



5. Page 2, Lines 33 through 34:

33 Be it enacted by the Legislature of the state of Utah:

= **Section 1. Section 59-7-110 is amended to read:**

**59-7-110. Utah net losses -- Carryforwards and carrybacks.**

(1) The amount of Utah net loss which shall be carried back or forward to offset income of another taxable year shall be determined as provided in this section.

(2) (a) A Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss, subject to the limitations of this section.

(b) A Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss, subject to the limitations of this section. If an election is made to forego the federal net operating loss carryback, the Utah net loss is not eligible to be carried back unless an election is made for state purposes.

(3) The Utah net loss shall be carried to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years which were applied or required to be applied to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(a)(iii), the amount of Utah net loss which shall be carried to the year identified in Subsection (3) shall be the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of such loss which were carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years which were carried or required to be carried to such year; and

(iii) in any event, the amount carried back from a taxable year beginning on or after January 1, 1994, may not exceed \$1,000,000 in Utah taxable income for each corporate return filed in a taxable year; any losses in excess of \$1,000,000 may be carried forward; and

(b) any remaining Utah net loss shall be available to be carried to one or more taxable years in accordance with this section.

(5) (a) Corporations acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition. This subsection does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct its net losses incurred before the date of acquisition against its separate income if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before such acquisition.

= **(c) (i) Notwithstanding Subsection 59-7-311(3)(b)(ii) or (4)(b)(ii), a unitary group may deduct the net losses of an acquired corporation described in Subsection (5)(b) as provided in Subsection (5)(c)(ii) if:**

**(A) the acquired corporation described in Subsection (5)(b) is included on a combined report as part of the unitary group; and**

(B) the unitary group elects under Section 59-7-311 to calculate the fraction for apportioning business income to this state using a method that is different than the method used by the acquired corporation prior to the date of acquisition.

(ii) If the requirements of Subsection (5)(c)(i) are met, a unitary group may deduct the net losses of an acquired corporation described in Subsection (5)(b) against the lesser of:

(A) the separate income of the acquired corporation calculated using the method of apportioning business income to this state under Section 59-7-311 that the acquired corporation used on the date the net losses were incurred; or

(B) the separate income of the acquired corporation calculated using the method of apportioning business income to this state under Section 59-7-311 that the unitary group uses for the current taxable year.

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Section {+} 2 . Section 59-7-311 is amended to read: