HLS 21RS-138 ENGROSSED

2021 Regular Session

HOUSE BILL NO. 376

1

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

AN ACT

2 To amend and reenact R.S. 47:32(A), 241, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 3 300.6(A), and 300.7(A), to enact R.S. 47:293(9)(a)(xx), and to repeal R.S. 47:79(B), 4 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and 298, relative to income tax; 5 to provide for a flat income tax rate for individuals, estates, and trusts; to provide for 6 the calculation of individual income tax liability; to provide for certain deductions 7 and credits; to reduce certain deductions and credits; to provide with respect to the 8 deduction for excess federal itemized personal deductions; to provide for limitations 9 and restrictions; to repeal the deduction allowed for excess federal itemized personal 10 deductions; to provide for personal exemptions and credits for dependents; to repeal 11 the deductibility of federal income taxes paid for purposes of calculating individual income tax; to repeal the deductibility of federal income taxes paid for purposes of 12 13 calculating income tax on estates and trusts; to repeal the earned income tax credit; 14 to provide for the rates and brackets for estates and trusts; to provide for 15 applicability; to provide for an effective date; and to provide for related matters. 16 Be it enacted by the Legislature of Louisiana: 17 Section 1. R.S. 47:32(A), 241, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 18 300.6(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:

Page 1 of 10

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	§32.	Rates	of tax

A.	On individuals.	The tax to be	assessed,	levied,	collected	and paid	upon
the taxable	e income of an in	dividual shall	be compu	ted at tl	ne followi	ng rates:	

- (1) Two percent on that portion of the first twelve thousand five hundred dollars of net income which is in excess of the credits against net income provided for in R.S. 47:79:
- (2) Four percent on the next thirty-seven thousand five hundred dollars of net income;
- (3) Six percent on any amount of net income in excess of fifty thousand dollars of net income rate of four and twenty-five hundredths percent on net income.

* * *

§241. Net income subject to tax

The net income of a nonresident individual or a corporation subject to the tax imposed by this Chapter shall be the sum of the net allocable income earned within or derived from sources within this state, as defined in R.S. 47:243, and the net apportionable income derived from sources in this state, as defined in R.S. 47:244, less the amount of federal income taxes attributable to the net allocable income and net apportionable income derived from sources in this state. The amount of federal income taxes to be so deducted shall be that portion of the total federal income tax which is levied with respect to the particular income derived from sources in this state to be computed in accordance with rules and regulations of the collector of revenue. Proper adjustment shall be made for the actual tax rates applying to different classes of income and for all differences in the computation of net income for purposes of federal income taxation as compared to the computation of net income under this Chapter. Where the allocation of the tax is to be based on a ratio of the amount of net income of a particular class, both the numerator and the denominator of the fraction used in determining the ratio shall be computed on the

1	basis that such net income is determined for federal income tax purposes.
2	* * *
3	§293. Definitions
4	The following definitions shall apply throughout this Part, unless the context
5	requires otherwise:
6	* * *
7	(3) "Excess federal itemized personal deductions" for the purposes of this
8	Part, means the following percentages of the amount by which the federal itemized
9	personal deductions exceed the amount of federal standard deductions which is
10	designated for the filing status used for the taxable period on the individual income
11	tax return required to be filed:
12	(a) For tax years beginning during calendar year 2007, fifty-seven and one
13	half percent of such excess federal itemized personal deductions.
14	(b) For tax years beginning during calendar year 2008, sixty-five percent of
15	such excess federal itemized personal deductions.
16	(c) For all tax years beginning on and or after January 1, 2009, but before
17	January 1, 2022, one hundred percent of such excess federal itemized personal
18	deductions.
19	(d) For tax years beginning on or after January 1, 2022, no deduction of
20	excess federal itemized personal deductions shall be allowed on state individual
21	income tax returns.
22	* * *
23	(9)(a) "Tax table income", for resident individuals, means adjusted gross
24	income plus interest on obligations of a state or political subdivision thereof, other
25	than Louisiana and its municipalities, title to which obligations vested with the
26	resident individual on or subsequent to January 1, 1980, and less:
27	* * *
28	(iv) The excess, if any, of the personal exemptions and deductions provided
29	for in R.S. 47:294 over the amount of the personal exemptions and deductions

R.S. 47:295. The standard, personal, and dependant deductions provided for in R.S. 47:294.

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(xx) Louisiana state income tax refunds which are included in federal adjusted gross income.

7 * * *

(10) "Tax table income", for nonresident individuals, means the amount of Louisiana income, as provided in this Part, allocated and apportioned under the provisions of R.S. 47:241 through 247, plus the total amount of the personal exemptions and deductions already included in the tax tables promulgated by the secretary under authority of R.S. 47:295, less the proportionate amount of the federal income tax liability, excess federal itemized personal deductions, the temporary teacher deduction, the recreation volunteer and volunteer firefighter deduction, the construction code retrofitting deduction, any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity if such benefit was included in federal adjusted gross income, the exclusion provided for in 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.

1	§294.	Personal exemptions and credit for dependents	Standard, perso	nal, and
2		dependent deductions		
3		All personal exemptions and deductions for o	lependents allo	owed in
4	determ	nining federal income tax liability, including the extra	exemption for	t he blind
5	and ag	ed, will be allowed in determining the tax liability in	this Part. Taxpa	ayers are
6	require	ed to use the same filing status and claim the same ex	emptions on the	eir return
7	require	ed to be filed under this Part as they used on their fe	deral income ta	x return.
8	The an	nounts to be taken into consideration shall be as follows:	ows:	
9		A. A combined personal exemption and standard de	duction in the fo	ollowing
10	amoun	its:		
1	a. Sing	gle Individual	\$ 4500.00	\$12,500
12	b. Ma	rried-Joint Return and a Qualified Surviving Spouse	\$ 9000.00	\$25,000
13	c. Mai	rried-Separate	\$ 4500.00	\$12,500
14	d. Hea	ad of Household	\$ 9000.00	\$25,000
15		B. An additional deduction of one thousand dollars	shall be allowed	for each
16	allowa	ble exemption in excess of those required to qua	alify for the ex	emption
17	allowa	ble under R.S. 47:294(A).		
18		B.(1) An exemption of one thousand dollars shall b	e allowed for a	taxpayer
19	who is	s blind, is deaf, has sustained the loss of one or	more limbs, or	r has an
20	intelle	ctual disability.		
21		(2) Each person claiming an exemption pursuant	to the provision	s of this
22	Subsec	ction shall provide proof of a claim by providing a cer	rtificate from a c	qualified
23	physic	ian or optometrist.		
24		C.(1)(a) A deduction of one thousand dollars sh	all be allowed	for each
25	depend	dent allowed in determining federal income tax liabil	ity who is blind	, is deaf,
26	has sus	stained the loss of one or more limbs, or has an intel	lectual disability	<u>y.</u>
27		(b) The taxpayer claiming the deduction authorized	d in this Paragra	aph shall
28	provid	e proof of a claim by providing a certificate from	a qualified phys	sician or
29	optom	etrist issued for each dependent for which a deduction	on is claimed.	

1	(2) In addition to the deduction authorized in Paragraph (1) of this
2	Subsection, an additional deduction of one thousand dollars shall be allowed for each
3	dependent as allowed in determining federal income tax liability.
4	D. As used in this Section, the following terms shall have the definitions
5	ascribed to them, unless the context indicates otherwise:
6	(1) "Blind" shall mean and refer to a person who, after examination by a
7	licensed physician skilled in diseases of the eye or by a licensed optometrist, has
8	been determined to have not more than 20/200 central visual acuity in the better eye
9	with correcting lenses, or an equally disabling loss of the visual field as evidenced
10	by a limitation to the field of vision in the better eye to such a degree that its widest
11	diameter subtends an angle of no greater than twenty degrees.
12	(2) "Deaf" shall mean and refer to a person whose hearing is so impaired that
13	it is insufficient for use in an occupation or activity for which hearing is essential.
14	E. Allowable deductions authorized in this Section shall not exceed the
15	taxable net income of the individual pursuant to the provisions of this Chapter.
16	* * *
17	§295. Tax imposed on individuals; administration
18	* * *
19	B. The secretary shall establish tax tables that calculate the tax owed by
20	taxpayers based upon where their taxable income falls within a range that shall not
21	exceed two hundred fifty dollars. The secretary shall provide in the tax tables that
22	the combined personal exemption, standard deduction, and other exemption
23	deductions in R.S. 47:294 shall be deducted from the two percent bracket. If such
24	combined exemptions and deductions exceed the two percent bracket, the excess
25	shall be deducted from the four percent bracket. If such combined exemptions and
26	deductions exceed the two and four percent brackets, the excess shall be deducted
27	from the six percent bracket.
28	* * *

1	§300.1. Tax imposed
2	There is imposed an income tax for each taxable year upon the Louisiana
3	taxable income of every estate or trust, whether resident or nonresident. The tax to
4	be assessed, levied, collected, and paid upon the Louisiana taxable income of an
5	estate or trust shall be computed at the following rates:
6	(1) Two percent on the first ten thousand dollars of Louisiana taxable
7	income.
8	(2) Four percent on the next forty thousand dollars of Louisiana taxable
9	income.
10	(3) Six percent on Louisiana taxable income in excess of fifty thousand
11	dollars rate of four and twenty-five hundredths percent on Louisiana taxable income.
12	* * *
13	§300.6. Louisiana taxable income of resident estate or trust
14	A. Definition. "Louisiana taxable income" of a resident estate or trust means
15	the taxable income of the estate or trust determined in accordance with federal law
16	for the same taxable year, as specifically modified by the provisions contained in
17	Subsection B of this Section, less a federal income tax deduction to be computed
18	following the provisions of R.S. 47:287.83 and 287.85.
19	* * *
20	§300.7. Louisiana taxable income of nonresident estate or trust
21	A. Definition. "Louisiana taxable income" of a nonresident estate or trust
22	means such the portion of the taxable income of the nonresident estate or trust
23	determined in accordance with federal law for the same taxable year, as specifically
24	modified by the provisions contained in Subsection C of this Section, that was earned
25	within or derived from sources within this state, less a federal income tax deduction
26	to be computed following the provisions of R.S. 47:287.83 and 287.85.
27	* * *
28	Section 2. R.S. 47:79(B), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and
29	298 are hereby repealed in their entirety.

- 1 Section 3. The provisions of this Act shall be applicable to taxable periods beginning
- 2 on or after January 1, 2022.
- 3 Section 4. This Act shall take effect and become operative if and when the proposed
- 4 amendment of Article VII of the Constitution of Louisiana contained in the Act which
- 5 originated as House Bill No. 369 of this 2021 Regular Session of the Legislature is adopted
- 6 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 Engrossed

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 4.25%; modifies income tax credits and deductions; and eliminates the deductibility of federal income taxes paid for purposes of calculating individual income taxes and income taxes on estates and trusts, the earned income tax credit, and the deduction for excess federal itemized personal deductions.

<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.
- (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 4.25% 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.

Page 8 of 10

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

<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 of the Dept. of Revenue 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. <u>Proposed law</u> 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.

<u>Proposed law</u> repeals <u>present law</u>.

<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> repeals the <u>present law</u> deduction for excess federal itemized personal deductions.

<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 law</u> provides for an individual income tax credit based on the taxpayer's federal earned income tax credit authorized under <u>federal law</u> (Section 32 of the Internal Revenue Code). The amount of the credit is 5% of the amount of the taxpayer's federal earned income tax credit through Dec. 31, 2025. Beginning Jan. 1, 2026, the amount of the credit is 3.5% of the amount of the taxpayer's federal earned income tax credit.

Proposed law repeals the present law earned income tax credit.

<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 income tax and the income tax on 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 4.25% 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. 369 of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 241, 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), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and 298)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Ways and Means</u> to the original bill:

- 1. Increase the flat rate for purposes of calculating individual income tax and the income tax on estates and trusts <u>from</u> a rate of 4% to a rate of 4.25%.
- 2. Repeal the deduction for excess federal itemized personal deductions.
- 3. Repeal the earned income tax credit.
- 4. Remove the repeal of the deductibility of federal income taxes paid for purposes of calculating corporate income taxes from the provisions of proposed law.
- 5. Specify the House Bill No. of the proposed constitutional amendment to which the effectiveness of proposed law is tied.