

Regular Session, 2013

SENATE BILL NO. 37

BY SENATOR GARY SMITH

TAX/TAXATION. To make changes in the state federal income tax deduction and in the net operating loss deduction to provide state income tax relief for both individuals and corporations related to certain disasters. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 47:246(E), 287.85(C)(2), 287.86(B)(1) and 293(4)(b)(i), relative  
3 to income tax; to provide that any federal tax benefit determined to be a type of  
4 federal disaster relief does not reduce the state federal income tax deduction; to  
5 authorize a net operating loss deduction carryback of five taxable years if the loss is  
6 attributable to Hurricane Isaac; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:246(E), 287.85(C)(2), 287.86(B)(1), and 293(4)(b)(i) are hereby  
9 amended and reenacted to read as follows:

10 §246. Corporations; deduction from net income from Louisiana sources

11 \* \* \*

12 **E.(1)(a) Except as provided for in Subparagraph (b) of this Paragraph,**  
13 at the election of the taxpayer a net operating loss deduction as determined in  
14 Subsection B may be a net operating loss carryback to each of the three taxable years  
15 preceding the taxable year of such loss.

16 **(b) At the election of the taxpayer a net operating loss deduction as**  
17 **determined in Subsection B may be a net operating loss carryback to each of the**

1 **five taxable years preceding the taxable year of such loss, if the allocable loss for**  
 2 **the tax year is attributable to Hurricane Isaac. An allocable loss is attributable**  
 3 **to Hurricane Isaac if a portion of the allocable loss is attributable to business**  
 4 **activity or business property of the taxpayer located in any parish which is in**  
 5 **whole or in part in the area with respect to which a disaster has been declared**  
 6 **by the President of the United States before September 10, 2012, under Section**  
 7 **401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by**  
 8 **reason of Hurricane Isaac.**

9 (2) Such election shall be made in accordance with rules and regulations  
 10 prescribed by the Secretary of Revenue and Taxation. The first period to which a net  
 11 operating loss may be carried under this provision is taxable years beginning on or  
 12 after January 1, 1980.

13 \* \* \*

14 §287.85. Federal income tax deduction

15 \* \* \*

16 C. \* \* \*

17 (2)(a) "Credits" as used in this Subsection does not include overpayments of  
 18 prior year taxes allowed as a credit, estimated tax payments or similar prepayments,  
 19 credit for prior year alternative minimum tax which is allowed as a credit against the  
 20 current regular federal income tax, or federal income tax credits determined by the  
 21 secretary to be presidential disaster area disaster relief credits.

22 **(b) In addition, other federal tax benefits determined by the secretary to**  
 23 **be federal tax disaster relief shall not reduce the federal income tax deduction**  
 24 **provided for in this Section.**

25 \* \* \*

26 §287.86. Net operating loss deduction

27 \* \* \*

28 B. Net operating loss carrybacks and carryovers. The taxable years to which  
 29 a Louisiana net loss may be carried shall be:



1 \* \* \*

2 Section 2. The provisions of this Act shall be applicable to all tax years beginning  
3 January 1, 2012 and thereafter.

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

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

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#### DIGEST

Present law allows individuals and corporations a deduction from taxable income for federal income taxes paid "after all credits" (such "credits" would reduce the state deduction). Excludes from the definition of such "credits" (and therefore would not reduce the deduction) federal income tax credits determined by the Secretary of the Department of Revenue to be presidential disaster area disaster relief credits.

Proposed law provides that, in addition, other federal tax benefits determined by the secretary to be federal tax disaster relief would not reduce the federal income tax deduction.

Present law authorizes a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss.

Proposed law authorizes for individuals and corporations a net operating loss carryback of 5 years if the loss is "attributable to Hurricane Isaac". A loss is "attributable to Hurricane Isaac" if a portion of the Louisiana net loss for the taxable year is attributable to business activity or business property of the taxpayer located in any parish which is in whole or in part in the area with respect to which a disaster has been declared by the President of the United States before September 10, 2012, under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Isaac.

Applicable to all tax years beginning January 1, 2012 and thereafter.

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

(Amends R.S. 47:246(E), 287.85(C)(2), 287.86(B)(1) and 293(4)(b)(i))