

Regular Session, 2013

SENATE BILL NO. 37

BY SENATOR GARY SMITH AND REPRESENTATIVE SCHEXNAYDER

TAX/TAXATION. Authorizes for corporations a net operating loss carryback of 5 years if the loss is attributable to Hurricane Isaac. (see Act)

1 AN ACT

2 To amend and reenact R.S. 47:246(E) and 287.86(B)(1), relative to income tax; to authorize  
3 a net operating loss deduction carry back for corporations of five taxable years if the  
4 loss is attributable to Hurricane Isaac; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 47:246(E) and 287.86(B)(1) are hereby amended and reenacted to  
7 read as follows:

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

9 \* \* \*

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

14 (b) At the election of the taxpayer a net operating loss deduction as  
15 determined in Subsection B may be a net operating loss carry back to each of  
16 the five taxable years preceding the taxable year of such loss, if the allocable loss  
17 for the tax year is attributable to Hurricane Isaac. An allocable loss is

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

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

11 \* \* \*

12 §287.86. Net operating loss deduction

13 \* \* \*

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

16 (1)(a) ~~Except as provided for in Subparagraph(b) of this Paragraph,~~  
 17 a net operating loss carryback to each of the three taxable years preceding the taxable  
 18 year of such loss, unless carry back treatment is relinquished pursuant to R.S.  
 19 47:287.86(D).

20 (b) A net operating loss carry back to each of the five taxable years  
 21 preceding the taxable year of such loss if such loss is attributable to Hurricane  
 22 Isaac, unless carry back treatment is relinquished pursuant to R.S.  
 23 47:287.86(D). A net operating loss is attributable to Hurricane Isaac if a  
 24 portion of the Louisiana net loss for the taxable year is attributable to business  
 25 activity or business property of the taxpayer located in any parish which is in  
 26 whole or in part in the area with respect to which a disaster has been declared  
 27 by the president of the United States before September 10, 2012, under Section  
 28 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by  
 29 reason of Hurricane Isaac.

\* \* \*

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

Section 3. The provisions of this Act shall become effective if, as, and when the 113th Congress of the United States grants a similar benefit to taxpayers under federal income tax law. The secretary of the Department of Revenue shall provide written notification to the Louisiana State Law Institute if such a benefit is enacted.

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The original instrument was prepared by Riley Boudreaux. The following digest, which does not constitute a part of the legislative instrument, was prepared by Martha Hess.

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#### DIGEST

Gary Smith (SB 37)

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 corporations a net operating loss carryback of five 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 if, as, and when the 113th Congress of the United States grants a similar benefit to taxpayers under federal income tax law.

(Amends R.S. 47:246(E) and 287.86(B)(1))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Removes provisions regarding other federal tax benefits and the federal income tax deduction.

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Effective date revised to become effective if, as, and when the 113th Congress of the United States grants a similar benefit to taxpayers under federal income tax law.