

**SB3456**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**SB3456**

Introduced 1/18/2022, by Sen. Brian W. Stewart

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/207

from Ch. 120, par. 2-207

Amends the Illinois Income Tax Act. Removes a provision for taxable years ending on or after December 31, 2021 and prior to December 31, 2024 limiting the net loss carryover deduction to \$100,000. Effective immediately.

LRB102 22652 HLH 31796 b

**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  
9 provided for in paragraph (2) of Section 203(b), paragraph (2)  
10 of Section 203(c) and paragraph (2) of Section 203(d) and (ii)  
11 the allocation and apportionment provisions of Article 3 of  
12 this Act and subsection (c) of this Section, the taxpayer's  
13 net 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  
17 172 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 2 taxable years  
21 preceding the taxable year of such loss and shall be a net  
22 operating loss carryover to each of the 20 taxable years  
23 following the taxable year of such loss;

1           (3) for any taxable year ending on or after December  
2           31, 2003 and prior to December 31, 2021, such loss shall be  
3           allowed as a net operating loss carryover to each of the 12  
4           taxable years following the taxable year of such loss,  
5           except as provided in subsection (d); and

6           (4) for any taxable year ending on or after December  
7           31, 2021, and for any net loss incurred in a taxable year  
8           prior to a taxable year ending on or after December 31,  
9           2021 for which the statute of limitation for utilization  
10          of such net loss has not expired, such loss shall be  
11          allowed as a net operating loss carryover to each of the 20  
12          taxable years following the taxable year of such loss,  
13          except as provided in subsection (d).

14          (a-5) Election to relinquish carryback and order of  
15          application of losses.

16                (A) For losses incurred in tax years ending prior  
17                to December 31, 2003, the taxpayer may elect to  
18                relinquish the entire carryback period with respect to  
19                such loss. Such election shall be made in the form and  
20                manner prescribed by the Department and shall be made  
21                by the due date (including extensions of time) for  
22                filing the taxpayer's return for the taxable year in  
23                which such loss is incurred, and such election, once  
24                made, shall be irrevocable.

25                (B) The entire amount of such loss shall be  
26                carried to the earliest taxable year to which such

1           loss may be carried. The amount of such loss which  
2           shall be carried to each of the other taxable years  
3           shall be the excess, if any, of the amount of such loss  
4           over the sum of the deductions for carryback or  
5           carryover of such loss allowable for each of the prior  
6           taxable years to which such loss may be carried.

7           (b) Any loss determined under subsection (a) of this  
8           Section must be carried back or carried forward in the same  
9           manner for purposes of subsections (a) and (b) of Section 201  
10          of this Act as for purposes of subsections (c) and (d) of  
11          Section 201 of this Act.

12          (c) Notwithstanding any other provision of this Act, for  
13          each taxable year ending on or after December 31, 2008, for  
14          purposes of computing the loss for the taxable year under  
15          subsection (a) of this Section and the deduction taken into  
16          account for the taxable year for a net operating loss  
17          carryover under paragraphs (1), (2), and (3) of subsection (a)  
18          of this Section, the loss and net operating loss carryover  
19          shall be reduced in an amount equal to the reduction to the net  
20          operating loss and net operating loss carryover to the taxable  
21          year, respectively, required under Section 108(b)(2)(A) of the  
22          Internal Revenue Code, multiplied by a fraction, the numerator  
23          of which is the amount of discharge of indebtedness income  
24          that is excluded from gross income for the taxable year (but  
25          only if the taxable year ends on or after December 31, 2008)  
26          under Section 108(a) of the Internal Revenue Code and that

1 would have been allocated and apportioned to this State under  
2 Article 3 of this Act but for that exclusion, and the  
3 denominator of which is the total amount of discharge of  
4 indebtedness income excluded from gross income under Section  
5 108(a) of the Internal Revenue Code for the taxable year. The  
6 reduction required under this subsection (c) shall be made  
7 after the determination of Illinois net income for the taxable  
8 year in which the indebtedness is discharged.

9 (d) In the case of a corporation (other than a Subchapter S  
10 corporation), no carryover deduction shall be allowed under  
11 this Section for any taxable year ending after December 31,  
12 2010 and prior to December 31, 2012, and no carryover  
13 deduction shall exceed \$100,000 for any taxable year ending on  
14 or after December 31, 2012 and prior to December 31, 2014 ~~and~~  
15 ~~for any taxable year ending on or after December 31, 2021 and~~  
16 ~~prior to December 31, 2024;~~ provided that, for purposes of  
17 determining the taxable years to which a net loss may be  
18 carried under subsection (a) of this Section, no taxable year  
19 for which a deduction is disallowed under this subsection, or  
20 for which the deduction would exceed \$100,000 if not for this  
21 subsection, shall be counted.

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

26 (1) the amount computed under subsection (a), without

1           regard to this subsection (e), or if that amount is  
2           positive, zero;

3           (2) minus an amount equal to the amount computed under  
4           subsection (a), without regard to this subsection (e),  
5           minus the amount that would be computed under subsection  
6           (a) if the taxpayer's federal taxable income were computed  
7           without regard to Section 860E of the Internal Revenue  
8           Code and without regard to this subsection (e).

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

11          (Source: P.A. 102-16, eff. 6-17-21; 102-669, eff. 11-16-21.)

12          Section 99. Effective date. This Act takes effect upon  
13          becoming law.