HLS 21RS-138 ORIGINAL

2021 Regular Session

HOUSE BILL NO. 376

BY REPRESENTATIVE IVEY

TAX/INCOME TAX: Provides for a flat tax rate for purposes of calculating income tax for individuals, estates, and trusts and modifies income tax credits and deductions

1 AN ACT 2 To amend and reenact R.S. 47:32(A), 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B), 3 300.1, 300.6(A), and 300.7(A), to enact R.S. 47:293(9)(a)(xx), and to repeal R.S. 4 47:79(B), 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 5 296.1(B)(3)(c), 297(A), and 298, relative to income tax; to provide for a flat income tax rate for individuals, estates, and trusts; to provide for the calculation of individual 6 7 income tax liability; to provide for certain deductions and credits; to reduce certain 8 deductions and credits; to provide with respect to the deduction for excess federal 9 itemized personal deductions; to provide for limitations and restrictions; to reduce 10 the amount of the deduction allowed for excess federal itemized personal deductions; 11 to provide for personal exemptions and credits for dependents; to repeal the 12 deductibility of federal income taxes paid for purposes of calculating income tax; to 13 repeal the deductibility of federal income taxes paid for purposes of calculating 14 income tax on estates and trusts; to provide for the rates and brackets for estates and 15 trusts; to provide for applicability; to provide for an effective date; and to provide for 16 related matters. 17 Be it enacted by the Legislature of Louisiana: 18 Section 1. R.S. 47:32(A), 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 300.6(A), and 300.7(A) are hereby amended and reenacted and R.S. 47:293(9)(a)(xx) is 19 hereby enacted to read as follows: 20

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| 1 | §32. Rates of tax |
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| 2 | A. On individuals. The tax to be assessed, levied, collected and paid upon |
| 3 | the taxable income of an individual shall be computed at the following rates: |
| 4 | (1) Two percent on that portion of the first twelve thousand five hundred |
| 5 | dollars of net income which is in excess of the credits against net income provided |
| 6 | for in R.S. 47:79; |
| 7 | (2) Four percent on the next thirty-seven thousand five hundred dollars of |
| 8 | net income; |
| 9 | (3) Six percent on any amount of net income in excess of fifty thousand |
| 10 | dollars of net income rate of four percent on net income. |
| 11 | * * * |
| 12 | §287.69. Louisiana taxable income defined |
| 13 | "Louisiana taxable income" means Louisiana net income, after adjustments; |
| 14 | less the federal income tax deduction allowed by R.S. 47:287.85. "After adjustments" |
| 15 | means after the application of the net operating loss adjustment allowed by R.S. |
| 16 | 47:287.86. |
| 17 | * * * |
| 18 | §293. Definitions |
| 19 | The following definitions shall apply throughout this Part, unless the context |
| 20 | requires otherwise: |
| 21 | * * * |
| 22 | (3) "Excess federal itemized personal deductions" for the purposes of this |
| 23 | Part, means the following percentages of the amount by which the federal itemized |
| 24 | personal deductions, excluding Louisiana state income taxes paid, exceed the amount |
| 25 | of the greater of federal standard deductions or state standard deductions provided |
| 26 | in R.S. 47:294, which is designated for the filing status used for the taxable period |
| 27 | on the individual income tax return required to be filed: |
| 28 | (a) For tax years beginning during calendar year 2007, fifty-seven and one |
| 29 | half percent of such excess federal itemized personal deductions. |

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| 2 | such excess federal itemized personal deductions. |
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| 3 | (c) For all tax years beginning on and after January 1, 2009, one hundred |
| 4 | percent of such excess federal itemized personal deductions. |
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| 6 | (9)(a) "Tax table income", for resident individuals, means adjusted gross |
| 7 | income plus interest on obligations of a state or political subdivision thereof, other |
| 8 | than Louisiana and its municipalities, title to which obligations vested with the |
| 9 | resident individual on or subsequent to January 1, 1980, and less: |
| 10 | * * * |
| 11 | (iv) The excess, if any, of the personal exemptions and deductions provided |
| 12 | for in R.S. 47:294 over the amount of the personal exemptions and deductions |
| 13 | already included in the tax tables promulgated by the secretary under authority of |
| 14 | R.S. 47:295. The standard, personal, and dependant deductions provided for in R.S. |
| 15 | <u>47:294.</u> |
| 16 | * * * |
| 17 | (xx) Louisiana state income tax refunds which are included in federal |
| 18 | adjusted gross income. |
| 19 | * * * |
| 20 | (10) "Tax table income", for nonresident individuals, means the amount of |
| 21 | Louisiana income, as provided in this Part, allocated and apportioned under the |
| 22 | provisions of R.S. 47:241 through 247, plus the total amount of the personal |
| 23 | exemptions and deductions already included in the tax tables promulgated by the |
| 24 | secretary under authority of R.S. 47:295, less the proportionate amount of the federal |
| 25 | income tax liability, excess federal itemized personal deductions, the temporary |
| 26 | teacher deduction, the recreation volunteer and volunteer firefighter deduction, the |
| 27 | construction code retrofitting deduction, any gratuitous grant, loan, or other benefit |
| 28 | directly or indirectly provided to a taxpayer by a hurricane recovery entity if such |
| 29 | benefit was included in federal adjusted gross income, the exclusion provided for in |

(b) For tax years beginning during calendar year 2008, sixty-five percent of

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R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by 26 U.S.C. 280C, salaries, wages or other compensation received for disaster or emergency-related work rendered during a declared state disaster or emergency, the deduction for net capital gains, the pass-through entity exclusion provided in R.S. 47:297.14, Louisiana state income tax refunds which are included in federal adjusted gross income, and standard, personal, and dependent 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. §294. Personal exemptions and credit for dependents Standard, personal, and dependent deductions All personal exemptions and deductions for dependents allowed in determining federal income tax liability, including the extra exemption for the blind and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows: A. A combined personal exemption and standard deduction in the following amounts: a. Single Individual \$ 4500.00 \$12,500 b. Married-Joint Return and a Qualified Surviving Spouse \$ 9000.00 \$25,000 c. Married-Separate \$ 4500.00 \$12,500 d. Head of Household \$ 9000.00 \$25,000 B. An additional deduction of one thousand dollars shall be allowed for each allowable exemption in excess of those required to qualify for the exemption allowable under R.S. 47:294(A).

| 1 | B.(1) An exemption of one thousand dollars shall be allowed for a taxpayer |
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| 2 | who is blind, is deaf, has sustained the loss of one or more limbs, or has an |
| 3 | intellectual disability. |
| 4 | (2) Each person claiming an exemption pursuant to the provisions of this |
| 5 | Subsection shall provide proof of a claim by providing a certificate from a qualified |
| 6 | physician or optometrist. |
| 7 | C.(1)(a) A deduction of one thousand dollars shall be allowed for each |
| 8 | dependent allowed in determining federal income tax liability who is blind, is deaf, |
| 9 | has sustained the loss of one or more limbs, or has an intellectual disability. |
| 10 | (b) The taxpayer claiming the deduction authorized in this Paragraph shall |
| 11 | provide proof of a claim by providing a certificate from a qualified physician or |
| 12 | optometrist issued for each dependent for which a deduction is claimed. |
| 13 | (2) In addition to the deduction authorized in Paragraph (1) of this |
| 14 | Subsection, an additional deduction of one thousand dollars shall be allowed for each |
| 15 | dependent as allowed in determining federal income tax liability. |
| 16 | D. As used in this Section, the following terms shall have the definitions |
| 17 | ascribed to them, unless the context indicates otherwise: |
| 18 | (1) "Blind" shall mean and refer to a person who, after examination by a |
| 19 | licensed physician skilled in diseases of the eye or by a licensed optometrist, has |
| 20 | been determined to have not more than 20/200 central visual acuity in the better eye |
| 21 | with correcting lenses, or an equally disabling loss of the visual field as evidenced |
| 22 | by a limitation to the field of vision in the better eye to such a degree that its widest |
| 23 | diameter subtends an angle of no greater than twenty degrees. |
| 24 | (2) "Deaf" shall mean and refer to a person whose hearing is so impaired that |
| 25 | it is insufficient for use in an occupation or activity for which hearing is essential. |
| 26 | E. Allowable deductions authorized in this Section shall not exceed the |
| 27 | taxable net income of the individual pursuant to the provisions of this Chapter. |
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| §295. Tax imposed on individuals; administration * * * |
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| 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. |
| * * * |
| §300.1. Tax imposed |
| There is imposed an income tax for each taxable year upon the Louisiana |
| taxable income of every estate or trust, whether resident or nonresident. The tax to |
| be assessed, levied, collected, and paid upon the Louisiana taxable income of an |
| estate or trust shall be computed at the following rates: |
| (1) Two percent on the first ten thousand dollars of Louisiana taxable |
| income. |
| (2) Four percent on the next forty thousand dollars of Louisiana taxable |
| income. |
| (3) Six percent on Louisiana taxable income in excess of fifty thousand |
| dollars rate of four percent on Louisiana taxable income. |
| * * * |
| §300.6. Louisiana taxable income of resident estate or trust |
| A. Definition. "Louisiana taxable income" of a resident estate or trust means |
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the taxable income of the estate or trust determined in accordance with federal law

for the same taxable year, as specifically modified by the provisions contained in

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1 Subsection B of this Section, less a federal income tax deduction to be computed 2 following the provisions of R.S. 47:287.83 and 287.85. 3 4 §300.7. Louisiana taxable income of nonresident estate or trust A. Definition. "Louisiana taxable income" of a nonresident estate or trust 5 6 means such the portion of the taxable income of the nonresident estate or trust 7 determined in accordance with federal law for the same taxable year, as specifically 8 modified by the provisions contained in Subsection C of this Section, that was earned 9 within or derived from sources within this state, less a federal income tax deduction 10 to be computed following the provisions of R.S. 47:287.83 and 287.85. 11 12 Section 2. R.S. 47:79(B), 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298 are hereby repealed in their entirety. 13 14 Section 3. The provisions of this Act shall be applicable to taxable periods beginning 15 on or after January 1, 2022. 16 Section 4. This Act shall take effect and become operative if and when the proposed 17 amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as House Bill No. of this 2021 Regular Session of the Legislature is adopted 18 19 at a statewide election and becomes effective.

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)]

HB 376 Original

2021 Regular Session

Ivey

Abstract: Changes the rates and brackets for purposes of calculating income tax for individuals, estates, and trusts <u>from</u> a graduated rate system <u>to</u> a single flat rate of 4%; modifies income tax credits and deductions; and eliminates the deductibility of federal income taxes paid for income taxes.

<u>Present law</u> provides for a tax to be assessed, levied, collected, and paid upon the taxable income of an individual at the following rates:

- (1) 2% on the first \$12,500 of net income;
- (2) 4% on the next \$37,500 of net income;

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(3) 6% on net income in excess of \$50,000.

<u>Proposed law</u> removes the graduated schedule of rates in favor of a flat 4% individual income tax rate.

<u>Present law</u> provides that in cases where taxpayers file a joint return of husband and wife, the combined tax shall be twice the combined tax of single filers.

Proposed law retains present law.

<u>Present law</u> 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.

<u>Proposed law</u> increases the combined personal exemption <u>to</u> \$12,500 for single, individual and married, separate filers. Also increases <u>to</u> \$25,000 the combined personal exemption for married, joint filers, qualified surviving spouses, and filers who are the head of household.

Present law authorizes a credit of \$400 for each dependent who meets certain criteria.

<u>Proposed law</u> repeals <u>present law</u> in favor of a \$1,000 deduction for each dependent as defined in <u>present law</u>.

<u>Present law</u> authorizes an additional deduction of \$1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under <u>present law</u> (R.S. 47:294(A)).

<u>Proposed law</u> provides an exemption of \$1,000 for a taxpayer who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Provides a deduction of \$1,000 for each dependent allowed, in determining federal income tax liability, who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Additionally, provides a deduction of \$1,000 for each dependent as allowed in determining federal income tax liability. Provides definitions and requirements for claiming the exemptions.

<u>Present law</u> 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. Proposed law removes requirement that the range not exceed \$250.

<u>Present law</u> further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in <u>present law</u> which are 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 repeals present law.

<u>Present law</u> authorizes a deduction from individual income taxes for excess federal itemized personal deductions. The term "excess federal itemized personal deductions" is defined to mean the amount by which the federal itemized personal deductions exceed the amount of federal standard deduction designated for the filing status used for the taxable period on the individual income tax return.

<u>Proposed law</u> changes the <u>present law</u> definition of "excess federal itemized personal deductions" to mean the amount by which the federal itemized personal deductions, excluding La. state income taxes paid, exceed the amount of the federal standard deduction

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or the state standard deduction, whichever is greater, designated for the filing status used for the taxable period on the individual income tax return.

<u>Present law</u> defines "tax table income" for resident individuals as the adjusted gross income plus interest on certain state or political subdivision obligations less items such as gratuitous grants, loans, or other disaster benefits included in federal adjusted gross income, federal income tax liability, amount deposited into medical or educational savings accounts, and excess personal exemptions and deductions.

<u>Proposed law</u> retains <u>present law</u> but adds to the list of income not included in "tax table income" the standard, personal, and dependent deductions provided for in <u>proposed law</u> as well as state income tax paid which are included in federal adjusted gross income.

<u>Present constitution</u> and <u>present law</u> authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

<u>Proposed law</u> repeals the <u>present law</u> provisions that authorize a state deduction for federal income taxes paid for purposes of calculating individual and corporate income taxes and income taxes for estates and trusts.

<u>Present law</u> provides for the computation of La. taxable income for a resident estate or trust, including provisions for the federal income tax deduction, limitations of deductions for net income, provisions for the federal deduction for alternative minimum tax, and the authority of the secretary of the Dept. of Revenue to consider reductions to the federal income tax deduction and the determination of the deductible portion of an alternative minimum tax.

<u>Present law</u> provides for a tax to be assessed, levied, collected, and paid on the La. taxable income of an estate or trust at the following rates:

- (1) 2% on the first \$10,000 of La. taxable income.
- (2) 4% on the next \$40,000 of La. taxable income.
- (3) 6% on La. taxable income in excess of \$50,000.

<u>Proposed law</u> removes the graduated schedule of rates in favor of a flat 4% rate on taxable income of an estate or trust.

Applicable to taxable periods beginning on or after Jan. 1, 2022.

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. ____ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 300.6(A), and 300.7(A); Adds R.S. 47:293(9)(a)(xx); Repeals R.S. 47:79(B), 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298)