

2017 Regular Session

HOUSE BILL NO. 359

BY REPRESENTATIVE IVEY

TAX/INCOME TAX: Provides for a flat tax rate for purposes of calculating individual income tax, increases the amount of the earned income tax credit, and modifies other income tax credits and deductions

1 AN ACT

2 To amend and reenact R.S. 47:32(A), 79, 293(3)(introductory paragraph), 295(B), 297.8(A)
3 and to repeal R.S. 47:294, relative to the individual income tax; to provide for the
4 rates and brackets for individual income tax; to provide for a flat single individual
5 income tax rate; to provide for the calculation of individual income tax liability; to
6 provide for certain deductions and credits; to reduce certain deductions and credits;
7 to provide with respect to the deduction for excess federal itemized personal
8 deductions; to provide for limitations and restrictions; to provide with respect to the
9 earned income tax credit; to increase the amount of the tax credit; 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. 47:32(A) is hereby amended and reenacted to read as follows:

13 §32. Rates of tax

14 A. On individuals. The tax to be assessed, levied, collected and paid upon
15 the taxable income of an individual shall be computed at the following rates:

16 (1) ~~Two percent~~ No tax shall be assessed on that portion of the first twelve
17 thousand five hundred dollars of net income ~~which is in excess of the credits against~~
18 ~~net income provided for in R.S. 47:79;~~

1 of family during the entire taxable year is allowed an exemption of five thousand
2 dollars.

3 (2) ~~In addition to the exemptions above provided for, an An exemption of~~
4 one thousand dollars is allowed for the taxpayer who is blind or who has sustained
5 the loss of one or more limbs or who has an intellectual disability or who is deaf. As
6 used herein the word "blind" shall mean and refer to ~~persons who have been~~
7 ~~determined by a qualified ophthalmologist or optometrist to have no vision or to~~
8 ~~have vision which is insufficient for use in an occupation or activity for which sight~~
9 ~~is essential.~~ a person who, after examination by a licensed physician skilled in
10 diseases of the eye or by a licensed optometrist, has been determined to have not
11 more than 20/200 central visual acuity in the better eye with correcting lenses, or an
12 equally disabling loss of the visual field as evidenced by a limitation to the field of
13 vision in the better eye to such a degree that its widest diameter subtends an angle
14 of no greater than twenty degrees. For purposes herein, the word "deaf" shall be
15 defined as in ~~Paragraph (B)(5)~~ Subsection B of this Section. Each person claiming
16 an exemption under the provisions of this ~~Paragraph~~ Section shall be able to prove
17 such claim by certificate of a qualified physician or optometrist.

18 B. Credit Deductions for dependents.

19 (1) ~~In general. A credit of four hundred dollars is allowed for each~~
20 ~~dependent (as defined in Subsection C of this Section);~~

21 (a) ~~whose gross income for the calendar year in which the taxable year of the~~
22 ~~taxpayer begins is less than \$600 or~~

23 (b) ~~who is a child of the taxpayer and who (i) has not attained the age of~~
24 ~~nineteen at the close of the calendar year in which the taxable year of the taxpayer~~
25 ~~begins, or (ii) is a student.~~

26 (2) ~~Credit denied in case of certain married dependents. No credit is allowed~~
27 ~~under this Subsection for any dependent who has made a joint return with his spouse~~
28 ~~under R.S. 47:101(B), for the taxable year beginning in the calendar year in which~~
29 ~~the taxable year of the taxpayer begins.~~

1 ~~(3) Child defined. For purposes of this Subparagraph (B)(1)(b) of this~~
2 ~~Subsection, the term "child" means an individual who (within the meaning of~~
3 ~~Subsection C of this Section) is a son, stepson, daughter, or stepdaughter of the~~
4 ~~taxpayer.~~

5 ~~(4) Student and educational institution defined. For purposes of Item~~
6 ~~(B)(1)(b)(ii) of this Subsection, the term "student" means an individual who during~~
7 ~~each of five calendar months during the calendar year in which the taxable year of~~
8 ~~the taxpayer begins,~~

9 ~~(a) is a full-time student at an educational institution; or~~

10 ~~(b) is pursuing a full-time course of institutional on-farm training under the~~
11 ~~supervision of an accredited agent of an educational institution or of a state or~~
12 ~~political subdivision of a state. For purposes of this Subsection, the term~~
13 ~~"educational institution" means only an educational institution which normally~~
14 ~~maintains a regular faculty and curriculum and normally has a regularly organized~~
15 ~~body of students in attendance at the place where its educational activities are carried~~
16 ~~on.~~

17 ~~(5) Credit for certain dependents. A credit deduction of one thousand dollars~~
18 ~~is allowed for each dependent as defined in Subsection C of this Section allowed in~~
19 ~~determining federal income tax liability who is blind or deaf or who has sustained~~
20 ~~the loss of one or more limbs or who has an intellectual disability. As herein used~~
21 ~~the word "blind" shall be defined as in ~~Paragraph (A)(2)~~ Subsection A of this~~
22 ~~Section. For purposes herein, the word "deaf" shall mean and refer to persons whose~~
23 ~~hearing is so impaired that it is insufficient for use in an occupation or activity for~~
24 ~~which hearing is essential. The taxpayer claiming credit the deduction as herein~~
25 ~~provided shall be able to prove such claim by certificate of a qualified physician or~~
26 ~~optometrist issued for each such dependent for which a credit deduction is claimed.~~

27 ~~C. Dependent defined:~~

28 ~~(1) General definition. For purposes of this Chapter, the term "dependent"~~
29 ~~means any of the following individuals over half of whose support, for the calendar~~

1 year in which the taxable year of the taxpayer begins, was received from the taxpayer
2 (or is treated under Paragraph (C)(3) of this Subsection as received from the
3 taxpayer):

4 (a) a son or daughter of the taxpayer, or a descendant of either;

5 (b) a stepson or stepdaughter of the taxpayer;

6 (c) a brother, sister, stepbrother, or stepsister of the taxpayer;

7 (d) the father or mother of the taxpayer, or an ancestor of either;

8 (e) a stepfather or stepmother of the taxpayer;

9 (f) a son or daughter of a brother or sister of the taxpayer;

10 (g) a brother or sister of the father or mother of the taxpayer;

11 (h) a son-in-law, daughter-in-law, father-in-law, mother-in-law,

12 brother-in-law, or sister-in-law of the taxpayer;

13 (i) an individual who, for the taxable year of the taxpayer, has as his
14 principal place of abode the home of the taxpayer and is a member of the taxpayer's
15 household, or

16 (j) an individual who,

17 (i) is a descendant of a brother or sister of the father or mother of the
18 taxpayer;

19 (ii) for the taxable year of the taxpayer received institutional care required
20 by reason of a physical or mental disability, and

21 (iii) before receiving such institutional care, was a member of the same
22 household as the taxpayer.

23 (2) Rules relating to general definition. For purposes of this Section the rules
24 set forth below will apply.

25 (a) The terms "brother" and "sister" include a brother or sister by the
26 halfblood.

27 (b) In determining whether any of the relationships specified in this Section
28 exists, a child legally adopted by an individual shall be treated as if he were the child
29 of such individual by blood.

1 ~~(c) The term "dependent" does not include any individual who is not a citizen~~
2 ~~of the United States unless such individual is a resident of the United States, of a~~
3 ~~country contiguous to the United States, of the Canal Zone, or of the Republic of~~
4 ~~Panama. The preceding sentence shall not exclude from the definition of~~
5 ~~"dependent" any child of the taxpayer born to him, or legally adopted by him, in the~~
6 ~~Philippine Islands before January 1, 1956, if the child is a resident of the Republic~~
7 ~~of the Philippines, and if the taxpayer was a member of the Armed Forces of the~~
8 ~~United States at the time the child was born to him or legally adopted by him.~~

9 ~~(d) A payment to a wife which is includible in the gross income of the wife~~
10 ~~under R.S. 47:42(C) shall not be treated as a payment by her husband for the support~~
11 ~~of any dependent.~~

12 ~~(3) Multiple support agreements. For purposes of Paragraph (C)(1) of this~~
13 ~~Subsection, over half of the support of an individual for a calendar year shall be~~
14 ~~treated as received from the taxpayer if:~~

15 ~~(a) no one person contributed over half of such support;~~

16 ~~(b) over half of such support was received from persons each of whom, but~~
17 ~~for the fact that he did not contribute over half of such support, would have been~~
18 ~~entitled to claim such individual as a dependent for a taxable year beginning in such~~
19 ~~calendar year;~~

20 ~~(c) the taxpayer contributed over ten per cent of such support; and~~

21 ~~(d) each person described in Subparagraph (C)(3)(b) of this Section (other~~
22 ~~than the taxpayer) who contributed over ten per cent of such support files a written~~
23 ~~declaration (in such manner and form as the collector may by regulations prescribe)~~
24 ~~that he will not claim such individual as a dependent for any taxable year beginning~~
25 ~~in such calendar year.~~

26 ~~(4) Special support test in case of students. Amounts received as~~
27 ~~scholarships for study at an educational institution by an individual who is:~~

28 ~~(a) a son, stepson, daughter, or stepdaughter of the taxpayer (within the~~
29 ~~meaning of this Section), and~~

- 1 Nos. 357, 358, 360, 361, 362, 363, and 364 of this 2017 Regular Session of the Legislature
2 are enacted and become 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 359 Engrossed

2017 Regular Session

Ivey

Abstract: Changes the rates and brackets for purposes of calculating individual income tax liability from a graduated rate system to a single flat rate of 4% and further authorizes a reduction to a flat 3% if certain conditions are met and modifies certain credits and deductions.

Present law 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.

Proposed law reduces individual income tax rates as follows:

- (1) From 2% on the first \$12,500 of net income to 0% on the first \$12,500 of net income.
- (2) From 4% on the next \$37,500 of net income and 6% on net income in excess of \$50,000 to 4% on net income in excess of \$12,500.

Present law 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.

Present law 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.

Proposed law repeals present law.

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

Proposed law repeals present law.

Present law authorizes an additional deduction of \$1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under present law.

Proposed law repeals present law.

Present law 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. Further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in present law which is 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 deletes the provisions authorizing the combined personal exemption, standard deduction, and other exemption deductions to be deducted from the income tax brackets.

Present law authorizes a deduction from individual income taxes for excess federal itemized personal deductions. Excess federal itemized personal deductions is defined to mean 100% of 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.

Proposed law changes present law to limit the deduction to charitable contributions in excess of the first \$12,500 of excess federal itemized personal deductions for single filers and \$25,000 for taxpayers filing joint returns.

Present law provides for an individual income tax credit in an amount equal to 3.5% of the amount of the taxpayer's federal earned income tax credit authorized under Section 32 of the Internal Revenue Code.

Proposed law increases the amount of the state credit from 3.5% to 7% of the federal tax credit.

Applicable to all taxable periods beginning on and after Jan. 1, 2018.

Proposed law with respect to the reduction in the individual income tax rate to a flat 4% rate shall be effective on Jan. 1, 2018. Proposed law provides for the further reduction of the flat individual income tax rate from 4% to a flat rate of 3% if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 356 of the 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective.

Effective Jan. 1, 2018, if the proposed amendment of Article VII of the Constitution of Louisiana contained in the Act which originated as HB No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and becomes effective and if the Acts which originated as HB Nos. 357, 358, 360, 361, 362, 363, and 364 of this 2017 R.S. of the Legislature are enacted and become effective.

(Amends R.S. 47:32(A), 79, 293(3)(intro. para.), 295(B), 297.8(A); Repeals R.S. 47:294)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Adds contingent effectiveness on Jan. 1, 2018, for proposed law if the proposed amendment of Article VII, contained in the Act that originated as HB No. 356 of this 2017 R.S. of the Legislature is adopted at a statewide election and HB Nos. 357, 358, 360, 361, 362, 363, and 364 of this 2017 R.S. become effective.