

HB5544



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5544

by Rep. Natalie A. Manley

SYNOPSIS AS INTRODUCED:

35 ILCS 5/405

Amends the Illinois Income Tax Act. Provides that each beneficiary, other than an individual, of a trust or estate shall be allowed a deduction in the taxable year in which the final taxable year of the trust or estate ends. Provides that the deduction shall be treated as a carryover deduction. Contains provisions concerning the number of years in which the beneficiary may carry forward the deduction.

LRB098 18574 HLH 53715 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 405 as follows:

6 (35 ILCS 5/405)

7 Sec. 405. Carryovers in certain transactions ~~acquisitions~~.

8 (a) In the case of the acquisition of assets of a
9 corporation by another corporation described in Section 381(a)
10 of the Internal Revenue Code, the acquiring corporation shall
11 succeed to and take into account, as of the close of the day of
12 distribution or transfer, all Article 2 credits and net losses
13 under Section 207 of the corporation from which the assets were
14 acquired.

15 (b) In the case of the acquisition of assets of a
16 partnership by another partnership in a transaction in which
17 the acquiring partnership is considered to be a continuation of
18 the partnership from which the assets were acquired under the
19 provisions of Section 708 of the Internal Revenue Code and any
20 regulations promulgated under that Section, the acquiring
21 partnership shall succeed to and take into account, as of the
22 close of the day of distribution or transfer, all Article 2
23 credits and net losses under Section 207 of the partnership

1 from which the assets were acquired.

2 (b-5) No limitation under Section 382 of the Internal
3 Revenue Code or the separate return limitation year regulations
4 promulgated under Section 1502 of the Internal Revenue Code
5 shall apply to the carryover of any Article 2 credit or net
6 loss allowable under Section 207.

7 (c) The provisions of Public Act 91-541 ~~this amendatory Act~~
8 ~~of the 91st General Assembly~~ shall apply to all acquisitions
9 occurring in taxable years ending on or after December 31,
10 1986; provided that if a taxpayer's Illinois income tax
11 liability for any taxable year, as assessed under Section 903
12 prior to January 1, 1999, was computed without taking into
13 account all of the Article 2 credits and net losses under
14 Section 207 as allowed by this Section:

15 (1) no refund shall be payable to the taxpayer for that
16 taxable year as the result of allowing any portion of the
17 Article 2 credits or net losses under Section 207 that were
18 not taken into account in computing the tax assessed prior
19 to January 1, 1999;

20 (2) any deficiency which has not been paid may be
21 reduced (but not below zero) by the allowance of some or
22 all of the Article 2 credits or net losses under Section
23 207 that were not taken into account in computing the tax
24 assessed prior to January 1, 1999; and

25 (3) in the case of any Article 2 credit or net loss
26 under Section 207 that, pursuant to this subsection (c),

1 could not be taken into account either in computing the tax
2 assessed prior to January 1, 1999 for a taxable year or in
3 reducing a deficiency for that taxable year under paragraph
4 (2) of subsection (c), the allowance of such credit or loss
5 in any other taxable year shall not be denied on the
6 grounds that such credit or loss should properly have been
7 claimed in that taxable year under subsection (a) or (b).

8 (d) On the termination of a trust or estate that is
9 entitled to a net loss carryover deduction under Section 207 of
10 this Act for its final taxable year that is in excess of its
11 taxable income (before the carryover deduction) for that
12 taxable year, each beneficiary (other than an individual) of
13 the trust or estate shall be allowed a deduction in its taxable
14 year in which the final taxable year of the trust or estate
15 ends, equal to portion of that excess carryover deduction
16 allocable to that beneficiary under the principles of Section
17 642(h) of the Internal Revenue Code. The deduction allowed
18 under this subsection (d) shall be treated as a carryover
19 deduction of the beneficiary under Section 207 of this Act as
20 if incurred by the beneficiary, except that the deduction may
21 be carried forward by the beneficiary only for the maximum
22 number of taxable years for which the trust or estate would
23 have been allowed to carry the loss forward under Section 207
24 of this Act, minus the number of taxable years (including the
25 year of termination) to which the trust or estate had carried
26 the deduction, with the taxable year in which the beneficiary

1 is first allowed a deduction under this paragraph counting as a
2 carryforward year of the beneficiary. This subsection (d) shall
3 apply to trusts or estates terminating after December 31, 2013,
4 and is exempt from the provisions of Section 250 of this Act.

5 (Source: P.A. 91-541, eff. 8-13-99; 91-913, eff. 1-1-01.)