

NOTICE OF INTENT

Department of Revenue Policy Services Division

Net Operating Loss Deduction (LAC 61:I.1124)

Under the authority of R.S. 47:287.86, R.S. 47:287.785, and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1124 to allow the election to relinquish carryback provided in R.S. 47:287.86(D) to be revocable.

R.S. 47:287.86(D) provides that the election to relinquish the carryback shall be made as prescribed by the secretary. It has been the department's longstanding practice to allow the taxpayer to change its election to relinquish carryback. This proposed regulation will clarify that the election may be changed and inform taxpayers of the necessary procedures.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Corporation Income Tax

§1124. Net Operating Loss Deduction

A. Election to relinquish carryback of a net operating loss. The election to relinquish carryback is made by filing a return carrying the net operating loss to the earliest of the taxable years allowed for carryovers.

B. Changes to Election

1. Except as otherwise provided herein, a taxpayer may change the election to relinquish carryback of a net operating loss or the decision to carryback a net operating loss provided any additional tax and interest due as a result of the change is paid and any refund due as a result of the change has not prescribed.

2. The change in the election is made by filing an amended return for each tax year affected, paying any tax and interest due and showing any refunds due.

C. When a change in election is made during an audit or examination, the taxpayer shall submit to the auditor a written notification of the change in election and provide any additional information the auditor may require.

AUTHORITY NOTE: Adopted in accordance with R.S. 47:287.86, R. S. 47:287.785 and R.S. 47:1511.

HISTORICAL NOTE: Adopted by the Department of Revenue, Policy Services Division, LR 30:

Family Impact Statement

The proposed adoption of LAC 61:I.1124, regarding allowing the revocation of the election to relinquish a net operating loss carryback for corporation income tax purposes, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Michael D. Pearson, Senior Policy Consultant, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 4:30 p.m., Tuesday, September 28, 2004. A public hearing will be held on Wednesday, September 29, 2004, at 9 a.m. in the River Room Conference Room on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, Louisiana.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Net Operating Loss Deduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The implementation of this proposed regulation will have no impact upon any local governmental units.

The implementation of this proposed regulation, which clarifies how Louisiana net operating losses for corporations may be carried from one year to another, would have no impact on the agency's costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There may be a decrease in revenues due to a small number of taxpayers who might not have been familiar with the secretary's administrative practice. The information is not available which would allow a measure of the decrease. However, it is expected to be small. Any decrease in revenue in current periods will result in an equivalent increase in revenue in future periods. The proposed rule is the same as current practice.

There will be no effect on revenue collections of local governmental units as a result of this proposed regulation.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Corporations that have Louisiana net operating losses will utilize these losses to reduce their Louisiana corporation income tax liability.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed regulation will have no effect on competition or employment.

Cynthia Bridges
Secretary
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Staff Director
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