

General Information Letter: There is no exception to the provision in IITA Section 207(d), which disallows net loss deductions after 2010 and prior to calendar 2014, for corporations ceasing to exist prior to the end of that period.

September 30, 2011

Dear:

This is in response to your letter dated September 7, 2011, in which you request information regarding Illinois income tax law. The nature of your letter and the information provided require that we respond with a General Information Letter (GIL). A GIL is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be accessed from the Department's web site at www.Iltax.com.

Your letter states as follows:

I am looking for clarification of the suspension of the NLD deduction for corporations. Is the NLD allowed on the final return, if the final return is for a tax year ending after January 1, 2011 and before December 31, 2014?

RULING

Section 207 of the Illinois Income Tax Act ("IITA" ; 35 ILCS 5/207) states in part:

(a) If after applying all of the (i) modifications provided for in paragraph (2) of Section 203(b), paragraph (2) of Section 203(c) and paragraph (2) of Section 203(d) and (ii) the allocation and apportionment provisions of Article 3 of this Act and subsection (c) of this Section, the taxpayer's net income results in a loss;

- (1) for any taxable year ending prior to December 31, 1999, such loss shall be allowed as a carryover or carryback deduction in the manner allowed under Section 172 of the Internal Revenue Code;
- (2) for any taxable year ending on or after December 31, 1999 and prior to December 31, 2003, such loss shall be allowed as a carryback to each of the 2 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 20 taxable years following the taxable year of such loss; and
- (3) for any taxable year ending on or after December 31, 2003, such loss shall be allowed as a net operating loss carryover to each of the 12 taxable years following the taxable year of such loss, except as provided in subsection (d).

...

(d) In the case of a corporation (other than a Subchapter S corporation), no carryover deduction shall be allowed under this Section for any taxable year ending after December 31, 2010 and prior to December 31, 2014; provided that, for purposes of determining the taxable years to which a net loss may be carried under subsection (a) of this Section, no taxable year for which a deduction is disallowed under this subsection shall be counted.

Accordingly, pursuant to subsection (d), no net operating loss deduction otherwise allowed a corporate taxpayer (other than an S corporation) under subsection (a)(1), (2), or (3) for taxable years ending after December 31, 2010 and prior to December 31, 2014, shall be allowed. There are no exceptions to the rule in subsection (d) for the final taxable year of a corporation or otherwise.

As stated above, this is a GIL. A GIL does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department.

Sincerely,

Brian L. Stocker
Associate Counsel (Income Tax)