

ACT No. 378

2021 Regular Session

HOUSE BILL NO. 424

BY REPRESENTATIVES MCFARLAND, ADAMS, BACALA, BUTLER, CARRIER, ROBBY CARTER, CORMIER, COX, DAVIS, ECHOLS, EDMONDS, FIRMENT, GADBERRY, HARRIS, HOLLIS, HORTON, JEFFERSON, LANDRY, LARVADAIN, LYONS, MARCELLE, MCMAHEN, RISER, ROMERO, SCHAMERHORN, STAGNI, THOMPSON, WHITE, AND WRIGHT

1 AN ACT

2 To enact R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042, relative to income tax
3 incentives; to provide for an individual income tax deduction for the adoption of a
4 child or youth from foster care; to provide for a deduction for the private adoption
5 of certain infants; to provide for the amount of the deduction; to provide for
6 limitations and requirements; to establish an income tax credit for donations to
7 certain foster care organizations; to provide for definitions; to provide for the amount
8 of the credit; to provide for the application for and granting of the credit; to provide
9 for certain requirements; to authorize the promulgation of rules; to provide for
10 applicability; to provide for an effective date; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042 are hereby
13 enacted to read as follows:

14 §293. Definitions

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

17 * * *

18 (9)(a) "Tax table income", for resident individuals, means adjusted gross
19 income plus interest on obligations of a state or political subdivision thereof, other

1 than Louisiana and its municipalities, title to which obligations vested with the
2 resident individual on or subsequent to January 1, 1980, and less:

3 * * *

4 (xx) The deduction for adopting a child or youth from foster care as provided
5 in R.S. 47:297.16.

6 (xxi) The deduction for the private adoption of certain infants as provided
7 for in R.S. 47:297.17.

8 * * *

9 §297.16. Tax deduction; adoption from foster care

10 A.(1) There shall be allowed a deduction from tax table income for a
11 taxpayer who adopts a child who is in foster care, as defined in Children's Code
12 Article 603, or a youth receiving extended foster care services pursuant to the
13 Extended Foster Care Program Act. The amount of the deduction authorized by this
14 Section shall be equal to five thousand dollars and shall be applicable in the year the
15 adoption becomes final. The amount of the deduction authorized by this Section
16 shall not exceed the total taxable income of the taxpayer claiming the deduction.

17 (2) The deduction authorized pursuant to the provisions of this Section shall
18 be in lieu of the dependency deduction authorized in R.S. 47:294.

19 B. The taxpayer claiming the deduction authorized pursuant to the provisions
20 of this Section shall maintain all records necessary to verify the adoption and, if
21 requested, shall provide the records to the Department of Revenue when filing the
22 taxpayer's tax return.

23 C. The secretary of the Department of Revenue may promulgate rules in
24 accordance with the Administrative Procedure Act to implement the provisions of
25 this Section, including rules related to the submission of documentation when
26 claiming the deduction.

27 §297.17. Tax deduction; private adoption of certain infants

28 A.(1) There shall be allowed a deduction from tax table income for a
29 taxpayer who adopts an infant who is unrelated to the taxpayer and who is less than
30 one year of age through a private agency as defined in Children's Code Article

1 1169(1) or adopts an infant who is unrelated to the taxpayer and who is less than one
 2 year of age through an attorney. For purposes of this Section, the age of the infant
 3 shall be determined at the time of the adoption placement. The amount of the
 4 deduction authorized by this Section shall be equal to five thousand dollars and shall
 5 be applicable in the year the adoption becomes final. The amount of the deduction
 6 authorized by this Section shall not exceed the total taxable income of the taxpayer.

7 (2) The deduction authorized pursuant to the provisions of this Section shall
 8 be in lieu of the dependency deduction authorized in R.S. 47:294.

9 B. The taxpayer shall maintain all records necessary to verify the adoption
 10 and, if requested, shall provide the records to the Department of Revenue when filing
 11 the taxpayer's tax return.

12 C. The secretary of the Department of Revenue may promulgate rules in
 13 accordance with the Administrative Procedure Act to implement the provisions of
 14 this Section, including rules related to the submission of documentation when
 15 claiming the deduction.

16 * * *

17 §6042. Credits; qualifying foster care charitable organizations

18 A.(1)(a) There shall be allowed a nonrefundable income tax credit for
 19 donations a Louisiana taxpayer makes during a taxable year to a qualifying foster
 20 care charitable organization. The amount of the credit shall be equal to the actual
 21 amount of the donation used by the foster care organization to provide services to
 22 qualified individuals, or fifty thousand dollars, whichever is less.

23 (b) The total amount of credits granted by the department pursuant to the
 24 provisions of this Section shall not exceed five hundred thousand dollars per calendar
 25 year. The granting of credits shall be on a first-come, first-served basis. If the total
 26 amount of credits claimed in any particular calendar year exceeds the amount of tax
 27 credits authorized for that year, the excess shall be treated as having been applied for
 28 on the first day of the subsequent year. All requests received on the same business
 29 day shall be treated as received at the same time, and if the aggregate amount of the

1 requests received on a single business day exceeds the total amount of available tax
2 credits, tax credits shall be approved on a pro rata basis.

3 (c) The credit may be used in addition to any federal tax credit or deduction
4 earned for the same donation. However, a taxpayer shall not receive any other state
5 tax credit, exemption, exclusion, deduction, rebate, or any other state tax benefit for
6 a donation for which the taxpayer has received a tax credit pursuant to this Section.

7 (2) If the tax credit earned pursuant to this Section exceeds the total tax
8 liability of a taxpayer in the taxable year, the amount of the credit not used as an
9 offset against the taxpayer's tax liability in the taxable year may be carried forward
10 as a credit against subsequent income tax liabilities for a period not to exceed five
11 taxable years.

12 B. An organization that seeks to become a qualifying foster care charitable
13 organization shall apply to the department and provide the following:

14 (1) A statement, signed by an officer of the organization under penalty of
15 perjury, that the organization meets all of the criteria provided in Paragraph (F)(4)
16 of this Section.

17 (2) A copy of the exemption letter from the Internal Revenue Service
18 verifying the organization is exempt from federal income tax pursuant to Section
19 501(c)(3) of the Internal Revenue Code.

20 (3) A copy of the organization's operating budget for the prior operating year
21 and the amount of the budget spent on providing services to qualified individuals.

22 (4) A copy of any federal income tax return filed by the organization for the
23 prior year.

24 (5) A copy of the financial statements and detailed schedule of expenses for
25 the organization from the prior year.

26 (6) A schedule detailing how the organization calculated the percentage of
27 its budget spent on providing services to qualified individuals.

28 (7) A statement that the organization intends to continue spending at least
29 seventy-five percent of its total budget on providing services to qualified individuals
30 or intends to continue spending at least seventy-five percent of its funds budgeted for

1 Louisiana on providing services to qualified individuals and that one hundred percent
2 of the donations it receives from Louisiana residents will be spent on providing
3 services to qualified individuals.

4 (8) Any other information required by the department.

5 C.(1) No later than the next January thirty-first following approval by the
6 department and annually thereafter no later than January thirty-first, each foster care
7 organization shall file a report with the department prepared by an independent
8 certified public accountant who is not related to a donor or affiliated with the foster
9 care organization.

10 (2) Each report required pursuant to Paragraph (1) of this Subsection shall
11 contain the following:

12 (a) A certification that the organization continues to meet the requirements
13 of this Section.

14 (b) The name, social security number, address, and Louisiana and federal
15 taxpayer identification numbers of each person who made a donation to the foster
16 care organization during the prior calendar year.

17 (c) The amount of each donation received during the prior calendar year.

18 (d) The amount of each donation utilized during the prior calendar year to
19 provide services to qualified individuals and the services provided.

20 (e) Any other information or documentation required by the department.

21 D.(1) A qualified foster care charitable organization shall issue a receipt to
22 each person from whom the foster care organization receives a donation. The receipt
23 shall indicate the actual amount of the donation that was used by the foster care
24 organization to provide services to qualified individuals. A taxpayer shall provide
25 a copy of the receipt to the department when claiming the credit authorized by this
26 Section.

27 (2) The department shall provide a standardized format for the receipt
28 required pursuant to this Subsection.

1 E. The secretary of the department may promulgate rules in accordance with
2 the provisions of the Administrative Procedure Act to implement the provisions of
3 this Section.

4 F. For purposes of this Section, the following words shall have the following
5 meanings unless the context clearly indicates otherwise:

6 (1) "Department" means the Department of Revenue.

7 (2) "Louisiana taxpayer" or "taxpayer" means a person who is required to file
8 a Louisiana income tax return.

9 (3) "Qualified individual" means a child in a foster care placement program
10 established by the Department of Children and Family Services.

11 (4) "Qualifying foster care charitable organization" or "foster care
12 organization" means an organization that meets all of the following criteria:

13 (a) Is exempt from federal income tax pursuant to Section 501(c)(3) of the
14 Internal Revenue Code.

15 (b) Provides services to at least twenty-five qualified individuals each
16 operating year.

17 (c) Spends at least seventy-five percent of its total budget on providing
18 services to qualified individuals or spends at least seventy-five percent of its funds
19 budgeted for Louisiana on providing services to qualified individuals and the
20 organization certifies to the department that one hundred percent of the donations it
21 receives from Louisiana residents will be spent on providing services to qualified
22 individuals.

23 (d) Is approved by the department after applying as provided in Subsection
24 B of this Section.

25 (5) "Services" means cash assistance, medical care, child care, food,
26 clothing, shelter, job placement, and job-training services or any other assistance
27 reasonably necessary to meet immediate basic needs that are provided to a qualified
28 individual and used in Louisiana.

1 Section 2. The provisions of this Act shall be applicable to adoptions finalized on
2 or after January 1, 2022 and to donations made by taxpayers to qualifying foster care
3 charitable organizations on or after January 1, 2022.

4 Section 3. This Act shall become effective on January 1, 2022.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____