

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 361 Session of
1995

INTRODUCED BY HUTCHINSON, WAUGH, FICHTER, COY, HERSHEY, FLEAGLE,
DEMPSEY, CARONE, L. I. COHEN, ROBERTS, PLATTS, BAKER, ZUG,
TRELLO, GODSHALL, PHILLIPS, LYNCH, SCHRODER, RAYMOND, McCALL,
BROWN, E. Z. TAYLOR, TIGUE, D. W. SNYDER, S. H. SMITH,
CORRIGAN, CIVERA, GEIST, MARKOSEK, CLYMER, REBER, EGOLF,
JADLOWIEC, FARGO, PETTIT, BELFANTI, ARMSTRONG, KING, LEH,
STERN, DIGIROLAMO, SATHER AND MARSICO, JANUARY 26, 1995

REFERRED TO COMMITTEE ON FINANCE, JANUARY 26, 1995

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 net loss carryover.

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 June 16, 1994 (P.L.279, No.48), is amended 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:

1 * * *

2 (3) "Taxable income." * * *

3 4. (a) For taxable years beginning in 1982 through taxable
4 years beginning in 1990 and for the taxable year beginning in
5 1995 and each taxable year thereafter, a net loss deduction
6 shall be allowed from taxable income as arrived at under
7 subclause 1 or, if applicable, subclause 2. For taxable years
8 beginning in 1991, 1992, 1993 and 1994, the net loss deduction
9 allowed for years prior to 1991 shall be suspended, and no
10 carryover of net losses from taxable years 1988, 1989, 1990,
11 1991, 1992 and 1993 shall be utilized in calculating net income
12 for the 1991, 1992, 1993 and 1994 taxable years, but such net
13 losses may be used as provided in paragraph (c) in calculating
14 net income for the 1995 taxable year and for two taxable years
15 thereafter.

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

21 (c) The net loss deduction shall be the lesser of \$500,000
22 or the amount of the net loss or losses which may be carried
23 over to the taxable year or taxable income as determined under
24 subclause 1 or, if applicable, subclause 2. A net loss for a
25 taxable year may only be carried over pursuant to the following
26 schedule:

	Taxable Year	Carryover
28	1981	1 taxable year
29	1982	2 taxable years
30	1983-1987	3 taxable years

1	1988	2 taxable years plus
2		1 taxable year
3		starting with the
4		1995 taxable year
5	1989	1 taxable year plus
6		2 taxable years
7		starting with the
8		1995 taxable year
9	1990-1993	3 taxable years
10		starting with the
11		1995 taxable year
12	1994	1 taxable year
13	1995	2 taxable years
14	1996 [and thereafter]	3 taxable years
15	<u>1997</u>	<u>6 taxable years</u>
16	<u>1998</u>	<u>9 taxable years</u>
17	<u>1999</u>	<u>12 taxable years</u>
18	<u>2000 and thereafter</u>	<u>15 taxable years</u>

19 The earliest net loss shall be carried over to the earliest
20 taxable year to which it may be carried under this schedule. The
21 total net loss deduction allowed in any taxable year shall not
22 exceed five hundred thousand dollars (\$500,000).

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

28 (e) Paragraph (d) shall not prevent a taxable year when a
29 corporation is a Pennsylvania S corporation from being
30 considered a taxable year for determining the number of taxable

1 years to which a net loss may be a carryover.

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

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

23 * * *

24 Section 2. This act shall take effect January 1, 1996.