2021 Regular Session

HOUSE BILL NO. 233

BY REPRESENTATIVE WRIGHT

TAX/INCOME TAX: Provides for a flat rate for purposes of calculating individual income tax and modifies income tax credits, deductions, and exemptions

1	AN ACT
2	To amend and reenact R.S. 47:32(A), 241, 287.69, 293(3) and (10), 294, 295(B), 297.8(A),
3	300.1, 300.6, and 300.7 and to repeal R.S. 47:79, 287.79, 287.83, 287.85,
4	287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298, relative to
5	income tax; to provide for the calculation of individual income tax liability; to
6	provide for a flat individual income tax rate; to provide for certain deductions and
7	credits; to provide with respect to the deduction for excess federal itemized personal
8	deductions; to eliminate the deduction allowed for excess federal itemized personal
9	deductions; to provide for personal exemptions and credits for dependents; to repeal
10	the deductibility of federal income taxes paid for purposes of calculating income tax;
11	to provide for the amount of the earned income tax credit; to provide for the rates and
12	brackets for estates and trusts; to provide for limitations and restrictions; to provide
13	for applicability; to provide for an effective date; and to provide for related matters.
14	Be it enacted by the Legislature of Louisiana:
15	Section 1. R.S. 47:32(A), 241, 287.69, 293(3) and (10), 294, 295(B), 297.8(A),
16	300.1, 300.6, and 300.7 are hereby amended and reenacted to read as follows:
17	§32. Rates of tax
18	A. On individuals. The tax to be assessed, levied, collected and paid upon
19	the taxable income of an individual shall be computed at the following rates:

1	(1) Two percent on that portion of the first twelve thousand five hundred
2	dollars of net income which is in excess of the credits against net income provided
3	for in R.S. 47:79;
4	(2) Four percent on the next thirty-seven thousand five hundred dollars of
5	net income;
6	(3) Six percent on any amount of net income in excess of fifty thousand
7	dollars of net income rate of three percent on net income.
8	* * *
9	§241. Net income subject to tax
10	The net income of a nonresident individual or a corporation subject to the tax
11	imposed by this Chapter shall be the sum of the net allocable income earned within
12	or derived from sources within this state, as defined in R.S. 47:243, and the net
13	apportionable income derived from sources in this state, as defined in R.S. 47:244;
14	less the amount of federal income taxes attributable to the net allocable income and
15	net apportionable income derived from sources in this state. The amount of federal
16	income taxes to be so deducted shall be that portion of the total federal income tax
17	which is levied with respect to the particular income derived from sources in this
18	state to be computed in accordance with rules and regulations of the collector of
19	revenue. Proper adjustment shall be made for the actual tax rates applying to
20	different classes of income and for all differences in the computation of net income
21	for purposes of federal income taxation as compared to the computation of net
22	income under this Chapter. Where the allocation of the tax is to be based on a ratio
23	of the amount of net income of a particular class, both the numerator and the
24	denominator of the fraction used in determining the ratio shall be computed on the
25	basis that such the net income is determined for federal income tax purposes.
26	* * *
27	§287.69. Louisiana taxable income defined
28	"Louisiana taxable income" means Louisiana net income , after adjustments ,
29	less the federal income tax deduction allowed by R.S. 47:287.85. "After

1	adjustments" means after the application of the net operating loss adjustment allowed
2	by R.S. 47:287.86.
3	* * *
4	§293. Definitions
5	The following definitions shall apply throughout this Part, unless the context
6	requires otherwise:
7	* * *
8	(3) "Excess federal itemized personal deductions" for the purposes of this
9	Part, means the following percentages of the amount by which the federal itemized
10	personal deductions exceed the amount of federal standard deductions which is
11	designated for the filing status used for the taxable period on the individual income
12	tax return required to be filed:
13	(a) For tax years beginning during calendar year 2007, fifty-seven and one
14	half percent of such excess federal itemized personal deductions.
15	(b) For tax years beginning during calendar year 2008, sixty-five percent of
16	such excess federal itemized personal deductions.
17	(c) For all tax years beginning on and <u>or</u> after January 1, 2009, <u>but before</u>
18	January 1, 2023, one hundred percent of such excess federal itemized personal
19	deductions.
20	(d) For tax years beginning on or after January 1, 2023, no excess federal
21	itemized personal deductions shall be allowed pursuant to this Paragraph.
22	* * *
23	(10) "Tax table income", for nonresident individuals, means the amount of
24	Louisiana income, as provided in this Part, allocated and apportioned under the
25	provisions of R.S. 47:241 through 247, plus the total amount of the personal
26	exemptions and deductions already included in the tax tables promulgated by the
27	secretary under authority of R.S. 47:295, less the proportionate amount of the federal
28	income tax liability, excess federal itemized personal deductions, the temporary
29	teacher deduction, the recreation volunteer and volunteer firefighter deduction, the

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1	construction code retrofitting deduction, any gratuitous grant, loan, or other benefit		
2	directly or indirectly provided to a taxpayer by a hurricane recovery entity if such		
3	benefit was included in federal adjusted gross income, the exclusion provided for in		
4	R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by 26		
5	U.S.C. 280C, salaries, wages or other compensation received for disaster or		
6	emergency-related work rendered during a declared state disaster or emergency, the		
7	deduction for net capital gains, the pass-through entity exclusion provided in R.S.		
8	47:297.14, and personal exemptions and deductions provided for in R.S. 47:294. The		
9	proportionate amount is to be determined by the ratio of Louisiana income to federal		
10	adjusted gross income. When federal adjusted gross income is less than Louisiana		
11	income, the ratio shall be one hundred percent.		
12	* * *		
13	§294. Personal exemptions and credit for <u>deductions for</u> dependents		
14	All personal exemptions and deductions for dependents allowed in		
15	determining federal income tax liability, including the extra exemption for the blind		
15 16	determining federal income tax liability, including the extra exemption for the blind and aged, will be allowed in determining the tax liability in this Part. Taxpayers are		
16	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are		
16 17	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return		
16 17 18	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return.		
16 17 18 19	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows:		
16 17 18 19 20	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows: A. A combined personal exemption and standard deduction in the following		
16 17 18 19 20 21	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows: A. A combined personal exemption and standard deduction in the following amounts:		
16 17 18 19 20 21 22	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows: A. A combined personal exemption and standard deduction in the following amounts: a. Single Individual \$4500.00 \$10,000		
 16 17 18 19 20 21 22 23 	and aged, will be allowed in determining the tax liability in this Part. Taxpayers are required to use the same filing status and claim the same exemptions on their return required to be filed under this Part as they used on their federal income tax return. The amounts to be taken into consideration shall be as follows: A. A combined personal exemption and standard deduction in the following amounts: a. Single Individual \$4500.00 \$10,000 b. Married-Joint Return and a Qualified Surviving Spouse \$9000.00 \$20,000		
 16 17 18 19 20 21 22 23 24 	and aged, will be allowed in determining the tax liability in this Part. Taxpayers arerequired to use the same filing status and claim the same exemptions on their returnrequired to be filed under this Part as they used on their federal income tax return.The amounts to be taken into consideration shall be as follows:A. A combined personal exemption and standard deduction in the followingamounts:a. Single Individual\$4500.00 \$10,000b. Married-Joint Return and a Qualified Surviving Spouse\$9000.00 \$20,000c. Married-Separate\$4500.00 \$10,000		
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 16 17 18 19 20 21 22 23 24 25 26 	and aged, will be allowed in determining the tax liability in this Part. Taxpayers arerequired to use the same filing status and claim the same exemptions on their returnrequired to be filed under this Part as they used on their federal income tax return.The amounts to be taken into consideration shall be as follows:A. A combined personal exemption and standard deduction in the followingamounts:a. Single Individual\$4500.00 \$10,000b. Married-Joint Return and a Qualified Surviving Spouse\$9000.00 \$20,000c. Married-Separate\$4500.00 \$10,000d. Head of Household\$9000.00 \$20,000B. An additional deduction of one thousand dollars shall be allowed for each		

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1	<u>B.(1)</u> An exemption of one thousand dollars shall be allowed for a taxpayer	
2	who is blind, is deaf, has sustained the loss of one or more limbs, or has an	
3	intellectual disability.	
4	(2) Each person claiming an exemption pursuant to the provisions of the	
5	Subsection shall provide proof of a claim by providing a certificate from a qualified	
6	physician or optometrist.	
7	$\underline{C.(1)}(a)$ A deduction of one thousand dollars shall be allowed for each	
8	dependent allowed in determining federal income tax liability who is blind, is deaf,	
9	has sustained the loss of one or more limbs, or has an intellectual disability.	
10	(b) The taxpayer claiming the deduction authorized in this Paragraph shall	
11	provide proof of a claim by providing a certificate from a qualified physician o	
12	optometrist issued for each dependent for which a deduction is claimed.	
13	(2) In addition to the deduction authorized in Paragraph (1) of this	
14	Subsection, an additional deduction of one thousand dollars shall be allowed for each	
15	dependent as allowed in determining federal income tax liability.	
16	D. As used in this Section, the following terms shall have the definitions	
17	ascribed to them, unless the context indicates otherwise:	
18	(1) "Blind" shall mean and refer to a person who, after examination by a	
19	licensed physician skilled in diseases of the eye or by a licensed optometrist, has	
20	been determined to have not more than 20/200 central visual acuity in the better eye	
21	with correcting lenses, or an equally disabling loss of the visual field as evidenced	
22	by a limitation to the field of vision in the better eye to such a degree that its widest	
23	diameter subtends an angle of no greater than twenty degrees.	
24	(2) "Deaf" shall mean and refer to a person whose hearing is so impaired that	
25	it is insufficient for use in an occupation or activity for which hearing is essential.	
26	E. Limitation on allowable deductions. Allowable deductions authorized in	
27	this Section shall not exceed the taxable net income of the individual pursuant to the	
28	provisions of this Chapter.	
29	* * *	

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1	§295. Tax imposed on individuals; administration
2	* * *
3	B. The secretary shall establish tax tables that calculate the tax owed by
4	taxpayers based upon where their taxable income falls within a range that shall not
5	exceed two hundred fifty dollars. The secretary shall provide in the tax tables that
6	the combined personal exemption, standard deduction, and other exemption
7	deductions in R.S. 47:294 shall be deducted from the two percent bracket. If such
8	combined exemptions and deductions exceed the two percent bracket, the excess
9	shall be deducted from the four percent bracket. If such combined exemptions and
10	deductions exceed the two and four percent brackets, the excess shall be deducted
11	from the six percent bracket.
12	* * *
13	§297.8. Earned income tax credit
14	A. (1) Except as provided in Paragraph (2) of this Subsection, there There
15	shall be a credit against the tax imposed by this Chapter for individuals in an amount
16	equal to three and one-half ten percent of the federal earned income tax credit for
17	which the individual is eligible for the taxable year under Section 32 of the Internal
18	Revenue Code.
19	(2) For tax years beginning on and after January 1, 2019, through December
20	31, 2025, there shall be a credit against the tax imposed by this Chapter for
21	individuals in an amount equal to five percent of the federal earned income tax credit
22	for which the individual is eligible for the taxable year under Section 32 of the
23	Internal Revenue Code.
24	* * *
25	§300.1. Tax imposed
26	There is imposed an income tax for each taxable year upon the Louisiana
27	taxable income of every estate or trust, whether resident or nonresident. The tax to
28	be assessed, levied, collected, and paid upon the Louisiana taxable income of an
29	estate or trust shall be computed at the following rates:

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1	(1) Two percent on the first ten thousand dollars of Louisiana taxable
2	income.
3	(2) Four percent on the next forty thousand dollars of Louisiana taxable
4	income.
5	(3) Six percent on Louisiana taxable income in excess of fifty thousand
6	dollars rate of three percent on Louisiana taxable income.
7	* * *
8	§300.6. Louisiana taxable income of resident estate or trust
9	A. Definition. "Louisiana taxable income" of a resident estate or trust means
10	the taxable income of the estate or trust determined in accordance with federal law
11	for the same taxable year, as specifically modified by the provisions contained in
12	Subsection B of this Section, less a federal income tax deduction to be computed
13	following the provisions of R.S. 47:287.83 and 287.85.
14	* * *
15	§300.7. Louisiana taxable income of nonresident estate or trust
16	A. Definition. "Louisiana taxable income" of a nonresident estate or trust
17	means such portion of the taxable income of the nonresident estate or trust
18	determined in accordance with federal law for the same taxable year, as specifically
19	modified by the provisions contained in Subsection C of this Section, that was earned
20	within or derived from sources within this state, less a federal income tax deduction
21	to be computed following the provisions of R.S. 47:287.83 and 287.85.
22	* * *
23	Section 2. R.S. 47:79, 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii),
24	296.1(B)(3)(c), 297(A), and 298 are hereby repealed in their entirety.
25	Section 3. The provisions of this Act shall be applicable to taxable periods beginning
26	on or after January 1, 2023.
27	Section 4. This Act shall take effect and become operative on January 1, 2023, if the
28	proposed amendment of Article VII of the Constitution of Louisiana contained in the Act

- 1 which originated as House Bill No. ____ of this 2021 Regular Session of the Legislature is
- 2 adopted 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 233 Original	2021 Regular Session	Wright
THE 200 Original	2021 Regular Session	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

Abstract: Changes the rates and brackets for purposes of calculating individual income tax liability <u>from</u> a graduated rate system to a single flat rate of 3%, eliminates the deduction for excess federal itemized personal deductions and the deduction for federal income taxes paid, and increases the amount of the earned income tax credit.

<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 3% 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 to \$10,000 for single, individual filers and married, separate filers. Also increases the exemption to \$20,000 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.

<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

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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 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> retains <u>present law</u>. <u>Present law</u> 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 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 repeals present law.

<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 deduction for excess federal itemized personal deductions beginning Jan. 1, 2023.

<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 and corporate income taxes and income taxes for estates and trusts.

<u>Present law</u> provides for an individual income tax credit based on the taxpayer's federal earned income tax credit authorized under Section 32 of the Internal Revenue Code. The amount of the credit shall equal 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 shall equal 3.5% of the amount of the taxpayer's federal earned income tax credit.

<u>Proposed law</u> increases the amount of the state credit from 5% to 10% of the amount of the taxpayers federal tax credit and makes the amount of the credit permanent.

<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 3% rate on taxable income of an estate or trust.

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Applicable to taxable periods beginning on or after Jan. 1, 2023.

Effective Jan. 1, 2023, if the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. _____ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 241, 287.69, 293(3) and (10), 294, 295(B), 297.8(A), 300.1, 300.6, and 300.7; Repeals R.S. 47:79, 287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298)