

2021 Regular Session

HOUSE BILL NO. 424

BY REPRESENTATIVES MCFARLAND, ADAMS, BACALA, BUTLER, CARRIER, ROBBY CARTER, CORMIER, COX, DAVIS, ECHOLS, EDMONDS, FIRMENT, GADBERRY, HARRIS, HOLLIS, HORTON, JEFFERSON, LANDRY, LARVADAIN, LYONS, MARCELLE, MCMAHEN, RISER, ROMERO, SCHAMERHORN, STAGNI, THOMPSON, WHITE, AND WRIGHT

1 AN ACT

2 To enact R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042, relative to income tax  
3 incentives; to provide for an individual income tax deduction for the adoption of a  
4 child or youth from foster care; to provide for a deduction for the private adoption  
5 of certain infants; to provide for the amount of the deduction; to provide for  
6 limitations and requirements; to establish an income tax credit for donations to  
7 certain foster care organizations; to provide for definitions; to provide for the amount  
8 of the credit; to provide for the application for and granting of the credit; to provide  
9 for certain requirements; to authorize the promulgation of rules; to provide for  
10 applicability; to provide for an effective date; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042 are hereby  
13 enacted to read as follows:

14 §293. Definitions

15 The following definitions shall apply throughout this Part, unless the context  
16 requires otherwise:

17 \* \* \*

18 (9)(a) "Tax table income", for resident individuals, means adjusted gross  
19 income plus interest on obligations of a state or political subdivision thereof, other

1 than Louisiana and its municipalities, title to which obligations vested with the  
2 resident individual on or subsequent to January 1, 1980, and less:

3 \* \* \*

4 (xx) The deduction for adopting a child or youth from foster care as provided  
5 in R.S. 47:297.16.

6 (xxi) The deduction for the private adoption of certain infants as provided  
7 for in R.S. 47:297.17.

8 \* \* \*

9 §297.16. Tax deduction; adoption from foster care

10 A.(1) There shall be allowed a deduction from tax table income for a  
11 taxpayer who adopts a child who is in foster care, as defined in Children's Code  
12 Article 603, or a youth receiving extended foster care services pursuant to the  
13 Extended Foster Care Program Act. The amount of the deduction authorized by this  
14 Section shall be equal to five thousand dollars and shall be applicable in the year the  
15 adoption becomes final. The amount of the deduction authorized by this Section  
16 shall not exceed the total taxable income of the taxpayer claiming the deduction.

17 (2) The deduction authorized pursuant to the provisions of this Section shall  
18 be in lieu of the dependency deduction authorized in R.S. 47:294.

19 B. The taxpayer claiming the deduction authorized pursuant to the provisions  
20 of this Section shall maintain all records necessary to verify the adoption and, if  
21 requested, shall provide the records to the Department of Revenue when filing the  
22 taxpayer's tax return.

23 C. The secretary of the Department of Revenue may promulgate rules in  
24 accordance with the Administrative Procedure Act to implement the provisions of  
25 this Section, including rules related to the submission of documentation when  
26 claiming the deduction.

27 §297.17. Tax deduction; private adoption of certain infants

28 A.(1) There shall be allowed a deduction from tax table income for a  
29 taxpayer who adopts an infant who is unrelated to the taxpayer and who is less than  
30 one year of age through a private agency as defined in Children's Code Article

1           1169(1) or adopts an infant who is unrelated to the taxpayer and who is less than one  
 2           year of age through an attorney. For purposes of this Section, the age of the infant  
 3           shall be determined at the time of the adoption placement. The amount of the  
 4           deduction authorized by this Section shall be equal to five thousand dollars and shall  
 5           be applicable in the year the adoption becomes final. The amount of the deduction  
 6           authorized by this Section shall not exceed the total taxable income of the taxpayer.

7                   (2) The deduction authorized pursuant to the provisions of this Section shall  
 8                   be in lieu of the dependency deduction authorized in R.S. 47:294.

9                   B. The taxpayer shall maintain all records necessary to verify the adoption  
 10                  and, if requested, shall provide the records to the Department of Revenue when filing  
 11                  the taxpayer's tax return.

12                  C. The secretary of the Department of Revenue may promulgate rules in  
 13                  accordance with the Administrative Procedure Act to implement the provisions of  
 14                  this Section, including rules related to the submission of documentation when  
 15                  claiming the deduction.

16   \*       \*       \*

17           §6042. Credits; qualifying foster care charitable organizations

18                   A.(1)(a) There shall be allowed a nonrefundable income tax credit for  
 19                   donations a Louisiana taxpayer makes during a taxable year to a qualifying foster  
 20                   care charitable organization. The amount of the credit shall be equal to the actual  
 21                   amount of the donation used by the foster care organization to provide services to  
 22                   qualified individuals, or fifty thousand dollars, whichever is less.

23                   (b) The total amount of credits granted by the department pursuant to the  
 24                   provisions of this Section shall not exceed five hundred thousand dollars per calendar  
 25                   year. The granting of credits shall be on a first-come, first-served basis. If the total  
 26                   amount of credits claimed in any particular calendar year exceeds the amount of tax  
 27                   credits authorized for that year, the excess shall be treated as having been applied for  
 28                   on the first day of the subsequent year. All requests received on the same business  
 29                   day shall be treated as received at the same time, and if the aggregate amount of the

1           requests received on a single business day exceeds the total amount of available tax  
 2           credits, tax credits shall be approved on a pro rata basis.

3           (c) The credit may be used in addition to any federal tax credit or deduction  
 4           earned for the same donation. However, a taxpayer shall not receive any other state  
 5           tax credit, exemption, exclusion, deduction, rebate, or any other state tax benefit for  
 6           a donation for which the taxpayer has received a tax credit pursuant to this Section.

7           (2) If the tax credit earned pursuant to this Section exceeds the total tax  
 8           liability of a taxpayer in the taxable year, the amount of the credit not used as an  
 9           offset against the taxpayer's tax liability in the taxable year may be carried forward  
 10          as a credit against subsequent income tax liabilities for a period not to exceed five  
 11          taxable years.

12          B. An organization that seeks to become a qualifying foster care charitable  
 13          organization shall apply to the department and provide the following:

14          (1) A statement, signed by an officer of the organization under penalty of  
 15          perjury, that the organization meets all of the criteria provided in Paragraph (F)(4)  
 16          of this Section.

17          (2) A copy of the exemption letter from the Internal Revenue Service  
 18          verifying the organization is exempt from federal income tax pursuant to Section  
 19          501(c)(3) of the Internal Revenue Code.

20          (3) A copy of the organization's operating budget for the prior operating year  
 21          and the amount of the budget spent on providing services to qualified individuals.

22          (4) A copy of any federal income tax return filed by the organization for the  
 23          prior year.

24          (5) A copy of the financial statements and detailed schedule of expenses for  
 25          the organization from the prior year.

26          (6) A schedule detailing how the organization calculated the percentage of  
 27          its budget spent on providing services to qualified individuals.

28          (7) A statement that the organization intends to continue spending at least  
 29          seventy-five percent of its total budget on providing services to qualified individuals  
 30          or intends to continue spending at least seventy-five percent of its funds budgeted for

1           Louisiana on providing services to qualified individuals and that one hundred percent  
2           of the donations it receives from Louisiana residents will be spent on providing  
3           services to qualified individuals.

4                   (8) Any other information required by the department.

5                   C.(1) No later than the next January thirty-first following approval by the  
6           department and annually thereafter no later than January thirty-first, each foster care  
7           organization shall file a report with the department prepared by an independent  
8           certified public accountant who is not related to a donor or affiliated with the foster  
9           care organization.

10                   (2) Each report required pursuant to Paragraph (1) of this Subsection shall  
11           contain the following:

12                   (a) A certification that the organization continues to meet the requirements  
13           of this Section.

14                   (b) The name, social security number, address, and Louisiana and federal  
15           taxpayer identification numbers of each person who made a donation to the foster  
16           care organization during the prior calendar year.

17                   (c) The amount of each donation received during the prior calendar year.

18                   (d) The amount of each donation utilized during the prior calendar year to  
19           provide services to qualified individuals and the services provided.

20                   (e) Any other information or documentation required by the department.

21                   D.(1) A qualified foster care charitable organization shall issue a receipt to  
22           each person from whom the foster care organization receives a donation. The receipt  
23           shall indicate the actual amount of the donation that was used by the foster care  
24           organization to provide services to qualified individuals. A taxpayer shall provide  
25           a copy of the receipt to the department when claiming the credit authorized by this  
26           Section.

27                   (2) The department shall provide a standardized format for the receipt  
28           required pursuant to this Subsection.

1                   E. The secretary of the department may promulgate rules in accordance with  
2                   the provisions of the Administrative Procedure Act to implement the provisions of  
3                   this Section.

4                   F. For purposes of this Section, the following words shall have the following  
5                   meanings unless the context clearly indicates otherwise:

6                   (1) "Department" means the Department of Revenue.

7                   (2) "Louisiana taxpayer" or "taxpayer" means a person who is required to file  
8                   a Louisiana income tax return.

9                   (3) "Qualified individual" means a child in a foster care placement program  
10                  established by the Department of Children and Family Services.

11                  (4) "Qualifying foster care charitable organization" or "foster care  
12                  organization" means an organization that meets all of the following criteria:

13                  (a) Is exempt from federal income tax pursuant to Section 501(c)(3) of the  
14                  Internal Revenue Code.

15                  (b) Provides services to at least twenty-five qualified individuals each  
16                  operating year.

17                  (c) Spends at least seventy-five percent of its total budget on providing  
18                  services to qualified individuals or spends at least seventy-five percent of its funds  
19                  budgeted for Louisiana on providing services to qualified individuals and the  
20                  organization certifies to the department that one hundred percent of the donations it  
21                  receives from Louisiana residents will be spent on providing services to qualified  
22                  individuals.

23                  (d) Is approved by the department after applying as provided in Subsection  
24                  B of this Section.

25                  (5) "Services" means cash assistance, medical care, child care, food,  
26                  clothing, shelter, job placement, and job-training services or any other assistance  
27                  reasonably necessary to meet immediate basic needs that are provided to a qualified  
28                  individual and used in Louisiana.

1           Section 2. The provisions of this Act shall be applicable to adoptions finalized on  
2 or after January 1, 2022 and to donations made by taxpayers to qualifying foster care  
3 charitable organizations on or after January 1, 2022.

4           Section 3. This Act shall become effective on January 1, 2022.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_