

2015 Regular Session

HOUSE BILL NO. 530

BY REPRESENTATIVE STOKES

TAX/CORP INCOME: Limits the net operating loss deduction associated with income tax

1 AN ACT

2 To amend and reenact R.S. 47:181(B)(2), 246(E) and (G), 287.86, 1621(B)(7), and 1623(C),
3 (D), and (E)(introductory paragraph), and to enact R.S. 47:181(B)(3), relative to
4 corporate income tax; to provide for the net operating loss deduction; to eliminate
5 net operating loss deduction carryback; to increase net operating loss deduction
6 carryforward; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:181(B)(2), 246(E) and (G), 287.86, 1621(B)(7), and 1623(C), (D),
9 and (E)(introductory paragraph) are hereby amended and reenacted and R.S. 47:181(B)(3)
10 is hereby enacted to read as follows:

11 §181. Imposition of tax on estates and trusts

12 * * *

13 B. Computation and payment.

14 * * *

15 (2) The amount of a net operating loss for any tax year beginning on or after
16 January 1, 1992 and before January 1, 2000, may be deducted from net income in
17 any of the fifteen years immediately following the year in which the loss occurred.

18 (3) The amount of a net operating loss for any tax year beginning on or after
19 January 1, 2000, may be deducted from net income in any of the twenty years
20 immediately following the year in which the loss occurred.

21 * * *

1 taxable years preceding the taxable year of such loss, unless carryback treatment is
2 relinquished pursuant to R.S. 47:287.86(D).

3 (2) For losses incurred for taxable years beginning before January 1, 1984,
4 a net operating loss carryover to each of the five taxable years following the taxable
5 year of such loss.

6 (3) For losses incurred for taxable years beginning on or after January 1, 1984
7 and before January 1, 2000, a net operating loss carryover to each of the fifteen
8 taxable years following the taxable year of such loss.

9 (4) For losses incurred for taxable years beginning on or after January 1,
10 2000, a net operating loss carryover to each of the twenty taxable years following the
11 taxable year of such loss.

12 C. Manner and amount of ~~carrybacks and~~ carryovers. The entire amount of
13 Louisiana net loss for any taxable year, hereinafter the "loss year", shall be carried
14 back over to the earliest of the taxable years allowed, ~~unless an election to relinquish~~
15 ~~carryback treatment is made, in which case such loss shall be carried to the earliest~~
16 ~~of the taxable years allowed for carryovers.~~ The portion of such loss which shall be
17 carried to each of the other taxable years allowed by Subsection B shall be the
18 excess, if any, of the amount of such loss over the aggregate of the Louisiana taxable
19 income for each of the ~~prior~~ taxable years to which such loss may be carried. For the
20 purposes of this Subsection:

21 (1) Louisiana taxable income shall not be adjusted to less than zero.

22 (2) In calculating the aggregate Louisiana taxable incomes in cases where
23 more than one loss year must be taken into account, the various net operating loss
24 carryovers ~~and carrybacks~~ to such taxable year are considered to be applied in
25 reduction of Louisiana net income in the order of the taxable years from which such
26 losses are carried over ~~or carried back~~, beginning with the loss for the earliest taxable
27 year.

1 ~~D. Election to relinquish carryback. Any taxpayer may make an election to~~
2 ~~relinquish the carryback treatment allowed and have its Louisiana net loss treated~~
3 ~~only as a carryover. Such election shall be made as prescribed by the secretary.~~

4 E.D. Statement with tax return. Every corporation claiming a net operating
5 loss deduction for any taxable year shall file with its return for such year a concise
6 statement setting forth the amount of the net operating loss claimed and all material
7 and pertinent facts relative thereto, including a detailed schedule showing the
8 computation of the net operating loss deduction.

9 ~~F. Adjustment dependent upon Louisiana net loss carryback. If in computing~~
10 ~~the net operating loss deduction the taxpayer is entitled to a carryback which cannot~~
11 ~~be ascertained at the time the return is due, the deduction, if any, shall be computed~~
12 ~~without regard to such carryback. When the taxpayer ascertains the correct amount~~
13 ~~of such carryback, a claim for credit or refund of the overpayment, if any, resulting~~
14 ~~from the failure to compute the deduction for the taxable year with the inclusion of~~
15 ~~such carryback may be filed within the prescriptive period, or the taxpayer may file~~
16 ~~an application for a tentative refund as provided in Subsection G.~~

17 ~~G. Tentative refund. A taxpayer may request a tentative refund resulting~~
18 ~~from the application of a net operating loss carryback in the manner and with forms~~
19 ~~prescribed by the secretary. If the tentative refund is paid, the secretary may recover~~
20 ~~any amount thereof determined not to be an overpayment through any collection~~
21 ~~remedy authorized by R.S. 47:1561 within two years from December thirty-first of~~
22 ~~the year in which the refund was paid. Any tentatively refunded amount determined~~
23 ~~not to be an overpayment shall bear interest at the rate provided in R.S. 47:1601,~~
24 ~~which shall be computed from the date the tentative refund was issued to the date~~
25 ~~payment is received by the secretary.~~

26 ~~H. Interest on refunds. Any amount actually refunded as an overpayment~~
27 ~~resulting from the application of a net operating loss carryback, tentative or~~
28 ~~otherwise, shall bear interest at the rate provided in R.S. 47:1624, which shall be~~
29 ~~computed:~~

Proposed law retains present law but changes the time allowed for carryover of the net operating loss from 15 years to 20 years.

Present law provides a deduction from Louisiana net income for a net operating loss to be carried back three taxable years preceding the taxable year of such loss or carried over to each of the 15 taxable years following the taxable year of such loss.

Proposed law repeals the three year carryback provisions of present law and increases the carry over period from 15 years to 20 years.

Present law provides for refunds of overpayment of taxes, penalties, and interest. Further authorizes a refund when La. tax overpayment results from application of a net operating loss carryback.

Proposed law retains present law but repeals provisions relative to net operating loss carry back.

Present law provides a three year prescriptive period within which a refund or credit shall be paid and provides for suspension of the prescriptive period. Further provides a time table for prescription when a refund or credit is attributable to net the operating loss deduction carryback election.

Proposed law retains present law but repeals provisions relative to the net operating loss deduction carryback election.

(Amends R.S. 47:181(B)(2), 246(E) and (G), 287.86, 1621(B)(7), and 1623(C), (D), and (E)(intro. para.); Adds R.S. 47:181(B)(3))