

2023 Regular Session

HOUSE BILL NO. 639

BY REPRESENTATIVE FREIBERG

TAX/INCOME TAX: Repeals the individual income tax deduction for net capital gains

1 AN ACT

2 To amend and reenact R.S. 47:293(10) and to repeal R.S. 47:293(9)(a)(xvii), relative to
3 individual income tax; to provide relative to deductions from tax table income
4 allowed for resident and nonresident individuals; to repeal the individual income tax
5 deduction for net capital gains; to provide for limitations; to provide for
6 applicability; to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:293(10) is hereby amended and reenacted to read as follows:

9 §293. Definitions

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

12 * * *

13 (10) "Tax table income", for nonresident individuals, means the amount of
14 Louisiana income, as provided in this Part, allocated and apportioned under the
15 provisions of R.S. 47:241 through 247, plus the total amount of the personal
16 exemptions and deductions already included in the tax tables promulgated by the
17 secretary under authority of R.S. 47:295, less the proportionate amount of excess
18 federal itemized personal deductions; the temporary teacher deduction; the recreation
19 volunteer and volunteer firefighter deduction; the construction code retrofitting
20 deduction; any gratuitous grant, loan, or other benefit directly or indirectly provided

1 to a taxpayer by a hurricane recovery entity if such benefit was included in federal
 2 adjusted gross income; any gratuitous grant, loan, rebate, tax credit, advance refund,
 3 or other qualified disaster relief benefit directly or indirectly provided to a taxpayer
 4 by the state or federal government as a COVID-19 relief benefit as defined in R.S.
 5 47:297.16 if the benefit was included in the taxpayer's federal adjusted gross income;
 6 the exclusion provided for in R.S. 47:297.3 for S Bank shareholders; the deduction
 7 for expenses disallowed by 26 U.S.C. 280C; salaries, wages, or other compensation
 8 received for disaster or emergency-related work rendered during a declared state
 9 disaster or emergency; wages of nonresident individuals who are eligible for the
 10 mobile workforce exemption pursuant to R.S. 47:248; ~~the deduction for net capital~~
 11 ~~gains~~; the pass-through entity exclusion provided in R.S. 47:297.14; the exemption
 12 for military survivor benefit plan payments pursuant to R.S. 47:297.17; and personal
 13 exemptions and deductions provided for in R.S. 47:294. The proportionate amount
 14 is to be determined by the ratio of Louisiana income to federal adjusted gross
 15 income. When federal adjusted gross income is less than Louisiana income, the ratio
 16 shall be one hundred percent.

17 * * *

18 Section 2. R.S. 47:293(9)(a)(xvii) is hereby repealed in its entirety.

19 Section 3.(A) The provisions of this Act shall apply to taxable periods beginning on
 20 or after January 1, 2024.

21 (B) No deduction for net capital gains shall be allowed for sales or exchanges of
 22 equity interests or assets occurring before January 1, 2024. A deduction for net capital gains
 23 shall only be allowed for gains reportable as installment sales pursuant to Section 453 of the
 24 Internal Revenue Code, as amended.

25 Section 4. This Act shall become effective upon signature by the governor or, if not
 26 signed by the governor, upon expiration of the time for bills to become law without signature
 27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 639 Original

2023 Regular Session

Freiberg

Abstract: Repeals the individual income tax deduction for net capital gains for resident and nonresident taxpayers.

Present law relative to individual income tax establishes definitions of "tax table income" (referred to informally as "taxable income") for resident and nonresident individuals, respectively.

Present law provides for deductions from tax table income for net capital gains for both resident and nonresident individuals. Proposed law repeals present law.

Proposed law applies to taxable periods beginning on or after Jan. 1, 2024. Stipulates that no deduction for net capital gains shall be allowed for sales or exchanges of equity interests or assets occurring before Jan. 1, 2024, and that a deduction for net capital gains shall only be allowed for gains reportable as installment sales pursuant to applicable provisions of the federal Internal Revenue Code (26 U.S.C. 453).

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

(Amends R.S. 47:293(10); Repeals R.S. 47:293(9)(a)(xvii))