

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 1099

Short Title: Extend Corporate Loss Carryforward.

(Public)

---

Sponsors: Representatives Neely, Blue, Cansler, Capps, Church, G. Robinson, Shaw, Shubert; and McComas.

---

Referred to: Finance.

---

May 14, 1996

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE CORPORATE INCOME TAX CARRYFORWARD FOR  
NET ECONOMIC LOSSES FROM FIVE YEARS TO FIFTEEN YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.8 reads as rewritten:

**"§ 105-130.8. Net economic loss.**

Net economic losses sustained by a corporation in any or all of the ~~five~~ 15 preceding income years shall be allowed as a deduction to ~~such~~ the corporation subject to the following limitations:

- (1) The purpose in allowing the deduction of a net economic loss of a prior year ~~or years~~ is that of granting to grant some measure of relief to the corporation ~~which that~~ which has incurred economic misfortune or ~~which~~ is otherwise materially affected by strict adherence to the annual accounting rule in the determination of net income. The deduction ~~herein specified~~ allowed in this section does not authorize the carrying forward of any particular items or category of loss except to the extent that ~~such loss or losses shall result~~ the loss results in the impairment of the net economic situation of the corporation so as to result in a net economic loss as ~~hereinafter defined~~ defined in this section.

- 1           (2) The net economic loss for any year ~~shall mean~~ means the amount by  
2           which allowable deductions for the year other than prior year losses  
3           ~~shall exceed~~ income from all sources in the year including any income  
4           not taxable under this Division.
- 5           (3) Any net economic loss of a ~~prior year or~~ prior years brought forward and  
6           claimed as a deduction in any income year may be deducted from net  
7           income of the year only to the extent that ~~such carry over~~ the loss carried  
8           forward from the prior year ~~or years~~ shall exceed ~~exceeds~~ any income not  
9           taxable under this Division received in the same year in which the  
10          deduction is claimed, except that in the case of a corporation required to  
11          allocate and apportion to North Carolina its net income, ~~as defined in this~~  
12          ~~Division,~~ only such that proportionate part of the net economic loss of a  
13          prior year shall be deductible from total income allocable to this State as  
14          would be determined by the use of the allocation and apportionment  
15          provisions of G.S. 105-130.4 for the year of ~~such~~ the loss.
- 16          (4) A net economic loss carried forward from any year shall first be applied  
17          to, or offset by, any income taxable or nontaxable of the next  
18          succeeding year before any portion of ~~such~~ the loss may be carried  
19          forward to a succeeding year.
- 20          (5) For purposes of this section, any income item deductible in determining  
21          State net income under the provisions of G.S. 105-130.5 and any  
22          nonbusiness income not allocable to this State under the provisions of  
23          G.S. 105-130.4 shall be considered as income not taxable under this  
24          Division.
- 25          (6) No loss shall either directly or indirectly be carried forward more than  
26          ~~five~~ 15 years.
- 27          (7) A corporation claiming a deduction for a loss for the current year or  
28          carried forward from a prior year shall maintain and make available for  
29          inspection by the Secretary all records necessary to determine and verify  
30          the amount of the deduction. The burden of proving eligibility for the  
31          deduction and the amount of the deduction shall rest upon the  
32          corporation, and no deduction shall be allowed to a corporation that fails  
33          to maintain adequate records or to make them available for inspection."

34          Sec. 2. G.S. 105-130.5(b)(4) reads as rewritten:

- 35          "(4) Losses in the nature of net economic losses sustained by the corporation  
36          in any or all of the ~~five~~ 15 preceding years pursuant to the provisions of  
37          G.S. 105-130.8. ~~Provided, a~~ A corporation required to allocate and  
38          apportion its net income under the provisions of G.S. 105-130.4 shall  
39          deduct its allocable net economic loss only from total income allocable  
40          to this State pursuant to the provisions of G.S. 105-130.8."

41          Sec. 3. This act is effective for taxable years beginning on or after January 1,  
42          1996, and applies to losses incurred for taxable years beginning on or after January 1,  
43          1990.