

2021 Regular Session

HOUSE BILL NO. 376

BY REPRESENTATIVE IVEY

TAX/INCOME TAX: Provides for a flat tax rate for purposes of calculating income tax for individuals, estates, and trusts and modifies income tax credits and deductions

1 AN ACT

2 To amend and reenact R.S. 47:32(A), 241, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1,

3 300.6(A), and 300.7(A), to enact R.S. 47:293(9)(a)(xx), and to repeal R.S. 47:79(B),

4 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and 298, relative to income tax;

5 to provide for a flat income tax rate for individuals, estates, and trusts; to provide for

6 the calculation of individual income tax liability; to provide for certain deductions

7 and credits; to reduce certain deductions and credits; to provide with respect to the

8 deduction for excess federal itemized personal deductions; to provide for limitations

9 and restrictions; to repeal the deduction allowed for excess federal itemized personal

10 deductions; to provide for personal exemptions and credits for dependents; to repeal

11 the deductibility of federal income taxes paid for purposes of calculating individual

12 income tax; to repeal the deductibility of federal income taxes paid for purposes of

13 calculating income tax on estates and trusts; to repeal the earned income tax credit;

14 to provide for the rates and brackets for estates and trusts; to provide for

15 applicability; to provide for an effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 47:32(A), 241, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1,

18 300.6(A), and 300.7(A) are hereby amended and reenacted and R.S. 47:293(9)(a)(xx) is

19 hereby enacted to read as follows:

1 §32. Rates of tax

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

4 ~~(1) Two percent on that portion of the first twelve thousand five hundred~~
5 ~~dollars of net income which is in excess of the credits against net income provided~~
6 ~~for in R.S. 47:79;~~

7 ~~(2) Four percent on the next thirty-seven thousand five hundred dollars of~~
8 ~~net income;~~

9 ~~(3) Six percent on any amount of net income in excess of fifty thousand~~
10 ~~dollars of net income~~ rate of four and twenty-five hundredths percent on net income.

11 * * *

12 §241. Net income subject to tax

13 The net income of a nonresident individual or a corporation subject to the tax
14 imposed by this Chapter shall be the sum of the net allocable income earned within
15 or derived from sources within this state, as defined in R.S. 47:243, and the net
16 apportionable income derived from sources in this state, as defined in R.S. 47:244,
17 less the amount of federal income taxes attributable to the net allocable income and
18 net apportionable income derived from sources in this state. The amount of federal
19 income taxes to be so deducted shall be that portion of the total federal income tax
20 which is levied with respect to the particular income derived from sources in this
21 state to be computed in accordance with rules and regulations of the collector of
22 revenue. Proper adjustment shall be made for the actual tax rates applying to
23 different classes of income and for all differences in the computation of net income
24 for purposes of federal income taxation as compared to the computation of net
25 income under this Chapter. Where the allocation of the tax is to be based on a ratio
26 of the amount of net income of a particular class, both the numerator and the
27 denominator of the fraction used in determining the ratio shall be computed on the

1 basis that such net income is determined for federal income tax purposes.

2 * * *

3 §293. Definitions

4 The following definitions shall apply throughout this Part, unless the context
5 requires otherwise:

6 * * *

7 (3) "Excess federal itemized personal deductions" for the purposes of this
8 Part, means the following percentages of the amount by which the federal itemized
9 personal deductions exceed the amount of federal standard deductions which is
10 designated for the filing status used for the taxable period on the individual income
11 tax return required to be filed:

12 (a) For tax years beginning during calendar year 2007, fifty-seven and one
13 half percent of ~~such~~ excess federal itemized personal deductions.

14 (b) For tax years beginning during calendar year 2008, sixty-five percent of
15 ~~such~~ excess federal itemized personal deductions.

16 (c) For ~~all~~ tax years beginning on ~~and~~ or after January 1, 2009, but before
17 January 1, 2022, one hundred percent of ~~such~~ excess federal itemized personal
18 deductions.

19 (d) For tax years beginning on or after January 1, 2022, no deduction of
20 excess federal itemized personal deductions shall be allowed on state individual
21 income tax returns.

22 * * *

23 (9)(a) "Tax table income", for resident individuals, means adjusted gross
24 income plus interest on obligations of a state or political subdivision thereof, other
25 than Louisiana and its municipalities, title to which obligations vested with the
26 resident individual on or subsequent to January 1, 1980, and less:

27 * * *

28 (iv) ~~The excess, if any, of the personal exemptions and deductions provided~~
29 ~~for in R.S. 47:294 over the amount of the personal exemptions and deductions~~

1 §300.1. Tax imposed

2 There is imposed an income tax for each taxable year upon the Louisiana
3 taxable income of every estate or trust, whether resident or nonresident. The tax to
4 be assessed, levied, collected, and paid upon the Louisiana taxable income of an
5 estate or trust shall be computed at the ~~following rates:~~

6 ~~(1) Two percent on the first ten thousand dollars of Louisiana taxable~~
7 ~~income:~~

8 ~~(2) Four percent on the next forty thousand dollars of Louisiana taxable~~
9 ~~income:~~

10 ~~(3) Six percent on Louisiana taxable income in excess of fifty thousand~~
11 ~~dollars~~ rate of four and twenty-five hundredths percent on Louisiana taxable income.

12 * * *

13 §300.6. Louisiana taxable income of resident estate or trust

14 A. Definition. "Louisiana taxable income" of a resident estate or trust means
15 the taxable income of the estate or trust determined in accordance with federal law
16 for the same taxable year, as specifically modified by the provisions contained in
17 Subsection B of this Section, ~~less a federal income tax deduction to be computed~~
18 ~~following the provisions of R.S. 47:287.83 and 287.85.~~

19 * * *

20 §300.7. Louisiana taxable income of nonresident estate or trust

21 A. Definition. "Louisiana taxable income" of a nonresident estate or trust
22 means ~~such~~ the portion of the taxable income of the nonresident estate or trust
23 determined in accordance with federal law for the same taxable year, as specifically
24 modified by the provisions contained in Subsection C of this Section, that was earned
25 within or derived from sources within this state, ~~less a federal income tax deduction~~
26 ~~to be computed following the provisions of R.S. 47:287.83 and 287.85.~~

27 * * *

28 Section 2. R.S. 47:79(B), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and
29 298 are hereby repealed in their entirety.

1 Section 3. The provisions of this Act shall be applicable to taxable periods beginning
2 on or after January 1, 2022.

3 Section 4. This Act shall take effect and become operative if and when the proposed
4 amendment of Article VII of the Constitution of Louisiana contained in the Act which
5 originated as House Bill No. 369 of this 2021 Regular Session of the Legislature is adopted
6 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 376 Engrossed

2021 Regular Session

Ivey

Abstract: Changes the rates and brackets for purposes of calculating income tax for individuals, estates, and trusts from a graduated rate system to a single flat rate of 4.25%; modifies income tax credits and deductions; and eliminates the deductibility of federal income taxes paid for purposes of calculating individual income taxes and income taxes on estates and trusts, the earned income tax credit, and the deduction for excess federal itemized personal 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 removes the graduated schedule of rates in favor of a flat 4.25% individual income tax rate.

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 increases the combined personal exemption to \$12,500 for single, individual and married, separate filers. Also increases to \$25,000 the combined personal exemption 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.

Proposed law repeals present law in favor of a \$1,000 deduction for each dependent as defined in 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 (R.S. 47:294(A)).

Proposed law 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 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.

Present law requires the secretary of the Dept. of Revenue 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. Proposed law removes requirement that the range not exceed \$250.

Present law further requires the secretary to provide in the tax tables the combined personal exemption, standard deduction, and other exemption deductions in present law which are 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.

Present law 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.

Proposed law repeals the present law deduction for excess federal itemized personal deductions.

Present law defines "tax table income" for resident individuals as the adjusted gross income plus interest on certain state or political subdivision obligations less items such as gratuitous grants, loans, or other disaster benefits included in federal adjusted gross income, federal income tax liability, amount deposited into medical or educational savings accounts, and excess personal exemptions and deductions.

Proposed law retains present law but adds to the list of income not included in "tax table income" the standard, personal, and dependent deductions provided for in proposed law as well as state income tax paid which are included in federal adjusted gross income.

Present law provides for an individual income tax credit based on the taxpayer's federal earned income tax credit authorized under federal law (Section 32 of the Internal Revenue Code). The amount of the credit is 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 is 3.5% of the amount of the taxpayer's federal earned income tax credit.

Proposed law repeals the present law earned income tax credit.

Present constitution and present law authorize a state deduction for federal income taxes paid for purposes of computing income taxes for the same period.

Proposed law repeals the present law provisions that authorize a state deduction for federal income taxes paid for purposes of calculating individual income tax and the income tax on estates and trusts.

Present law 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.

Present law 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.

Proposed law removes the graduated schedule of rates in favor of a flat 4.25% rate on taxable income of an estate or trust.

Applicable to taxable periods beginning on or after Jan. 1, 2022.

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 369 of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 241, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 300.6(A), and 300.7(A); Adds R.S. 47:293(9)(a)(xx); Repeals R.S. 47:79(B), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), 297.8, and 298)

Summary of Amendments Adopted by House

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

1. Increase the flat rate for purposes of calculating individual income tax and the income tax on estates and trusts from a rate of 4% to a rate of 4.25%.
2. Repeal the deduction for excess federal itemized personal deductions.
3. Repeal the earned income tax credit.
4. Remove the repeal of the deductibility of federal income taxes paid for purposes of calculating corporate income taxes from the provisions of proposed law.
5. Specify the House Bill No. of the proposed constitutional amendment to which the effectiveness of proposed law is tied.