

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1353 Session of
1998

INTRODUCED BY WHITE, HART, HELFRICK, BELL, COSTA, PUNT, PICCOLA,
WILLIAMS, RHOADES, BRIGHTBILL, SCHWARTZ, TOMLINSON, GERLACH,
EARLL, KASUNIC, MOWERY, ROBBINS, GREENLEAF, O'PAKE, MADIGAN,
WENGER AND SLOCUM, MARCH 11, 1998

REFERRED TO FINANCE, MARCH 11, 1998

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for reinvestment deduction.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 401(3)1 of the act of March 4, 1971
14 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
15 by adding subclauses to read:

16 Section 401. Definitions.--The following words, terms, and
17 phrases, when used in this article, shall have the meaning
18 ascribed to them in this section, except where the context
19 clearly indicates a different meaning:

20 * * *

21 (3) "Taxable income." 1. * * *

1 3.1. For taxable years beginning in 1998 and each taxable
2 year thereafter, the greater of the net loss deductions computed
3 under subclause 4 or 4.1 shall be allowed from taxable income.

4 * * *

5 4.1. (a) For taxable years after 1997, a special net loss
6 deduction shall be allowed from taxable income for taxpayers
7 that reinvest in this Commonwealth. At the election of the
8 taxpayer, the special net loss deduction shall be determined
9 under subclause 1 or 2 and is limited to the amount of any
10 unused net loss from the base taxable year to the taxable year
11 in which the net loss deduction is to be claimed.

12 (1) The increase in the corporation's in-State investment
13 between the base taxable year and the taxable year in which the
14 special net loss deduction is to be claimed; or

15 (2) the cost of annual capital additions used in this
16 Commonwealth during the taxable year.

17 (b) The "base taxable year" is the 1990 taxable year for tax
18 years 1998, 1999 and 2000. Thereafter, it is the taxable year
19 which precedes the current taxable year by ten years.

20 (c) For purposes of calculating the increase in the
21 corporation's in-State investment between the base taxable year
22 and the taxable year in which the special net loss deduction is
23 to be claimed, the amount of any special net loss previously
24 deducted during the base period shall be subtracted in
25 determining the increase in the corporation's in-State
26 investment.

27 (d) The "base period" is the period of time between the base
28 taxable year and the year in which the net loss deduction is to
29 be claimed.

30 (e) For purposes of subclause 1, "in-State investment" means

1 that amount of property owned by the corporation and located in
2 this Commonwealth, as reported on the corporation's corporate
3 net income tax return as its Pennsylvania property factor
4 pursuant to TRC section 401(3)2(a)(10).

5 (f) For purposes of subclause 2, " annual capital additions"
6 means real and depreciable tangible personal property, which is
7 placed in service during the taxable year and used in this
8 Commonwealth during the taxable year. Property owned by the
9 taxpayer is valued at its original cost. Property rented by the
10 taxpayer is valued at eight times the net annual rental rate.

11 (g) No loss shall be a carryover from a taxable year when
12 the corporation elects to be treated as a Pennsylvania S
13 corporation pursuant to section 307 of Article III of this act
14 to a taxable year when the corporation is subject to the tax
15 imposed under this article.

16 (h) Paragraph (g) shall not prevent a taxable year when a
17 corporation is a Pennsylvania S corporation from being
18 considered a taxable year for determining the number of taxable
19 years to which a net loss may be a carryover.

20 (i) For purposes of the net loss deduction, the short
21 taxable year of a corporation, after the revocation or
22 termination of an election to be treated as a Pennsylvania S
23 corporation pursuant to sections 307.3 and 307.4 of Article III
24 of this act, shall be treated as a taxable year.

25 (j) In the case of a merger, liquidation or reorganization
26 of a corporation in the manner described in section 381 of the
27 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
28 381), the amount of any unused net losses and in-State
29 investment during the base period of any predecessor corporation
30 shall be aggregated such that the surviving corporation claiming

1 the net loss deduction shall be considered to have been in
2 existence as a single entity during the entire base period for
3 purposes of calculating the net loss deduction under this
4 subclause.

5 Section 2. This act shall take effect in 60 days.