

HB0243



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB0243

Introduced 01/25/11, by Rep. Darlene J. Senger - Ed Sullivan,
Jr. - Sandy Cole

SYNOPSIS AS INTRODUCED:

35 ILCS 5/207

from Ch. 120, par. 2-207

Amends the Illinois Income Tax Act. Restores a net loss carryover deduction that was previously limited by Public Act 96-1496. Effective immediately.

LRB097 05950 HLH 46019 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 207 as follows:

6 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

7 Sec. 207. Net Losses.

8 (a) If after applying all of the (i) modifications provided
9 for in paragraph (2) of Section 203(b), paragraph (2) of
10 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
11 allocation and apportionment provisions of Article 3 of this
12 Act and subsection (c) of this Section, the taxpayer's net
13 income results in a loss;

14 (1) for any taxable year ending prior to December 31,
15 1999, such loss shall be allowed as a carryover or
16 carryback deduction in the manner allowed under Section 172
17 of the Internal Revenue Code;

18 (2) for any taxable year ending on or after December
19 31, 1999 and prior to December 31, 2003, such loss shall be
20 allowed as a carryback to each of the 2 taxable years
21 preceding the taxable year of such loss and shall be a net
22 operating loss carryover to each of the 20 taxable years
23 following the taxable year of such loss; and

1 (3) for any taxable year ending on or after December
2 31, 2003, such loss shall be allowed as a net operating
3 loss carryover to each of the 12 taxable years following
4 the taxable year of such loss, ~~except as provided in~~
5 ~~subsection (d)~~. It is the intention of the General Assembly
6 that this amendatory Act of the 97th General Assembly
7 supersedes Public Act 96-1496. The changes made by this
8 amendatory Act apply for the entire period beginning on
9 January 1, 2011.

10 (a-5) Election to relinquish carryback and order of
11 application of losses.

12 (A) For losses incurred in tax years ending prior
13 to December 31, 2003, the taxpayer may elect to
14 relinquish the entire carryback period with respect to
15 such loss. Such election shall be made in the form and
16 manner prescribed by the Department and shall be made
17 by the due date (including extensions of time) for
18 filing the taxpayer's return for the taxable year in
19 which such loss is incurred, and such election, once
20 made, shall be irrevocable.

21 (B) The entire amount of such loss shall be carried
22 to the earliest taxable year to which such loss may be
23 carried. The amount of such loss which shall be carried
24 to each of the other taxable years shall be the excess,
25 if any, of the amount of such loss over the sum of the
26 deductions for carryback or carryover of such loss

1 allowable for each of the prior taxable years to which
2 such loss may be carried.

3 (b) Any loss determined under subsection (a) of this
4 Section must be carried back or carried forward in the same
5 manner for purposes of subsections (a) and (b) of Section 201
6 of this Act as for purposes of subsections (c) and (d) of
7 Section 201 of this Act.

8 (c) Notwithstanding any other provision of this Act, for
9 each taxable year ending on or after December 31, 2008, for
10 purposes of computing the loss for the taxable year under
11 subsection (a) of this Section and the deduction taken into
12 account for the taxable year for a net operating loss carryover
13 under paragraphs (1), (2), and (3) of subsection (a) of this
14 Section, the loss and net operating loss carryover shall be
15 reduced in an amount equal to the reduction to the net
16 operating loss and net operating loss carryover to the taxable
17 year, respectively, required under Section 108(b)(2)(A) of the
18 Internal Revenue Code, multiplied by a fraction, the numerator
19 of which is the amount of discharge of indebtedness income that
20 is excluded from gross income for the taxable year (but only if
21 the taxable year ends on or after December 31, 2008) under
22 Section 108(a) of the Internal Revenue Code and that would have
23 been allocated and apportioned to this State under Article 3 of
24 this Act but for that exclusion, and the denominator of which
25 is the total amount of discharge of indebtedness income
26 excluded from gross income under Section 108(a) of the Internal

1 Revenue Code for the taxable year. The reduction required under
2 this subsection (c) shall be made after the determination of
3 Illinois net income for the taxable year in which the
4 indebtedness is discharged.

5 ~~(d) In the case of a corporation (other than a Subchapter S~~
6 ~~corporation), no carryover deduction shall be allowed under~~
7 ~~this Section for any taxable year ending after December 31,~~
8 ~~2010 and prior to December 31, 2014; provided that, for~~
9 ~~purposes of determining the taxable years to which a net loss~~
10 ~~may be carried under subsection (a) of this Section, no taxable~~
11 ~~year for which a deduction is disallowed under this subsection~~
12 ~~shall be counted.~~

13 (Source: P.A. 95-233, eff. 8-16-07; 96-1496, eff. 1-13-11.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.