

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 985 Session of 2021

INTRODUCED BY AUMENT, YAW, MARTIN, ROBINSON, J. WARD, SCAVELLO, BAKER, HUTCHINSON, BROOKS, MENSCH, PITTMAN, STEFANO, PHILLIPS-HILL AND BARTOLOTTA, DECEMBER 29, 2021

REFERRED TO FINANCE, DECEMBER 29, 2021

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," in personal income tax, further providing for  
11 classes of income.

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

14 Section 1. Section 303 of the act of March 4, 1971 (P.L.6,  
15 No.2), known as the Tax Reform Code of 1971, is amended by  
16 adding a subsection to read:

17 Section 303. Classes of Income.--\* \* \*

18 (a.11) The following shall apply to income:

19 (1) There shall be allowed as a deduction from income for a  
20 taxable year an amount equal to the net operating loss.

21 (2) For a net operating loss arising in a taxable year  
22 beginning after December 31, 2017, and before January 1, 2021,

1 the loss shall be:

2 (i) A net operating loss carryback to each of the five  
3 taxable years preceding the taxable year of such loss.

4 (ii) An unused amount shall be carried forward to each  
5 succeeding taxable year.

6 (3) Subject to paragraph (2):

7 (i) The entire amount of the net operating loss for a  
8 taxable year shall be carried to the earliest of the taxable  
9 years to which a loss may be carried.

10 (ii) The portion of the loss that is carried to each of the  
11 other taxable years shall be the excess, if any, of the amount  
12 of the loss over the sum of the taxable income for each of the  
13 prior taxable years to which the loss may be carried.

14 (4) The amount deductible on account of losses from sales or  
15 exchanges of capital assets shall not exceed the amount  
16 includable on account of gains from sales or exchanges of  
17 capital assets.

18 (5) The deductions allowable under this subsection which are  
19 not attributable to a taxpayer's trade or business shall be  
20 allowed only to the extent of the amount of the income not  
21 derived from such trade or business. For purposes of this  
22 paragraph a gain or loss from the sale or other disposition of  
23 property, used in the trade or business, of a character which is  
24 subject to the allowance for depreciation provided under section  
25 167 of the Internal Revenue Code of 1986 (Public Law 99-514, 26  
26 U.S.C. § 167), or real property used in the trade or business,  
27 shall be treated as attributable to the trade or business.

28 (6) For the purposes of this subsection:

29 (i) The term "net gain" means the sum of the gain for a year  
30 from each class of compensation, net profits, gains, dividends,

1 interest or income enumerated under this section.

2 (ii) The term "net loss" means the sum of the loss for a  
3 year from each class of compensation, net profits, gains,  
4 dividends, interest or income enumerated under this section.

5 (iii) The term "net operating loss" means the excess of the  
6 sum of the net loss over the sum of the net gain for a year.

7 (iv) The term "net operating loss carryback" means a net  
8 operating loss that applies to a prior year's tax return.

9 (v) The term "taxable income" means a taxpayer's net income  
10 minus the net operating loss deduction for the taxable year.

11 \* \* \*

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