

2016 Second Extraordinary Session

HOUSE BILL NO. 38

BY REPRESENTATIVE WHITE

TAX/INCOME TAX: Reduces the amount of the individual income tax deduction for excess federal itemized personal deductions (Item #42)

1 AN ACT

2 To amend and reenact R.S. 47:293(3)(c) and to enact R.S. 47:293(3)(d) and (e), relative to
3 the individual income tax; to provide with respect to the deduction for excess federal
4 itemized personal deductions; to reduce the amount of the deduction under certain
5 circumstances; to provide for certain requirements and limitations; to authorize the
6 carry forward and refund of amounts of the deduction under certain circumstances;
7 to provide for applicability; to provide for an effective date; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:293(3)(c) is hereby amended and reenacted and R.S. 47:293(3)(d)
11 and (e) are hereby enacted to read as follows:

12 §293. Definitions

13 The following definitions shall apply throughout this Part, unless the context
14 requires otherwise:

15 * * *

16 (3) "Excess federal itemized personal deductions" for the purposes of this
17 Part, means the following percentages of the amount by which the federal itemized
18 personal deductions exceed the amount of federal standard deductions which is
19 designated for the filing status used for the taxable period on the individual income
20 tax return required to be filed;

21 * * *

1 (c) For all tax years beginning on and after January 1, 2009, and ending on
2 or before December 31, 2015, one hundred percent of such excess federal itemized
3 personal deductions.

4 (d) For tax years beginning during calendar years 2016 and 2017, the greater
5 of either:

6 (i) Fifty-seven and one half percent of such excess federal itemized personal
7 deductions; or

8 (ii) One hundred percent of qualified residence interest on a Louisiana
9 residence and charitable contributions used by the taxpayer in the calculation of
10 federal taxable income which exceed the amount of the federal standard deduction
11 which is designated for the filing status used for the taxable period on the individual
12 income tax return to be filed. For purposes of this Part, "qualified residence interest"
13 has the meaning given to the term in Section 163(h)(3) of the Internal Revenue Code
14 and is subject to all applicable federal limitations. Furthermore, for purposes of this
15 Part, the term "charitable contribution" has the meaning given to the term in Section
16 170 of the Internal Revenue Code and is subject to all applicable limitations.

17 (e) For tax years beginning on and after January 1, 2018, one hundred
18 percent of such excess federal itemized personal deductions.

19 * * *

20 Section 2. No later than July 1, 2016, the Revenue Estimating Conference shall meet
21 and forecast the amount of revenue attributable to the 2016 Second Extraordinary Session,
22 including the revenue increase attributable to the reduction of the amount of excess itemized
23 personal deduction provided in R.S. 47:293(3). The forecasted amount of State General
24 Fund for FY 16-17 attributable to the 2016 Second Extraordinary Session and adopted by
25 the Revenue Estimating Conference shall be designated as the base forecast amount for FY
26 16-17. If at any time the State General Fund revenues forecasted for FY 16-17 by the
27 Revenue Estimating Conference exceeds the base by more than the amount of revenue
28 increase attributable to the reduction of the amount of excess federal itemized personal
29 deduction for FY 16-17 provided in R.S. 47:293(3), the reduction in the amount of the

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 deduction shall be terminated and taxpayers claiming this deduction shall be entitled to claim
2 one hundred percent of the amount of their excess federal itemized personal deductions for
3 the 2016 tax year on the return filed with the Department of Revenue. If the taxpayer has
4 filed the return for the 2016 tax year at the time the Revenue Estimating Conference
5 recognizes revenue in the forecast that exceeds the base by more than the amount of revenue
6 attributable to this Act, the taxpayer may carry forward and recoup the full amount of the
7 deduction on their tax return for the 2017 tax year.

8 Section 3. No later than July 1, 2017, the Revenue Estimating Conference shall meet
9 and forecast the amount of State General Fund for FY 17-18, including the revenue increase
10 attributable to the reduction of the excess federal itemized personal deduction provided in
11 R.S. 47:293(3), which shall be designated as the base forecast amount for FY 17-18. If at
12 any time the State General Fund revenues forecasted for FY 17-18 by the Revenue
13 Estimating Conference exceeds the base by more than the amount of revenue increase
14 attributable to the reduction of the amount of excess federal itemized personal deductions
15 for FY 17-18 provided in R.S. 47:293(3), the reduction in the amount of the deduction shall
16 be terminated and taxpayers claiming this deduction shall be entitled to claim one hundred
17 percent of the amount of their excess federal itemized personal deductions for the 2017 tax
18 year. If a taxpayer has filed the return for the 2017 tax year at the time the Revenue
19 Estimating Conference recognizes revenue in the forecast that exceeds the base amount of
20 revenue attributable to this Act, the taxpayer may carry forward and recoup the full amount
21 of the deduction on their tax return for the 2018 tax year.

22 Section 4. If the reduction in the amount of the excess federal itemized personal
23 deduction is not reinstated to one hundred percent prior to the beginning of the 2018 tax year
24 pursuant to the provisions of R.S. 47:293(3), taxpayers who would have otherwise been
25 entitled to deduct one hundred percent of their excess federal itemized personal deductions
26 in tax years 2016 and 2017 shall be entitled to carry forward and recoup any reduced amount
27 of the deduction that was carried forward from tax years 2016 and 2017, in addition to
28 claiming one hundred percent of the excess federal itemized personal deductions for tax year
29 2018.

1 Section 5. The provisions of this Act shall be applicable to all tax years beginning
2 on and after January 1, 2016.

3 Section 6. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 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 38 Engrossed

2016 Second Extraordinary Session

White

Abstract: Temporarily reduces the amount of the individual income tax deduction for excess federal itemized personal deductions in tax years 2016 and 2017 from 100% of the deduction to the greater of 57.5% of all excess federal itemized personal deductions or 100% of mortgage interest and charitable donations.

Present law authorizes a deduction from individual income taxes for excess federal itemized personal deductions. Excess federal itemized personal deductions is defined to mean 100% of the amount by which the federal itemized personal deductions exceed the amount of federal standard deduction designated for the filing status used for the taxable period on the individual income tax return.

Proposed law reduces the amount of the deduction for excess federal itemized personal deductions for tax years 2016 and 2017 to the greater of 57.5% of all excess federal itemized personal deductions or 100% of qualified residence interest on a La. residence and charitable contributions used by the taxpayer in the calculation of federal taxable income which exceed the amount of the federal standard deduction.

Proposed law defines "qualified residence interest" and "charitable contribution" for purposes of proposed law.

Proposed law reinstates the amount of the deduction to 100% of excess federal itemized personal deductions for tax years beginning on and after Jan. 1, 2018.

Proposed law provides that no later than July 1, 2016, the Revenue Estimating Conference (REC) shall meet and forecast the amount of revenue attributable to the 2016 2nd E.S., including the revenue increase attributable to the reduction of the amount of excess itemized personal deduction. The forecasted amount of SGF for FY 16-17 adopted by the REC shall be designated as the base forecast amount for FY 16-17. If at any time during FY 16-17, the SGF forecasted for FY 16-17 exceeds the base by more than the amount of revenue increase attributable to the reduction of the amount of excess itemized personal deduction for FY 16-17, the reduction in the amount of the deduction shall be terminated and taxpayers claiming this deduction shall be entitled to claim 100% of their excess federal itemized personal deductions for the 2017 tax year.

Proposed law provides that no later than July 1, 2017, REC shall meet and forecast the amount of SGF for FY 17-18, that includes the revenue attributable to the excess federal itemized personal deduction which shall be designated as the base forecast amount for FY 17-18. If at any time during FY 17-18 the SGF revenues forecasted for FY17-18 exceeds the base by more than the amount of revenue increase attributable to the reduction of the amount of excess federal itemized personal deduction for FY 17-18, the reduction in the amount of the deduction shall be terminated and taxpayers shall be entitled to claim 100% of the amount of their excess federal itemized personal deductions for the 2018 tax year.

Proposed law provides that in any year in which the reduction in the amount of the deduction is terminated, if a taxpayer has already filed their income tax return, the taxpayer shall be allowed to carry forward the amount of the deduction in which they were entitled to the tax return of the next taxable year.

Proposed law further provides that if the reduction in the amount of the deduction is not reinstated to 100% prior to the beginning of the 2018 tax year, taxpayers who would have otherwise been entitled to deduct 100% of their excess federal itemized personal deductions in tax years 2016 and 2017 shall be entitled to carry forward and recoup any reduced amount of the deduction that was carried forward from tax years 2016 and 2017 in addition to claiming 100% of the excess federal itemized personal deductions for tax year 2018.

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

(Amends R.S. 47:293(3); Adds R.S. 47:293(3)(d) and (e))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the amount of the reduction from 57.5% to the greater of 57.5% of all excess federal itemized personal deductions or 100% of excess federal itemized personal deductions attributable to mortgage interest and charitable donations.
2. Add a mechanism for the reinstatement of the amount of the deduction to 100% prior to the beginning of the 2018 tax year.