

HOUSE BILL NO.

BY

VERSION 1

TAX/INCOME TAX: Repeals individual income tax

*D*

1

AN ACT

2

To amend and reenact R.S. 47:22, 31(introductory paragraph), 32(C), 103,

3

120.31(A)(1)(introductory paragraph), 241, 287.732(B) and (C), and 1520(A)(1)(c)

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through (f), and to repeal R.S. 47:11, 12, 31(1) through (5), 32(A) and (B), 33, 36, 37,

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Subpart C of Part I of Chapter 1 of Subtitle II of Title 47, comprised of R.S. 47:41

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through 79, 101, Subparts F through H of Part I of Chapter 1 of Subtitle II of Title 47,

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comprised of R.S. 47:111 through 120.26, Subparts J through JJ of Part I of Chapter 1 of

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Subtitle II of Title 47, comprised of R.S. 47:120.32 through 120.171, Subparts C and D of

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Part II of Chapter 1 of Subtitle II of Title 47, comprised of R.S. 47:181 through 220.3,

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Parts III through VI of Chapter 1 of Subtitle II of Title 47, comprised of R.S. 47:290

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through 300.11, 1520.1, 6004, 6005, 6008 through 6013, 6016, 6017, 6018, 6021, 6025

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through 6033, 6035 and 6037, relative to individual income tax; to repeal the tax imposed

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on the income of individuals, trusts, estates and partnerships; to provide with respect to

14

certain tax credits; to repeal the Sports Facility Assistance Fund; to provide for

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effectiveness; and to provide for related matters.

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Be it enacted by the Legislature of Louisiana:

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Section 1. R.S. 47:22, 31(introductory paragraph), 32(C), and 103,

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120.31(A)(1)(introductory paragraph), 241, 287.32(B) and (C), and 1520(A)(1)(c) through (f),

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are hereby amended and reenacted to read as follows:

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§22. Special classes of taxpayers

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The application of the general provisions of Part I, and Sub-parts A and B of Part

1 II of this Sub-title to each of the following special classes of taxpayers, shall be subject to  
2 the exceptions and additional provisions found in Part II of this Sub-title applicable to  
3 such class, as follows:

- 4 ~~(1) Estates and trusts and the beneficiaries thereof, Sub-part C of Part II.~~
- 5 ~~(2) Members of partnerships, Sub-part D of Part II.~~
- 6 ~~(3) Insurance companies, Sub-part E of Part II.~~
- 7 ~~(4) (2) Foreign corporations, Sub-part G of Part II.~~

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\* \* \*

9 §31. ~~Individuals, corporations and trusts~~ Corporations subject to tax

10 There shall be levied, collected, and paid for each taxable year a tax upon the net  
11 income of ~~residents and nonresidents, estates, trusts and corporations, as hereinafter~~  
12 ~~provided~~ from sources within the state, as further provided in this Part. §32. Rates of

*A*

\* \* \*

13 tax  
14  
15 ~~€.~~ On corporations: ~~The~~ the tax to be assessed, levied, collected, and paid upon  
16 the net income of every corporation shall be computed at the rate of:

\* \* \*

*F*

17  
18 §120.31. ~~Individual and corporate~~ Corporate tax checkoffs for donations to the Louisiana  
19 Military Family Assistance Fund

*T*

20 A.(1) For tax years beginning on and after January 1, 2005, every ~~individual and~~  
21 corporation that files ~~an individual income tax return~~ or a corporate income or franchise  
22 tax return is authorized to do any of the following:

\* \* \*

23  
24 §241. Net income subject to tax

25 The net income of a ~~nonresident individual~~ or a corporation subject to the tax  
26 imposed by this Chapter shall be the sum of the net allocable income earned within or  
27 derived from sources within this state, as defined in R.S. 47:243, and the net  
28 apportionable income derived from sources in this state, as defined in R.S. 47:244, less  
29 the amount of federal income taxes attributable to the net allocable income and net  
30 apportionable income derived from sources in this state. The amount of federal income

1 taxes to be so deducted shall be that portion of the total federal income tax which is  
2 levied with respect to the particular income derived from sources in this state to be  
3 computed in accordance with rules and regulations of the ~~collector~~ secretary of revenue.  
4 Proper adjustment shall be made for the actual tax rates applying to different classes of  
5 income and for all differences in the computation of net income for purposes of federal  
6 income taxation as compared to the computation of net income under this Chapter.

7 Where the allocation of the tax is to be based on a ratio of the amount of net income of a  
8 particular class, both the numerator and the denominator of the fraction used in  
9 determining the ratio shall be computed on the basis that such net income is determined  
10 for federal income tax purposes.

11 *R* \* \* \*  
12 §287.732. S Corporations

13 \* \* \*  
14 B. ~~S corporation exclusion.~~ This Subsection provides an exclusion to  
15 corporations classified as S corporations under federal law for the taxable year, as  
16 follows:

17 ~~(1) In computing Louisiana taxable income pursuant to this Part, an S corporation~~  
18 ~~may exclude such percentage of its Louisiana net income for the taxable year as is~~  
19 ~~provided in R.S. 47:287.732(B)(2).~~

20 ~~(2) The excludable percentage of Louisiana net income is determined by~~  
21 ~~multiplying Louisiana net income for a taxable year by a ratio, the numerator of which is~~  
22 ~~the number of issued and outstanding shares of capital stock of the S corporation which~~  
23 ~~are owned by Louisiana resident individuals on the last day of the corporation's taxable~~  
24 ~~year, and the denominator of which is the total number of issued and outstanding shares~~  
25 ~~of capital stock of the corporation on the last day of the corporation's taxable year,~~  
26 ~~provided that no share shall be allowed to be counted in the numerator unless its owner~~  
27 ~~has for the taxable year of inclusion filed a correct and complete Louisiana individual~~  
28 ~~income tax return as a resident.~~

29 ~~(3) For purposes of Paragraph (2) of this Subsection:~~

30 ~~(a) "Taxable year of inclusion" means the taxable year of the S corporation~~

1 shareholder which includes the last day of the S corporation's taxable year for which the  
2 exclusion is claimed.

3 (b) ~~The term "resident individual" includes resident estates and trusts to the~~  
4 ~~extent that such are allowed to be S corporation shareholders pursuant to federal law.~~

5 (4) ~~In the application of Paragraph (2), the term "Louisiana resident individual"~~  
6 ~~shall be construed to include a nonresident individual share holder who has for the~~  
7 ~~taxable year filed a correct and complete Louisiana individual income tax return, which~~  
8 ~~includes his share of the S corporation's income, and has paid the tax shown to be due~~  
9 ~~thereon.~~

10 (5) ~~Should an S corporation incur a Louisiana net loss, as described in R.S.~~  
11 ~~47:287.91, a percentage of such loss shall be excluded from carry-back or carry-over~~  
12 ~~treatment notwithstanding the provisions of R.S. 47:287.86. The applicable percentage of~~  
13 ~~the Louisiana net loss to be excluded shall be computed using the same ratio provided in~~  
14 ~~R.S. 47:287.732(B)(2).~~

15 ~~€. Qualified Subchapter S subsidiary income. The income of a corporation for~~  
16 ~~which an S corporation has made a valid election under the Internal Revenue Code to~~  
17 ~~treat the corporation as a qualified Subchapter S subsidiary shall be included in the~~  
18 ~~income of the S corporation unless the qualified Subchapter S subsidiary is treated as a~~  
19 ~~separate corporation under the provisions of R.S. 47:287.732.1.~~

20 \* \* \*

21 §1520. Electronically filed returns; signatures

22 A.(1) The secretary may require electronic filing of tax returns or reports under  
23 any of the following circumstances:

24 \* \* \*

25 (c) ~~Individual income tax returns prepared by a tax preparer that prepares more~~  
26 ~~than one hundred state individual income tax returns during any calendar year may be~~  
27 ~~required to be filed electronically as follows:~~

28 (i) ~~Thirty percent of the returns due on or after January 1, 2008.~~

29 (ii) ~~Sixty percent of the returns due on or after January 1, 2010.~~

30 (iii) ~~Ninety percent of the returns due on or after January 1, 2012.~~

