

HB5809



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5809

Introduced 2/10/2010, by Rep. Sidney H. Mathias - Renée Kosel - Darlene J. Senger - Elizabeth Coulson - Raymond Poe, et al.

SYNOPSIS AS INTRODUCED:

35 ILCS 5/207

from Ch. 120, par. 2-207

Amends the Illinois Income Tax Act. Extends the carryback and carryover periods for net losses by an additional 5 years.

LRB096 18412 HLH 33790 b

FISCAL NOTE ACT
MAY APPLY

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 provided
9 for in paragraph (2) of Section 203(b), paragraph (2) of
10 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
11 allocation and apportionment provisions of Article 3 of this
12 Act and subsection (c) of this Section, the taxpayer's net
13 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 172
17 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 7 ~~2~~ taxable years
21 preceding the taxable year of such loss and shall be a net
22 operating loss carryover to each of the 25 ~~20~~ taxable years
23 following the taxable year of such loss; and

1 (3) for any taxable year ending on or after December
2 31, 2003, such loss shall be allowed as a net operating
3 loss carryover to each of the 17 ~~12~~ taxable years following
4 the taxable year of such loss.

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

7 (A) For losses incurred in tax years ending prior
8 to December 31, 2003, the taxpayer may elect to
9 relinquish the entire carryback period with respect to
10 such loss. Such election shall be made in the form and
11 manner prescribed by the Department and shall be made
12 by the due date (including extensions of time) for
13 filing the taxpayer's return for the taxable year in
14 which such loss is incurred, and such election, once
15 made, shall be irrevocable.

16 (B) The entire amount of such loss shall be carried
17 to the earliest taxable year to which such loss may be
18 carried. The amount of such loss which shall be carried
19 to each of the other taxable years shall be the excess,
20 if any, of the amount of such loss over the sum of the
21 deductions for carryback or carryover of such loss
22 allowable for each of the prior taxable years to which
23 such loss may be carried.

24 (b) Any loss determined under subsection (a) of this
25 Section must be carried back or carried forward in the same
26 manner for purposes of subsections (a) and (b) of Section 201

1 of this Act as for purposes of subsections (c) and (d) of
2 Section 201 of this Act.

3 (c) Notwithstanding any other provision of this Act, for
4 each taxable year ending on or after December 31, 2008, for
5 purposes of computing the loss for the taxable year under
6 subsection (a) of this Section and the deduction taken into
7 account for the taxable year for a net operating loss carryover
8 under paragraphs (1), (2), and (3) of subsection (a) of this
9 Section, the loss and net operating loss carryover shall be
10 reduced in an amount equal to the reduction to the net
11 operating loss and net operating loss carryover to the taxable
12 year, respectively, required under Section 108(b)(2)(A) of the
13 Internal Revenue Code, multiplied by a fraction, the numerator
14 of which is the amount of discharge of indebtedness income that
15 is excluded from gross income for the taxable year (but only if
16 the taxable year ends on or after December 31, 2008) under
17 Section 108(a) of the Internal Revenue Code and that would have
18 been allocated and apportioned to this State under Article 3 of
19 this Act but for that exclusion, and the denominator of which
20 is the total amount of discharge of indebtedness income
21 excluded from gross income under Section 108(a) of the Internal
22 Revenue Code for the taxable year. The reduction required under
23 this subsection (c) shall be made after the determination of
24 Illinois net income for the taxable year in which the
25 indebtedness is discharged.

26 (Source: P.A. 95-233, eff. 8-16-07.)