2024 Third Extraordinary Session

HOUSE BILL NO. 1

BY REPRESENTATIVE EMERSON

TAX/INCOME TAX: Provides for a flat rate for purposes of calculating income tax for individuals, estates, and trusts, increases the standard deduction, and modifies or repeals certain income tax deductions and credits (Item #5 and 6)

AN ACT

To amend and reenact R.S. 47:32(A), 32.1, 44.1(A), 287.732.2(B), 287.750(I), 293(9)(a)(iv) and (10), 294, 295, 300.1, 300.3(3), 4302(B), 6007(I), 6015(J), 6019(A)(1)(a)(i), 6020(H), 6022(D)(4)(introductory paragraph), and 6023(I), and R.S. 51:1787(L) and 2461, to enact R.S. 47:293(9)(a)(xxvi), 297.25, 300.6(B)(3), 300.7(C)(3), 3204(M), and 6022(M) and R.S. 51:2399.3(C), and to repeal R.S. 47:32(B), 79, 293(9)(a)(ix) and (xvii), 293.2, 297, 297.2, 297.6, 297.7, 297.9, 297.20(A)(2), and 297.21(A)(2), relative to income tax; to provide for a flat tax rate for individuals, estates, and trusts; to provide for the calculation of individual income tax liability; to provide for the reduction of individual income tax rates under certain circumstances; to provide for certain requirements and limitations for the reduction of individual income tax rates; to provide for the amount of the standard deduction; to reduce certain deductions and credits; to increase the amount of the deduction for certain annual retirement income; to provide for certain definitions; to establish bonus depreciation and bonus amortization deductions; to provide for certain limitations with respect to the bonus depreciation; to provide for personal exemptions and credits for dependents; to provide for the rates and brackets for estates and trusts; to provide for the termination of certain credits claimed against income tax liability; to repeal provisions relative to elections made by certain corporations and flow-through entities; to repeal provisions for certain disallowed expenses; to repeal the deduction for net capital gains; to repeal regulation requirements for the capital gains deduction; to repeal certain limitations on the deduction for children adopted from foster care; to repeal certain limitations on the deduction for the private adoption of certain children; to provide for applicability; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 47:32(A), 32.1, 44.1(A), 287.732.2(B), 287.750(I), 293(9)(a)(iv) and (10), 294, 295, 300.1, 300.3(3), 4302(B), 6007(I), 6015(J), 6019(A)(1)(a)(i), 6020(H), 6022(D)(4)(introductory paragraph), and 6023(I) are hereby amended and reenacted and R.S. 47:293(9)(a)(xxvi), 297.25, 300.6(B)(3), 300.7(C)(3), 3204(M), and 6022(M) are hereby enacted to read as follows:

§32. Rates of tax

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

~~(1) One and eighty-five one hundredths percent on that portion of the first twelve thousand five hundred dollars of net income which is in excess of the credits against net income provided for in R.S. 47:79.~~

~~(2) Three and one-half percent on the next thirty-seven thousand five hundred dollars of net income.~~

~~(3) Four and twenty-five one hundredths~~ <u>rate of three</u> percent on ~~any amount of net income in excess of fifty thousand dollars of~~ net income.

* * *

§32.1. Individual income tax rate reduction; trigger

A. <u>As used in this Section, the following words shall have the following meanings ascribed to them unless the context clearly indicates otherwise:</u>

<u>(1) "Actual general fund revenues" means the actual state general fund direct revenue collections, plus any revenues dedicated to funds enacted after January 1, 2025, that would have been credited to the state general fund pursuant to the law in</u>

CODING: Words in ~~struck through~~ type are deletions from existing law; words <u>underscored</u> are additions.

effect on January 1, 2025. Beginning October 1, 2026, actual general fund revenues shall be calculated by the secretary of the Department of Revenue and the State Treasurer on October first of each year for the prior fiscal year.

(2) "Base year revenues" means twelve billion one hundred fifty-five million one hundred thousand dollars.

(3) "Secretary" means the secretary of the Department of Revenue

B.(1) Beginning ~~January 1, 2024~~ October 1, 2026, and each ~~January~~ October first ~~through 2034~~ thereafter, if the prior fiscal year's actual ~~individual income tax collections as reported in the state's accounting system~~ general fund revenues exceed the ~~actual individual income tax collections for the fiscal year ending June 30, 2019, as reported in the state's accounting system, adjusted annually by the growth factor provided for in Article VII, Section 10(C) of the Constitution of Louisiana~~ base year revenues as determined by the secretary, the individual income tax rate in R.S. 47:32 for the tax year beginning the following January first shall be reduced as provided in Paragraph (2) of this Subsection. Base year revenues shall be adjusted annually beginning October 1, 2027, by an amount equal to the percentage increase in the Consumer Price Index United States city average for all urban consumers (CPI-U), as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor, for the previous calendar year.

(2) The ~~reduced rates shall be calculated by multiplying each current rate by the difference between one and the percentage change in individual income tax collections in excess of the individual income tax collections for Fiscal Year 2018-2019 adjusted annually by the growth factor as provided in Paragraph (1) of this Subsection. Rate reductions shall be made only if both of the following conditions are met:~~

~~(a) The prior fiscal year's actual total tax, licenses, and fees exceed the actual total tax, licenses, and fees for Fiscal Year 2018-2019, adjusted annually by the growth factor in Article VII, Section 10(C) of the Constitution of Louisiana.~~

~~(b) The Budget Stabilization Fund balance as determined by the treasurer is at least two and one-half percent of the total state revenue receipts from the prior fiscal year~~ rate shall be reduced by twenty-five hundredths of one percent for each multiple of three hundred seventy-four million dollars, adjusted annually, by which the prior fiscal year's actual general fund revenues exceed the base year revenues. The annual adjustment provided for in this Paragraph shall begin October 1, 2027, and mean an adjustment to the three hundred seventy-four million dollars by an amount equal to the percentage increase in the Consumer Price Index United States city average for all urban consumers (CPI-U), as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor, for the previous calendar year.

~~B.~~ C. When the secretary and the state treasurer determine that the provisions of this Section require a reduction in the individual income tax ~~rates~~ rate, the secretary ~~of the Department of Revenue~~ shall publish the reduced ~~rates~~ rate~~, and shall include the reduced rates when publishing the tax tables pursuant to R.S. 47:295 and the withholding tables pursuant to R.S. 47:112~~.

~~C. The actual individual income tax collections and actual total tax, licenses, and fees used in the calculations required by this Section shall be certified by the office of statewide reporting and accounting policy.~~

~~D.(1) "Actual total tax, licenses, and fees" means actual total tax, licenses, and fees as reported to the Revenue Estimating Conference.~~

~~(2) "Growth factor provided for in Article VII, Section 10(C) of the Constitution of Louisiana" means the positive growth factor that is the most recent average annual percentage rate of change of personal income for Louisiana as defined and reported by the United States Department of Commerce for the three calendar years prior to the fiscal year in which this calculation is made.~~

* * *

§44.1. Annual retirement or disability income; exemption from taxation

A. ~~Six~~ Twelve thousand dollars of annual retirement income which is received by an individual sixty-five years of age or older shall be exempt from state income taxation. "Annual retirement income" is defined as pension and annuity income which is included in "tax table income" as defined in R.S. 47:293. This Section shall not affect the status of any income which is exempt from state income taxation by law. The amount of the exemption provided for in this Subsection shall be adjusted annually beginning January 1, 2026, by an amount equal to the percentage increase in the Consumer Price Index United States city average for all urban consumers (CPI-U), as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor, for the previous calendar year.

* * *

§287.732.2. Election for S corporations and other flow-through entities

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B. Notwithstanding any provision of law to the contrary, the tax on the Louisiana taxable income of every entity that makes the election pursuant to this Section shall be computed at the ~~rates of:~~ rate levied on individuals pursuant to the provisions of R.S. 47:32.

~~(1) One and eighty-five one hundredths percent upon the first twenty-five thousand dollars of Louisiana taxable income.~~

~~(2) Three and one-half percent upon the amount of Louisiana taxable income above twenty-five thousand dollars but not in excess of one hundred thousand dollars.~~

~~(3) Four and one-quarter percent upon the amount of Louisiana taxable income above one hundred thousand dollars.~~

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§287.750. Louisiana work opportunity tax credit

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I. No credit shall be granted pursuant to this Section for certifications requested after ~~June 30, 2027~~ June 30, 2025.

§293. Definitions

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

* * *

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

* * *

(iv) The ~~excess, if any, of the personal exemptions and deductions~~ standard deduction provided for in R.S. 47:294 ~~over the amount of the personal exemptions and deductions already included in the tax tables promulgated by the secretary under authority of R.S. 47:295~~.

* * *

(xxvi) The bonus depreciation deduction provided for in R.S. 47:297.25.

* * *

(10) "Tax table income", for nonresident individuals, means the amount of Louisiana income, as provided in this Part, allocated and apportioned under the provisions of R.S. 47:241 through 247, ~~plus the total amount of the personal exemptions and deductions already included in the tax tables promulgated by the secretary under authority of R.S. 47:295,~~ less the proportionate amount of excess federal itemized personal deductions; the temporary teacher deduction; the recreation volunteer and volunteer firefighter deduction; the construction code retrofitting deduction; any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity if such benefit was included in federal adjusted gross income; any gratuitous grant, loan, rebate, tax credit, advance refund, or other qualified disaster relief benefit directly or indirectly provided to a taxpayer

by the state or federal government as a COVID-19 relief benefit as defined in R.S. 47:297.16 if the benefit was included in the taxpayer's federal adjusted gross income; the exclusion provided for in R.S. 47:297.3 for S Bank shareholders; ~~the deduction for expenses disallowed by 26 U.S.C. 280C;~~ salaries, wages, or other compensation received for disaster or emergency-related work rendered during a declared state disaster or emergency; wages of nonresident individuals who are eligible for the mobile workforce exemption pursuant to R.S. 47:248; ~~the deduction for net capital gains;~~ the pass-through entity exclusion provided in R.S. 47:297.14; the exemption for military survivor benefit plan payments pursuant to R.S. 47:297.17; the bonus depreciation deduction provided for in R.S. 47:297.25 and ~~personal exemptions and deductions~~ the standard deduction provided for in R.S. 47:294. The proportionate amount is to be determined by the ratio of Louisiana income to federal adjusted gross income. When federal adjusted gross income is less than Louisiana income, the ratio shall be one hundred percent. ~~The Department of Revenue shall promulgate regulations in accordance with R.S. 47:293.2 relative to the individual income tax deduction for income from net capital gains pursuant to this Paragraph.~~

* * *

§294. ~~Personal exemptions and credit for dependents~~ Standard deduction

A. ~~All personal exemptions and deductions for dependents allowed in 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.~~ A standard deduction shall be allowed in determining a taxpayer's tax liability pursuant to 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~~ For tax year 2025, the amount of the standard deduction shall be as follows:

~~A. A combined personal exemption and standard deduction in the following amounts:~~

~~a.~~(1) Single Individual ~~$ 4500.00~~ $12,500.00

~~b.~~(2) Married-Joint Return and a Qualified Surviving Spouse ~~$ 9000.00~~ $25,000.00

~~c.~~(3) Married-Separate ~~$ 4500.00~~ $12,500.00

~~d.~~(4) Head of Household ~~$ 9000.00~~ $25,000.00

B. ~~An additional deduction of one thousand dollars shall be allowed for each allowable exemption in excess of those required to qualify for the exemption allowable under R.S. 47:294(A).~~ Beginning January 1, 2026 and thereafter, the amount of the standard deduction provided in Subsection A of this Section shall be adjusted annually by an amount equal to the percentage increase in the Consumer Price Index United States city average for all urban consumers(CPI-U), as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor, for the previous calendar year.

§295. Tax imposed on individuals; administration

A. There is imposed an income tax for each taxable year upon the Louisiana income of every individual, whether resident or nonresident. The amount of the tax shall be determined ~~from tax tables imposing the maximum tax allowed under the rates of tax and brackets set forth~~ in accordance with the provisions of R.S. 47:32 ~~promulgated by the secretary under authority of this Section in accordance with the Administrative Procedure Act. However, the tax imposed by this Part shall never exceed the rates of tax and brackets set forth in R.S. 47:32~~.

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

~~C.~~ The secretary of the Department of Revenue shall administer and enforce this Part~~.~~ and ~~He~~ may adopt, prescribe, and from time to time alter and enforce reasonable rules, orders, and regulations for the purpose of implementing this Part. ~~He~~ The secretary may, upon making a record of his reasons therefor, waive, reduce, or compromise any of the taxes, penalties, or interest or other amounts provided by this Part. ~~Until December 31, 2015, in any case when the penalty exceeds twenty-five thousand dollars, it can be waived by the secretary only after approval by the Board of Tax Appeals.~~ Notwithstanding the provisions of R.S. 47:1508, beginning January 1, 2016, waivers of all penalties exceeding twenty-five thousand dollars shall be subject to oversight by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs. This provision shall not apply to any penalty the secretary remits or waives in accordance with rules and regulations promulgated pursuant to the Administrative Procedure Act regarding the remittance or waiver of penalties under the department's voluntary disclosure program.

~~D.~~C. The secretary may require that a complete copy of the taxpayer's federal income tax return, or any part thereof, be filed. When ~~so~~ the return is filed, the federal income tax return, or part thereof, shall constitute and become part of the return required to be filed under this Part.

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§297.25 Tax deduction; election; bonus depreciation and amortization

A. General. For purposes of computing tax table income for taxable years beginning on or after January 1, 2025, there shall be allowed a deduction, at the election of the taxpayer, from federal adjusted gross income for costs of qualified property, qualified improvement property, and research and experimental expenditures, as provided in this Section.

B. Definitions. For purposes of this Section, the following words shall have the following meanings:

(1) "Bonus depreciation" and "bonus amortization" mean methods to recover costs for expenditures in depreciable or amortizable business assets by immediately deducting the cost of the expenditures in the tax year in which the property is placed in service or the expenditure is paid or incurred.

(2) "Internal Revenue Code" means Title 26 of the United States Code and Title 26 of the Code of Federal Regulations, each as in effect on January 1, 2024.

(3) "Qualified improvement property" shall have the same meaning as the term is defined in Section 168(e)(6) of the Internal Revenue Code.

(4) "Qualified property" shall have the same meaning as the term is defined in Section 168(k) of the Internal Revenue Code.

(5) "Research and experimental expenditures" shall have the same meaning as the term is defined by Section 174 of the Internal Revenue Code as in effect on January 1, 2024.

C. Bonus depreciation for qualified property and qualified improvement property.

(1) Expenditures for qualified property or qualified improvement property placed in service on or after January 1, 2025, shall be eligible for bonus depreciation and, if elected by the taxpayer, shall be deducted as an expense incurred by the taxpayer during the taxable year in which the property is placed in service.

(2) If a taxpayer elects bonus depreciation for costs of qualified property or qualified improvement property, any depreciation claimed pursuant to this Section shall not duplicate any depreciation or bonus depreciation allowable on the federal income tax return of the taxpayer for the taxable year.

(3) For taxable periods subsequent to the tax year in which the election has been made pursuant to this Section, federal adjusted gross income shall be increased by the amount of depreciation claimed under the Internal Revenue Code for the qualified property or qualified improvement property for which bonus depreciation has been claimed.

(4) Costs of qualified property or qualified improvement property for which a taxpayer has elected bonus deprecation pursuant to the provisions of this Section shall be subject to recapture upon the sale or disposition of the property in accordance with Subchapter P of Chapter 1 of Subtitle A of the Internal Revenue Code as in effect on January 1, 2024.

D. Bonus amortization for research and experimental expenditures.

(1) Research and experimental expenditures paid or incurred on or after January 1, 2025, shall be eligible for bonus amortization and, if elected by the taxpayer, shall be deducted as an expense incurred by the taxpayer during the taxable year in which the expenditure was incurred.

(2) If a taxpayer elects bonus amortization for research and experimental expenditures, any amortization claimed pursuant to this Section shall not duplicate any amortization or bonus amortization allowable on the federal income tax return of the taxpayer for the taxable year.

(3) For taxable periods subsequent to the tax year in which the election has been made pursuant to this Section, federal adjusted gross income shall be increased by the amount of amortization claimed under the Internal Revenue Code for research and experimental expenditures for which bonus amortization has been claimed.

(4) Research and experimental expenditures for which a taxpayer has elected bonus amortization pursuant to the provisions of this Section shall be excluded from the basis of property related to the expenditures upon the sale or disposition of the property in accordance with Subchapter P of Chapter 1 of Subtitle A of the Internal Revenue Code as in effect on January 1, 2024.

E. Election. An election is made when a taxpayer timely files an original or amended Louisiana individual income tax return with depreciation or amortization expensed in the calculation of Louisiana tax table income.

F. Nothing in this Section shall be construed to allow as an expense the excess of one hundred percent of the cost of property or expenditures. The provisions of this Section shall not be construed to alter the treatment of expenses for any tax year beginning on or before January 1, 2024.

G. Administration. The Department of Revenue may promulgate regulations in accordance with the Administrative Procedure Act as are necessary to implement the provisions of this Section.

* * *

§300.1. Tax imposed

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

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

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

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

* * *

§300.3. Residents and nonresidents

The tax imposed by R.S. 47:300.1 upon the income of estates or trusts shall apply to residents and nonresidents as follows:

* * *

(3) Estates or trusts located outside the United States that derive income from Louisiana sources but are not required to file United States fiduciary income tax returns shall be taxed and required to comply with this Part. Such estate or trust shall be taxed in the same manner as other nonresident estates or trusts, and the provisions of this Part shall apply as if the estate or trust had been required to file an income tax return with the Internal Revenue Service for the current and all prior years. In the alternative, such estate or trust may elect to be taxed at the rate of ~~five~~ three percent on total gross income from Louisiana sources.

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§300.6. Louisiana taxable income of resident estate or trust

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B. Modification. For purposes of this Section, federal taxable income shall be modified by adding or subtracting the items set forth below:

* * *

<u>(3) For taxable years beginning on or after January 1, 2025, a deduction shall be allowed from federal taxable income for the cost of qualified property, qualified improvement property, and research and experimental expenditures as provided for in R.S. 47:297.25.</u>

§300.7. Louisiana taxable income of nonresident estate or trust

* * *

C. Modification. For purposes of this Section, federal taxable income shall be modified by adding or subtracting the items set forth below:

* * *

<u>(3) For taxable years beginning on or after January 1, 2025, a deduction shall be allowed from federal taxable income for the cost of qualified property, qualified improvement property, and research and experimental expenditures as provided for in R.S. 47:297.25.</u>

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§3204. Contracts of exemption; renegotiation; violations; lists; priority of exemptions

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<u>M. No contracts shall be entered into and no existing contracts may be renewed pursuant to the provisions of this Section after June 30, 2025.</u>

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§4302. Contracts of exemption; renegotiation; violation; lists

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B.<u>(1)</u> Each contract of exemption entered into under authority of this Chapter may be renewed for periods of up to five years, provided that the total number of years of exemption shall not exceed fifteen years unless otherwise provided in R.S. 47:3204(B)(1)(c).

(2) No contracts shall be entered into and no existing contracts may be renewed pursuant to the provisions of this Section after June 30, 2025.

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§6007. Motion picture production tax credit

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I. No credits shall be allowed pursuant to this Section for applications received ~~on or~~ after ~~July 1, 2031~~ June 30, 2025.

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§6015. Research and development tax credit

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J. No credit shall be allowed pursuant to this Section for ~~research expenditures incurred, Small Business Technology Transfer Program funds received or Small Business Innovation Research Grant funds~~ applications received after ~~December 31, 2029~~ June 30, 2025.

* * *

§6019. Tax credit; rehabilitation of historic structures

A.(1)(a)(i) There shall be a credit against income and corporation franchise tax for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure located in a downtown development district, located in a cultural district, or contributing to the National Register of Historic Places. The amount of the credit shall equal twenty-five percent of the eligible costs and expenses of the rehabilitation incurred prior to January 1, 2018, regardless of the year in which the property is placed in service. The amount of the credit shall equal twenty percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2018, and before January 1, 2023, regardless of the year in which the property is placed in service. The amount of the credit shall equal twenty-five percent of the eligible costs and expenses of the rehabilitation incurred on or after January 1, 2023, and before January 1, 2029, regardless of the year in which the property is placed in service. No credit is authorized pursuant to this Section for expenses incurred on or after January 1, 2029. <u>No credits shall be granted pursuant to this Section for any applications for which Part I is received after June 30, 2025.</u>

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§6020. Angel Investor Tax Credit Program

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H. No credits shall be granted or reserved under this program for reservation applications received by the department ~~on or~~ after ~~July 1, 2030~~ <u>June 30, 2025</u>.

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§6022. Digital interactive media and software tax credit

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D. Tax credit; specific projects.

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(4) For applications for state-certified productions submitted to the office on or after July 1, 2017, <u>and before July 1, 2025,</u> and subsequently approved by the office and secretary, there are hereby authorized tax credits that shall be earned by a company at the time funds are expended in Louisiana on a state-certified production as follows:

* * *

<u>M. No credit shall be granted pursuant to the provisions of this Section for applications received after June 30, 2025.</u>

§6023. Sound recording investor tax credit

* * *

I. No credits shall be granted pursuant to the provisions of this Section for applications received on or after ~~July 1, 2026~~ <u>July 1, 2025</u>.

* * *

Section 2. R.S. 51:1787(L) and 2461 are hereby amended and reenacted and R.S. 51:2399.3(C) is hereby enacted to read as follows:

§1787. Enterprise zone incentives

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L. The department shall not accept any advance notification on or after ~~July 1, 2026~~ July 1, 2025.

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§2399.3. Modernization tax credit

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C. No credits shall be granted pursuant to the provisions of this Section for applications received after June 30, 2025.

* * *

§2461. Application deadline

No new advance notifications under this Chapter shall be accepted by the Department of Economic Development after ~~June 30, 2026~~ June 30, 2025. However, an employer that was approved by the department to receive incentives under the program on or before ~~June 30, 2026~~ June 30, 2025, shall continue to receive incentives pursuant to the terms of its agreement with the state of Louisiana as long as the employer retains its eligibility.

Section 2. R.S. 47:32(B), 79, 293(9)(a)(ix) and (xvii), 293.2, 297, 297.2, 297.6, 297.7, 297.9, 297.20(A)(2), and 297.21(A)(2) are hereby repealed in their entirety.

Section 3. The provisions of this Act shall be applicable to taxable periods beginning on and after January 1, 2025.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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 1 Original 2024 Third Extraordinary Session Emerson

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 3%; increases the standard deduction; and modifies or repeals certain income tax 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) 1.85% on the first $12,500 of net income.

(2) 3.5% on the next $37,500 of net income.

(3) 4.25% on net income in excess of $50,000.

Proposed law removes the graduated schedule of rates and brackets in favor of a flat 3% 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 repeals present law.

Present law requires the automatic reduction in each individual income tax rate if, beginning Jan. 1, 2024, and each Jan. 1st thereafter through 2034, the prior fiscal year's actual individual income tax collections as reported in the state's accounting system exceed the actual individual income tax collections for the fiscal year ending June 30, 2019, adjusted annually by a growth factor. If the conditions in present law are met, individual income tax rates shall be reduced beginning the following January first. Further requires the reduced rate to be calculated by multiplying each current rate by the difference between one and the percentage change in individual income tax collections in excess of the individual income tax collections for Fiscal Year 2018-2019 adjusted annually by the growth factor as provided for in existing constitution.

Proposed law changes present law by requiring the automatic reduction in the income tax rate beginning Oct. 1, 2025, and each Oct. first thereafter if the prior fiscal year's actual general fund revenues exceed the base year revenues as determined by the secretary of the Dept. of Revenue (hereinafter "secretary"). Further provides that the rate shall be reduced by .25% for each multiple of $374M by which the prior fiscal year's actual general fund revenues exceed the base year revenues. For purposes of this rate reduction, "base year revenues" is defined as $12,155,100,000 and "actual general fund revenues" is defined as the actual state general fund direct revenue collections, plus any revenues dedicated to funds enacted after Jan. 1, 2025, that would have been credited to the state general fund pursuant to the law in effect on Jan. 1, 2025.

Proposed law requires both the $374M and $12,155,100,000 amounts to be adjusted annually beginning Oct. 1, 2027, by an amount equal to the average annual increase in the Consumer Price Index (CPI) for all urban consumers, as published by the U.S. Dept. of Labor, for the previous calendar year, as calculated by the secretary.

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 changes present law by increasing 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. Further requires the amount of these exemptions to be adjusted annually beginning Jan. 1, 2026, by an amount equal to the average annual increase in the CPI for all urban consumers, as published by the U.S. Dept. of Labor, for the previous calendar year, as calculated by the secretary.

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

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 an S corporation or entity taxed as a partnership for federal income tax purposes to elect to be taxed and to comply with requirements of present law as if the entity had been required to file an income tax return with the I.R.S. as a C corporation. S corporations that make this election shall not be eligible for the S corporation exclusion provided in present law. Further provides that the tax levied on the La. taxable income of every entity that makes this election shall be computed at the following rates:

(1) 1.85% on the first $25,000 of La. taxable income.

(2) 3.5% on La. taxable income above $25,000 but not in excess of $100,000.

(3) 4.25% on La. taxable income above $100,000.

Proposed law changes present law to remove the graduated schedule of rates and brackets in favor of a flat 3% income tax rate levied for individuals.

Present law exempts $6,000 of annual pension or annuity income received by an individual 65 years of age or older from state income taxation.

Proposed law increases the amount of annual pension or annuity income exempt from income taxation from $6,000 to $12,000 and further requires the amount of the exemption to be adjusted annually beginning Jan. 1, 2026, by an amount equal to the average annual increase in the CPI for all urban consumers, as published by the U.S. Dept. of Labor, for the previous calendar year, as calculated by the secretary.

Proposed law authorizes, beginning Jan. 1, 2025, a bonus depreciation deduction for qualified property or qualified improvement property and a bonus amortization deduction for research and experimental expenditures, at the election of the taxpayer, for costs of qualified property, qualified improvement property, and research and experimental expenditures. "Bonus depreciation" and "bonus amortization" mean methods to recover costs for expenditures in depreciable or amortizable business assets by immediately deducting the cost of the expenditures in the tax year in which the property is placed in service or the expenditure is paid or incurred.

Proposed law prohibits any depreciation claimed from duplicating any depreciation or bonus depreciation allowable on the federal income tax return of the taxpayer for the taxable year. Proposed law requires federal adjusted gross income to be increased by the amount of depreciation or amortization claimed under the Internal Revenue Code (IRC) for the qualified property, qualified improvement, and research and experimental expenditures for which bonus depreciation has been claimed for taxable periods subsequent to the tax year in which the election has been made. Prohibits proposed law from being construed to allow as an expense the excess of 100% of the cost of property or expenditures.

Present law authorizes a deduction, for purposes of calculating tax table income for resident and nonresident individuals, for income from net capital gains, which is limited to gains recognized and treated for federal income tax purposes as arising from the sale or exchange of an equity interest in or substantially all of the assets of certain businesses domiciled in La. The deduction is limited to sales or exchanges of equity interests in or assets of a nonpublicly traded business that the taxpayer has held for a minimum of five years immediately prior to the sale or exchange. The amount of the deduction is based on the amount of time the equity interest was held by the taxpayer. Present law requires the Dept of Revenue to promulgate rules relative to the deduction in order to reduce administrative requirements for eligible taxpayers.

Proposed law repeals present law.

Present law establishes deductions from tax table income for a taxpayer who adopts a child who is in foster care or a youth receiving extended foster care services pursuant to the Extended Foster Care Program Act or who adopts an infant who is unrelated to the taxpayer and who is less than one year of age through a private agency or adopts an infant who is unrelated to the taxpayer and who is less than one year of age through an attorney. The amount of these deductions are $5,000 and shall be applicable in the year the adoption becomes final. Present law provides that these deductions are in lieu of the dependency deductions otherwise provided for in present law.

Proposed law retains present law as it relates to the deductions but repeals the limitation that these deductions are in lieu of the dependency deductions otherwise provided for in present law.

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

Present law authorizes a nonrefundable income or franchise tax credit for businesses that hire participants in the work release programs established pursuant to present law. The amount of the credit shall be equal to 5% of the total wages paid to an eligible reentrant in an eligible job for 12 consecutive months following the release of the eligible reentrant from imprisonment. The total amount of tax credits granted to any eligible business shall not exceed $2,500 per eligible reentrant. Proposed law prohibits credits from being granted after June 30, 2027.

Proposed law retains present law but accelerates termination for granting credits from after June 30, 2027, to certifications requested after June 30, 2025.

Present law authorizes the Board of Commerce and Industry, with approval of the governor, to enter into exemption contracts with manufacturing establishments, headquarters, or warehousing and distribution establishments seeking such exemption if requirements of present law are met regarding the location of the entity seeking the exemption for tax equalization.

Proposed law prohibits the Board of Commerce and Industry from entering into any exemption contract on or after June 30, 2025, and prohibits the Board of Commerce and Industry from renegotiating or approving the renewal of an existing contract after June 30, 2025.

Present law authorizes the following tax credits for state-certified motion picture productions:

(1) A 25% tax credit if the base investment is in excess of $300,000 or if the production is a La. screenplay production.

(2) An additional 5% base investment credit for projects filmed outside the New Orleans Metro Zone, but not including St. John the Baptist Parish.

(3) An additional 10% base investment credit for certain expenditures equal to or greater than $50,000 but less than $5 million for projects meeting certain La. screenplay criteria.

(4) A 15% credit for La. resident payroll expenditures.

(5) A 5% credit for certain La.-based visual effects expenditures meeting certain requirements.

Present law prohibits credits for applications received on or after July 1, 2031.

Proposed law retains present law but accelerates termination of the motion picture production tax credit from applications received on or after July 1, 2031, to applications received after June 30, 2025.

Present law authorizes an income and corporation franchise tax credit for certain taxpayers who employ 50 or more persons and claim a federal income tax credit for increasing research activities. This tax credit is also available for taxpayers who employ fewer than 50 employees if the employer meets certain eligibility requirements.

Present law authorizes an additional tax credit for taxpayers who receive a federal Small Business Innovation Research (SBIR) grant or contract and Phase I or Phase II grants or contracts from the Federal Small Business Technology Transfer (SBTT) program equal to 30% of the award received during the tax year.

Present law prohibits tax credits for research expenditures incurred, SBTT Program funds received, or SBIR Grant funds received after Dec. 31, 2029.

Proposed law retains present law but accelerates the termination date for granting credits for research expenditures incurred, SBTT Program funds received, or SBIR Grant funds received after Dec. 31, 2029, to applications received after June 30, 2025.

Present law authorizes a tax preference known commonly as the "rehabilitation of historic structures tax credit" which provides a credit against income and corporation franchise tax for the amount of eligible costs and expenses incurred during the rehabilitation of a historic structure that meets qualifications provided in present law. The amount of the credit shall equal 25% of the eligible costs and expenses of the rehabilitation incurred on or after Jan. 1, 2023, and before Jan. 1, 2029, regardless of the year the property is placed in service. For the rehabilitation of a historic structure located in a rural area, the amount of the credit shall equal 35% of the eligible costs and expenses of the rehabilitation incurred on or after Jan. 1, 2023, and before Jan. 1, 2029.

Present law prohibits the issuance of a credit for expenses incurred on or after Jan. 1, 2029.

Proposed law retains present law but accelerates termination of the credit for Part I applications received after June 30, 2025.

Present law establishes the Angel Investor Tax Credit program which authorizes a 25% income or corporate franchise tax credit on investments in La. small businesses that are certified by La. Economic Development as "Louisiana Entrepreneurial Businesses."

Present law limits the total amount of credits granted under the program to $3.6 million per year but authorizes the department to carry forward residual unused credits in any calendar year to subsequent calendar years without regard to the annual credit cap. Prohibits credits from being granted or reserved for applications received by the Dept. of Economic Development on or after July 1, 2030.

Proposed law retains present law but accelerates the termination date for granting or reserving credits from on or after July 1, 2030, to after June 30, 2025.

Present law authorizes an income or franchise tax credit for applications for state-certified digital media productions submitted to the office of entertainment industry development on or after July 1, 2017, and subsequently approved by the office and secretary, that shall be earned by a company at the time funds are expended in La on a state-certified production. The amount of the credit shall be equal to 18% of the base investment and an additional 7% tax credit to the extent the base investment is expended on payroll for La. residents employed in connection with a state-certified production.

Proposed law retains present law but terminates the credit beginning July 1, 2025 and prohibits credits from being granted for applications received after June 30, 2025.

Present law authorizes a state income tax credit for investments made in state-certified sound recording productions until July 1, 2026. The tax credit is earned by investors at the time expenditures are certified by the Dept. of Economic Development (LED) according to the total base investment certified for the sound recording production company per calendar year. The aggregate amount of credits that can be certified each year is limited to $2,160,000; however, 50% of the credits certified each year shall be reserved for qualified music companies (QMC).

Present law provides that the amount of the credit for each investor for state-certified productions received on or after July 1, 2017, is 18% of the base investment made by that investor in excess of $25,000 or, if a resident of this state, in excess of $10,000. Present law provides for the following additional tax credits for state-certified productions:

(1) QMC Tier 1 payroll credit of 10% for each new job with a salary of $35,000 through $66,000 per year.

(2) QMC Tier 2 payroll credit of 15% for each new job with a salary of $66,000 but not more than $200,000.

(3) Additional 10% increase in the base amount if the base investment is expended by a QMC on a sound recording of a resident copyright.

Proposed law prohibits credits from being allowed or granted for applications received on or after July 1, 2025. Otherwise retains present law.

Present law provides for the Enterprise Zone Program under which the Board of Commerce and Industry can enter into contracts after consultation with the secretary of LED and the secretary of the Dept. of Revenue with qualified applicants for rebates of state and local sales and use tax or a refundable investment income tax credit equal to 1.5% of the amount of qualified expenditures.

Present law prohibits LED from accepting new advance notifications for the Enterprise Zone Program on or after July 1, 2026.

Proposed law retains present law but changes the deadline for LED to accept new advance notifications from on or after July 1, 2026, to on or after July 1, 2025.

Present law authorizes an employer to earn and apply for a refundable credit on any income or corporation franchise tax liability in the amount approved by the secretary of LED for qualified expenditures incurred by the employer for a modernization pursuant to the Retention and Modernization Act. Further provides that for credits approved on and after July 1, 2017, the amount of the credit granted shall be 4% of the amount of qualified expenditures incurred by the employer for modernization with the credit divided in equal portions for five years. The total amount of modernization tax credits granted in any calendar year shall not exceed $7.2M regardless of the year in which the credit is claimed. A retention and modernization tax credit shall expire and have no value or effect on tax liability beginning with the eleventh tax year after the tax year in which it was originally granted.

Proposed law retains present law but adds a termination date for the credit by prohibiting credits from being issued for applications received after June 30, 2025.

Present law provides for the La. Quality Jobs Program under which LED can enter into contracts with qualified applicants for rebates of sales and use tax and an investment tax credit. Present law prohibits new advance notifications for the Quality Jobs Program to be accepted by LED after June 30, 2026.

Proposed law retains present law but changes the deadline for LED to accept new advance notifications for the Quality Jobs Program from after June 30, 2026, to after June 30, 2025.

Proposed law repeals the following income tax deductions and credits:

(1) Deduction for expenses disallowed by I.R.C. Section 280C. (R.S. 47:293(9)(a)(ix))

(2) Deduction for taxpayers or dependents who are deaf, blind, mentally incapacitated, or who have lost the use of one or more limbs. (R.S. 47:297(A))

(3) Tax credit for the elderly, a credit for contributions to candidates for public office, an investment credit, a credit for foreign tax, a work incentive credit, jobs credit, and residential energy credit. (R.S. 47:297(B))

(4) Tax credit for state gasoline, motor fuel, and special fuels taxes paid for the operation of a commercial fishing boat. (R.S. 47:297(C))

(5) Tax credit for educational expenses incurred before Jan. 1, 2017, for each child attending kindergarten, elementary, or secondary school through the 12th grade if the child qualifies as a dependency exemption on the taxpayer's La. tax return unless the deduction for the payment of tuition and fees for nonpublic elementary and secondary school tuition is taken for the child. (R.S. 47:297(D))

(6) Tax credit for purchases of environmental equipment purchased between July 1, 1989, and Dec. 31, 1991, designed to recover or recycle chlorofluorocarbons used as refrigerants in commercial, home, and automobile air-conditioning systems, refrigeration units, and industrial cooling applications. (R.S. 47:297(G))

(7) Tax credit for small-town health professionals such as a certified medical primary care physician, a primary care physician assistant, a dentist, an optometrist, or a primary care nurse practitioner. (R.S. 47:297(H))

(8) Tax credit for bone marrow donor expenses. (R.S. 47:297(I))

(9) Tax credit for educational expenses associated with attending college for a degree related to law enforcement. (R.S. 47:297(J))

(10) Tax credit for each taxpayer who provides full-time employment to an individual who has been convicted of a first time drug offense. (R.S. 47:297(K))

(11) Tax credit for purchases of bulletproof vests. (R.S. 47:297(L))

(12) Tax credit for long-term care insurance premiums. (R.S. 47:297(M))

(13) Tax credit for expenses incurred for travel or absence from work because of a living organ donation. (R.S. 47:297(N))

(14) Tax credit for employment of certain nonviolent offenders. (R.S. 47:297(O))

(15) Tax credit for the inclusion of accessible and barrier-free design elements in construction of a new one- or two-family dwelling or the renovation of an existing dwelling. (R.S. 47:297(P))

(16) Tax credit for employment related expenses for maintaining household for certain disabled dependents. (R.S. 47:297.2)

(17) Tax credit for the rehabilitation of an owner occupied residential or mixed-use property. (R.S. 47:297.6)

(18) Tax credit for the Citizen's property insurance assessment. (R.S. 47:297.7)

(19) Tax credit for amounts paid by certain military servicemembers for obtaining La. hunting and fishing licenses. (R.S. 47:297.9)

Proposed law shall be applicable to taxable periods beginning on and after Jan. 1, 2025.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:32(A), 32.1, 44.1(A), 287.732.2(B), 287.750(I), 293(9)(a)(iv) and (10), 294, 295, 300.1, 300.3(3), 4302(B), 6007(I), 6015(J), 6019(A)(1)(a)(i), 6020(H), 6022(D)(4)(intro. para.), and 6023(I) and R.S. 51:1787(L) and 2461; Adds R.S. 47:293(9)(a)(xxvi), 297.25, 300.6(B)(3), 300.7(C)(3), 3204(M), and 6022(M) and R.S.

51:2399.3(C); Repeals R.S. 47:32(B), 79, 293(9)(a)(ix) and (xvii), 293.2, 297, 297.2, 297.6, 297.7, 297.9, 297.20(A)(2), and 297.21(A)(2))