

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 758 Session of
2001

INTRODUCED BY BARD, ARMSTRONG, GEIST, LAUGHLIN, MICOZZIE,
BELFANTI, BUNT, COY, FLICK, GODSHALL, HARHAI, MACKERETH,
McCALL, McILHINNEY, MELIO, METCALFE, SAINATO, SHANER,
E. Z. TAYLOR, THOMAS, WILT AND YOUNGBLOOD, FEBRUARY 14, 2001

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 14, 2001

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," further providing for the carryforward of losses.

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

13 Section 1. Section 401(3)4 of the act of March 4, 1971
14 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
15 April 23, 1998 (P.L.239, No.45) and May 12, 1999 (P.L.26, No.4),
16 is amended to read:

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

21 * * *

(3) "Taxable income." * * *

4. (a) For taxable years beginning in 1982 through taxable years beginning in 1990 and for the taxable year beginning in 1995 and each taxable year thereafter, a net loss deduction shall be allowed from taxable income as arrived at under subclause 1 or, if applicable, subclause 2. For taxable years beginning in 1991, 1992, 1993 and 1994, the net loss deduction allowed for years prior to 1991 shall be suspended, and no carryover of net losses from taxable years 1988, 1989, 1990, 1991, 1992 and 1993 shall be utilized in calculating net income for the 1991, 1992, 1993 and 1994 taxable years, but such net losses may be used as provided in paragraph (c) in calculating net income for the 1995 taxable year and for two taxable years thereafter.

(b) A net loss for a taxable year is the negative amount for said taxable year determined under subclause 1 or, if applicable, subclause 2. Negative amounts under subclause 1 shall be allocated and apportioned in the same manner as positive amounts.

(c) (1) The net loss deduction shall be the lesser of [two million dollars (\$2,000,000)] five million dollars (\$5,000,000) or the amount of the net loss or losses which may be carried over to the taxable year or taxable income as determined under subclause 1 or, if applicable, subclause 2. In no event shall the net loss deduction include more than five hundred thousand dollars (\$500,000), in the aggregate, of net losses from taxable years 1988 through 1994.

(2) A net loss for a taxable year may only be carried over pursuant to the following schedule:

Taxable Year	Carryover
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1	1981	1 taxable year
2	1982	2 taxable years
3	1983-1987	3 taxable years
4	1988	2 taxable years plus
5		1 taxable year
6		starting with the
7		1995 taxable year
8	1989	1 taxable year plus
9		2 taxable years
10		starting with the
11		1995 taxable year
12	1990-1993	3 taxable years
13		starting with the
14		1995 taxable year
15	1994	1 taxable year
16	1995 and thereafter	10 taxable years

17 The earliest net loss shall be carried over to the earliest
18 taxable year to which it may be carried under this schedule. The
19 total net loss deduction allowed in any taxable year shall not
20 exceed [two million dollars (\$2,000,000)] five million dollars
21 (\$5,000,000).

22 (d) No loss shall be a carryover from a taxable year when
23 the corporation elects to be treated as a Pennsylvania S
24 corporation pursuant to section 307 of Article III of this act
25 to a taxable year when the corporation is subject to the tax
26 imposed under this article.

27 (e) Paragraph (d) shall not prevent a taxable year when a
28 corporation is a Pennsylvania S corporation from being
29 considered a taxable year for determining the number of taxable
30 years to which a net loss may be a carryover.

1 (f) For purposes of the net loss deduction, the short
2 taxable year of a corporation, after the revocation or
3 termination of an election to be treated as a Pennsylvania S
4 corporation pursuant to sections 307.3 and 307.4 of Article III
5 of this act, shall be treated as a taxable year.

6 (g) In the case of a change in ownership by purchase,
7 liquidation, acquisition of stock or reorganization of a
8 corporation in the manner described in section 381 or 382 of the
9 Internal Revenue Code of 1954, as amended, the limitations
10 provided in the Internal Revenue Code with respect to net
11 operating losses shall apply for the purpose of computing the
12 portion of a net loss carryover recognized under paragraph
13 (3)4(c) of this section. When any acquiring corporation or a
14 transferor corporation participated in the filing of
15 consolidated returns to the Federal Government, the entitlement
16 of the acquiring corporation to the Pennsylvania net loss
17 carryover of the acquiring corporation or the transferor
18 corporation will be determined as if separate returns to the
19 Federal Government had been filed prior to the change in
20 ownership by purchase, liquidation, acquisition of stock or
21 reorganization.

22 * * *

23 Section 2. This act shall apply to the tax year beginning
24 January 1, 2001, and to each tax year thereafter.

25 Section 3. This act shall take effect immediately.