

2019 Regular Session

HOUSE BILL NO. 191

BY REPRESENTATIVE ZERINGUE

TAX/INCOME TAX: Changes the rates and brackets for purposes of calculating individual income tax liability and eliminates certain deductions and credits

1 AN ACT
2 To amend and reenact R.S. 47:32(A), 79, 93(B), 241, 293(3) and (10), 294, 295(B), 300.1,
3 300.6(A), and 300.7(A), to enact R.S. 47:55(6), and to repeal R.S. 47:55(5), 293(4)
4 and (9)(a)(ii), 296.1(B)(3)(c), and 298, relative to the individual income tax; to
5 provide for the calculation of individual income tax liability; to provide for the rates
6 and brackets for individual income tax; to provide for the rates and brackets for
7 income on estates and trusts; to provide for certain deductions and credits; to reduce
8 certain deductions and credits; to reduce the amount allowed for personal exemptions
9 and credits for dependents; to repeal the deductibility of federal income taxes paid
10 for purposes of calculating income taxes for individuals, estates, and trusts; to repeal
11 the deduction for excess federal itemized personal deductions; to provide for
12 applicability; to provide for an effective date; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 47:32(A), 79, 93(B), 241, 293(3) and (10), 294, 295(B), 300.1,
15 300.6(A), and 300.7(A) are hereby amended and reenacted and R.S. 47:55(6) is hereby
16 enacted to read as follows:

17 §32. Rates of tax
18 A. On individuals. The tax to be assessed, levied, collected and paid upon
19 the taxable income of an individual shall be computed at the following rates:

1 ~~have vision which is insufficient for use in an occupation or activity for which sight~~
2 ~~is essential~~ a person who, after examination by a licensed physician skilled in
3 diseases of the eye or by a licensed optometrist, has been determined to have not
4 more than 20/200 central visual acuity in the better eye with correcting lenses, or an
5 equally disabling loss of the visual field as evidenced by a limitation to the field of
6 vision in the better eye to such a degree that its widest diameter subtends an angle
7 of no greater than twenty degrees. For purposes ~~herein~~ of this Subsection, the word
8 "deaf" shall be defined as in ~~Paragraph (B)(5)~~ Subsection B of this Section. Each
9 person claiming an exemption under the provisions of this ~~Paragraph~~ Subsection
10 shall ~~be able to prove such~~ provide proof of the claim by providing a certificate of
11 from a qualified physician or optometrist.

12 B. Credit Deductions for dependents.

13 ~~(1) In general. A credit of four hundred dollars is allowed for each~~
14 ~~dependent (as defined in Subsection C of this Section);~~

15 ~~(a) whose gross income for the calendar year in which the taxable year of the~~
16 ~~taxpayer begins is less than \$600 or~~

17 ~~(b) who is a child of the taxpayer and who (i) has not attained the age of~~
18 ~~nineteen at the close of the calendar year in which the taxable year of the taxpayer~~
19 ~~begins, or (ii) is a student.~~

20 ~~(2) Credit denied in case of certain married dependents. No credit is allowed~~
21 ~~under this Subsection for any dependent who has made a joint return with his spouse~~
22 ~~under R.S. 47:101(B), for the taxable year beginning in the calendar year in which~~
23 ~~the taxable year of the taxpayer begins.~~

24 ~~(3) Child defined. For purposes of this Subparagraph (B)(1)(b) of this~~
25 ~~Subsection, the term "child" means an individual who (within the meaning of~~
26 ~~Subsection C of this Section) is a son, stepson, daughter, or stepdaughter of the~~
27 ~~taxpayer.~~

28 ~~(4) Student and educational institution defined. For purposes of Item~~
29 ~~(B)(1)(b)(ii) of this Subsection, the term "student" means an individual who during~~

1 each of five calendar months during the calendar year in which the taxable year of
2 the taxpayer begins;

3 (a) is a full-time student at an educational institution; or

4 (b) is pursuing a full-time course of institutional on-farm training under the
5 supervision of an accredited agent of an educational institution or of a state or
6 political subdivision of a state. For purposes of this Subsection, the term
7 "educational institution" means only an educational institution which normally
8 maintains a regular faculty and curriculum and normally has a regularly organized
9 body of students in attendance at the place where its educational activities are carried
10 on.

11 ~~(5) Credit for certain dependents.~~ (1) A credit deduction of one thousand
12 dollars is allowed for each dependent as defined in ~~Subsection C of this Section~~
13 allowed in determining federal income tax liability who is blind or deaf or who has
14 sustained the loss of one or more limbs or who has an intellectual disability. As
15 herein used the word "blind" shall be defined as in ~~Paragraph (A)(2)~~ Subsection A
16 of this Section. For purposes ~~herein~~ of this Subsection, the word "deaf" shall mean
17 and refer to persons whose hearing is so impaired that it is insufficient for use in an
18 occupation or activity for which hearing is essential. The taxpayer claiming ~~credit~~
19 the deduction as herein provided in this Subsection shall ~~be able to prove such~~
20 provide proof of the claim by providing a certificate of ~~from~~ a qualified physician
21 or optometrist issued for each ~~such~~ dependent for which a credit deduction is
22 claimed.

23 (2) In addition to the deduction authorized in Paragraph (1) of this
24 Subsection, an additional deduction of one thousand dollars shall be allowed for each
25 dependent as allowed in determining federal income tax liability.

26 C. ~~Dependent defined.~~

27 ~~(1) General definition.~~ For purposes of this Chapter, the term "dependent"
28 means any of the following individuals over half of whose support, for the calendar
29 year in which the taxable year of the taxpayer begins, was received from the taxpayer

1 ~~(or is treated under Paragraph (C)(3) of this Subsection as received from the~~
2 ~~taxpayer):~~

3 ~~(a) a son or daughter of the taxpayer, or a descendant of either,~~

4 ~~(b) a stepson or stepdaughter of the taxpayer,~~

5 ~~(c) a brother, sister, stepbrother, or stepsister of the taxpayer,~~

6 ~~(d) the father or mother of the taxpayer, or an ancestor of either,~~

7 ~~(e) a stepfather or stepmother of the taxpayer,~~

8 ~~(f) a son or daughter of a brother or sister of the taxpayer,~~

9 ~~(g) a brother or sister of the father or mother of the taxpayer,~~

10 ~~(h) a son-in-law, daughter-in-law, father-in-law, mother-in-law,~~
11 ~~brother-in-law, or sister-in-law of the taxpayer,~~

12 ~~(i) an individual who, for the taxable year of the taxpayer, has as his~~
13 ~~principal place of abode the home of the taxpayer and is a member of the taxpayer's~~
14 ~~household, or~~

15 ~~(j) an individual who,~~

16 ~~(i) is a descendant of a brother or sister of the father or mother of the~~
17 ~~taxpayer,~~

18 ~~(ii) for the taxable year of the taxpayer received institutional care required~~
19 ~~by reason of a physical or mental disability, and~~

20 ~~(iii) before receiving such institutional care, was a member of the same~~
21 ~~household as the taxpayer.~~

22 ~~(2) Rules relating to general definition. For purposes of this Section the rules~~
23 ~~set forth below will apply.~~

24 ~~(a) The terms "brother" and "sister" include a brother or sister by the~~
25 ~~halfblood.~~

26 ~~(b) In determining whether any of the relationships specified in this Section~~
27 ~~exists, a child legally adopted by an individual shall be treated as if he were the child~~
28 ~~of such individual by blood.~~

1 ~~(c) The term "dependent" does not include any individual who is not a citizen~~
2 ~~of the United States unless such individual is a resident of the United States, of a~~
3 ~~country contiguous to the United States, of the Canal Zone, or of the Republic of~~
4 ~~Panama. The preceding sentence shall not exclude from the definition of~~
5 ~~"dependent" any child of the taxpayer born to him, or legally adopted by him, in the~~
6 ~~Philippine Islands before January 1, 1956, if the child is a resident of the Republic~~
7 ~~of the Philippines, and if the taxpayer was a member of the Armed Forces of the~~
8 ~~United States at the time the child was born to him or legally adopted by him.~~

9 ~~(d) A payment to a wife which is includible in the gross income of the wife~~
10 ~~under R.S. 47:42(C) shall not be treated as a payment by her husband for the support~~
11 ~~of any dependent.~~

12 ~~(3) Multiple support agreements. For purposes of Paragraph (C)(1) of this~~
13 ~~Subsection, over half of the support of an individual for a calendar year shall be~~
14 ~~treated as received from the taxpayer if:~~

15 ~~(a) no one person contributed over half of such support;~~

16 ~~(b) over half of such support was received from persons each of whom, but~~
17 ~~for the fact that he did not contribute over half of such support, would have been~~
18 ~~entitled to claim such individual as a dependent for a taxable year beginning in such~~
19 ~~calendar year;~~

20 ~~(c) the taxpayer contributed over ten per cent of such support; and~~

21 ~~(d) each person described in Subparagraph (C)(3)(b) of this Section (other~~
22 ~~than the taxpayer) who contributed over ten per cent of such support files a written~~
23 ~~declaration (in such manner and form as the collector may by regulations prescribe)~~
24 ~~that he will not claim such individual as a dependent for any taxable year beginning~~
25 ~~in such calendar year.~~

26 ~~(4) Special support test in case of students. Amounts received as~~
27 ~~scholarships for study at an educational institution by an individual who is:~~

28 ~~(a) a son, stepson, daughter, or stepdaughter of the taxpayer (within the~~
29 ~~meaning of this Section), and~~

1 §241. Net income subject to tax

2 A. The net income of a nonresident individual ~~or a corporation~~ subject to the
3 tax imposed by this Chapter shall be the sum of the net allocable income earned
4 within or derived from sources within this state, as defined in R.S. 47:243, and the
5 net apportionable income derived from sources in this state, as defined in R.S.
6 47:244, ~~less the amount of federal income taxes attributable to the net allocable~~
7 ~~income and net apportionable income derived from sources in this state. The amount~~
8 ~~of federal income taxes to be so deducted shall be that portion of the total federal~~
9 ~~income tax which is levied with respect to the particular income derived from~~
10 ~~sources in this state to be computed in accordance with rules and regulations of the~~
11 ~~collector of revenue. Proper adjustment shall be made for the actual tax rates~~
12 ~~applying to different classes of income and for all differences in the computation of~~
13 ~~net income for purposes of federal income taxation as compared to the computation~~
14 ~~of net income under this Chapter. Where the allocation of the tax is to be based on~~
15 ~~a ratio of the amount of net income of a particular class, both the numerator and the~~
16 ~~denominator of the fraction used in determining the ratio shall be computed on the~~
17 ~~basis that such net income is determined for federal income tax purposes.~~

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

1 the allocation of the tax is to be based on a ratio of the amount of net income of a
2 particular class, both the numerator and the denominator of the fraction used in
3 determining the ratio shall be computed on the basis that such net income is
4 determined for federal income tax purposes.

5 * * *

6 §293. Definitions

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

9 * * *

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

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

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

19 (c) For all tax years beginning on and after January 1, 2009, but before
20 January 1, 2020, one hundred percent of such excess federal itemized personal
21 deductions.

22 (d) For all tax years beginning on and after January 1, 2020, no excess
23 federal itemized personal deductions pursuant to this Paragraph shall be allowed.

24 * * *

25 (10) "Tax table income", for nonresident individuals, means the amount of
26 Louisiana income, as provided in this Part, allocated and apportioned under the
27 provisions of R.S. 47:241 through 247, ~~plus the total amount of the personal~~
28 ~~exemptions and deductions already included in the tax tables promulgated by the~~
29 ~~secretary under authority of R.S. 47:295~~, less the proportionate amount of ~~the~~

1 ~~federal income tax liability, excess federal itemized personal deductions,~~ the
 2 temporary teacher deduction, the recreation volunteer and volunteer firefighter
 3 deduction, the construction code retrofitting deduction, any gratuitous grant, loan,
 4 or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery
 5 entity if such benefit was included in federal adjusted gross income, the exclusion
 6 provided for in R.S. 47:297.3 for S Bank shareholders, the deduction for expenses
 7 disallowed by I.R.C. Section 280C, salaries, wages or other compensation received
 8 for disaster or emergency-related work rendered during a declared state disaster or
 9 emergency, the deduction for net capital gains, and personal exemptions and
 10 deductions provided for in R.S. 47:294. The proportionate amount is to be
 11 determined by the ratio of Louisiana income to federal adjusted gross income. When
 12 federal adjusted gross income is less than Louisiana income, the ratio shall be one
 13 hundred percent.

* * *

14
15 §294. Personal Filing status; personal exemptions; and credit for dependents

16 ~~All personal exemptions and deductions for dependents allowed in~~
 17 ~~determining federal income tax liability, including the extra exemption for the blind~~
 18 ~~and aged, will be allowed in determining the tax liability in this Part.~~ Taxpayers are
 19 required to use the same filing status and claim the same exemptions on their return
 20 required to be filed under this Part as they used on their federal income tax return.
 21 The amounts to be taken into consideration shall be as follows:

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

- 24 ~~a. Single Individual~~ _____ \$ 4500.00
- 25 ~~b. Married-Joint Return and a Qualified Surviving Spouse~~ \$ 9000.00
- 26 ~~c. Married-Separate~~ _____ \$ 4500.00
- 27 ~~d. Head of Household~~ _____ \$ 9000.00

1 ~~B. An additional deduction of one thousand dollars shall be allowed for each~~
2 ~~allowable exemption in excess of those required to qualify for the exemption~~
3 ~~allowable under R.S. 47:294(A).~~

4 A. Personal Exemption. An exemption of one thousand dollars shall be
5 allowed for the taxpayer who is blind or who has sustained the loss of one or more
6 limbs or who has an intellectual disability or who is deaf. As used in this Section,
7 the term "blind" shall mean and refer to a person who, after examination by a
8 licensed physician skilled in diseases of the eye or by a licensed optometrist, has
9 been determined to have not more than 20/200 central visual acuity in the better eye
10 with correcting lenses, or an equally disabling loss of the visual field as evidenced
11 by a limitation to the field of vision in the better eye to such a degree that its widest
12 diameter subtends an angle of no greater than twenty degrees. The term "deaf" shall
13 be defined as in Subsection B of this Section. Each person claiming an exemption
14 under the provisions of this Section shall provide proof of a claim by providing a
15 certificate from a qualified physician or optometrist.

16 B. Deductions for dependents. (1) A deduction of one thousand dollars shall
17 be allowed for each dependent allowed, in determining federal income tax liability,
18 who is blind or deaf or who has sustained the loss of one or more limbs or who has
19 an intellectual disability. For purposes of this Section, the word "deaf" shall mean
20 and refer to persons whose hearing is so impaired that it is insufficient for use in an
21 occupation or activity for which hearing is essential. The term "blind" shall be
22 defined as in Subsection A of this Section. The taxpayer claiming the deduction
23 authorized in this Subsection shall provide proof of a claim by providing a certificate
24 from a qualified physician or optometrist issued for each dependent for which a
25 deduction is claimed.

26 (2) In addition to the deduction authorized in Paragraph (1) of this
27 Subsection, an additional deduction of one thousand dollars shall be allowed for each
28 dependent as allowed in determining federal income tax liability.

1 §300.6. Louisiana taxable income of resident estate or trust

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

8 (1) In computing Louisiana taxable income, no federal income tax deduction
9 shall be allowed on net income upon which no Louisiana income tax has been
10 incurred, or upon which, for any reason whatsoever, no Louisiana income tax will
11 be paid. When computing Louisiana taxable income, the secretary may consider
12 reductions to the federal income tax deduction in accordance with the provisions of
13 this Paragraph.

14 (2) The alternative minimum tax is a federal income tax deductible to the
15 extent that it is applicable to regular federal taxable income. Any alternative
16 minimum tax paid on tax preference items shall not be deductible. In accordance
17 with the provisions of this Paragraph, the secretary may determine the deductible
18 portion of the alternative minimum tax.

19 (3) For purposes of this Section, federal income taxes shall include taxes
20 based on net income, accumulated earnings, war profits, excess profits, personal
21 holding company income, and tax from recomputation of investment credit. For
22 purposes of federal income taxation as compared to the computation of net income
23 under this Part, proper adjustment shall be made for the actual tax rates as applied
24 to different classes of income and for all differences in the computation of net
25 income. The amount of the federal income tax deduction shall be that portion of the
26 total federal income tax, after application of all credits, which is levied on income
27 derived solely from sources in this state as computed under the rules and regulations
28 prescribed by the secretary.

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 191 Original

2019 Regular Session

Zeringue

Abstract: Changes the rates and brackets for purposes of calculating individual income tax liability and estates and trusts income tax liability, and eliminates the standard and certain dependency deductions, the deduction for excess federal itemized personal deductions, and the deduction for federal income taxes paid for individuals, estates and trusts.

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% on the first \$12,500 of net income to 0% on the first \$12,500 of net income.
- (2) From 4% on the next \$37,500 of net income and 6% in excess of \$50,000 to 4% on net income in excess of \$12,500.

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 repeals present law.

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)). Further authorizes a personal exemption of \$1,000 for each taxpayer who is blind or deaf, who has an intellectual disability, or who has sustained the loss of one or more limbs.

Proposed law retains present law but further defines the terms "blind" and "deaf" for purposes of claiming the personal exemption provided for in present law.

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 is

deducted from the 2% bracket. If the combined exemptions and deductions exceed the 2% bracket, the excess is deducted from the 4% bracket, and then the 6% bracket.

Proposed law deletes the provisions authorizing the combined personal exemption, standard deduction, and other exemption deductions to be deducted from the income tax brackets.

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 present law that allows taxpayers to deduct excess federal itemized personal deductions on their state individual income tax returns beginning Jan. 1, 2020.

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 taxes.

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.

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 0% on the first \$12,500 of La. taxable income.
- (2) From 4% on the next \$40,000 of La. taxable income and 6% in excess of \$50,000 to 4% on La. taxable income in excess of \$12,500.

Applicable to all taxable periods beginning on and after Jan. 1, 2020.

Effective on Jan. 1, 2020, if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. ___ of this 2019 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 79, 93(B), 241, 293(3) and (10), 294, 295(B), 300.1, 300.6(A), and 300.7(A); Adds R.S. 47:55(6); Repeals R.S. 47:55(5), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), and 298)