**Sec. 12-711(b)-6. Deductions with respect to capital losses, passive activity losses and net operating losses**

(a) Connecticut adjusted gross income derived from or connected with sources within this state includes deductions entering into the Connecticut adjusted gross income of a nonresident individual with respect to capital losses, passive activity losses and net operating losses, but only to the extent that the items of income, gain, loss and deduction that entered into Connecticut adjusted gross income are based solely on items of income, gain, loss and deduction derived from or connected with Connecticut sources.

(b) (1) The amount of any deduction allowed under this section shall be computed as it would be computed for federal income tax purposes if the Connecticut items of income, gain, loss and deduction were the only items making up the corresponding federal items of income, gain, loss and deduction for the particular year. Therefore, a nonresident shall recompute capital losses, passive activity losses and net operating losses as if such nonresident's federal adjusted gross income consisted only of items derived from Connecticut sources.

(2) The deduction of an item of loss or suspended loss from an S corporation in computing Connecticut adjusted gross income derived from or connected with Connecticut sources of a nonresident shareholder is limited to the shareholder's basis in the stock of the S corporation, as determined for federal income tax purposes. The same principles apply to nonresident partners.

(c) (1) Any capital loss or net operating loss deduction computed under this section may, by way of carryback or carryforward, affect the computation of Connecticut adjusted gross income derived from or connected with sources within this state for other Connecticut taxable years as long as such carryback or carryforward is based solely on items of income, gain, loss and deduction from Connecticut sources. Similarly, a suspended passive activity loss deduction shall be based solely on items of income, gain, loss and deduction from Connecticut sources.

*Example 1:* Taxpayer B, a nonresident of Connecticut, reported a capital gain from sources without Connecticut (from the sale of securities) of $20,000 on her 1992 federal income tax return. B also reported on her federal income tax return a capital loss of $8,000 from sources exclusively within Connecticut (from the sale of real property not used in B's trade or business). For federal income tax purposes, B has a gain from the sale or exchange of property of $12,000 ($20,000 minus $8,000). On her 1992 Form CT-1040NR/PY, B has a capital loss of $8,000 derived from or connected with sources within Connecticut, but may claim as a deduction only $3,000 (in accordance with the federal limitation of $3,000 of capital loss to offset ordinary income). She shall carry forward the balance to the following year(s), even though her 1993 federal income tax return shall show no capital loss carry-forward.

*Example 2:* X, a nonresident individual, reported on her 1992 federal income tax return passive activity income in the amount of $20,000 from New York State sources. X also reported a passive activity loss in the amount of $15,000 from Connecticut sources. For federal income tax purposes, X has passive activity income of $5,000 (20,000 minus 15,000). On her 1992 Form CT-1040NR/PY, X has a passive activity loss of $15,000. X may carry this passive activity loss to the 1993 taxable year even though she shall not have a passive activity loss to carry to 1993 for federal income tax purposes.

(2) (A) Except as otherwise provided in this section, a nonresident individual who sustains a net operating loss for Connecticut income tax purposes in a Connecticut taxable year but does not sustain a net operating loss for federal income tax purposes is required first to carry back such net operating loss to each of the three taxable years preceding the taxable year in which such net operating loss was sustained and then to carry such net operating loss forward to each of the 15 years following the taxable year in which such net operating loss was sustained, to the extent not absorbed. However, the net operating loss may not be carried back or carried forward to a Connecticut taxable year in which the nonresident was or is a resident of Connecticut, but may be carried back or carried forward to a Connecticut taxable year in which the nonresident was or is a part-year resident but may be applied only against items of income, gain, loss and deduction derived from or connected with Connecticut sources during the nonresidency portion of such year.

(B) Where a nonresident individual sustains a net operating loss for Connecticut income tax purposes in a Connecticut taxable year but does not sustain a net operating loss for federal income tax purposes, such nonresident may make an election for Connecticut income tax purposes to forgo the entire three-year carryback period and to carry such net operating loss forward to each of the 15 years following the taxable year in which such net operating loss was sustained, to the extent not absorbed. An election under this subparagraph shall be made by filing a Form CT-1040NR/PY for the year in which the net operating loss was sustained and attaching thereto a statement indicating that an election to forgo the three-year carryback period is being made. The election shall be made by the due date of the Form CT-1040NR/PY (including extensions of time granted under Part X) for the year in which the net operating loss was sustained. Once an election to forgo the three-year carryback period is made, such election may not be revoked.

(C) Where a nonresident individual sustained a net operating loss for federal income tax purposes in a Connecticut taxable year in which such individual was a resident individual, and had such individual been a nonresident individual in such year, would have been treated as having sustained a net operating loss for Connecticut income tax purposes for such year, such individual may carry forward as provided herein only the amount (the allowable portion) by which such operating loss exceeds such individual's Connecticut adjusted gross income (i) for the three taxable years preceding the taxable year in which such net operating loss was sustained, (ii) for the taxable years succeeding such loss year but preceding the taxable year in which such individual is a part-year resident individual and (iii) for the residency portion of the taxable year in which such individual is a part-year resident. Unless such individual has elected to defer Connecticut income tax under § 12-717(c)(4)-1, the allowable portion shall be deductible from items of income and gain accrued prior to the change of resident status under § 12-717(c)(1)-1, and, to the extent not absorbed by such accrued items of income and gain, shall be deductible only from Connecticut adjusted gross income derived from or connected with Connecticut sources (a) during the nonresidency portion of the taxable year in which such individual is a part-year resident and (b) for succeeding Connecticut taxable years in which such individual is a nonresident individual.

(D) Anything to the contrary in this section notwithstanding, no loss sustained in a taxable year that was not a Connecticut taxable year may be carried forward to a succeeding

Connecticut taxable year. In addition, no loss sustained in a Connecticut taxable year may be carried back to a preceding taxable year that was not a Connecticut taxable year.

(E) For purposes of this section, "Connecticut taxable year" means a taxable year beginning on or after January 1, 1991 (the effective date of the Connecticut Income Tax Act).

(3) The following examples illustrate the application of this section:

*Example 1.* Taxpayer T, a single individual, is a resident of New Jersey. T has the following items of income, gain, loss and deduction for 1991:

| | *Federal Gross Income* | | *Connecticut AGI Sourced to Connecticut* |
|---|---|---|---|
| Business income | | 90,000 | 50,000 |
| Capital gain from Connecticut sources | 20,000 | | |
| Capital loss carryforward | (15,000) | | |
| Net capital gain | | 5,000 | 20,000 |
| | | 95,000 | 70,000 |

The capital loss carryforward is a result of a capital loss sustained in 1990 on the sale of Connecticut real estate. Such loss carryforward, however, may not be deducted for Connecticut income tax purposes because the capital loss was sustained in a taxable year that was not a Connecticut taxable year.

T's Connecticut income tax liability for 1991 is $1,050, calculated as follows:

*Tax calculated as if T were a resident:*

| | |
|---|---|
| Federal AGI | 95,000 |
| Modifications | 0 |
| Connecticut AGI | 95,000 |
| Multiplied by tax rate | x .015 |
| Tentative Tax | 1,425 |

*Multiplied by the proration formula:*

Numerator: Connecticut AGI from Connecticut sources: $70,000

Denominator: Connecticut AGI: $95,000

*T's Connecticut income tax liability:*

$1,425 x $70,000/$95,000 = $1,050

*Example 2.* Taxpayer B, a single individual, is a resident of Vermont. B has the following items of income, gain, loss and deduction for 1992:

| | *Federal Gross Income* | *Connecticut AGI Sourced to Connecticut* |
|---|---|---|
| Business income | 95,000 | 50,000 |

| | | | |
|---|---|---|---|
| Capital gain from Vermont sources | 5,000 | | |
| Capital loss from Connecticut sources | (15,000) | | |
| Net capital loss | | (10,000) | |
| Capital loss allowed as a deduction | | (3,000) | (3,000) |
| | | 92,000 | 47,000 |

B's Connecticut income tax liability for 1992 is $2,115, calculated as follows:

*Tax calculated as if B were a resident:*

| | | |
|---|---|---|
| Federal AGI | 92,000 | (95,000 minus a 3,000 capital loss deduction against ordinary income) |
| Modifications | 0 | |
| Connecticut AGI | 92,000 | |
| Multiplied by tax rate | x .045 | |
| Tentative Tax | 1,425 | |

*Multiplied by the proration formula:*

Numerator: Connecticut AGI from Connecticut sources: $47,000

Denominator: Connecticut AGI: $92,000

*B's Connecticut income tax liability:*

$4,140 x $47,000/$92,000 = $2,115

B may carry a $12,000 capital loss forward to the 1993 taxable year and beyond for Connecticut income tax purposes even though B shall only have a $7,000 capital loss carryforward for federal income tax purposes.

*Example 3.* Taxpayer X, a single individual, is a resident of Utah. X has the following items of income, gain, loss and deduction for 1992:

| | | Federal Gross Income | Connecticut AGI Sourced to Connecticut |
|---|---|---|---|
| Income | 100,000 (UT) | 100,000 | 25,000 |
| | 50,000 (CT) | | |
| Expenses | (25,000) (UT) | | |
| | (25,000) (CT) | | |
| Net business income | | | |
| Capital loss from | | (3,000) | (3,000) |
| UT sources | (20,000) | | |
| Capital loss from | | | |
| CT sources | (10,000) | | |

| | | |
|---|---|---|
| Capital loss allowed as a deduction | | |
| Net operating loss carryforward from a year that was not a Connecticut taxable year | (40,000) | 0 |
| | 57,000 | 22,000 |

X's Connecticut income tax liability for 1992 is $990, calculated as follows:

*Tax calculated as if X were a resident:*

| | | |
|---|---|---|
| Federal AGI: | 57,000 | (the 40,000 net operating loss carryforward and 3,000 of the capital loss are deducted from the 100,000 of ordinary income) |
| Modifications | 0 | |
| Connecticut AGI | 57,000 | |
| Multiplied by tax rate | x .045 | |
| Tentative tax | 2,565 | |

*Multiplied by the proration formula:*

Numerator: Connecticut AGI from Connecticut sources: $22,000

Denominator: Connecticut AGI: $57,000

*X's Connecticut income tax liability:*

$2,565 x $22,000/$57,000 = $990d

X may carry a $7,000 capital loss forward to the 1993 taxable year and beyond for Connecticut income tax purposes even though X shall have a $27,000 capital loss carryforward for federal income tax purposes.

(d) While this section pertains to Section 12-711(b) of the general statutes, for purposes of supplementary interpretation, as the phrase is used in Section 12-2 of the general statutes, the adoption of this section is authorized by Section 12-711(b)(3) of the general statutes.

(Effective November 18, 1994)