

ASSEMBLY, No. 584

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman LUSTBADER

1 AN ACT concerning the application of certain losses against gross
2 income under the gross income tax and amending N.J.S.54A:5-2.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.54A:5-2 is amended to read as follows:

8 54A:5-2. Losses. a. Losses which occur within one category of
9 gross income may be applied against other sources of gross income
10 within the same category of gross income during the taxable year.
11 However, a net loss in one category of gross income may not be
12 applied against gross income in another category of gross income
13 except as provided in subsection b. of this section.

14 b. The excess of net losses derived from the sale, exchange or
15 other disposition of property, which if sold for a gain would result in
16 a gain includable in gross income pursuant to subsection c. of
17 N.J.S.54A:5-1, over net gains on such property, as determined both as
18 to amount and as to the taxable year of net loss in accordance with the
19 method of accounting allowed for federal income tax purposes, may
20 be applied against gross income in another category of gross income;
21 provided however, that the amount and manner of that application
22 shall be subject to the limitations and restrictions on the deductibility
23 of those losses from federal gross income under the provisions of
24 sections 1201 et seq. of the federal Internal Revenue Code of 1986, 26
25 U.S.C. §1201 et seq., relating to capital gains and losses.

26 (cf: N.J.S.54A:5-2)

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28 2. This act shall take effect immediately and shall apply to taxable
29 years beginning on or after the date of enactment.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 STATEMENT

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3 This bill conforms treatment of certain taxpayer losses under the
4 gross income tax to the treatment those losses receive under the
5 federal Internal Revenue Code.

6 Under the current provisions of the State gross income tax law, a
7 loss can be applied against an item of gross income only if the loss is
8 within the same category as the income item. There are presently 14
9 categories of income under the gross income tax law,
10 including--besides salaries and wages--net profits from business, net
11 gains or income from disposition of property, and distributive share of
12 partnership income. Present State law also limits application of these
13 losses to income which the taxpayer realized in the same taxable year
14 as that in which the loss occurred.

15 Under the bill, losses from the disposition of nonbusiness property
16 can be applied against all income, regardless of category. In addition,
17 federal income tax law applies to govern the amount of losses which
18 could be applied and the range of years over which a loss could be
19 carried back or carried forward for this purpose.

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24 Allows loss from disposition of property to be applied against other
25 categories of gross income under the gross income tax.