

Act 615 of the 1989 Regular Session.

Act 615

HB1499

By: Representative McGinnis

"AN ACT TO AMEND ARKANSAS CODE 26-51-427(1) TO PROVIDE THAT ANY NET OPERATING LOSS WHICH RESULTED FROM FARMING OPERATIONS FOR INCOME YEARS BEGINNING ON OR AFTER JANUARY 1, 1981, AND EXPIRED BEFORE THEY WERE FULLY USED, BE CARRIED FORWARD FOR AN ADDITIONAL TWO YEARS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 26-51-427(1) is hereby amended to read as follows:

"(1) (A) The net operating loss as hereinbelow defined for any year ending on or after the passage of this act and for any succeeding taxable year may be carried over to the next succeeding taxable year and annually thereafter for a total period of three (3) years next succeeding the year of the net operating loss or until the net operating loss has been exhausted or absorbed by the taxable income of any succeeding year, whichever is earlier, if the loss occurred in an income year beginning before January 1, 1987. The net operating loss deduction must be carried forward in the order named above;

(B) The net operating loss as hereinbelow defined for any year ending on or after the passage of this act and for any succeeding taxable year may be carried over to the next succeeding taxable year and annually thereafter for a total period of five (5) years next succeeding the year of the net operating loss or until the net operating loss has been exhausted or absorbed by the taxable income of any succeeding year, whichever is earlier, if the loss occurred in an income year beginning on or after January 1, 1987. The net operating loss deduction must be carried forward in the order named above;

(C) The net operating loss as hereinbelow defined which resulted from farming operations, for income years beginning on or after January 1, 1981 and expired in accordance with subparagraph (A) above before being fully used, may be carried forward for an additional two years and any unused portions can be combined and either applied to tax years 1987 and 1988, respectively, or to tax years 1989 and 1990. In order to claim the additional two year carry forward, taxpayers must attach copies of both their federal tax returns and their state tax returns, showing the net operating losses for income years beginning on or after January 1, 1981, to their state tax returns. As used in this subparagraph, 'farming operations' means that at least 66-2/3 percent of the total gross income, from all sources for the taxable year, must come from farming as defined by Internal Revenue Code Section 464(e)(1) in effect on January 1, 1989;

(D) As used in this section, the term 'taxable income or net income' shall be deemed to be the net income computed without benefit of the deduction for income taxes, personal exemptions, and credit for dependents. The net income of the taxable period to which the net operating loss deduction, as adjusted, is carried, shall be the net income before the deduction of federal income taxes, personal exemption, and credit fo dependents; and such income taxes, exemptions, and credits shall not be used to increase the net operating loss which may be carried to any other taxable period;"

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. Emergency. It is hereby found and determined by the General Assembly that net operating losses which occurred during any income year beginning before January 1, 1987 may be carried forward for only three years; that net operating losses which occur in income years beginning on and after January 1, 1987 may be carried forward for five (5) years; that due to the weather, commodity prices and other circumstances the farm economy in this State has suffered devastating losses since 1980, and the farmers should be allowed to carry over for five (5) years the losses they have incurred since 1980; that this Act is intended to change from three (3) years to five (5) years the period of time in which losses which occurred since December 31, 1980 may be carried forward even to the extent of retroactive application; that this Act will grant some relief to the farm sector of this State and should therefore be given immediate effect. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 16, 1989

---