



Revenue Ruling
No. 06-011
August 7, 2006
Corporation Income Tax

Louisiana Treatment of the Federal Provisions Converting Excess Charitable Contributions into Net Operating Loss Carryovers

Background

Pursuant to IRC §170, a deduction for charitable contributions by a corporation is limited to 10% of the corporation's taxable income without regard to certain deductions. Corporations that have net operating loss and charitable contributions carryovers must apply a special rule provided for in IRC §170(d)(2)(B) before computing the amount of charitable contributions and net operating losses that may be carried over to future tax years. This special rule requires that the excess contributions be reduced by the amount by which the excess reduces taxable income for purposes of determining the net operating loss carryover under IRC §172(b)(2) and increases a net operating loss carryover to a succeeding taxable year. The application of this special rule is illustrated in the following example.

Example. A corporation, which reports its income on the calendar year basis, makes a charitable contribution of \$10,000 during 2006. Its taxable income for 2006 is \$80,000 before deductions for net operating loss and charitable contributions. The corporation has a net operating loss carryover from 2005 of \$80,000. In the absence of the net operating loss deduction, the corporation would have been allowed a deduction for charitable contributions of \$8,000 (10 percent of \$80,000). After the application of the net operating loss deduction, the corporation is allowed no deduction for charitable contributions, and there is a tentative charitable contribution carryover from 2006 of \$10,000.

For purposes of determining the net operating loss carryover to 2007 and only for this purpose, the corporation computes its income for 2006 under section §172(b)(2) by deducting the \$8,000 charitable contribution. The result is \$72,000 (80,000-8,000) of income. Thus, after the \$80,000 net operating loss carryover is applied against the \$72,000 of taxable income for 2006 (computed in accordance with section §172(b)(2)), there remains an \$8,000 net operating loss carryover to 2007. In effect, the \$8,000 charitable contribution the corporation was not allowed to take in 2006 is converted to a net operating loss carryover. The remaining \$2,000 charitable contribution is a charitable contribution carryover. For federal income tax purposes, the taxpayer will still ultimately have \$10,000 in deductions. A portion is simply converted from a deduction for charitable contribution carryovers to a deduction for net operating loss carryovers.

Issue

Calculation of Louisiana corporation income tax liability begins with federal items of income and expense. However, Louisiana did not adopt the federal income tax provisions relating to net operating losses. The federal net operating loss figure is not used because Louisiana has its own

net operating loss provision. Furthermore, Louisiana's net operating loss provision does not provide for the conversion of excess charitable contributions into net operating loss carryovers.

Louisiana does have a line item deduction for charitable contributions that piggybacks the federal return; however, Louisiana does not distinguish the carried over contribution from the current year's contributions. Whatever amount is deducted on the federal return is the amount deducted on the Louisiana return.

Application

The above-mentioned issues will cause difficulty for the corporation in the afore-mentioned example when filing its Louisiana income tax return. For Louisiana income tax purposes, the corporation will have to add back \$80,000 of its federal net operating loss. Then, the corporation will have to compute its Louisiana net operating loss. Regardless of whether the corporation has taxable income after the application of its Louisiana net operating loss, it will not be able to use any of its \$10,000 in charitable deductions. Since Louisiana piggybacks the federal charitable deduction line item, if the federal charitable contribution deduction is zero, the Louisiana charitable deduction will be zero. The only way that Louisiana will recognize the federal charitable contribution deduction is if it is taken on the corporation's federal return. In 2007, if the corporation is allowed to claim the \$2000 in charitable contributions for federal purposes, then the corporation can claim it for Louisiana income tax purposes.

As for the other \$8000 in charitable contributions that was effectively converted to a net operating loss carryover for federal purposes, it will be completely lost for Louisiana income tax purposes because Louisiana does not have a corresponding provision.

Conclusion

Louisiana did not adopt the federal income tax provisions relating to net operating losses. Any amounts of charitable contributions carryovers that are converted to net operating loss carryovers for federal income tax purposes will be lost for Louisiana income tax purposes.

Interested parties should contact Taxpayer Services at 225-219-7318.

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