

**Revenue Ruling
No. 08- 001
January 9, 2008**

Individual Income Tax and Corporation Income Tax

Hurricane Recovery Benefits and Insurance Settlement Proceeds

Purpose: The purpose of this Revenue Ruling is to address whether or not hurricane recovery benefits can be deducted from individual and corporate income tax and whether insurance settlement proceeds have similar treatment.

Conclusion: Insurance settlement proceeds do not fall within the provisions of Act 247 of the 2007 Regular Session. As such, insurance settlement proceeds would have a different treatment from hurricane recovery benefits and would not be deducted from individual and corporate income tax. When a taxpayer receives both hurricane recovery benefits and insurance settlement proceeds, the hurricane recovery benefits will be deemed included in income prior to the inclusion of the insurance settlement proceeds.

Analysis/Discussion: Act 247 of the 2007 Regular Session enacted La. R.S. 47:287.738(G) to provide a corporate income tax deduction for hurricane recovery benefits. Specifically, La. R.S. 47:287.738(G) states that “Any gratuitous grant, loan, or other benefit directly or indirectly provided to a taxpayer by a hurricane recovery entity as defined in La. R.S. 47:293(5) shall be allowed as a deduction if such benefit was included in federal adjusted gross income.”

Act 247 of the 2007 Regular Session enacted La. R.S. 47:293(9)(a)(i) to provide a similar income tax deduction for resident individuals and amended La. R.S. 47:293(10) to provide a similar income tax deduction for nonresident individuals.

Finally, Act 247 of the 2007 Regular Session enacted La. R.S. 47:293(5) to define a “hurricane recovery entity” to be either the Road Home Corporation, the Louisiana Recovery Authority, or the Louisiana Family Recovery Corps.

Example 1: Taxpayer sustained a casualty loss in 2005 in the amount of \$75,000 that was claimed on Taxpayer’s federal tax return. In 2007, Taxpayer receives \$20,000 in insurance settlement proceeds which were not accounted for in the casualty loss and includes the \$20,000 as income on the 2007 federal return. Since the insurance settlement proceeds are not hurricane recovery benefits, the insurance settlement proceeds would be included on the 2007 state income tax return, to the extent that it would be included in federal adjusted gross income.

Example 2: Taxpayer sustained a casualty loss in 2005 in the amount of \$75,000 that was claimed on Taxpayer’s federal tax return. In 2007, Taxpayer receives \$80,000 in insurance settlement proceeds which were not accounted for in the casualty loss and includes \$75,000 as income on the 2007 federal return. Since the insurance settlement proceeds are not hurricane recovery benefits, the insurance settlement proceeds would be included on the 2007 state income tax return, to the extent that it would be included in federal adjusted gross income.

Example 3: Taxpayer sustained a casualty loss in 2005 in the amount of \$60,000 that was claimed on Taxpayer’s federal tax return. In 2007, Taxpayer receives \$60,000 in hurricane

A Revenue Ruling is issued under the authority of LAC 61III.101 (C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

recovery benefits. On the 2007 federal return, \$60,000 is taxable. Hurricane recovery benefits are not taxable in Louisiana to the extent that such income is considered taxable income at the federal level. In this case, the \$60,000 would be deemed to be hurricane recovery benefits, and \$60,000 would be allowed as a deduction on the Louisiana return.

Example 4: Taxpayer sustained a casualty loss in 2005 in the amount of \$60,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$65,000 in hurricane recovery benefits. On the 2007 federal return, \$60,000 is taxable. In this case, since the hurricane recovery benefits exceed the casualty loss, the \$60,000 that was included in federal adjusted gross income is allowed as a deduction on the Louisiana return.

Example 5: Taxpayer sustained a casualty loss in 2005 in the amount of \$52,000. In 2007, Taxpayer receives \$50,000 in hurricane recovery benefits, \$10,000 in insurance settlement proceeds, and includes \$52,000 in 2007 federal taxable income. In this case, the first \$50,000 would be deemed to be hurricane recovery benefits, leaving \$2,000 of taxable insurance settlement proceeds. The \$50,000 in hurricane recovery benefits would be allowed as a deduction on the Louisiana return.

Example 6: Taxpayer sustained a casualty loss in 2005 in the amount of \$52,000 that was claimed on Taxpayers federal tax return. In 2007, Taxpayer receives \$55,000 in hurricane recovery benefits and \$10,000 in insurance settlement proceeds. On the 2007 federal return, \$52,000 is taxable. Hurricane recovery benefits are deemed included in federal adjusted gross income prior to insurance proceeds, so a deduction of \$52,000 is allowed on the Louisiana return.

Cynthia Bridges
Secretary