



Adopted in House Comm. on May 13, 2004

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LRB093 02801 MKM 50828 a

1 AMENDMENT TO SENATE BILL 31

2 AMENDMENT NO. _____. Amend Senate Bill 31 by replacing
3 everything after the enacting clause with the following:

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

24 (3) for any taxable year ending on or after December

1 31, 2003, such loss shall be allowed as a net operating
2 loss carryover to each of the 12 taxable years following
3 the taxable year of such loss.

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

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

15 (B) The entire amount of such loss shall be carried
16 to the earliest taxable year to which such loss may be
17 carried. The amount of such loss which shall be carried
18 to each of the other taxable years shall be the excess,
19 if any, of the amount of such loss over the sum of the
20 deductions for carryback or carryover of such loss
21 allowable for each of the prior taxable years to which
22 such loss may be carried.

23 (b) Any loss determined under subsection (a) of this
24 Section must be carried back or carried forward in the same
25 manner for purposes of subsections (a) and (b) of Section 201
26 of this Act as for purposes of subsections (c) and (d) of
27 Section 201 of this Act.

28 (c) Notwithstanding any other provision of this Act, for
29 each taxable year ending on or after December 31, 2004, for
30 purposes of computing the loss for the taxable year under
31 subsection (a) of this Section and the deduction taken into
32 account for the taxable year for a net operating loss carryover
33 under paragraphs (1), (2), and (3) of subsection (a) of this
34 Section, the loss and net operating loss carryover shall be

1 reduced in an amount equal to the reduction to the net
2 operating loss and net operating loss carryover to the taxable
3 year, respectively, required under Section 108(b)(2)(A) of the
4 Internal Revenue Code, multiplied by a fraction, the numerator
5 of which is the amount of discharge of indebtedness income that
6 is excluded from gross income for the taxable year (but only if
7 the taxable year ends on or after December 31, 2004) under
8 Section 108(a) of the Internal Revenue Code and that would have
9 been allocated and apportioned to this State under Article 3 of
10 this Act but for that exclusion, and the denominator of which
11 is the total amount of discharge of indebtedness income
12 excluded from gross income under Section 108(a) of the Internal
13 Revenue Code for the taxable year. The reduction required under
14 this subsection (c) shall be made after the determination of
15 Illinois net income for the taxable year in which the
16 indebtedness is discharged.

17 (Source: P.A. 93-29, eff. 6-20-03.)".