

2015 Regular Session

HOUSE BILL NO. 218

BY REPRESENTATIVE BROADWATER

TAX/CORP INCOME: Provides with respect to the net operating loss deduction for purposes of the corporate income tax

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

10 §181. Imposition of tax on estates and trusts

11 \* \* \*

12 B. Computation and payment.

13 \* \* \*

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

17 \* \* \*

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

19 \* \* \*

20 E. ~~At the election of the taxpayer a net operating loss deduction as~~  
21 ~~determined in Subsection B may be a net operating loss carry-back to each of the~~  
22 ~~three taxable years preceding the taxable year of such loss. Such election shall be~~

1 ~~made in accordance with rules and regulations prescribed by the Secretary of~~  
2 ~~Revenue and Taxation. The first period to which a net operating loss may be carried~~  
3 ~~under this provision is taxable years beginning on or after January 1, 1980. For all~~  
4 ~~claims for this deduction on any return filed on or after July 1, 2015, regardless of~~  
5 ~~the taxable year to which the return relates, no carry-back election shall be allowed.~~

6 \* \* \*

7 G. ~~Any amount actually refunded, tentative or otherwise, as an overpayment~~  
8 ~~resulting from a net operating loss carry-back shall bear interest at the rate provided~~  
9 ~~in R.S. 47:1624 computed ninety days after the date the request for tentative refund~~  
10 ~~or claim for refund (amended return) is filed, or from ninety days after the due date,~~  
11 ~~without regard to extensions of time, to file of the loss year return, whichever is later.~~  
12 ~~For all claims for this deduction on any return filed on or after July 1, 2015,~~  
13 ~~regardless of the taxable year to which the return relates, no refund shall be allowed.~~

14 \* \* \*

15 §287.86. Net operating loss deduction

16 A. Deduction from Louisiana net income. Except as otherwise provided, for  
17 all claims for this deduction on any return filed on or after July 1, 2015, regardless  
18 of the taxable year to which the return relates, there shall be allowed for the taxable  
19 year an adjustment reducing Louisiana net income in an amount equal to the  
20 aggregate of:

21 (1) ~~The net operating loss carryovers to such year, plus~~

22 (2) ~~The net operating loss carrybacks to such year.~~

23 B. Net operating loss carrybacks and carryovers. ~~The~~ For all claims for this  
24 deduction on any return filed on or after July 1, 2015, regardless of the taxable year  
25 to which the return relates, the taxable years to which a Louisiana net loss may be  
26 carried shall be:

27 (1) ~~A net operating loss carryback to each of the three taxable years~~  
28 ~~preceding the taxable year of such loss, unless carryback treatment is~~  
29 ~~relinquished pursuant to R.S. 47:287.86(D).~~

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

6           C. Manner and amount of ~~carrybacks and~~ carryovers. ~~The~~ For all claims for  
7           this deduction on any return filed on or after July 1, 2015, regardless of the taxable  
8           year to which the return relates, the entire amount of Louisiana net loss for any  
9           taxable year, hereinafter the "loss year", shall be carried ~~back~~ over to the earliest of  
10          the taxable years allowed, ~~unless an election to relinquish carryback treatment is~~  
11          ~~made, in which case such loss shall be carried to the earliest of the taxable years~~  
12          ~~allowed for carryovers.~~ The portion of such loss which shall be carried to each of  
13          the other taxable years allowed by Subsection B shall be the excess, if any, of the  
14          amount of such loss over the aggregate of the Louisiana taxable income for each of  
15          the ~~prior~~ taxable years to which such loss may be carried. For the purposes of this  
16          Subsection:

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

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

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

27                 E.D. Statement with tax return. Every corporation claiming a net operating  
28          loss deduction for any taxable year shall file with its return for such year a concise  
29          statement setting forth the amount of the net operating loss claimed and all material

1 and pertinent facts relative thereto, including a detailed schedule showing the  
2 computation of the net operating loss deduction.

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

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

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

24 ~~(1) From the latest of the following dates:~~

25 ~~(a) Ninety days after the date the request for tentative refund or claim for~~  
26 ~~refund (amended return) is filed.~~

27 ~~(b) Ninety days after the due date of the loss year return without regard to~~  
28 ~~extensions of time to file.~~

29 ~~(2) To the date such refund is issued by the secretary.~~



1        ~~R.S. 47:246(E) or 287.86, for taxable periods ending on or after December 31, 1983,~~  
 2        ~~in lieu of the three-year period of limitation prescribed in Subsection A of this~~  
 3        ~~Section, the period shall be the period which ends three years from the thirty-first~~  
 4        ~~day of December of the year in which the tax for the loss year would become due or~~  
 5        ~~the period prescribed in Subsection B or E of this Section with respect to such~~  
 6        ~~taxable year, whichever expires later. No refund shall be allowed for any claim for~~  
 7        ~~this deduction on any return filed on or after July 1, 2015, regardless of the taxable~~  
 8        ~~year to which the return relates.~~

\*   \*   \*

10       Section 2. The provisions of this Act shall apply to all claims for this deduction on  
 11 any return filed on or after July 1, 2015, regardless of the taxable year to which the return  
 12 relates.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 218 Engrossed	2015 Regular Session	Broadwater
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**Abstract:** For any claim filed on or after July 1, 2015, regardless of the taxable year to which the return relates, eliminates the three year carryback of the net operating loss deduction for purposes of calculating corporate income tax liability and increases the carryover period from 15 years to 20 years.

Present law provides for imposition, computation, and payment of income tax for estates and property held in trust. Present law further authorizes the net operating loss to be deducted from net income in any of the 15 years immediately following the year in which the loss occurred.

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 beginning with any claim filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

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 carry back.

Proposed law retains present law but repeals provisions relative to net operating loss carry back for any claim filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

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 a net operating loss deduction carryback election.

Proposed law retains present law but repeals provisions relative to the net operating loss deduction carryback election for any claim filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

Proposed law applies to all claims for the net operating loss deduction on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete application of proposed law to tax years beginning on or after Jan. 1, 2015.
2. Add applicability of proposed law to all returns filed on or after July 1, 2015, regardless of the taxable year to which the return relates.