

SENATE, No. 517

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Senator BASSANO

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*:

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

7 54A:5-2. Losses. a. Losses which occur within one category of
8 gross income may be applied against other sources of gross income
9 within the same category of gross income during the taxable year.
10 However, a net loss in one category of gross income may not be
11 applied against gross income in another category of gross income
12 except as provided in subsection b. of this section.

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

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

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

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STATEMENT

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34 This bill conforms treatment of certain taxpayer losses under the

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 gross income tax to the treatment those losses receive under the
2 federal Internal Revenue Code.

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

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

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21 Allows a loss from disposition of property to be applied against other
22 categories of gross income under the gross income tax.