

2018 Second Extraordinary Session

HOUSE BILL NO. 22

BY REPRESENTATIVE JOHNSON

TAX/INCOME TAX: Provides for the decoupling of state law from federal law as it relates to the depreciation and expensing of certain property (Item #29)

1 AN ACT

2 To amend and reenact R.S. 47:293(9)(a) and (10) and 300.7(C)(1) and to enact R.S.
3 47:287.73(B)(6) and 300.6(B)(1)(d), relative to income tax; to provide for certain
4 definitions; to provide with respect to the depreciation and expensing of certain
5 property for purposes of calculating state income taxes; to provide for certain
6 limitations; to provide for applicability; to provide for an effective date; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:293(9)(a) and (10) and 300.7(C)(1) are hereby amended and
10 reenacted and R.S. 47:287.73(B)(6) and 300.6(B)(1)(d) are hereby enacted to read as
11 follows:

12 §287.73. Modifications to deductions from gross income allowed by federal law

13 * * *

14 B. Deletions. The following deductions allowed by federal law are declared
15 inoperative and shall not form a part of allowable deductions in the computation of
16 net income:

17 * * *

18 (6) Any depreciation of property allowed by I.R.C. Section 168(k) and any
19 expensing of property in excess of twenty-five thousand dollars as allowed by I.R.C.
20 Section 179.

21 * * *

1 §293. Definitions

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

4 * * *

5 (9)(a) "Tax table income", for resident individuals, means adjusted gross
6 income plus interest on obligations of a state or political subdivision thereof, other
7 than Louisiana and its municipalities, title to which obligations vested with the
8 resident individual on or subsequent to January 1, 1980, any depreciation of property
9 allowed by I.R.C. Section 168(k) and any expensing of property in excess of twenty-
10 five thousand dollars as allowed by I.R.C. Section 179, and less:

11 * * *

12 (10) "Tax table income", for nonresident individuals, means the amount of
13 Louisiana income, as provided in this Part, allocated and apportioned under the
14 provisions of R.S. 47:241 through 247, any depreciation of property allowed by
15 I.R.C. Section 168(k) and any expensing of property in excess of twenty-five
16 thousand dollars as allowed by I.R.C. Section 179, plus the total amount of the
17 personal exemptions and deductions already included in the tax tables promulgated
18 by the secretary under authority of R.S. 47:295, less the proportionate amount of the
19 federal income tax liability, excess federal itemized personal deductions, the
20 temporary teacher deduction, the recreation volunteer and volunteer firefighter
21 deduction, the construction code retrofitting deduction, any gratuitous grant, loan,
22 or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery
23 entity if such benefit was included in federal adjusted gross income, the exclusion
24 provided for in R.S. 47:297.3 for S Bank shareholders, the deduction for expenses
25 disallowed by I.R.C. Section 280C, salaries, wages or other compensation received
26 for disaster or emergency-related work rendered during a declared state disaster or
27 emergency, the deduction for net capital gains, and personal exemptions and
28 deductions provided for in R.S. 47:294. The proportionate amount is to be
29 determined by the ratio of Louisiana income to federal adjusted gross income. When

1 federal adjusted gross income is less than Louisiana income, the ratio shall be one
2 hundred percent.

3 * * *

4 §300.6. Louisiana taxable income of resident estate or trust

5 * * *

6 B. Modification. For purposes of this Section, federal taxable income shall
7 be modified by adding or subtracting the items set forth below:

8 (1) There shall be added to federal taxable income, unless already included
9 therein:

10 * * *

11 (d) Any depreciation of property allowed by I.R.C. Section 168(k) and any
12 expensing of property in excess of twenty-five thousand dollars as allowed by I.R.C.
13 Section 179.

14 * * *

15 §300.7. Louisiana taxable income of nonresident estate or trust

16 * * *

17 C. Modification. For purposes of this Section, federal taxable income shall
18 be modified by adding or subtracting the items set forth below:

19 (1) There shall be added to federal taxable income, unless already included
20 therein, ~~net~~:

21 (a) Net income taxes paid to any state or political or municipal subdivision
22 thereof within the taxable year.

23 (b) Any depreciation of property allowed by I.R.C. Section 168(k) and any
24 expensing of property in excess of twenty-five thousand dollars as allowed by I.R.C.
25 Section 179.

26 * * *

27 Section 2. The provisions of this Act shall be applicable to tax periods beginning on
28 and after January 1, 2018.

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

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 22 Original

2018 Second Extraordinary Session

Johnson

Abstract: Authorizes the deletion of any depreciation of property and expensing of property in excess of \$25,000 as authorized by present federal law from the calculation of net state income.

Present law authorizes the deletion of certain deductions from federal gross income allowed by present federal law from the state calculation of net income for items such as net operating losses, income taxes, certain dividends, and depletion for oil and gas wells.

Proposed law retains present law but adds to the list of deletions any depreciation of property and expensing of property authorized by present federal law in excess of \$25,000 from the calculation of net state income.

Present law defines "tax table income", for resident individuals, as adjusted gross income plus interest on obligations of a state or political subdivision, other than La., title to which vested with the resident individual less items such as gratuitous grants and loans, federal income tax liability, excess federal itemized personal deductions, and various other deductions.

Present law defines "tax table income", for nonresident individuals, as the amount of La. income allocated and apportioned under present law plus personal exemptions and deductions less the proportionate amount of the federal income tax liability, excess federal itemized personal deductions, and various other deductions.

Proposed law retains present law as it pertains to the tax table income of both resident and nonresident individuals but adds any depreciation of property and expensing of property allowed by present federal law in excess of \$25,000 to the calculation of La. tax table income for these filers.

Present law defines "Louisiana taxable income" for resident and nonresident estates and trusts. Present law authorizes the modification of federal taxable income for these filers by adding items such as interest on obligation for resident estates and trusts and net income taxes paid for both resident and nonresident trusts.

Proposed law retains present law but adds any depreciation of property and expensing of property allowed by present federal law in excess of \$25,000 to the calculation of La. taxable income for resident and nonresident estates and trusts.

Proposed law is applicable to tax periods beginning on and after Jan. 1, 2018.

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

(Amends R.S. 47:293(9)(a) and (10) and 300.7(C)(1); Adds R.S. 47:287.73(B)(6) and 300.6(B)(1)(d))