installed in new or existing apartment
 30 projects.

1 B.(1) The credit shall be equal to fifty percent of the first twenty-five
2 thousand dollars of the cost of each wind energy system or solar energy system,
3 including installation costs, that is purchased and installed on or after January
4 1, 2008. The credit may be used in addition to any federal tax credits earned for
5 the same system. A taxpayer shall not receive any other state tax credit,
6 exemption, exclusion, deduction, or any other tax benefit for property for which
7 the taxpayer has received a tax credit under this Section.

8 (2) In the case of an individual who purchases and installs such a system,
9 the tax credit shall be claimed on the return for the taxable year in which such
10 system is completed and placed in service. In the case of an individual who
11 purchases a newly constructed home with such a system, the tax credit shall be
12 claimed on the return for the taxable year in which the act of sale of the house
13 takes place. In the case of an apartment project owner who purchases and
14 installs such systems, the tax credits for owner entities other than individuals
15 shall be claimed in accordance with the provisions of Subsection E of this
16 Section.

17 C. Notwithstanding any other provision of law to the contrary, any
18 excess of allowable credit over the aggregate tax liabilities against which such
19 credit may be applied, as provided in this Section, shall constitute an
20 overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a
21 refund of such overpayment from the current collections of the taxes imposed
22 by Chapter 1 or Chapter 5 of Subtitle II of this Title, together with interest as
23 provided in R.S. 47:1624. The right to a credit or refund of any such
24 overpayment shall not be subject to the requirements of R.S. 47:1621(B). All
25 credits and refunds, together with interest thereof, must be paid or disallowed
26 within one year of receipt by the secretary of any such claim for refund or
27 credit. Failure of the secretary to pay or disallow, in whole or in part, any claim
28 for a credit or a refund shall entitle the aggrieved taxpayer to proceed with the
29 remedies provided in R.S. 47:1625.

30 D. As used in this Section:

1 (1) "Wind energy system" means a system of apparatus and equipment
2 with the primary purpose of intercepting and converting wind energy into
3 mechanical or electrical energy and transferring this form of energy by a
4 separate apparatus to the point of use or storage.

5 (2) "Solar energy system" means an energy system with the primary
6 purpose of collecting or absorbing sunlight for conversion into electricity or an
7 energy system with the primary purpose of collecting or absorbing solar energy
8 for conversion into heat for the purposes of space heating, space cooling, or
9 water heating.

10 E. Credits may be claimed in accordance with the following:

11 (1) Any entity taxed as a corporation for Louisiana income tax and
12 franchise tax purposes shall claim any credit authorized according to the
13 provisions of this Section on its corporation income and franchise tax return.

14 (2) Any individual, estate, or trust shall claim any credit authorized
15 according to the provisions of this Section on its income tax return.

16 (3) Any entity not taxed as a corporation shall claim any credit
17 authorized according to the provisions of this Section on the returns of the
18 partners or members as follows:

19 (a) Corporate partners or members shall claim their share of the credit
20 on their corporation income tax or franchise tax returns.

21 (b) Individual partners or members shall claim their share of the credit
22 on their individual income tax or franchise tax returns.

23 (c) Partners or members that are estates or trusts shall claim their share
24 of the credit on their fiduciary income tax returns.

25 F. The secretary of the Department of Revenue in consultation with the
26 secretary of the Department of Natural Resources shall promulgate such rules
27 and regulations in accordance with the Administrative Procedure Act as may
28 be necessary to carry out the provisions of this Section. The rules and
29 regulations shall be promulgated within ninety days of the effective date of this
30 Section.

1 Section 2. Code of Civil Procedure Article 2953(C)(1) is hereby amended and
2 reenacted to read as follows:

3 Art. 2953. Evidence as to taxes due, receipt of payment and filing of a return and
4 inventory or list

5 * * *

6 C.(1) For deaths occurring after June 30, 2004, proof of the filing with the
7 secretary of the Department of Revenue of an inheritance tax return, including the
8 related succession documentation required under Article 2951(A), and proof that no
9 inheritance taxes are due or that such taxes have been paid shall not be required if
10 either of the following occur:

11 ~~(a) A judgment of possession is rendered or if the succession is judicially~~
12 ~~opened no later than the last day of the ninth month following the death of the~~
13 ~~decedent as provided in R.S. 47:2401(B).~~

14 ~~(b) With respect to a revocable inter vivos trust, a trust declaration is filed~~
15 ~~with the secretary of the Department of Revenue in accordance with the provisions~~
16 ~~of R.S. 47:2426.~~

17 * * *

18 Section 3. Chapter 14 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
19 1950, comprised of R.S. 47:1201 through 1212, is hereby repealed effective July 1, 2008.

20 Section 4. R.S. 47:297.7(A) as enacted in that Act which originated as House Bill No.
21 678 of the 2007 Regular Session of the Legislature is hereby amended and reenacted to read
22 as follows:

23 §297.7. Property insurance tax credit

24 A. **For tax years beginning during 2008 only, there** ~~There~~ shall be allowed
25 a credit against the individual income tax determined as provided in this Part seven
26 percent of the premiums for a homeowners' insurance policy, condominium owners'
27 insurance policy, or a tenant homeowners' insurance policy paid by the individual
28 during the tax year for the primary residence of the individual, less the amount for
29 which a credit is granted pursuant to R.S. 47:6025.

30 * * *

1 Section 5. The provisions of Sections 1, 2, and 4 of this Act shall be applicable to
2 taxable periods beginning on and after January 1, 2008.

3 Section 6. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____