

Regular Session, 2013

SENATE BILL NO. 37

BY SENATORS GARY SMITH AND BROWN 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 carryback 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~~ carryback to
13 each of the three taxable years preceding the taxable year of such loss.

14 (b) Upon certification by the Department of Revenue, at the election of
15 the taxpayer a net operating loss deduction as determined in Subsection B may
16 be a net operating loss carryback to each of the five taxable years preceding the
17 taxable year of such loss, if the allocable loss for the tax year is attributable to

1 **Hurricane Isaac. The aggregate amount of net operating loss carryback**
 2 **deduction allowed under this Subparagraph for all taxpayers during any**
 3 **taxable year shall not exceed ten million dollars. An allocable loss is**
 4 **attributable to Hurricane Isaac if a portion of the allocable loss is attributable**
 5 **to business activity or business property of the taxpayer located in any parish**
 6 **which is in whole or in part in the area with respect to which a disaster has been**
 7 **declared by the president of the United States before September 10, 2012, under**
 8 **Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance**
 9 **Act by reason of Hurricane Isaac.**

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

14 * * *

15 §287.86. Net operating loss deduction

16 * * *

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

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

23 **(b) A net operating loss carryback to each of the five taxable years**
 24 **preceding the taxable year of such loss if such loss is attributable to Hurricane**
 25 **Isaac, unless carryback treatment is relinquished pursuant to R.S. 47:287.86(D).**
 26 **A net operating loss is attributable to Hurricane Isaac if a portion of the**
 27 **Louisiana net loss for the taxable year is attributable to business activity or**
 28 **business property of the taxpayer located in any parish which is in whole or in**
 29 **part in the area with respect to which a disaster has been declared by the**

1 **president of the United States before September 10, 2012, under Section 401 of**
 2 **the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason**
 3 **of Hurricane Isaac.**

4 * * *

5 Section 2. The provisions of this Act shall be applicable to all tax years beginning
 6 August 1, 2011, and thereafter.

7 Section 3. The provisions of this Act shall become effective if, as, and when the
 8 113th Congress of the United States grants a similar benefit to taxpayers under federal
 9 income tax law. The secretary of the Department of Revenue shall provide written
 10 notification to the Louisiana State Law Institute if such a benefit is enacted.

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

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, upon certification by the Department of Revenue, for corporations a net operating loss carryback of five years if the loss is "attributable to Hurricane Isaac". Provides that the aggregate amount of net operating loss carryback deduction allowed for all taxpayers during any taxable year shall not exceed ten million dollars.

Proposed law provides that 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 August 1, 2011, 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.

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.

Senate Floor Amendments to reengrossed bill

1. Adds upon certification by the Dept. of Revenue.
2. Adds that aggregate amount of net operating loss carryback deduction allowed for all taxpayers during any taxable year shall not exceed ten million dollars.
3. Changes tax year applicability from Jan. 1, 2012, and thereafter to Aug. 1, 2011, and thereafter.
4. Bureau.