

2021 Regular Session

HOUSE BILL NO. 171

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), 241, 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B),
3 300.1, 300.6(A), 300.7(A), and 6007(J)(1)(b) and (2)(a) and to repeal R.S. 47:287.79,
4 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and
5 298, relative to the income tax; to provide for the calculation of income tax liability;
6 to provide for the rates and brackets for individual income tax; to provide for the
7 rates and brackets for income on estates and trusts; to provide for certain deductions
8 and credits; to reduce certain deductions and credits; to reduce the amount allowed
9 for personal exemptions and credits for dependents; to repeal the deductibility of
10 federal income taxes paid for purposes of calculating income taxes; to repeal the
11 deduction for excess federal itemized personal deductions; to provide for the
12 maximum amount of motion picture production income tax credits granted via final
13 certification letters; to provide for the maximum amount of motion picture
14 production income tax credits claimed on income tax returns; to provide for
15 applicability; to provide for an effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 47:32(A), 241, 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B),
18 300.1, 300.6(A), 300.7(A), and 6007(J)(1)(b) and (2)(a) are hereby amended and reenacted
19 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 §241. Net income subject to tax

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

1 denominator of the fraction used in determining the ratio shall be computed on the
2 basis that such net income is determined for federal income tax purposes.

3 * * *

4 §287.69. Louisiana taxable income defined

5 "Louisiana taxable income" means Louisiana net income, after adjustments;
6 ~~less the federal income tax deduction allowed by R.S. 47:287.85.~~ "After adjustments"
7 means after the application of the net operating loss adjustment allowed by R.S.
8 47:287.86.

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 of the amount by which the federal itemized
16 personal deductions exceed the amount of federal standard deductions which is
17 designated for the filing status used for the taxable period on the individual income
18 tax return required to be filed:

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

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

23 (c) For ~~all~~ tax years beginning on ~~and~~ or after January 1, 2009, but before
24 January 1, 2023, one hundred percent of such excess federal itemized personal
25 deductions.

26 (d) For tax years beginning on or after January 1, 2023, no excess federal
27 itemized personal deductions shall be allowed pursuant to this Paragraph.

28 * * *

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

5 * * *

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

10 * * *

11 (10) "Tax table income", for nonresident individuals, means the amount of
12 Louisiana income, as provided in this Part, allocated and apportioned under the
13 provisions of R.S. 47:241 through 247, ~~plus the total amount of the personal~~
14 ~~exemptions and deductions already included in the tax tables promulgated by the~~
15 ~~secretary under authority of R.S. 47:295~~, less the proportionate amount of the federal
16 ~~income tax liability, excess federal itemized personal deductions, the temporary~~
17 ~~teacher deduction, the recreation volunteer and volunteer firefighter deduction, the~~
18 ~~construction code retrofitting deduction, any gratuitous grant, loan, or other benefit~~
19 ~~directly or indirectly provided to a taxpayer by a hurricane recovery entity if such~~
20 ~~benefit was included in federal adjusted gross income, the exclusion provided for in~~
21 ~~R.S. 47:297.3 for S Bank shareholders, the deduction for expenses disallowed by 26~~
22 ~~U.S.C. 280C, salaries, wages or other compensation received for disaster or~~
23 ~~emergency-related work rendered during a declared state disaster or emergency, the~~
24 ~~deduction for net capital gains, the pass-through entity exclusion provided in R.S.~~
25 ~~47:297.14, and personal exemptions and deductions provided for in R.S. 47:294. The~~
26 ~~proportionate amount is to be determined by the ratio of Louisiana income to federal~~
27 ~~adjusted gross income. When federal adjusted gross income is less than Louisiana~~
28 ~~income, the ratio shall be one hundred percent.~~

29 * * *

1 (b) The taxpayer claiming the deduction authorized in this Paragraph shall
 2 provide proof of a claim by providing a certificate from a qualified physician or
 3 optometrist issued for each dependent for which a deduction is claimed.

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

7 D. As used in this Section, the following terms shall have the definitions
 8 ascribed to them, unless the context indicates otherwise:

9 (1) "Blind" shall mean and refer to a person who, after examination by a
 10 licensed physician skilled in diseases of the eye or by a licensed optometrist, has
 11 been determined to have not more than 20/200 central visual acuity in the better eye
 12 with correcting lenses, or an equally disabling loss of the visual field as evidenced
 13 by a limitation to the field of vision in the better eye to such a degree that its widest
 14 diameter subtends an angle of no greater than twenty degrees.

15 (2) "Deaf" shall mean and refer to a person whose hearing is so impaired that
 16 it is insufficient for use in an occupation or activity for which hearing is essential.

17 §295. Tax imposed on individuals; administration

18 * * *

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

28 * * *

1 §300.1. Tax imposed

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

6 (1) ~~Two percent on the first ten thousand~~ No tax shall be assessed on the first
7 twelve thousand five hundred dollars of Louisiana taxable income.

8 (2) ~~Four percent on the next forty thousand dollars of Louisiana taxable~~
9 ~~income.~~

10 (3) ~~Six percent on Louisiana taxable income in excess of fifty thousand~~
11 ~~dollars~~ Four percent on Louisiana taxable income in excess of twelve thousand five
12 hundred dollars.

13 * * *

14 §300.6. Louisiana taxable income of resident estate or trust

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

21 (1) In computing Louisiana taxable income, no federal income tax deduction
22 shall be allowed on net income upon which no Louisiana income tax has been
23 incurred, or upon which, for any reason whatsoever, no Louisiana income tax will
24 be paid. When computing Louisiana taxable income, the secretary may consider
25 reductions to the federal income tax deduction in accordance with the provisions of
26 this Paragraph.

27 (2) The alternative minimum tax is a federal income tax deductible to the
28 extent that it is applicable to regular federal taxable income. Any alternative
29 minimum tax paid on tax preference items shall not be deductible. In accordance

1 with the provisions of this Paragraph, the secretary may determine the deductible
2 portion of the alternative minimum tax.

3 (3) For purposes of this Section, federal income taxes shall include taxes
4 based on net income, accumulated earnings, war profits, excess profits, personal
5 holding company income, and tax from recomputation of investment credit. For
6 purposes of federal income taxation as compared to the computation of net income
7 under this Part, proper adjustment shall be made for the actual tax rates as applied
8 to different classes of income and for all differences in the computation of net
9 income. The amount of the federal income tax deduction shall be that portion of the
10 total federal income tax, after application of all credits, which is levied on income
11 derived solely from sources in this state as computed under the rules prescribed by
12 the secretary.

13 (4) As used in this Subsection, the term "credits" shall not include
14 overpayments of prior year taxes allowed as a credit, estimated tax payments or
15 similar prepayments, credit for prior year alternative minimum tax that is allowed as
16 a credit against the current regular federal income tax, or federal income tax credits
17 determined by the secretary to be presidential disaster area disaster relief credits.

18 * * *

19 §300.7. Louisiana taxable income of nonresident estate or trust

20 A. Definition. "Louisiana taxable income" of a nonresident estate or trust
21 means ~~such~~ the portion of the taxable income of the nonresident estate or trust
22 determined in accordance with federal law for the same taxable year, as specifically
23 modified by the provisions contained in Subsection C of this Section, that was earned
24 within or derived from sources within this state, less a federal income tax deduction
25 to be computed following the provisions of ~~R.S. 47:287.83 and 287.85~~ R.S. 47:300.6.

26 * * *

27 §6007. Motion picture production tax credit

28 * * *

29 J. Credit caps, structured pay outs, and project size limitations.

1 (1) Department of Economic Development program issuance cap.

2 * * *

3 (b)(i) For applications for state-certified productions and qualified
4 entertainment companies submitted on or after July 1, 2017, through June 30, 2023,
5 the total amount of all tax credits granted in a final certification letter by the
6 department in any fiscal year shall not exceed one hundred fifty million dollars.
7 Twenty percent of the annual program cap shall be reserved as follows: five percent
8 for qualified entertainment companies, five percent for Louisiana screenplay
9 productions, and ten percent for independent film productions. If the total amount
10 of credits applied for in any particular year exceeds the aggregate amount of tax
11 credits allowed for that year, the excess shall be treated as having been applied for
12 on the first day of the subsequent year.

13 (ii) For applications for state-certified productions and qualified
14 entertainment companies submitted on or after July 1, 2023, the total amount of all
15 tax credits granted in a final certification letter by the department in any fiscal year
16 shall not exceed seventy-five million dollars. Twenty percent of the annual program
17 cap shall be reserved as follows: five percent for qualified entertainment companies,
18 five percent for Louisiana screenplay productions, and ten percent for independent
19 film productions. If the total amount of credits applied for in any particular year
20 exceeds the aggregate amount of tax credits allowed for that year, the excess shall
21 be treated as having been applied for on the first day of the subsequent year.

22 * * *

23 (2) Department of Revenue taxpayer claim cap.

24 (a)(i) Beginning July 1, 2017, through June 30, 2023, claims against state
25 income tax allowed on returns for tax credits or transfers of such tax credits,
26 including legacy credits, to the Department of Revenue as provided for in Paragraph
27 (C)(4) of this Section shall be limited to an aggregate total of one hundred eighty
28 million dollars each fiscal year. If less than one hundred eighty million dollars of
29 such tax credits and transfers are allowed in a fiscal year, the remaining amount, plus

1 any amounts remaining from previous fiscal years, shall be added to the one hundred
2 eighty million dollar limit of subsequent fiscal years until that amount of tax credits
3 or tax credit transfers to the Department of Revenue are claimed and allowed.

4 (ii) Beginning July 1, 2023, claims against state income tax allowed on
5 returns for tax credits or transfers of such tax credits, including legacy credits, to the
6 Department of Revenue as provided for in Paragraph (C)(4) of this Section shall be
7 limited to an aggregate total of ninety million dollars each fiscal year. If less than
8 ninety million dollars of such tax credits and transfers are allowed in a fiscal year,
9 the remaining amount, plus any amounts remaining from previous fiscal years, shall
10 be added to the ninety million dollar limit of subsequent fiscal years until that
11 amount of tax credits or tax credit transfers to the Department of Revenue are
12 claimed and allowed.

13 * * *

14 Section 2. R.S. 47:287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii),
15 296.1(B)(3)(c), 297(A), and 298 are hereby repealed in their entirety.

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

18 Section 4. This Act shall take effect and become operative if and when the proposed
19 amendment of Article VII of the Constitution of Louisiana contained in the Act which
20 originated as House Bill No. 207 of this 2021 Regular Session of the Legislature is adopted
21 at a statewide election and becomes effective.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 171 Engrossed

2021 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 purposes of calculating income tax liability.

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 changes 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 and instead provides a \$1,000 deduction for each dependent as defined in present law.

Present law provides that 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 present law.

Proposed law provides an exemption of \$1,000 for a taxpayer who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Provides a deduction of \$1,000 for each dependent allowed in determining federal income tax liability who is blind, is deaf, has sustained the loss of one or more limbs, or has an intellectual disability. Additionally, provides a deduction of \$1,000 for each dependent as allowed in determining federal income tax liability. Provides definitions and requirements for claiming the exemptions.

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

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, 2022.

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 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. Provides that no federal income tax deduction is allowed on net income upon which no La. income tax was incurred or upon which no income tax will be paid.

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.

Present law provides for a cap of \$150M in any fiscal year on tax credits that may be granted in a final certification letter by the Dept. of Economic Development (DED) for state-certified productions and qualified entertainment companies submitted on or after July 1, 2017. If the total amount of credits applied for in a year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

Proposed law changes present law by reducing the annual cap on tax credits granted by DED in final certification letters for state-certified productions and qualified entertainment companies submitted on or after July 1, 2023, from \$150M each fiscal year to \$75M for each fiscal year.

Present law provides for a cap of \$180M on the aggregate total amount of tax credit claims that the Dept. of Revenue (DOR) may allow on tax returns in any fiscal year. If less than \$180M of tax credits and transfers are allowed in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the \$180M cap of subsequent fiscal years until that amount of tax credits or tax credit transfers to the DOR are claimed and allowed.

Proposed law changes present law by reducing the annual cap on tax credit claims allowed by DOR beginning July 1, 2023, from \$180M per fiscal year to \$90M per fiscal year. Further changes present law to reduce the amount of tax credit claims that may be allowed

in subsequent years if the total annual cap is not claimed to match the reduction in the annual cap contained in proposed law.

Applicable to taxable periods beginning on or after Jan. 1, 2023.

Effective if and when the proposed amendment of Article VII of the Constitution of La. contained in the Act which originated as House Bill No. 207 of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Amends R.S. 47:32(A), 241, 287.69, 293(3), (9)(a)(iv), and (10), 294, 295(B), 300.1, 300.6(A), 300.7(A), and 6007(J)(1)(b) and (2)(a); Repeals R.S. 47:287.79, 287.83, 287.85, 287.442(B)(1), 293(4) and (9)(a)(ii), 296.1(B)(3)(c), 297(A), and 298)

Summary of Amendments Adopted by House

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

1. Add repeal of the deduction for federal income taxes paid for purposes of calculating corporate income taxes to the repeal in proposed law of the deduction for purposes of calculating individual income tax and income tax on estates and trusts.
2. Reduce the annual cap on motion picture production tax credits awarded in final certification letters by DED from \$150M to \$75M per fiscal year and reduce the annual cap on the amount of tax credits that may be claimed on tax returns from \$180M to \$90M each fiscal year.
3. Specify the House Bill No. of the proposed constitutional amendment to which the effectiveness of proposed law is tied.