

2016 Regular Session

HOUSE BILL NO. 493

BY REPRESENTATIVE GREGORY MILLER

CHILDREN/SUPPORT: Provides relative to federal and state tax deductions in child support calculations

1 AN ACT

2 To amend and reenact R.S. 9:315.18(B), relative to child support; to provide for awarding  
3 the state and federal income tax dependency deduction; to provide for considerations  
4 by the court; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:315.18(B) is hereby amended and reenacted to read as follows:

7 §315.18. Schedule; information

8 \* \* \*

9 B.(1) The non-domiciliary party whose child support obligation is less than  
10 ~~or equals or exceeds~~ equal to fifty percent of the total child support obligation shall  
11 not be entitled to claim the federal and state tax dependency deductions.

12 (2) If the non-domiciliary parent's child support obligation exceeds fifty  
13 percent of the total child support obligation but is no more than sixty-five percent,  
14 the non-domiciliary parent may be entitled to claim the federal and state tax  
15 dependency deductions if, after a contradictory motion, the judge finds ~~both~~ any of  
16 the following:

17 (a) No arrearages are owed by the obligor.

18 (b) The right to claim the dependency deductions or, in the case of multiple  
19 children, a part thereof, would not increase substantially the cost of obtaining health  
20 insurance for the child or the domiciliary parent in those cases where the domiciliary

parent provides health insurance for the child and relies upon subsidies under the Affordable Care Act.

(c) The right to claim the dependency deductions or, in the case of multiple children, a part thereof, would substantially benefit the non-domiciliary party without significantly harming the domiciliary party. In making the determination, the court shall consider all of the following:

(i) The net tax savings to each parent.

(ii) The eligibility of either or both parents for the federal earned income tax credit or other state or federal tax credit.

(iii) The net costs of daycare.

(iv) Any other relevant factor concerning the best interest of the children.

(3) If the non-domiciliary parent's child support obligation exceeds sixty-five percent of the total child support obligation and no arrears are owed, there shall be a rebuttable presumption that the non-domiciliary parent is entitled to claim the federal and state tax dependency deductions. The domiciliary parent may rebut the presumption by a preponderance of the evidence.

(4) The child support order shall:

(a) Specify the years in which the party is entitled to claim such deductions.

(b) Require the domiciliary party to timely execute all forms required by the Internal Revenue Service authorizing the non-domiciliary party to claim such deductions.

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#### 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)]

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HB 493 Original

2016 Regular Session

Gregory Miller

**Abstract:** Provides for procedures in determining when a non-domiciliary parent can claim federal and state tax deductions.

Present law allows a non-domiciliary party whose support obligation equals or exceeds fifty percent of the total child support obligation to claim federal and state tax dependency deductions.

Proposed law provides specific conditions in which a non-domiciliary party whose support obligation is between 50% to 65% of the total child support obligation may be entitled to claim federal and state tax dependency deductions after a contradictory hearing.

Proposed law provides factors which shall be considered by the court in determining whether the non-domiciliary party whose obligation is between 50% to 65% shall be entitled to the federal and state tax dependency deductions.

Proposed law provides a rebuttable presumption that a non-domiciliary parent's obligation that exceeds 65% of the total child support obligation shall claim the deductions.

(Amends R.S. 9:315.18(B))