

SENATE BILL NO. 89

BY SENATOR STINE

1 AN ACT

2 To amend and reenact R.S. 47:293(9)(a)(xvii), and (10) and to enact R.S. 47:293.1, relative
3 to individual income tax; to provide relative the deduction from income for net
4 capital gain; to require the Department of Revenue to promulgate regulations relative
5 to the net capital gains deduction; to provide for applicability; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:293(9)(a)(xvii) and (10) are hereby amended and reenacted and
9 R.S. 47:293.1 is hereby enacted to read as follows:

10 §293. Definitions

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

13 * * *

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

18 * * *

19 (xvii) Income from net capital gains, which shall be limited to gains
20 recognized and treated for federal income tax purposes as arising from the sale or
21 exchange of an equity interest in or substantially all of the assets of a nonpublicly
22 traded corporation, partnership, limited liability company, or other business
23 organization commercially domiciled in this state. The provisions of this Item shall
24 apply only to the sale or exchange of an equity interest in or the assets of a
25 nonpublicly traded business that the taxpayer has held for a minimum of five years
26 immediately prior to the sale or exchange. **The Department of Revenue shall**
27 **promulgate regulations in accordance with R.S. 47:293.1 relative to the**

1 individual income tax deduction for income from net capital gains pursuant to
 2 this Item. The amount of the deduction shall be limited as follows:

3 * * *

4 (10) "Tax table income", for nonresident individuals, means the amount of
 5 Louisiana income, as provided in this Part, allocated and apportioned under the
 6 provisions of R.S. 47:241 through 247, plus the total amount of the personal
 7 exemptions and deductions already included in the tax tables promulgated by the
 8 secretary under authority of R.S. 47:295, less the proportionate amount of excess
 9 federal itemized personal deductions; the temporary teacher deduction; the recreation
 10 volunteer and volunteer firefighter deduction; the construction code retrofitting
 11 deduction; any gratuitous grant, loan, or other benefit directly or indirectly provided
 12 to a taxpayer by a hurricane recovery entity if such benefit was included in federal
 13 adjusted gross income; any gratuitous grant, loan, rebate, tax credit, advance refund,
 14 or other qualified disaster relief benefit directly or indirectly provided to a taxpayer
 15 by the state or federal government as a COVID-19 relief benefit as defined in R.S.
 16 47:297.16 if the benefit was included in the taxpayer's federal adjusted gross income;
 17 the exclusion provided for in R.S. 47:297.3 for S Bank shareholders; the deduction
 18 for expenses disallowed by 26 U.S.C. 280C; salaries, wages, or other compensation
 19 received for disaster or emergency-related work rendered during a declared state
 20 disaster or emergency; wages of nonresident individuals who are eligible for the
 21 mobile workforce exemption pursuant to R.S. 47:248; the deduction for net capital
 22 gains; the pass-through entity exclusion provided in R.S. 47:297.14; the exemption
 23 for military survivor benefit plan payments pursuant to R.S. 47:297.17; and personal
 24 exemptions and deductions provided for in R.S. 47:294. The proportionate amount
 25 is to be determined by the ratio of Louisiana income to federal adjusted gross
 26 income. When federal adjusted gross income is less than Louisiana income, the ratio
 27 shall be one hundred percent. The Department of Revenue shall promulgate
 28 regulations in accordance with R.S. 47:293.1 relative to the individual income
 29 tax deduction for income from net capital gains pursuant to this Paragraph.

30 * * *

1 **§293.1. Regulation requirement for capital gains deduction**

2 **A. The secretary of the Department of Revenue shall promulgate**
3 **regulations providing for the individual income tax deduction for income from**
4 **net capital gains arising from the sale or exchange of an equity interest in or**
5 **substantially all of the assets of a nonpublicly traded corporation, partnership,**
6 **limited liability company, or other business organization commercially**
7 **domiciled in Louisiana under R.S. 47:293(9)(a)(xvii) and (10).**

8 **B. The purpose of the regulations shall be to reduce the existing**
9 **administrative requirements for eligible taxpayers.**

10 **C. Such regulations shall, at a minimum, provide for the following:**

11 **(1) Documentation requirements applicable to taxpayers claiming the**
12 **deduction.**

13 **(2) A de minimus exception to documentation requirements for small**
14 **transactions eligible for the deduction.**

15 **(3) Restrictions on eligibility for transactions if the majority of physical**
16 **assets are located outside of Louisiana.**

17 **(4) Restrictions on eligibility for transactions between related parties.**

18 Section 2. This Act shall be applicable for taxable periods beginning on or after
19 January 1, 2023.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____