RÉSUMÉ DIGEST

ACT 378 (HB 424) **2021 Regular Session** **McFarland**

New law establishes an income tax deduction for a taxpayer who adopts a child who is in foster care, as defined in existing law (Children's Code Art. 603), or a youth receiving extended foster care services pursuant to existing law (R.S. 46:288.1 et seq. - Extended Foster Care Program Act).

New law also establishes an income tax deduction for a taxpayer who adopts an infant who is unrelated to the taxpayer and who is less than one year of age through a private agency or through an attorney. For purposes of new law, the age of the infant is determined at the time of the adoption placement.

New law provides that the amount of these deductions is $5,000 and is applicable in the year the adoption of the child becomes final. Prohibits the amount of the deduction from exceeding the total taxable income of the taxpayer claiming the deduction and provides that the deductions established in new law shall be in lieu of the dependency deduction authorized in existing law (R.S. 47:294).

New law requires taxpayers claiming these deductions to maintain all records necessary to verify the adoption and, if requested, to provide the records to the Dept. of Revenue when filing the taxpayer's tax return.

New law authorizes the promulgation of rules in accordance with existing law (Administrative Procedure Act) to implement the provisions of new law, including rules related to the submission of documentation when claiming these deductions.

Existing law defines "tax table income" for resident individuals as 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, amounts deposited into medical or educational savings accounts, and excess personal exemptions and deductions.

New law adds to the list of income not included in "tax table income" the deduction for adopting a foster child and the deduction for the private adoption of infants less than one year of age.

New law authorizes a nonrefundable income tax credit for donations a La. taxpayer makes during a taxable year to qualifying foster care charitable organizations, hereinafter "foster care organizations".

New law provides that the amount of the credit is equal to the amount of the donation used by the foster care organization to provide services to a qualified individual, or $50,000, whichever is less. The total amount of credits granted pursuant to new law shall not exceed $500,000 per calendar year.

New law requires the credits to be granted on a first-come, first-served basis. If the total amount of credits claimed in a calendar year exceeds the amount of tax credits authorized for that year, the excess shall be treated as having been claimed on the first day of the subsequent year.

New law authorizes a taxpayer to carry forward the amount of the tax credit not used as an offset against the taxpayer's subsequent tax liability for a period not to exceed five taxable years.

New law requires an organization that seeks to become a qualifying foster care charitable organization to apply to the Dept. of Revenue (DOR) and provide certain information. Requires a foster care organization to annually file a report with DOR.

New law defines "Louisiana taxpayer" or "taxpayer" as a person who is required to file a La. income tax return.

New law defines "qualifying foster care charitable organization" or "foster care organization" as an organization that meets all of the following criteria:

(1) Is exempt from federal income tax pursuant to federal law.

(2) Provides services to at least 25 qualified individuals each operating year.

(3) Spends at least 75% of its total budget on providing services to qualified individuals or spends at least 75% of its funds budgeted for La. on providing services to qualified individuals and the organization certifies to DOR that 100% of the donations it receives from La. residents will be spent on providing services to qualified individuals.

(4) Is approved by DOR after applying as provided in new law.

New law defines a "qualified individual" as a child in a foster care placement program established by the Dept. of Children and Family Services.

New law defines "services" as cash assistance, medical care, child care, food, clothing, shelter, job placement, and job-training services or any other assistance reasonably necessary to meet immediate basic needs that are provided for a qualified individual and used in La.

New law requires a qualified foster care charitable organization to issue a receipt to each person from whom the foster care organization receives a donation. Requires the receipt to indicate the actual amount of the taxpayer's donation that was used by the foster care organization to provide services to qualified individuals. Requires a taxpayer to provide a copy of the receipt to DOR when claiming the credit authorized by new law.

New law is applicable to adoptions finalized on or after Jan. 1, 2022, and to donations made by taxpayers to qualifying foster care charitable organizations on or after Jan. 1, 2022.

Effective January 1, 2022.

(Adds R.S. 47:293(9)(a)(xx) and (xxi), 297.16, 297.17, and 6042)