

**Revenue Ruling  
No. 13 - 004  
April 29, 2013  
Corporation Income Tax**

**Non-Profit Organizations – Unrelated Business Income**

**Purpose**

The purpose of this Revenue Ruling is to determine whether a non-profit entity can utilize net operating losses from prior years and if they can, whether such entities have to file returns for the years in which they experienced a loss.

**Analysis/Discussion**

According to La. R.S. 47:287.501(A), “An organization described in I.R.C. Sections 401(a) or 501 shall be exempt from income taxation under this Part to the extent such organization is exempt from income taxation at federal law, unless the contrary is expressly provided.”

Previously, due to the exclusive error of the Department of Revenue, non-profit organizations with unrelated business taxable income in Louisiana have not been taxed on such income and have been considered exempt from income taxes.

However, such treatment changed when LAC 61:I.1140 was amended in May of 2007. Specifically, LAC 61:I.1140(A) states that “Generally, organizations meeting the qualifications included under I.R.C. Sections 501 and 401(a) are exempt from federal and Louisiana income tax liability.

In addition, LAC 61:I.1140(B) goes on to state,

“However, organizations meeting the qualifications under I.R.C. Sections 501 and 401(a) are not exempt from taxation on unrelated business taxable income or income not included under I.R.C. Sections 501 and 401(a) for federal income tax purposes. Since unrelated business taxable income is not exempt from federal income tax, it is not exempt from Louisiana income tax. The Department of Revenue will begin enforcing this requirement of R.S. 47:287.501 for all taxable periods beginning on and after January 1, 2008.”

As such, the unrelated business taxable income of non-profit entities has been taxed for all periods beginning on or after January 1, 2008. This raises the question as to whether non-profit entities can utilize net operating losses from prior to 2008, when they were not required to file returns for such periods.

According to La. R.S. 47:287.81,

“In computing Louisiana net income or Louisiana taxable income no deduction shall in any case be allowed in respect of any amount otherwise allowable as a deduction which is attributable to income which, for any reason whatsoever, will not bear the tax imposed by this Part.”

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| <p>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.</p> |
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## **Conclusion**

By applying La. R.S. 47:287.81 to the situation above, it can be seen that since such income earned prior to 2008 was not taxable, any net operating losses associated with those years, which are seen as a deduction in future years, are not allowable. The unrelated business taxable income on non-profit entities was not considered taxable prior to 2008. As such, since non-profit entities were not taxed on their unrelated business taxable income earned prior to 2008, they were not required to file corporate income tax returns prior to that date. It is the Department of Revenue's determination that non-profit entities cannot utilize a net operating loss for a taxable period in which they were not required to file a corporate income tax return.

Tim Barfield  
Executive Counsel

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