

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Corporation Income Tax (LAC 61:I.1122)

Under the authority of R.S. 47:287.83 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 amend LAC 61:1.1122 relative to the alternative minimum tax deduction.

The purpose of the proposed amendment is to update the regulation to reflect changes in federal law since the original regulation was enacted.

Title 61

REVENUE AND TAXATION

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

Chapter 11. Corporation Income Tax

§1122 Taxes Not Deductible

A ...

B. Federal Alternative Minimum Tax. Federal alternative minimum tax attributable to tax preference items such as, but not limited to, accelerated depreciation, depletion, and intangible drilling and development cost is not deductible. Federal alternative minimum taxable net income from sources other than tax preference items is deductible to the extent that it is applicable to regular federal taxable income.

C. Net Operating Loss Carryback. Federal income tax deducted from Louisiana net income in taxable periods to which a net operating loss is carried back shall be computed to determine the amount of federal income tax attributable to net income which is taxed by the federal but which is not taxed by Louisiana as a result of a net operating loss carryback. Federal income tax attributable to net income which is not taxed by Louisiana as a result of a net operating loss carryback is the excess of allowable federal income tax deducted from Louisiana net income before the net operating loss carryback over the allowable deduction after the net operating loss carryback. The federal income tax attributable to net income which is not taxed by Louisiana shall be treated as a reduction to the net operating loss deduction. If the amount of the federal income tax attributable to the net income which is not taxed by Louisiana exceeds the Louisiana net operating loss deduction, such excess shall be treated as income in the year of the transaction that gave rise to the excess. These principles are illustrated in the following examples.

D. Examples

Example 1

The ABC Corporation does not include its net income in a consolidated federal income return as provided by Section 1501 of the *Internal Revenue Code*. ABC files state and federal income tax returns on a calendar year basis. ABC Corporation's net income and other financial information used to file state and federal income tax returns for the four-year period ending December 31, 1987, include the following:

Taxable Periods	1984	1985	1986	1987
Federal net income or (loss)	\$ 2,000,000	\$ 4,000,000	\$ 5,000,000	\$ 600,000
Louisiana net income or (loss)	1,200,000	1,800,000	3,000,000	(1,000,000)
Federal income tax	800,000	1,600,000	2,000,000	240,000
Federal income tax deducted from Louisiana net income	467,280	706,240	1,171,200	-0-
State income tax deducted from federal net income but not Louisiana net income	57,500	86,000	144,000	-0-
Income tax apportionment ratio	55%	40%	50%	50%
Louisiana taxable income	732,720	1,093,760	1,828,800	-0-

ABC Corporation elects to carry their 1987 Louisiana net operating loss back to 1984 pursuant to R.S. 47:287.86. Federal income tax attributable to net income which is not

taxed by Louisiana as a result of the net operating loss carryback is computed as follows:

1. Louisiana net income, 1984		\$1,200,000
Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Ratio (line 3 divided by line 4)		8.4188%
6. Federal income tax, 1984		\$ 800,000
Allowable federal income tax deduction after the Louisiana net operating loss carryback (line 6 multiplied by line 5)		\$ 67,350
Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
Federal income tax attributable to net income which is not taxed by Louisiana (line 8 minus line 7)		\$ 399,930
Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
Federal income tax attributable to net income which is not taxed by Louisiana (from line 9)		\$ 399,930
Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 11)		\$ 600,070

Example 2

Assume the same facts in Example 1 except that the ABC Corporation sustained a \$2,000,000 federal net operating

loss in 1987 and elects to carry the federal loss back to 1984. Federal income tax after the net operating loss carryback is zero.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$1,000,000	
Adjustment		\$1,031,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 168,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$2,000,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		-0-
7. Ratio (line 3 divided by line 6)		-0-
8. Federal income tax after the federal net operating loss carryback		-0-
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 multiplied by line 7)		-0-
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana (line 10 minus line 9)		\$ 467,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$1,000,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 467,280
14. Louisiana net operating loss after deduction for federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		\$ 532,720

Example 3

Assume the same facts in Examples 1 and 2 except that the Louisiana and federal net operating losses in 1987 are

\$350,000 and \$1,800,000 respectively. Federal income tax after the net operating loss carryback is \$80,000.

1. Louisiana net income, 1984		\$1,200,000
2. Less: State income tax deduction allowed by the federal but not Louisiana	\$57,500	
Multiplied by the income tax apportionment ratio	55%	
Balance	\$31,625	
Louisiana net operating loss, 1987	\$350,000	
Adjustment		\$ 381,625
3. Louisiana net income after deducting the net operating loss carryback (line 1 minus line 2)		\$ 818,375
4. Federal net income, 1984		\$2,000,000
5. Federal net operating loss carryback from 1987		(\$1,800,000)
6. Federal net income after federal net operating loss carryback from 1987 (line 4 minus line 5)		\$ 200,000
7. Ratio (line 3 divided by line 6)		100%
8. Federal income tax after the federal net operating loss carryback		\$ 80,000
9. Allowable federal income tax deduction after the net operating loss carryback (line 8 times line 7)		\$ 80,000
10. Federal income tax deducted from Louisiana net income before the net operating loss carryback		\$ 467,280
11. Federal income tax attributable to net income which is not taxed by Louisiana, 1984 (line 10 minus line 9)		\$ 387,280
12. Louisiana net operating loss before deduction for federal income tax attributable to net income which is not taxed by Louisiana		\$ 350,000
13. Federal income tax attributable to net income which is not taxed by Louisiana (from line 11)		\$ 387,280
14. Louisiana net operating loss after deduction for the amount of federal income tax attributable to net income which is not taxed by Louisiana (line 12 minus line 13)		-0-
15. Additional Louisiana taxable income for 1987 due to excess of federal income tax attributable to net income which is not taxed by Louisiana over the Louisiana net operating loss (line 13 minus line 12)		\$ 37,280

E. Definitions. For the purposes of this Section, alternative minimum tax, regular federal income tax, alternative tax on capital gains, and regular tax on ordinary net income are defined as provided in §1123.F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.83, R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Section, LR 14:96 (February 1988), repromulgated by the Department of Revenue, Policy Services Division, LR 30:470 (March 2004), amended by the Department of Revenue, Policy Services Division LR 33:

Family Impact Statement

The proposed adoption of the amendment to LAC 61:I.1122, which will clarify the deduction associated with the federal alternative minimum tax, 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., Wednesday, December 27, 2006. A public hearing will be held on Thursday, December 28, 2006 at 10:00 a.m. in the Magnolia Room Conference Room on the seventh floor of

the LaSalle Building, 617 North Third Street, Baton Rouge,
LA.

Cynthia Bridges
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Income Tax**

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

Implementation of this proposed amendment to LAC 61:I.1122 will result in no costs or savings to state governmental units. Congress changed federal law in 1990 making these current regulations obsolete. The Department of Revenue is proposing these technical changes to make current rules consistent with federal law changed in 1990. The proposed changes will have no impact on the Department of Revenue's policies or practices.

There will be no costs or savings to local governmental units resulting from the proposed rule changes.

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

There will be no effect on revenue collections of state or local governmental units.

The proposed amendment removes obsolete language from the regulation.

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

There will be no directly affected persons or non-governmental groups. Current compliance requirements will not change.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

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

Cynthia Bridges
Secretary
0611#050

Robert E. Hosse
Staff Director
Legislative Fiscal Office