

SENATE BILL NO. 37

BY SENATORS GARY SMITH AND BROWN AND REPRESENTATIVE SCHEXNAYDER

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  
18 Hurricane Isaac. The aggregate amount of net operating loss carryback  
19 deduction allowed under this Subparagraph for all taxpayers during any  
20 taxable year shall not exceed ten million dollars. 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 ~~the Department of Revenue and Taxation~~. The first  
 9 period to which a net operating loss may be carried under this provision is taxable  
 10 years beginning on or 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 ~~carryback~~ treatment is relinquished pursuant to  
 19 R.S. 47:287.86(D).

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

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

3           Section 3. The provisions of this Act shall become effective if, as, and when the  
4 113th Congress of the United States grants a similar benefit to taxpayers under federal  
5 income tax law. The secretary of the Department of Revenue shall provide written  
6 notification to the Louisiana State Law Institute if such a benefit is enacted.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_