LEGISLATIVE FISCAL OFFICE
Fiscal Note

Louisiana Legislative Fiscal Office
Fiscal Notes

Fiscal Note On: **HB 426** HLS 15RS 1114
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.:

Date: April 29, 2015 11:08 AM
Author: HUNTER
Dept./Agy.: Revenue
Subject: Net Operating Loss Deduction
Analyst: Greg Albrecht

TAX/CORP INCOME EG +$3,200,000 GF RV See Note

Provides with respect to the net operating loss deduction for purposes of the corporate income tax

Current law allows corporations to deduct from their Louisiana net income in a particular year operating losses they incurred in other years. Losses incurred in a year can be carried forward for fifteen years and deducted from positive net income in any of those years, reducing tax liabilities in those years, or carried back for three years to amend returns from a prior year to deduct from earlier positive net income, generating refunds of earlier taxes paid.

Proposed law limits the carry-back option to the taxable year preceding the taxable year of loss, and reduces the number of years for which a carry-forward option can be utilized to seven.

Applicable to all claims for this deduction on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

EXPENDITURES	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**5 -YEAR TOTAL**
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

REVENUES	**2015-16**	**2016-17**	**2017-18**	**2018-19**	**2019-20**	**5 -YEAR TOTAL**
State Gen. Fd.	$3,200,000	$3,200,000	$3,200,000	$3,200,000	$3,200,000	**$16,000,000**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$3,200,000**	**$3,200,000**	**$3,200,000**	**$3,200,000**	**$3,200,000**	**$16,000,000**

EXPENDITURE EXPLANATION

The Department of Revenue (LDR) will incur costs for computer system modification and testing, tax form redesign, and tax payer inquiries. These costs are typically small for individual tax law changes such as this ($39,000 estimated by LDR) and are typically absorbed within existing resources until cumulative changes necessitate additional resources be provided.

REVENUE EXPLANATION

The bill limits the carry-back of net operating losses (NOL) in corporate income taxation to only the one year preceding the year of loss. This will limit refunds to firms who amend prior tax returns to apply current losses, and result in greater net corporate tax receipts than would be the case under current law. To assess the potential revenue gain the Revenue Department (LDR) selected corporate tax returns processed during several past fiscal years that had carry-back amounts deducted, and recalculated those returns without the carry-back deductions. The average revenue effect was $28.8 million. However, in a given fiscal year returns from several prior taxable years are processed. This bill limits the carry-back deduction option for taxable periods beginning with 2015. As described below, each fiscal year's tax return filings contain only a small fraction of returns associated with the immediately preceding tax year.

LDR isolated the respective tax year returns within each of the last five fiscal years. Each tax year's share of that fiscal years impact was calculated, and those shares were then averaged over the five fiscal years examined. While the shares in fiscal year's impact associated with each respective preceding tax year varied considerably, in each case the share associated with the first preceding tax year was small, averaging 4%, and the second preceding year share is typically 19%.

Applying the average share of the first preceding year (4%) to the average fiscal year amount of $28.8 million generates an estimate of the potential revenue that may be gained by the state with only one year of NOL carry-back allowed. However, a limitation on both the carry-back and carry-forward options may encourage greater than typical claiming of refunds as soon as possible, to the extent positive net income is available to be offset. This would work to reduce the potential state revenue gain, and is accounted for by utilizing the average (11%) of the two preceding tax periods that is typically included in each fiscal years return filings. The resulting revenue gain to the state is reflected in the table above.

The effect on net state revenue receipts, starting in FY16, occurs as a result of the applicability of the bill's provisions to all claims on any return filed on or after July 1, 2015, regardless of the taxable year to which the return relates.

Senate Dual Referral Rules

☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}

☒ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}

House

☐ 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}

☐ 6.8(F)(2) >= $500,000 Rev. Red. to State {H & S}

☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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