

2019 Regular Session

HOUSE BILL NO. 416

BY REPRESENTATIVE IVEY

TAX/INCOME TAX: Provides for a flat tax rate for purposes of calculating individual income tax and modifies other income tax credits and deductions

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 293(9)(a)(xviii), and to repeal
4 R.S. 47:55(5), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), and 298, relative to the
5 individual income tax; to provide for the rates and brackets for individual income
6 tax; to provide for a flat single individual income tax rate; to provide for the
7 calculation of individual income tax liability; to provide for certain deductions and
8 credits; to reduce certain deductions and credits; to provide with respect to the
9 deduction for excess federal itemized personal deductions; to provide for limitations
10 and restrictions; to reduce the amount of the deduction allowed for excess federal
11 itemized personal deductions; to provide for personal exemptions and credits for
12 dependents; to repeal the deductibility of federal income taxes paid for purposes of
13 calculating individual income tax; to repeal the deductibility of federal income taxes
14 paid for purposes of calculating income tax on estates and trusts; to provide for the
15 rates and brackets for estates and trusts; to provide for applicability; and to provide
16 for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 47:32(A), 79, 93(B), 241, 293(3) and (10), 294, 295(B), 300.1,
19 300.6(A), and 300.7(A) are hereby amended and reenacted and R.S. 47:55(6) and
20 293(9)(a)(xviii) are hereby enacted to read as follows:

1 §32. Rates of tax

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

4 ~~(1) Two percent~~ No tax shall be assessed on that portion of the first twelve
5 thousand five hundred dollars of net income which is in excess of the credits against
6 net income provided for in R.S. 47:79;

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

9 ~~(3) Six percent on any amount of net income in excess of fifty thousand~~
10 dollars of net income four percent on net income in excess of twelve thousand five
11 hundred dollars.

12 * * *

13 §55. Deductions from gross income; taxes generally

14 In computing net income, there shall be allowed as deductions all taxes paid
15 or accrued within the taxable year except:

16 * * *

17 (6) Federal income taxes paid on individual income.

18 * * *

19 §79. Credits of individuals against net income

20 A. Personal exemption.

21 ~~(1) An exemption of twenty-five hundred dollars is allowed for the taxpayer;~~
22 ~~and an additional exemption of twenty-five hundred dollars is allowed for the spouse~~
23 ~~of the taxpayer if a separate return is made by the taxpayer, and if the spouse has no~~
24 ~~gross income and is not the dependent of another taxpayer for the calendar year in~~
25 ~~which the taxable year of the taxpayer begins. A person who occupied status as head~~
26 ~~of family during the entire taxable year is allowed an exemption of five thousand~~
27 ~~dollars.~~

28 ~~(2) In addition to the exemptions above provided for, an~~ An exemption of
29 one thousand dollars is allowed for the taxpayer who is blind or who has sustained

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

15 B. Credit Deductions for dependents.

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

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

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

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

27 (3) ~~Child defined. For purposes of this Subparagraph (B)(1)(b) of this~~
28 ~~Subsection, the term "child" means an individual who (within the meaning of~~

1 ~~Subsection C of this Section) is a son, stepson, daughter, or stepdaughter of the~~
2 taxpayer.

3 ~~(4) Student and educational institution defined. For purposes of Item~~
4 ~~(B)(1)(b)(ii) of this Subsection, the term "student" means an individual who during~~
5 ~~each of five calendar months during the calendar year in which the taxable year of~~
6 ~~the taxpayer begins,~~

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

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

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

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

1 C. ~~Dependent defined.~~

2 ~~(1) General definition. For purposes of this Chapter, the term "dependent"~~
3 ~~means any of the following individuals over half of whose support, for the calendar~~
4 ~~year in which the taxable year of the taxpayer begins, was received from the taxpayer~~
5 ~~(or is treated under Paragraph (C)(3) of this Subsection as received from the~~
6 ~~taxpayer):~~

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

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

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

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

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

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

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

14 ~~(h) a son-in-law, daughter-in-law, father-in-law, mother-in-law,~~

15 ~~brother-in-law, or sister-in-law of the taxpayer,~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 taxes shall be allowed as a deduction in the state return for the period in which such
2 additional tax is paid. ~~This Subsection shall apply to all such payments after~~
3 ~~December 31, 1973.~~

4 * * *

5 §241. Net income subject to tax

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

22 B. The net income of a corporation subject to the tax imposed by this
23 Chapter shall be the sum of the net allocable income earned within or derived from
24 sources within this state, as defined in R.S. 47:243, and the net apportionable income
25 derived from sources in this state, as defined in R.S. 47:244, less the amount of
26 federal income taxes attributable to the net allocable income and net apportionable
27 income derived from sources in this state. The amount of federal income taxes to be
28 so deducted shall be that portion of the total federal income tax which is levied with
29 respect to the particular income derived from sources in this state to be computed in

1 accordance with rules and regulations of the collector of revenue. Proper adjustment
 2 shall be made for the actual tax rates applying to different classes of income and for
 3 all differences in the computation of net income for purposes of federal income
 4 taxation as compared to the computation of net income under this Chapter. Where
 5 the allocation of the tax is to be based on a ratio of the amount of net income of a
 6 particular class, both the numerator and the denominator of the fraction used in
 7 determining the ratio shall be computed on the basis that such net income is
 8 determined for federal income tax purposes.

9 * * *

10 §293. Definitions

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

13 * * *

14 (3) "Excess federal itemized personal deductions" for the purposes of this
 15 Part, means ~~the following percentages~~ one hundred percent of the amount by which
 16 the federal itemized personal deductions, excluding Louisiana state income tax
 17 refunds, exceed the amount of federal standard deductions which is designated for
 18 the filing status used for the taxable period on the individual income tax return
 19 required to be filed: No deduction shall be allowed on the first twelve thousand five
 20 hundred dollars of excess federal itemized personal deductions for filers using a
 21 federal filing status of single, married filing single, or head of household and twenty-
 22 five thousand dollars for taxpayers using a federal filing status of married filing joint
 23 or qualifying widower with dependent child returns.

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

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

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

1 * * *

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

6 * * *

7 (xviii) Louisiana state income tax refunds which are included in federal
8 adjusted gross income.

9 (10) "Tax table income", for nonresident individuals, means the amount of
10 Louisiana income, as provided in this Part, allocated and apportioned under the
11 provisions of R.S. 47:241 through 247, plus the total amount of the personal
12 exemptions and deductions already included in the tax tables promulgated by the
13 secretary under authority of R.S. 47:295, less the ~~proportionate amount of the~~
14 ~~federal income tax liability~~, excess federal itemized personal deductions, the
15 temporary teacher deduction, the recreation volunteer and volunteer firefighter
16 deduction, the construction code retrofitting deduction, any gratuitous grant, loan,
17 or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery
18 entity if such benefit was included in federal adjusted gross income, the exclusion
19 provided for in R.S. 47:297.3 for S Bank shareholders, the deduction for expenses
20 disallowed by I.R.C. Section 280C, salaries, wages or other compensation received
21 for disaster or emergency-related work rendered during a declared state disaster or
22 emergency, the deduction for net capital gains, Louisiana state income tax refunds
23 which are included in federal adjusted gross income, and personal exemptions and
24 deductions provided for in R.S. 47:294. The proportionate amount is to be
25 determined by the ratio of Louisiana income to federal adjusted gross income. When
26 federal adjusted gross income is less than Louisiana income, the ratio shall be one
27 hundred percent.

28 * * *

29 §294. Personal exemptions and credit for dependents

1 who is blind or deaf or who has sustained the loss of one or more limbs or who has
 2 an intellectual disability. For purposes of this Section, the term "deaf" shall mean
 3 and refer to persons whose hearing is so impaired that it is insufficient for use in an
 4 occupation or activity for which hearing is essential. The term "blind" is defined in
 5 Subsection A of this Section. The taxpayer claiming the deduction authorized in this
 6 Subsection shall prove the claim by a certificate from a qualified physician or
 7 optometrist issued for each dependent for which a deduction is claimed.

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

11 D. Limitation on portion of deduction allowable. There shall be allowed
 12 only that portion of the deductions set forth in this Section which the net income of
 13 the individual taxable under this Chapter bears to the total net income of the
 14 individual.

15 * * *

16 §295. Tax imposed on individuals; administration

17 * * *

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

27 * * *

28 §300.1. Tax imposed

1 Section 3. The provisions of this Act shall be applicable to all taxable periods
2 beginning on and after January 1, 2020.

3 Section 4. This Act shall take effect on January 1, 2020, if the proposed amendment
4 of Article VII of the Constitution of Louisiana contained in the Act which originated as
5 House Bill No. ___ of this 2019 Regular Session of the Legislature is adopted at a statewide
6 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 416 Original

2019 Regular Session

Ivey

Abstract: Changes the rates and brackets for purposes of calculating individual income tax liability from a graduated rate system to a single flat rate of 4%; changes the rates and brackets for purposes of calculating income tax liability for estates and trusts; modifies 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) 2% on the first \$12,500 of net income;
- (2) 4% on the next \$37,500 of net income;
- (3) 6% on net income in excess of \$50,000.

Proposed law removes the graduated schedule of rates in favor of a flat 4% individual income tax rate.

Present law provides that in cases where taxpayers file a joint return of husband and wife, the combined tax shall be twice the combined tax of single filers.

Proposed law retains present law.

Present law provides that all personal exemptions and deductions for dependents allowed in determining federal income tax liability shall be allowed in determining La. tax liability. Further provides for a combined personal exemption of \$4,500 for single, individual filers, \$9,000 for married, joint filers, \$4,500 for married, separate filers, and \$9,000 for filers who are the head of household.

Proposed law increases the combined personal exemption to \$12,500 for single, individual and married, joint filers. Also increases to \$25,000 for combined personal exemption to married, joint filers and filers who are the head of household.

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

Proposed law repeals present law in favor of a \$1,000 deduction for each dependent as defined in present law.

Present law authorizes an additional deduction of \$1,000 for each allowable exemption in excess of those required to qualify for the exemption allowable under present law. (R.S. 47:294(A))

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 changes present law by prohibiting this deduction on the first \$12,500 of excess federal itemized personal deductions for single filers and \$25,000 for taxpayers filing joint returns. Proposed law also excludes state income taxes paid by a taxpayer from inclusion as a federal itemized deduction for purposes of this state deduction.

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

Proposed law retains present law but adds to the list of income not included in "tax table income" state income tax refunds which are included in federal adjusted gross income.

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 and income taxes for estates and trusts.

Present law provides for the computation of La. taxable income for a resident estate or trust, including provisions for the federal income tax deduction, limitations of deductions for net income, provisions for the federal deduction for alternative minimum tax, and the authority of the secretary of the Dept. of Revenue to consider reductions to the federal income tax deduction and the determination of the deductible portion of an alternative minimum tax.

Present law provides for a tax to be assessed, levied, collected, and paid on the La. taxable income of an estate or trust at the following rates:

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

Proposed law removes the graduated schedule of rates in favor of a flat 4% rate on taxable income of an estate or trust.

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) and 293(9)(a)(xviii); Repeals R.S. 47:55(5), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), and 298)