

2019 Regular Session

HOUSE BILL NO. 530

BY REPRESENTATIVE HODGES

TAX CREDITS: Requires certain taxpayers claiming the earned income tax credit to provide the Dept. of Revenue with certain information regarding residency of dependents

1 AN ACT

2 To enact R.S. 47:101(C), 297.8(A)(3) and (C), relative to individual income tax; to provide  
3 with respect to the earned income tax credit; to establish additional eligibility  
4 requirements for the tax credit; to require qualifying dependents to meet certain  
5 residency requirements; to provide for recapture of the credit; to provide for  
6 requirements for claiming dependents on certain income tax returns; to authorize the  
7 promulgation of certain rules and regulations; to provide for applicability; to provide  
8 for effectiveness; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:101(C), 297.8(A)(3) and (C) are hereby enacted to read as  
11 follows:

12 §101. Individual returns

13 \* \* \*

14 C. Any taxpayer claiming a dependent on a tax return shall provide a  
15 statement that the dependent has been physically present in the United States for at  
16 least six months of the taxable year. The provisions of this Subsection shall not  
17 apply to any taxpayer who is a member of the United States armed services who is  
18 on active duty and is stationed outside the state of Louisiana.

19 \* \* \*

1 §297.8. Earned income tax credit

2 A.

3 \* \* \*

4 (3) For eligible individuals with a "qualifying child", as that term is defined  
5 under Section 32 of the Internal Revenue Code, no credit shall be allowed under this  
6 Section unless the taxpayer signs a statement on documentation required by the  
7 Department of Revenue that the qualifying child for which the credit is claimed  
8 meets all of the following requirements:

9 (a) The qualifying child is physically present in the United States at the time  
10 the tax return for the taxable year is filed.

11 (b) The qualifying child has been physically present in the United States for  
12 at least one hundred eighty calendar days of the taxable year unless the child was  
13 born in the taxable year for which the credit is claimed.

14 (c) If the qualifying child was born in the taxable year for which the credit  
15 is claimed, the qualifying child has been physically present in the United States for  
16 the lesser of fifty percent of the calendar days of the taxable year since the birth of  
17 the child or one hundred eighty calendar days.

18 \* \* \*

19 C. The Department of Revenue may promulgate rules and regulations in  
20 accordance with the Administrative Procedure Act as are necessary to implement the  
21 provisions of this Section.

22 Section 2. This Act shall be applicable to tax years beginning on and after January  
23 1, 2020.

24 Section 3. This Act shall become effective January 1, 2020.

## 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 530 Reengrossed

2019 Regular Session

Hodges

**Abstract:** Requires taxpayers who claim the earned income tax credit to affirm to the Dept. of Revenue that a qualifying child for which the credit is claimed meets certain residency requirements.

Present law authorizes a state individual income tax credit for 5% of the amount of the taxpayer's federal earned income tax credit through Dec. 31, 2025.

Proposed law retains present law and adds a requirement that in order to receive the tax credit, an eligible taxpayer must sign a statement on the tax return indicating that the qualifying child is physically present in the U.S. at the time the income tax return is filed for at least 180 days of the taxable year, or if born in the taxable year, the child was physically present in the U.S. for 50% of the taxable year or 180 calendar days, whichever is less.

Proposed law requires any taxpayer claiming a dependent on a tax return to provide a statement that the dependent has been physically present in the U.S. for at least six months of the taxable year. Exempts members of the U.S. armed services on active duty stationed outside the state from the provisions of proposed law which require a taxpayer to provide a statement that the dependent has been physically present in the U.S. for at least six months of the taxable year.

Proposed law authorizes the Dept. of Revenue to promulgate rules and regulations necessary to implement the provisions of proposed law.

Effective Jan 1, 2020, and applicable to all tax periods beginning on and after Jan. 1, 2020.

(Adds R.S. 47:101(C) and 297.8(A)(3) and (C))

Summary of Amendments Adopted by House

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

1. Require taxpayers claiming a dependent on a tax return to provide a statement that the dependent has been physically present in the U.S. for at least six months of the taxable year.
2. Remove authorization for the Dept. of Revenue to recapture the credit if the credit is obtained in violation of proposed law.
3. Authorize rather than require the Dept. of Revenue to promulgate rules and regulations to implement proposed law.
4. Delete references to "other dependents" throughout proposed law as it relates to the earned income credit tax.

The House Floor Amendments to the engrossed bill:

1. Exempt members of the U.S. armed services on active duty stationed outside the state from the provisions of proposed law which require taxpayers claiming a

dependent on a tax return to provide a statement that the dependent was physically present in the U.S. for at least six months of the taxable year.

2. Clarify that proposed law shall be applicable to all tax periods beginning on *and* after Jan. 1, 2020.