

HB4490



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4490

by Rep. Norine Hammond

SYNOPSIS AS INTRODUCED:

35 ILCS 5/207

from Ch. 120, par. 2-207

Amends the Illinois Income Tax Act. Extends the carryback and carryover periods for net losses by an additional 5 years.

LRB098 15886 HLH 50931 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 7 ~~2~~ taxable years
21 preceding the taxable year of such loss and shall be a net
22 operating loss carryover to each of the 25 ~~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 17 ~~12~~ taxable years following
4 the taxable year of such loss, except as provided in
5 subsection (d).

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

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

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

25 (b) Any loss determined under subsection (a) of this
26 Section must be carried back or carried forward in the same

1 manner for purposes of subsections (a) and (b) of Section 201
2 of this Act as for purposes of subsections (c) and (d) of
3 Section 201 of this Act.

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

1 (d) In the case of a corporation (other than a Subchapter S
2 corporation), no carryover deduction shall be allowed under
3 this Section for any taxable year ending after December 31,
4 2010 and prior to December 31, 2012, and no carryover deduction
5 shall exceed \$100,000 for any taxable year ending on or after
6 December 31, 2012 and prior to December 31, 2014; provided
7 that, for purposes of determining the taxable years to which a
8 net loss may be carried under subsection (a) of this Section,
9 no taxable year for which a deduction is disallowed under this
10 subsection, or for which the deduction would exceed \$100,000 if
11 not for this subsection, shall be counted.

12 (e) In the case of a residual interest holder in a real
13 estate mortgage investment conduit subject to Section 860E of
14 the Internal Revenue Code, the net loss in subsection (a) shall
15 be equal to:

16 (1) the amount computed under subsection (a), without
17 regard to this subsection (e), or if that amount is
18 positive, zero;

19 (2) minus an amount equal to the amount computed under
20 subsection (a), without regard to this subsection (e),
21 minus the amount that would be computed under subsection
22 (a) if the taxpayer's federal taxable income were computed
23 without regard to Section 860E of the Internal Revenue Code
24 and without regard to this subsection (e).

25 The modification in this subsection (e) is exempt from the
26 provisions of Section 250.

1 (Source: P.A. 96-1496, eff. 1-13-11; 97-507, eff. 8-23-11;
2 97-636, eff. 6-1-12.)