

1 AMENDMENT TO HOUSE BILL 1268

2 AMENDMENT NO. _____. Amend House Bill 1268 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 405 as follows:

6 (35 ILCS 5/405)

7 Sec. 405. Carryovers in certain acquisitions.

8 (a) In the case of the acquisition of assets of a
9 corporation by another corporation described in Section
10 381(a) of the Internal Revenue Code, the acquiring
11 corporation shall succeed to and take into account, as of the
12 close of the day of distribution or transfer, all Article 2
13 credits and net losses under Section 207 of the corporation
14 from which the assets were acquired.

15 (b) In the case of the acquisition of assets of a
16 partnership by another partnership in a transaction in which
17 the acquiring partnership is considered to be a continuation
18 of the partnership from which the assets were acquired under
19 the provisions of Section 708 of the Internal Revenue Code
20 and any regulations promulgated under that Section, the
21 acquiring partnership shall succeed to and take into account,
22 as of the close of the day of distribution or transfer, all

1 Article 2 credits and net losses under Section 207 of the
2 partnership from which the assets were acquired.

3 (b-5) No limitation under Section 382 of the Internal
4 Revenue Code or the separate return limitation year
5 regulations promulgated under Section 1502 of the Internal
6 Revenue Code shall apply to the carryover of any Article 2
7 credit or net loss allowable under Section 207.

8 (b-10) If on the termination of an estate or trust, the
9 estate or trust has a net loss carryforward under Section
10 207, that carryforward shall be allowed to the beneficiaries
11 succeeding to the property of the estate or trust in the same
12 manner as allowed in Section 642(h) of the Internal Revenue
13 Code.

14 (c) The provisions of this Section ~~amendatory Act of the~~
15 ~~91st--General--Assembly~~ shall apply to all acquisitions
16 occurring in taxable years ending on or after December 31,
17 1986; provided that if a taxpayer's Illinois income tax
18 liability for any taxable year, as assessed under Section 903
19 prior to January 1, 1999, was computed without taking into
20 account all of the Article 2 credits and net losses under
21 Section 207 as allowed by subsections (a) and (b) of this
22 Section:

23 (1) no refund shall be payable to the taxpayer for
24 that taxable year as the result of allowing any portion
25 of the Article 2 credits or net losses under Section 207
26 that were not taken into account in computing the tax
27 assessed prior to January 1, 1999;

28 (2) any deficiency which has not been paid may be
29 reduced (but not below zero) by the allowance of some or
30 all of the Article 2 credits or net losses under Section
31 207 that were not taken into account in computing the tax
32 assessed prior to January 1, 1999; and

33 (3) in the case of any Article 2 credit or net loss
34 under Section 207 that, pursuant to this subsection (c),

1 could not be taken into account either in computing the
2 tax assessed prior to January 1, 1999 for a taxable year
3 or in reducing a deficiency for that taxable year under
4 paragraph (2) of subsection (c), the allowance of such
5 credit or loss in any other taxable year shall not be
6 denied on the grounds that such credit or loss should
7 properly have been claimed in that taxable year under
8 subsection (a) or (b).

9 (Source: P.A. 91-541, eff. 8-13-99; 91-913, eff. 1-1-01.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."