

2016 Second Extraordinary Session

SENATE BILL NO. 13

BY SENATOR MORRELL

TAX/TAXATION. Legislates with regard to the net capital gains deduction. (gov sig) (Item No. 41)

1 AN ACT

2 To amend and reenact R.S. 47:293(9)(a)(xvii), relative to the individual income tax
3 deduction for net capital gains; to provide for nonseverability; to provide for an
4 effective date; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:293(9)(a)(xvii) is hereby amended and reenacted to read as
7 follows:

8 §293. Definitions

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

11 * * *

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

16 * * *

17 (xvii) Income from net capital gains, which shall be limited to gains

1 recognized and treated for federal income tax purposes as arising from the sale or
 2 exchange of an equity interest in or substantially all of the assets of a nonpublicly
 3 traded corporation, partnership, limited liability company, or other business
 4 organization commercially domiciled in this state. **The provisions of the deduction**
 5 **for income from net capital gains as provided in this Item are nonseverable and**
 6 **if any provision of the deduction or its application to any person or entity is held**
 7 **invalid under the constitution of this state or of the United States by a final and**
 8 **nonappealable judgment, then such invalidity shall invalidate the entire**
 9 **deduction.**

10 * * *

11 Section 2. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 13 Original

2016 Second Extraordinary Session

Morrell

Present law provides for an individual income tax deduction for net capital gains attributable to the sale or exchange of an equity interest in or the assets of a privately held business commercially domiciled in this state.

Present law provides that acts of the legislature are severable and that the invalidity of one provision of the act does not invalidate other provisions of the act that can be given effect without the invalid provision.

Proposed law retains the capital gains deduction provided in present law.

Proposed law adds a nonseverability provision to the capital gains deduction that will invalidate the entire deduction if any provision of the deduction is determined to be invalid under the state or federal constitution by a final nonappealable judgment.

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

(Amends R.S. 47:293(9)(a)(xvii))