

Regular Session, 2008

SENATE BILL NO. 87

BY SENATORS SHAW, ADLEY, ALARIO, AMEDEE, BROOME, CASSIDY, CHAISSON, CHEEK, CRAVINS, CROWE, DONAHUE, DORSEY, DUPLESSIS, DUPRE, ERDEY, B. GAUTREAUX, N. GAUTREAUX, GRAY, HEBERT, HEITMEIER, KOSTELKA, LAFLEUR, LONG, MARIONNEAUX, MARTINY, MCPHERSON, MICHOT, MOUNT, MURRAY, NEVERS, RISER, SCALISE, SHEPHERD, SMITH, THOMPSON AND WALSWORTH

TAX/INCOME/PERSONAL. Phases out the tax on incomes of individuals, estates, and trusts over a 10-year period at 10% per year beginning in 2008, and provides that certain refundable credits are still refundable even if there is little or no individual income tax. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:31, 32(A), 290(B), 297.4(B)(1), 300.1, 6006(B), 6006.1(C),
3 6023(D)(1), and 6025(C), and R.S. 51:1807(C), relative to individual income tax; to
4 provide for a reduction of the tax by phasing-out the tax on incomes of individuals,
5 estates, and trusts; to provide with respect to certain refundable tax credits; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:31, 32(A), 290(B), 297.4(B)(1), 300.1, 6006(B), 6006.1(C),
9 6023(D)(1), and 6025(C) are hereby amended and reenacted to read as follows:

10 §31. Individuals, corporations and trusts subject to tax

11 There shall be levied, collected, and paid for each taxable year until January
12 1, 2017 a tax upon the net income of residents and nonresidents, estates, and trusts,
13 and a tax upon the net income of corporations for each taxable year, as hereinafter
14 provided.

15 (1) Resident individuals. Until January 1, 2017, every person residing
16 within the state, or the personal representative in the event of death, shall pay a tax
17 on net income from whatever source derived, except as hereinafter exempted.

1 Every natural person domiciled in the state, and every other natural person
 2 who maintains a permanent place of abode within the state or who spends in the
 3 aggregate more than six months of the taxable year within the state, shall be deemed
 4 to be a resident of this state for the purpose of determining liability for income taxes
 5 under this Chapter.

6 (2) Nonresident individuals. **Until January 1, 2017,** every nonresident shall
 7 pay a tax upon such net income as is derived from property located, or from services
 8 rendered, or from business transacted within the state, or from sources within the
 9 state, except as hereinafter exempted.

10 * * *

11 §32. Rates of tax

12 A.**(1)** On individuals. **Until January 1, 2008,** ~~The~~ **the** tax to be assessed,
 13 levied, collected, and paid upon the taxable income of an individual shall be
 14 computed at the following rates:

15 ~~(1)~~**(a)** Two percent on that portion of the first twelve thousand five hundred
 16 dollars of net income which is in excess of the credits against net income provided
 17 for in R.S. 47:79;

18 ~~(2)~~**(b)** Four percent on the next twelve thousand five hundred dollars of net
 19 income;

20 ~~(3)~~**(c)** Six percent on any amount of net income in excess of twenty-five
 21 thousand dollars of net income.

22 **(2) Beginning January 1, 2008 until January 1, 2017, the tax upon the**
 23 **taxable income of an individual shall be determined as provided for in**
 24 **Paragraph (1) of this Subsection, but the tax to be assessed, levied, collected and**
 25 **paid by the individual shall be limited to the following percentages of the tax**
 26 **due:**

27 **(a) For tax years beginning during 2008, ninety percent.**

28 **(b) For tax years beginning during 2009, eighty percent.**

29 **(c) For tax years beginning during 2010, seventy percent.**

- 1 **(d) For tax years beginning during 2011, sixty percent.**
- 2 **(e) For tax years beginning during 2012, fifty percent.**
- 3 **(f) For tax years beginning during 2013, forty percent.**
- 4 **(g) For tax years beginning during 2014, thirty percent.**
- 5 **(h) For tax years beginning during 2015, twenty percent.**
- 6 **(i) For tax years beginning during 2016, ten percent.**
- 7 **(3) For tax years beginning on and after January 1, 2017, there shall be**
- 8 **no income tax assessed, levied, collected and paid on income.**

* * *

§290. Purpose

* * *

B. It is intended that for any taxable year **beginning before January 1, 2017** individuals domiciled, residing, or having a permanent place of abode in Louisiana shall be taxed upon income from whatever sources derived and that all other individuals having income earned within or derived from sources in this state shall be taxed upon their Louisiana income for that year.

* * *

§297.4. Reduction to tax due; certain child care expenses

* * *

B.(1) If the credit against Louisiana income tax for resident individuals whose federal adjusted gross income is equal to or less than twenty-five thousand dollars exceeds the amount of such individual's tax liability for the taxable year, then such excess tax credit shall constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund of such overpayment from the current collections of the taxes imposed under this Part **or from current collections of any of the taxes collected under this Chapter.** The right to a refund of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

* * *

§300.1. Tax imposed

1 income and corporation franchise taxes. Credit for taxes paid by unincorporated
 2 persons shall be applied to state personal income taxes, **if any**. The taxpayer shall be
 3 entitled to a refund for any allowable credit which exceeds the aggregate tax liability
 4 of the taxpayer for the taxes imposed by Chapter 1 and Chapter 5 of Subtitle II of
 5 this Title, **if any**. The secretary shall make such refund to the taxpayer in the amount
 6 to which he is entitled from the current collections of **any of** the taxes collected
 7 pursuant to Chapter 1 and Chapter 5 of such Subtitle II.

8 * * *

9 §6006.1. Tax credits for taxes paid with respect to vessels in Outer Continental
 10 Shelf Lands Act Waters

11 * * *

12 C. Notwithstanding any other provision of law to the contrary in Title 47 of
 13 the Louisiana Revised Statutes of 1950, as amended, any excess of allowable credit
 14 established by this Section over the aggregate tax liabilities, **if any**, against which
 15 such credit can be applied, as provided in this Section, shall constitute an
 16 overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund
 17 of such overpayment from the current collections of **any of** the taxes imposed by
 18 Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of
 19 1950, as amended, together with interest as provided in R.S. 47:1624. The right to
 20 a credit or refund of any such overpayment shall not be subject to the requirements
 21 of R.S. 47:1621(B). All credits and refunds, together with interest thereon, must be
 22 paid or disallowed within ninety days of receipt by the secretary, of any such claim
 23 for refund or credit. Failure of the secretary to pay or disallow, in whole or in part,
 24 any claim for a credit or a refund shall entitle the aggrieved taxpayer to proceed with
 25 the remedies provided in R.S. 47:1625.

26 * * *

27 §6023. Sound recording investor tax credit

28 * * *

29 D.(1) The credit shall be allowed against the individual or corporate income

1 tax for the taxable period in which the credit is earned. Any excess of the credit over
 2 the income tax liability, **if any**, against which the credit can be applied shall
 3 constitute an overpayment, as defined in R.S. 47:1621(A), and the secretary shall
 4 make a refund of such overpayment from the current collections of **any of** the taxes
 5 imposed by Chapter 1 of Subtitle II of this Title, as amended. The right to a refund
 6 of any such overpayment shall not be subject to the requirements of R.S. 47:1621(B).

7 * * *

8 §6025. Tax credit for Louisiana Citizens Property Insurance Corporation assessment

9 * * *

10 C. Notwithstanding any other provision of law to the contrary, any excess of
 11 allowable credit established by this Section over the tax liabilities, **if any**, against
 12 which such credit can be applied, as provided in this Section, shall constitute an
 13 overpayment, as defined in R.S. 47:1621(A), and the secretary shall make a refund
 14 of such overpayment from **any of** the current collections of the taxes imposed by
 15 Chapter 1 of Subtitle II of this Title, together with interest as provided in R.S.
 16 47:1624. The right to a credit or refund of any such overpayment shall not be subject
 17 to the requirements of R.S. 47:1621(B). All credits and refunds, together with
 18 interest thereof, must be paid or disallowed within one year of receipt by the
 19 secretary of any such claim for refund or credit. Failure of the secretary to pay or
 20 disallow, in whole or in part, any claim for a credit or a refund shall entitle the
 21 aggrieved taxpayer to proceed with the remedies provided in R.S. 47:1625.

22 * * *

23 Section 2. R.S. 51:1807(C) is hereby amended and reenacted to read as follows:

24 §1807. Incentives

25 * * *

26 C. The board, after consultation with the secretaries of the Department of
 27 Economic Development and the Department of Revenue and with the approval of the
 28 governor, may enter into contracts to provide for a five thousand dollar tax credit per
 29 net new employee as determined by the company's average annual employment

1 reported under the Louisiana Employment Security Law. This tax credit may be
 2 applied to any state income tax liability or any state franchise tax liability and shall
 3 be used for the taxable year in which the increase in average annual employment
 4 occurred. However, if the entire credit cannot be used in the year earned, the excess
 5 of the credit over the aggregate tax liabilities, **if any**, against which the credit can be
 6 applied shall constitute an overpayment, as defined in R.S. 47:1621(A), and the
 7 secretary shall make a refund of such overpayment from **any of** the current
 8 collections of the taxes imposed by Chapter 1 and Chapter 5 of Subtitle II of Title 47
 9 of the Louisiana Revised Statutes of 1950, as amended. The right to a refund of any
 10 such overpayment shall not be subject to the requirement of R.S. 47:1621(B).

11 * * *

12 Section 3. This Act shall become effective upon signature by the governor or, if not
 13 signed by the governor, upon expiration of the time for bills to become law without signature
 14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 16 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Riley Boudreaux.

DIGEST

Shaw (SB 87)

Proposed law phases out the tax on incomes of individuals, estates, and trusts over a ten-year period taxes at 10% per year beginning for 2008 taxes, so that there will be no tax assessed for tax periods beginning January 1, 2017 and thereafter.

Proposed law clarifies that certain refundable credits are still refundable even if there is little or no individual income tax.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 47:31, 32(A), 290(B), 297.4(B)(1), 300.1, 6006(B), 6006.1(C), 6023(D)(1), and 6025(C), and R.S. 51:1807(C))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to original bill.

1. Deletes provisions immediately restoring the full deduction for "excess federal itemized deductions."

Senate Floor Amendments to engrossed bill.

1. Changes the bill from a reduction of individual income tax rates in the two highest brackets to the same amounts as provided for prior to the enactment of the Stelly Plan (Act 51 of 2002) to a 10 year phase out of individual income tax.