



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1133/P3
KRP:ahc

DOA:.....Quinn, BB0149 - Net business loss carry-forward alignment
FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill provides that a taxpayer may not carry forward a net operating or a net business loss to offset future income of the taxpayer unless the taxpayer filed a tax return to claim the loss within four years after the due date for filing the tax return for the taxable year in which the loss was incurred. Additionally, the bill provides that a taxpayer that is allowed to carry back the loss to offset income in prior years may only do so if the taxpayer files a tax return to claim the carry-back within four years after the due date for filing the tax return for the taxable year to which the loss is carried back.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (8) (b) 1. of the statutes is amended to read:

71.05 (8) (b) 1. ~~A~~ Except as provided in s. 71.80 (25), a Wisconsin net operating loss may be carried back against Wisconsin taxable income of the previous 2 years

and then carried forward against Wisconsin taxable incomes of the next 20 taxable years, if the taxpayer was subject to taxation under this chapter in the taxable year in which the loss was ~~sustained~~ incurred, to the extent not offset against other income of the year of loss and to the extent not offset against Wisconsin modified taxable income of the 2 years preceding the loss and of any year between the loss year and the taxable year for which the loss carry-forward is claimed. In this paragraph, “Wisconsin modified taxable income” means Wisconsin taxable income with the following exceptions: a net operating loss deduction or offset for the loss year or any taxable year before or thereafter is not allowed, the deduction for long-term capital gains under subs. (6) (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses from sales or exchanges of capital assets may not exceed the amount includable in income for gains from sales or exchanges of capital assets and “Wisconsin modified taxable income” may not be less than zero.

SECTION 2. 71.26 (4) (a) of the statutes is amended to read:

71.26 (4) (a) Except as provided in par. (b) and s. 71.80 (25), a corporation, except a tax-option corporation or an insurer to which s. 71.45 (4) applies, may offset against its Wisconsin net business income any Wisconsin net business loss ~~sustained~~ incurred in any of the ~~next 20~~ immediately preceding taxable years, if the corporation was subject to taxation under this chapter in the taxable year in which the loss was ~~sustained~~ incurred, to the extent not offset by other items of Wisconsin income in the loss year and by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed. For purposes of this subsection, Wisconsin net business income or loss shall consist of all the income attributable to the operation of a trade or business in this state, less the business expenses allowed as deductions in computing net income. The Wisconsin net business income or loss

of corporations engaged in business within and without the state shall be determined under s. 71.25 (6) and (10) to (12). Nonapportionable losses having a Wisconsin situs under s. 71.25 (5) (b) shall be included in Wisconsin net business loss; and nonapportionable income having a Wisconsin situs under s. 71.25 (5) (b), whether taxable or exempt, shall be included in other items of Wisconsin income and Wisconsin net business income for purposes of this subsection.

SECTION 3. 71.45 (4) (a) of the statutes is amended to read:

71.45 (4) (a) Except as provided in par. (b) and s. 71.80 (25), insurers computing tax under this subchapter may subtract from Wisconsin net income any Wisconsin net business loss sustained incurred in any of the next 20 immediately preceding taxable years, if the insurer was subject to taxation under this chapter in the taxable year in which the loss was incurred, to the extent not offset by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed and computed without regard to sub. (2) (a) 8. and 9. and this subsection and limited to the amount of net income, but no loss incurred for a taxable year before taxable year 1987 by a nonprofit service plan of sickness care under ch. 148, or dental care under s. 447.13 may be treated as a net business loss of the successor service insurer under ch. 613 operating by virtue of s. 148.03 or 447.13.

SECTION 4. 71.80 (25) of the statutes is created to read:

71.80 (25) NET OPERATING AND BUSINESS LOSS CARRY-FORWARD AND CARRY-BACK.
(a) No offset of Wisconsin income may be made under s. 71.05 (8) (b) 1., 71.26 (4) (a), or 71.45 (4) (a) unless the incurred loss was computed on a return that was filed within 4 years of the unextended due date for filing the original return for the taxable year in which the loss was incurred.

(b) No carry-back of a loss may be allowed under s. 71.05 (8) (b) 1. unless claimed within 4 years of the unextended due date for filing the original return for the taxable year to which the loss is carried back.

SECTION 9338. Initial applicability; Revenue.

(1) NET BUSINESS LOSS CARRY-FORWARD AND CARRY-BACK. The treatment of sections 71.05 (8) (b) 1., 71.26 (4) (a), 71.45 (4) (a), and 71.80 (25) of the statutes first applies to a loss claimed on the effective date of this subsection regardless of the year in which the loss was incurred.

(END)