

2021 Regular Session

HOUSE BILL NO. 278

BY REPRESENTATIVE BISHOP AND SENATOR ALLAIN

TAX/INCOME TAX: Reduces the tax rates for purposes of calculating individual income tax liability and calculating the tax liability of estates and trusts and eliminates and modifies certain income tax deductions

1 AN ACT

2 To amend and reenact R.S. 47:32(A), 241, 293(3) and (10), 295(B), 296.1(B)(3)(c) and (d),

3 300.1, 300.6(A), and 300.7(A), to enact R.S. 47:32.1, and to repeal R.S. 47:293(4)

4 and (9)(a)(ii), 296.1(B)(3)(e), and 298, relative to the individual and fiduciary

5 income tax; to reduce the rates for purposes of calculating individual and fiduciary

6 income tax liability; to repeal the deductibility of federal income taxes paid for

7 purposes of calculating individual and fiduciary income tax; to provide with respect

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

9 certain requirements and limitations; to authorize the reduction of certain rates under

10 certain circumstances; to provide for applicability; to provide for an effective date;

11 and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:32(A), 241, 293(3) and (10), 295(B), 296.1(B)(3)(c) and (d),

14 300.1, 300.6(A), and 300.7(A) are hereby amended and reenacted and R.S. 47:32.1 is hereby

15 enacted to read as follows:

16 §32. Rates of tax

17 A. On individuals. The tax to be assessed, levied, collected and paid upon

18 the taxable income of an individual shall be computed at the following rates:

1 (1) ~~Two~~ One and eighty-five one hundredths percent on that portion of the
2 first twelve thousand five hundred dollars of net income which is in excess of the
3 credits against net income provided for in R.S. 47:79₂;

4 (2) ~~Four~~ Three and one-half percent on the next thirty-seven thousand five
5 hundred dollars of net income₂;

6 (3) ~~Six~~ Four and twenty-five one hundredths percent on any amount of net
7 income in excess of fifty thousand dollars of net income.

8 §32.1. Individual income tax rate reduction; trigger

9 A.(1) Beginning November 1, 2024, and each November first thereafter, if
10 the percentage change between the prior fiscal year's actual individual income tax
11 collections as reported in the state's accounting system on October first and the actual
12 individual income tax collections for the fiscal year ending June thirtieth one year
13 prior as reported in the state's accounting system on October first exceeds the current
14 growth factor provided for in Article VII, Section 10(C) of the Constitution, each
15 individual income tax rate in R.S. 47:32 for the tax year beginning the following
16 January first, shall be reduced.

17 (2) The amount of the reduction shall be calculated by multiplying each rate
18 by the percentage change in individual income tax collections in excess of the
19 growth factor as provided in Paragraph (1) of this Subsection. This reduction shall
20 be made only if both of the following conditions are met:

21 (a) The percentage change between the actual tax, license, and fee
22 collections as reported in the state's accounting system on October first for the fiscal
23 year ending in the preceding June and the final actual tax, license, and fee collections
24 for the immediately preceding fiscal year as reported in the state's accounting system
25 on October first exceeds the current growth factor provided in Article VII, Section
26 10(C) of the Constitution of Louisiana.

27 (b) The Budget Stabilization Fund balance is at least two and one-half
28 percent of the total state revenue receipts from the prior fiscal year as reported by the
29 treasurer to the Revenue Estimating Conference.

1 B. When the provisions of this Section require a reduction in individual
2 income tax rates, the secretary of the Department of Revenue shall publish the
3 reduced rates, and shall consider the rate when publishing the tax tables pursuant to
4 R.S.47:295 and the withholding tables pursuant to R.S. 47:112.

5 C. The actual individual income tax collections and actual tax, license, and
6 fee collections used in the calculations required by this Section shall be certified by
7 the Office of Statewide Reporting and Accounting Policy.

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 net income is determined for federal income tax purposes.~~

26 * * *

1 §293. Definitions

2 The following definitions shall apply throughout this Part, unless the context
3 requires otherwise:

4 * * *

5 (3) "Excess federal itemized personal deductions" for the purposes of this
6 Part, means ~~the following percentages~~ one hundred percent of the amount by which
7 the federal itemized personal ~~deductions exceed~~ deduction for expenses for medical
8 care used by the taxpayer in the calculation of federal taxable income exceeds the
9 amount of the federal standard deductions which deduction that is designated for the
10 filing status used for the taxable period on the individual income tax return required
11 to be filed. For purposes of this Paragraph, the term "expenses for medical care" has
12 the meaning given the term in Section 213(d) of the Internal Revenue Code and is
13 subject to all applicable federal limitations.

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

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

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

20 * * *

21 (10) "Tax table income", for nonresident individuals, means the amount of
22 Louisiana income, as provided in this Part, allocated and apportioned under the
23 provisions of R.S. 47:241 through 247, plus the total amount of the personal
24 exemptions and deductions already included in the tax tables promulgated by the
25 secretary under authority of R.S. 47:295, less the proportionate amount of ~~the federal~~
26 ~~income tax liability~~, excess federal itemized personal deductions, the temporary
27 teacher deduction, the recreation volunteer and volunteer firefighter deduction, the
28 construction code retrofitting deduction, any gratuitous grant, loan, or other benefit
29 directly or indirectly provided to a taxpayer by a hurricane recovery entity if such

1 benefit was included in federal adjusted gross income, the exclusion provided for in
 2 R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by 26
 3 U.S.C. 280C, salaries, wages or other compensation received for disaster or
 4 emergency-related work rendered during a declared state disaster or emergency, the
 5 deduction for net capital gains, the pass-through entity exclusion provided in R.S.
 6 47:297.14, and personal exemptions and deductions provided for in R.S. 47:294. The
 7 proportionate amount is to be determined by the ratio of Louisiana income to federal
 8 adjusted gross income. When federal adjusted gross income is less than Louisiana
 9 income, the ratio shall be one hundred percent.

10 * * *

11 §295. Tax imposed on individuals; administration

12 * * *

13 B. The secretary shall establish tax tables that calculate the tax owed by
 14 taxpayers based upon where their taxable income falls within a range that shall not
 15 exceed two hundred fifty dollars. The secretary shall provide in the tax tables that
 16 the combined personal exemption, standard deduction, and other exemption
 17 deductions in R.S. 47:294 shall be deducted from the ~~two percent~~ lowest bracket.
 18 If ~~such~~ the combined exemptions and deductions exceed the ~~two percent~~ lowest
 19 bracket, the excess shall be deducted from the ~~four percent~~ next lowest bracket. If
 20 ~~such~~ the combined exemptions and deductions exceed the ~~two and four percent~~ two
 21 lowest brackets, the excess shall be deducted from the ~~six percent~~ next lowest
 22 bracket.

23 * * *

24 §296.1. No-return option

25 * * *

26 B. The secretary is authorized pursuant to the Administrative Procedure Act
 27 to promulgate rules and regulations that:

28 * * *

1 (3) Establish special withholding tax tables that take into account:

2 * * *

3 (c) ~~The federal income tax deduction.~~

4 (d) Those tax credits that the secretary deems compatible with the efficient
5 implementation and administration of the no-return option program.

6 (e)(d) The tax rates set forth in R.S. 47:32.

7 * * *

8 §300.1. Tax imposed

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

13 (1) ~~Two~~ One and eighty-five hundredths percent on the first ten thousand
14 dollars of Louisiana taxable income.

15 (2) ~~Four~~ Three and one-half percent on the next forty thousand dollars of
16 Louisiana taxable income.

17 (3) ~~Six~~ Four and twenty-five one hundredths percent on Louisiana taxable
18 income in excess of fifty thousand dollars.

19 * * *

20 §300.6. Louisiana taxable income of resident estate or trust

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

26 * * *

27 §300.7. Louisiana taxable income of nonresident estate or trust

28 A. Definition. "Louisiana taxable income" of a nonresident estate or trust
29 means such portion of the taxable income of the nonresident estate or trust

1 determined in accordance with federal law for the same taxable year, as specifically
2 modified by the provisions contained in Subsection C of this Section, that was earned
3 within or derived from sources within this state, ~~less a federal income tax deduction~~
4 ~~to be computed following the provisions of R.S. 47:287.83 and 287.85.~~

5 * * *

6 Section 2. R.S. 47:293(4) and (9)(a)(ii), 296.1(B)(3)(e), and 298 are hereby repealed
7 in their entirety.

8 Section 3. The provisions of this Act shall be applicable to taxable periods beginning
9 on or after January 1, 2023.

10 Section 4. This Act shall take effect and become operative on January 1, 2023, if the
11 proposed amendment of Article VII of the Constitution of Louisiana contained in the Act
12 which originated as House Bill No. 274 of this 2021 Regular Session of the Legislature is
13 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 278 Reengrossed 2021 Regular Session Bishop

Abstract: Reduces the rates for purposes of calculating individual income tax liability and the tax liability of estates and trusts, eliminates the deduction for federal income taxes paid for individuals and estates and trusts, and limits the deduction for excess federal itemized personal deductions to certain medical care expenses.

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% to 1.85% on the first \$12,500 of net income.
- (2) From 4% to 3.5% on the next \$37,500 of net income.
- (3) From 6% to 4.25% on net income in excess of \$50,000.

Proposed law requires the reduction in each individual income tax rate beginning Nov. 1, 2024, and each November 1st thereafter, if the percentage change between the prior fiscal year's actual individual income tax collections as reported in the state's accounting system on Oct. 1st and the actual individual income tax collections for the fiscal year ending June 30th one year prior as reported in the state's accounting system on Oct. 1st exceeds the current growth factor provided for in present constitution.

Proposed law requires the amount of the reduction to be calculated by multiplying each rate by the percentage change in individual income tax collections in excess of the growth factor as provided in present constitution. Further prohibits this reduction unless both of the following conditions are met:

- (1) The percentage change between the actual tax, license, and fee collections as reported in the state's accounting system on Oct. 1st for the fiscal year ending in the preceding June and the final actual tax, license, and fee collections for the immediately preceding fiscal year as reported in the state's accounting system on Oct. 1st exceeds current growth factor provided in present constitution.
- (2) The Budget Stabilization Fund balance is at least 2.5% of the total state revenue receipts from the prior fiscal year as reported by the treasurer to the Revenue Estimating Conference.

Proposed law requires the secretary of the Dept. of Revenue to publish the reduced rates and to consider the rate reduction when publishing the tax tables and withholding tables in present law.

Proposed law requires the actual individual income tax collections and actual tax, license, and fee collections used in the calculations required in proposed law to be certified by the Office of Statewide Reporting and Accounting Policy.

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 the 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 expenses eligible to be claimed on a state return to expenses for medical care used by the taxpayer in the calculation of federal taxable income that exceed the amount of the federal standard deduction.

Proposed law defines the term "expenses for medical care" to have the meaning ascribed to it in federal law.

Present constitution and present law authorize a mandatory 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 income taxes.

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 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 changes present law by authorizing the combined personal exemption, standard deduction, and other exemption deductions to be deducted from the lowest income

tax bracket. If the combined exemptions and deductions exceed the lowest bracket, the excess is deducted from the next lowest bracket.

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 changes income tax rates on estates and trusts as follows:

- (1) From 2% on the first \$10,000 of La. taxable income to 1.85% on the first \$10,000 of La. taxable income.
- (2) From 4% on the next \$40,000 of La. taxable income to 3.5% on the next \$40,000 of La. taxable income.
- (3) From 6% on La. taxable income in excess of \$50,000 to 4.25% on La. taxable income in excess of \$50,000.

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.

Proposed law retains present law except as it applies to the deductibility of federal income taxes. Provides that no federal income tax deduction is allowed on net income upon which no La. income tax was incurred or upon which no income tax will be paid.

Proposed law is applicable to taxable periods beginning on or after Jan. 1, 2023.

Effective on 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. 274 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) and (10), 295(B), 296.1(B)(3)(c) and (d), 300.1, 300.6(A), and 300.7(A); Adds R.S. 47:32.1; Repeals R.S. 47:293(4) and (9)(a)(ii), 296.1(B)(3)(e), and 298)

Summary of Amendments Adopted by House

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

1. Specify the House Bill No. of the proposed constitutional amendment to which the effectiveness of proposed law is tied.

The House Floor Amendments to the engrossed bill:

1. Change the rate of the middle bracket for purposes of calculating individual income taxes from 3.51% to 3.5% on the next \$37,500 of net income.

2. Reduce the rate of the tax assessed, levied, collected, and paid on the La. taxable income of an estate or trust to be consistent with the rates in proposed law for individual income tax.
3. Eliminate the deduction for federal income taxes paid when computing income taxes for estates and trusts.
4. Add provisions authorizing a reduction in the individual income tax rates beginning Nov. 1, 2024, based on actual individual income tax collections. Further requires the actual income tax collections and actual tax, license, and fee collections to be certified by the Office of Statewide Reporting and Accounting Policy. Provides conditions that must be met for the reduction to be made.