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CHAPTER 10

NET OPERATING LOSSES

SYNPOSIS (click on section title to go directly there)

In cooperation with the participating land-grant universities, this project is funded in part by USDA-Risk Management Agency under a cooperative agreement. The information reflects the views of the author(s) and not USDA-RMA.

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Introduction

Weather, disease, and variable prices for inputs and commodities often cause farmers' incomes to fluctuate from one year to the next. As discussed in Chapter 5, "Managing Timing of Income and Deductions," farmers can minimize their income tax liability by timing income and deductions to keep their taxable income level. In some cases, leveling techniques are not enough to avoid a spike or a dip in taxable income. The tax effect of spikes can be minimized with the income-averaging rules discussed in Chapter 7, "Other Tools to Manage Income Tax Liability." If taxable income dips below zero, the tax effect can be managed with the net operating loss (NOL) rules discussed in this chapter.

The concept of the NOL rules is quite simple: Taxpayers are allowed to carry business losses from the loss year to offset taxable income in other tax years. A loss can be carried back and/or forward.

Planning Pointer

NOL Rules Are Last Planning Resort

The NOL rules **do not** make the best use of business deductions. Therefore, farmers should first try to smooth their taxable income with the leveling techniques discussed in Chapter 5 of this guide. When those techniques do not fully succeed in avoiding negative taxable income, the NOL rules make the best of an unfortunate situation.

Most NOLs have a 2-year carryback limitation, but a farm NOL is carried back 5 years unless the taxpayer elects to forgo the 5-year carryback. If the NOL is not fully absorbed (used up) in the fifth tax year that precedes the loss year, the excess is carried to the fourth prior year and so on until the NOL is fully absorbed. If all or part of the NOL is unused after it has been carried to the first year before the loss year, the balance is carried forward to the year after the loss year and then to subsequent years until it is fully absorbed. However, an NOL can be carried forward only 20 years.

Caution

Income Absorbing the NOL

As discussed later in this chapter, if the NOL exceeds taxable income in a carryback or carryforward year, the amount of the NOL that is absorbed will be more than the taxable income for the carryback or carryforward year.

Example 11.1 Absorption of NOL Carryover

Pete Moss started his horticulture farm in 2005 as a sole proprietor. His business blossomed in several good years before 2011. In 2011, a late frost followed by a June hailstorm and an August drought caused an $80,000 farm loss. Pete had no other income or losses that year, and he carried his $80,000 farm NOL back to 2006, which absorbed $15,000 of it. The remaining $65,000 was carried to 2007 and subsequent years as shown in Figure 11.1.

If the $10,000 NOL carryforward remaining after 2012 is not fully absorbed by 2031 (20 years after the 2011 NOL year), any remaining NOL is lost and can never be deducted.

FIGURE 11.1 Absorption of Pete Moss's 2011 NOL

Carryback or Carryforward Year	Year	NOL Carryback or Carryforward	NOL Absorbed	NOL Remaining
Fifth year before loss year	2006	$80,000	$15,000	$65,000
Fourth year before loss year	2007	65,000	12,000	53,000
Third year before loss year	2008	53,000	11,000	42,000
Second year before loss year	2009	42,000	17,000	25,000
First year before loss year	2010	25,000	7,000	18,000
First year after loss year	2012	18,000	8,000	10,000

Although the principle of NOLs is simple, actual computation of NOL deductions can be complex. Complexity arises because the NOL is limited to business losses that are not carried to other years under other tax rules, such as the capital loss carryover rules. These limitations require taxpayers to add back some expenses and losses that were deducted to compute taxable income. The computations are further complicated by required modifications to taxable income in the years to which the NOL is carried.

Cross Reference

For more information on NOLs, see IRS Publication 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*. It can be accessed from the IRS website, www.irs.gov.

Computing the NOL

One way to compute an NOL is to start with the year's negative taxable income and add back the deductions that are not allowed to be included in the NOL.

Observation

Taxable Income Must Be Negative to Have an NOL

If you have positive taxable income for a tax year, you do not have an NOL for that year even if your business has a net loss. Positive taxable income indicates that you have income from other sources (such as wages, nonbusiness income, or income from other businesses) that offsets the business loss, so there is no net loss left to carry to another tax year.

Items Not Included in NOL

Several deductions included in the calculation of taxable income are not included in NOL calculations. These usually are excluded from the NOL computation for one of the following two reasons:

1. Generally, only **business** losses can be carried to another year; therefore, with a few exceptions, nonbusiness deductions in excess of business income are not included in the NOL.
2. Items that carry to another tax year under another carryover rule—such as capital loss carryovers—are excluded from the NOL calculation to avoid duplication.

The following items are examples of deductions that are removed from the NOL by adding them back to the taxpayer's negative taxable income:

1. Dependent and personal exemptions deduction

Computation Note

Schedule A (Form 1045) Calculation

Instead of beginning with negative taxable income and then adding back the personal and dependent exemptions deduction, Schedule A (Form 1045), Application for Tentative Refund, begins with the taxpayer's income before the personal and dependent exemptions deduction is subtracted. Consequently, if you use Schedule A (Form 1041) to compute your NOL, you do not add back your personal and dependent exemptions deduction to compute your NOL.

2. Nonbusiness deductions (such as itemized deductions, the standard deduction, and the deductions for contributions to retirement plans) in excess of nonbusiness income (such as interest, dividends, and taxable social security benefits)
3. Capital losses in excess of capital gains
4. An NOL deduction carried from another year

Example 11.2 Adding Back Nonbusiness Deductions

Paige Turner's taxable income for 2011 before deducting personal and dependent exemptions is a negative $10,000 that results from both business losses and nonbusiness deductions. Her nonbusiness deductions exceed her nonbusiness income by $6,000, so she must add that $6,000 back to her negative $10,000 taxable income, which reduces her NOL to $4,000.

If Paige's nonbusiness deductions exceeded her nonbusiness income by more than her $10,000 negative taxable income, she would not have an NOL.

Business Income and Deductions

Business income and deductions are defined broadly for purposes of the NOL calculation. They include not only the ordinary income and deductions from a trade or business but also gain or loss from the disposition of both real property used in a trade or business and depreciable property used in a trade or business. Being employed is treated as a trade or business, which means wages are business income and deductible employee expenses are business deductions.

An exception to the business-connection requirement is that deductions attributable to casualty and theft losses from property held for personal use or for investment are treated as business losses for the NOL calculation even though they are not connected with a trade or business.

Observation

Effect of Business or Nonbusiness Classification

Classifying **ordinary income and capital gain as nonbusiness income** is advantageous to a taxpayer because it reduces the amount of nonbusiness deductions that must be added back to compute an NOL. Similarly, classifying **deductions and capital losses as business** deductions is advantageous to the taxpayer.

Example 11.3 Business and Nonbusiness Income and Deductions

Neil Down, who is not married and does not itemize deductions, realized a $10,000 loss from his sole-proprietor farming business in 2011. After considering his other income and deductions (as shown in Figure 11.2), his taxable income for 2011is a negative $13,000.

FIGURE 11.2 Neil Down's 2011 Taxable Income

Income or Deduction	Amount
Business loss	–$10,000
Wage income	6,000
Investment income	500
Adjusted gross income	–$3,500
Personal exemption deduction	–3,700
Standard deduction	–5,800
Taxable income	–$13,000

In calculating his NOL, Neil is not allowed to deduct his personal exemption deduction. He can deduct $500 of his standard deduction because he has $500 of nonbusiness (investment) income. Consequently, Neil adds back his $3,700 personal exemption deduction and $5,300 ($5,800 – $500) of his standard deduction to his negative $13,000 taxable income to compute his $4,000 ($13,000 – $3,700 – $5,300) NOL.

✔ **Observation**

Other Ways to Look at the NOL

Note that the $4,000 NOL equals the sum of Neil's negative $3,500 AGI and the $500 portion of his standard deduction that is allowed by his $500 investment income. His NOL could also be viewed as his $10,000 business loss reduced by his $6,000 of wage income.

Carrying the NOL Back or Forward

Most NOLs are carried back 2 years unless the taxpayer elects to forgo the carryback and carries the NOL forward only. However, some NOLs qualify for different carryback periods. By default, NOLs from a farming business are carried back 5 years. Farmers can elect to forgo the 5-year carryback and carry farm NOLs back 2 years, or they elect to forgo the carryback altogether and carry the NOLs forward only.

Default Carryback Period (2 Years)

Generally, an NOL can be carried back to the 2 tax years immediately before the loss year. If the NOL is not fully absorbed in those 2 years, the excess is carried forward for up to 20 years after the loss year.

✔ **Observation**

Excess NOL at End of 20-Year Carryforward Period

Any NOL that is not absorbed in the carryback and carryforward periods is lost. It cannot be deducted in any other tax year.

Farming Loss (5 Years)

Taxpayers who have an NOL from a farming business can carry that NOL back 5 years and then forward up to 20 years. A farming business is a trade or business involving cultivation of land, raising or harvesting any agricultural or horticultural commodity, operating a nursery or sod farm, and raising or harvesting trees bearing fruit, nuts, or other crops, or ornamental trees. Raising, shearing, feeding, caring for, training, and management of animals are also farming businesses. A farming business does not include contract harvesting of an agricultural or horticultural commodity grown or raised by someone else, or a business in which the taxpayer merely buys or sells plants or animals grown or raised by someone else.

Farmers can elect to waive the 5-year carryback. The carryback period then reverts to 2 years.

Election to Forgo Any Carryback

Taxpayers who decide to forgo the carryback periods must include a statement with the original return filed for the loss year declaring that they are waiving the carryback period. The original return must be filed by its due date (including extensions). If the original return is filed by its unextended due date without the election, the taxpayer can make the election on an amended return filed within 6 months of the unextended due date.

Caution

NOL Absorbed by Carryback Years

If a taxpayer does not elect out of the carryback, **the NOL is treated as absorbed by the carryback years,** to the extent there is income in those years to absorb it, **whether or not the NOL deduction is claimed for those years.**

Note

Recordkeeping

The taxpayer bears the burden of proving the amount of NOL that is available to deduct in a carryforward year. If a taxpayer did not deduct an NOL in a closed year, the taxpayer must still keep records of the NOL absorption to verify the NOL carried to each tax year.

Absorbing the NOL

The amount of an NOL that is absorbed (used up) by a year to which it is carried is equal to that year's *modified taxable income.* Modified taxable income is taxable income increased by some of the deductions that are taken in calculating taxable income. For example, the personal and dependent exemptions deduction and the net capital loss deduction must be added back to taxable income.

The NOL amount that is carried to the second eligible carryback or carryforward year is the beginning NOL minus the first eligible year's modified taxable income. The NOL carried to the third eligible year is the amount carried to the second year minus the second year's modified taxable income. This process is repeated until the NOL is fully absorbed or until it is carried to the last eligible year.

Because modified taxable income is always greater than taxable income, more of an NOL is absorbed in each year than the amount of taxable income offset by the NOL. Therefore, some of the NOL deduction is wasted by each intervening year to which the NOL is carried if the NOL is greater than the taxable income for that intervening year.

Planning Pointer

Avoiding Lost Deductions

Two planning techniques can reduce or eliminate the lost deductions:

1. Choose the first carryback or carryforward year so that the NOL is absorbed in as few intervening years as possible.
2. Avoid the NOL by spreading income evenly over several tax years.

Calculating Taxes in Carryback and Carryforward Years

If an NOL is carried back, it is claimed as a deduction that reduces taxable income and tax for the carryback year. The recalculation of tax in a carryback year is complicated because the NOL deduction reduces AGI, and that reduction in AGI may affect itemized deductions and personal and dependent exemption deductions. Consequently, the affected deductions must be recalculated.

Taxpayers can claim a quick refund of taxes paid in prior years by filing Form 1045, Application for Tentative Refund, no later than the end of the tax year following the year the NOL occurred. For example, a farmer who has an NOL in 2011 has until December 31, 2012, to file a Form 1045 claiming a refund from carrying the NOL back to 2006 and any other carryback years that are affected.

Taxpayers can also claim a refund from carrying an NOL back by filing a Form 1040X, Amended U.S. Individual Income Tax Return, for each of the carryback years. Form 1040X must be filed within 3 years of the due date (including extensions) for the loss year's tax return. For example, a farmer who has an NOL in 2011 has until April 15, 2015 (3 years after the April 15, 2012, due date of the 2011 return) to file amended returns for 2006 and any other carryback years to claim refunds from carrying back the 2011 NOL. If the farmer received a 6-month extension of time to file that extended the due date of the 2011 return to October 15, 2012, he or she has until October 15, 2015, to amend the 2006 and other tax returns.

✔ **Note**

Election to Forgo the Carryback

As noted earlier in this chapter, the election to forgo the carryback must be made on the tax return for the year the NOL occurred or on an amended return for that year filed within 6 months (excluding extensions) of the due date for the original return. A calendar year taxpayer has until October 15, 2012, to elect on an amended return to forgo the carryback of a 2011 NOL. If this deadline is not met, the taxpayer cannot forgo the carryback.

NOL Carried Between Joint and Separate Returns

If the taxpayer's filing status is not the same in the loss year and in all of the carryback or carryforward years, allocations may be required.

Taxpayers who file a joint return for at least one of the years involved in an NOL calculation and its carryback or carryforward period, and file a separate return or file a return as a person who is not married for at least one of those years, may need to allocate the NOL, income and deductions, or the modified taxable income between the spouses. However, income and deductions on a married filing jointly return do not have to be allocated when an NOL from a year the same couple filed separately is carried to the joint return.

Separate Returns May Reduce Tax Liability

If one spouse has an NOL and their joint income without the loss is lower than their average annual income, it may be advantageous to file separate returns in the NOL year. By filing separate returns, the NOL can be carried to another tax year to reduce income in a tax bracket higher than the joint income bracket of the NOL year.

Example 11.4 Separate Returns

Tom and Mary Katt have no children, do not itemize deductions, and are both under age 65. Figure 11.3 shows their AGI for 2011 (the loss year) and 2006 (the first carryback year for their farm NOL). Mary's income is from wages.

FIGURE 11.3 Tom and Mary Katt's AGI

	2011	2006
Tom	–$20,000	$30,000
Mary	21,500	40,000
Total	$ 1,500	$70,000

If Tom files a separate 2011 return, his NOL is $20,000.

If Tom and Mary file a joint return for 2011, their income tax is zero, but there is no NOL to carry back. Therefore, their AGI for 2006 (the carryback year) is still $70,000. After deducting the $16,900 total of their $10,300 standard deduction and $6,600 personal exemptions deduction for 2006, their taxable income for 2006 was $53,100 and their income tax was $7,214.

If Tom and Mary file separate returns for the loss year (2011), Mary's federal income tax is $1,375and Tom has a $20,000 NOL to carry back. The NOL deduction reduces their 2006 joint AGI to $50,000, their taxable income to $33,100, and their income tax due to $4,214. Therefore, the total tax liability for the 2 years if separate returns are filed in 2011 is reduced to $5,589 ($1,375 + $4,214)—a savings of $1,625 ($7,214 – $5,589).

Making Optimal Use of an NOL Deduction

The tax benefit of an NOL can be squandered if other tax benefits are used in the loss year or in a year the NOL deduction is claimed. Other tax benefits may waste NOLs in two ways.

1. They may reduce an NOL in a loss year, even though they do not reduce taxable income in that or any other year.
2. In the years that an NOL deduction is claimed (the carryback and carryforward years), other tax benefits may reduce the NOL to be carried to subsequent years even though they do not reduce taxable income in that year or any other year.

Because some of those tax benefits could be shifted to another tax year, it is useful to know which ones waste NOLs.

Excess Nonbusiness Deductions and Losses

If nonbusiness deductions exceed the total of nonbusiness ordinary income plus excess nonbusiness capital gains in an NOL year, **the excess nonbusiness deductions will never provide a tax benefit**.

Shifting Nonbusiness Deductions Away from Loss Year

One way to benefit from the excess nonbusiness deductions is to shift them to another tax year.

If those deductions are shifted to a year that has no NOL, they will offset taxable income in that year.

If they are shifted to a year when there is an NOL, but nonbusiness ordinary income plus net non-business capital gains exceed nonbusiness deductions, they will increase the NOL.

Shifting excess nonbusiness deductions involves the same kind of tax planning as bunching itemized deductions every other year and claiming the standard deduction in the alternate years. Therefore, deductions you may be able to shift away from the NOL year include medical expenses, taxes, interest expenses, charitable contributions, and miscellaneous deductions. Shifting other nonbusiness deductions such as alimony payments away from the NOL year can also help reduce nonbusiness deductions down to nonbusiness income. If you are making less than the maximum retirement plan contributions each year, contributions could be bunched in the years where they would offset taxable income or add to the NOL.

Example 11.5 Shifting Nonbusiness Deductions

Guy and Barb Wire's tax adviser projects that they will have a $20,000 NOL for 2011. Included in that projection are $16,000 of itemized deductions, which include $3,500 in real estate taxes that can be paid in 2011 or postponed until 2012. Their only nonbusiness income is $2,000 of interest income.

The $14,000 of itemized deductions in excess of their $2,000 of interest income provide no tax benefit—they do not increase the Wires' 2011 NOL and they do not reduce taxable income in 2011. If Guy and Barb postpone paying the $3,500 of real estate taxes until 2012 and have $3,500 or more taxable income in 2012, they can preserve the tax benefit of deducting the payment of those taxes. Shifting the $3,500 payment to 2012 does not affect their 2011 NOL (it is still $20,000) but it allows them to deduct the $3,500 from their 2012 taxable income. If they are in the 15% federal income tax bracket in 2012, the deduction will save them $525 ($3,500 × 15%) of federal income taxes.

Barb and Guy could further reduce their 2012 taxable income without decreasing their 2011 NOL by shifting up to $11,500 of other nonbusiness deductions to 2012.

Shifting Nonbusiness Income to Loss Year

The problem of losing the benefits of a deduction because nonbusiness deductions exceed non-business income and net nonbusiness capital gains can also be alleviated by increasing the total amount of nonbusiness ordinary income and nonbusiness capital gains in the loss year. Such an increase will be effectively tax-free until the sum of nonbusiness ordinary income and excess nonbusiness capital gains equals nonbusiness deductions.

If nonbusiness ordinary income or nonbusiness capital gains are shifted from a year without an NOL to an NOL year in which nonbusiness deductions exceed the total of nonbusiness ordinary income and net nonbusiness capital gains, the shifted income is tax-free. The same result occurs if nonbusiness ordinary income is shifted from an NOL year with an excess of nonbusiness ordinary income and net nonbusiness capital gains over nonbusiness deductions.

Example 11.6 Shifting Nonbusiness Capital Gain

Guy and Barb Wire from Example 11.5 have 100 shares of XYZ stock that has a $45,000 income tax basis and is currently worth $50,000. If they sell that stock in 2011, the $5,000 capital gain ($50,000 – $45,000) does not increase their income taxes for 2011 and does not reduce their 2011 NOL. Therefore, the $5,000 gain is effectively tax-free.

Guy and Barb could repurchase $50,000 of XYZ stock or make another investment. In either case, they would have a $50,000 income tax basis in the new investment. If they later sell the new investment for $50,000 or more, their gain is $5,000 less than it would have been if they kept the original XYZ stock with a $45,000 income tax basis and subsequently sold it for the same amount as the new investment.

Shifting Nonbusiness Capital Losses

Nonbusiness capital losses in excess of nonbusiness capital gains provide no tax benefit in an NOL year because they are not allowed as part of the NOL computation. If those capital losses are shifted to a year when there is no NOL, or to an NOL year that has excess nonbusiness capital gains, the losses will provide a tax benefit.

Example 11.7 Shifting Nonbusiness Capital Losses

The projected $20,000 NOL for Guy and Barb Wire in Example 11.5 includes a planned sale of RST stock for a $900 capital loss. Guy and Barb will get no tax benefit from that capital loss in 2011. It does not increase their 2011 NOL, and it is not carried over as a capital loss carryover because Guy and Barb have business capital gains in 2011 that give them a net capital gain for 2011. Because they have the NOL, it does not reduce taxable income in 2010.

If Guy and Barb postpone the sale of the RST stock until 2012, they still have a $20,000 NOL for 2011, and the $900 capital loss in 2012 will reduce their taxable income.

Waiving Carryback May Reduce Tax Liability

In some cases, an NOL deduction is more useful to the taxpayer in the years following the NOL year than in the carryback years because of the higher tax rates imposed in higher income years. If the carryback years have low income compared to the income expected in the carryforward years, forgoing the carryback is advantageous as long as the 20 carryforward years will use up most or all of the NOL.

Capital losses in carryback or carryforward years may keep a taxpayer from realizing the full benefit of the NOL deduction in those years. Similarly, the NOL deduction may cause the loss of a tax credit that cannot be carried beyond its carryback or carryforward year. (For example, an investment tax credit may be wasted if an NOL is carried to the final year the credit can be claimed and the NOL reduces taxable income to zero for that year.) In these cases, the election can be used to minimize the loss of the NOL deduction or credit.

In some cases, the taxpayer may not expect to realize enough taxable income in the carryforward years to absorb the NOL. In those cases, the NOL should be carried back to the low-income years to reduce low-bracket income rather than be completely wasted.

Because the timing of the tax savings differs between carrying an NOL back and carrying it forward, the present value of the tax savings should be computed to properly compare the options. If the NOL is carried back, the tax savings will be received shortly after the refund claim is filed. If the NOL is carried forward, the tax savings are realized when taxes would otherwise be paid in the carryforward years. The NOL deduction can be used to reduce quarterly estimated tax payments, or it can be used to reduce the tax paid or increase the refund received when the carryforward year return is filed. In either case, the present value is less than the face amount of the tax savings.

To compare the value of future tax savings with the value of refunds from previous years, you or your tax adviser should calculate the present value of future tax savings as of April 15 of the year following the NOL year.

Control Timing of NOL

If you have some choice in determining the tax year that an NOL is realized, it should occur in the year that results in deductions that will generate the greatest tax benefit. The years in which an NOL deduction generates the greatest benefit are those that have the highest taxable income (and are therefore in the highest marginal bracket) and those with little long-term capital gain or tax credits that will waste the NOL. For example, if a farmer's marginal tax rate was higher in 2006 than in 2007, accelerating an NOL into 2011 instead of delaying it to 2012 will cause the loss to offset the higher bracket 2006 income instead of the lower bracket 2007 income.

Use NOL Before It Expires

If the time period for using an NOL carryforward is about to expire, accelerating income to absorb the full loss will reduce total taxes. Shifting income to make use of an NOL that would otherwise expire makes the shifted income effectively tax-free.

Farm Corporations and NOLs

A farm corporation generally figures and deducts an NOL in the same way an individual, estate, or trust does. The same 5-year or 2-year carryback and up to 20-year carryforward periods apply, and the same sequence applies when the corporation carries two or more NOLs to the same year.

A corporation's NOL differs from individual, estate, and trust NOLs in the following ways:

1. A corporation can take different deductions when figuring an NOL.
2. A corporation must make different modifications to its taxable income in the carryback or carryforward year when figuring how much of the NOL is used and how much is carried over to the next year.
3. A corporation uses different forms when claiming an NOL deduction.

Figuring the NOL

A corporation figures an NOL in the same way it figures taxable income, starting with its gross income and subtracting its deductions. If its deductions exceed its gross income, the corporation has an NOL. However, the following rules for figuring the NOL apply:

1. A corporation cannot increase its current year NOL by carrybacks or carryovers from other years.
2. A corporation cannot use the domestic production activities deduction to create or increase its current year NOL, including any carryback or carryover.
3. A corporation can take the deduction for dividends received, explained later, without regard to the aggregate limits based on taxable income that normally apply to this deduction.
4. A corporation that is a public utility can figure its deduction for dividends paid on certain preferred stock without limiting it to its taxable income for the year.

Dividends-Received Deduction

A corporation's deduction for dividends received from domestic corporations is generally subject to an aggregate limit of either 70% or 80% of taxable income. However, if a corporation has an NOL for a tax year, the limit based on taxable income does not apply. In determining if a corporation has an NOL, the corporation figures the dividends-received deduction without regard to the otherwise applicable taxable income limit.

Claiming the NOL Deduction

If a corporation carries an NOL back, it can file Form 1139, Corporation Application for Tentative Refund, or Form 1120X, Amended U.S. Corporation Income Tax Return. If a corporation expects to have an NOL in its current year, it can automatically extend the time for paying all or part of its income tax for the immediately preceding year. It does this by filing Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback.

Figuring the NOL Carryover

If an NOL available for a carryback or carryforward year is greater than the taxable income for that year, the corporation must modify its taxable income to figure how much of the NOL it will use up in that year and how much it can carry over to the next tax year. Its carryover is the excess of the available NOL over its modified taxable income for the carryback or carryforward year.

Modified Taxable Income

A corporation figures its modified taxable income the same way it figures its taxable income, with the following exceptions:

It can deduct NOLs only from years before the NOL year whose carryover is being figured.

The corporation figures its deduction for charitable contributions without considering any NOL carrybacks.

Modified taxable income for any year cannot be less than zero. Modified taxable income is used only to figure how much of an NOL the corporation uses up in the carryback or carryforward year and how much it carries to the next year. It is not used to fill out the corporation's tax return or figure its tax.

Ownership Change

A loss corporation (one with cumulative losses) that has an ownership change is limited on the taxable income it can offset by NOL carryforwards arising before the date of the ownership change. This limit applies to any year ending after the change of ownership.

Summary

Planning the timing of income, deductions, gains, and losses can maximize the benefit of the NOL rules.

Certain tax benefits are removed to determine the NOL that is carried to the first eligible year and the NOL that is carried to each subsequent year. Whether the NOL is expressed as a positive number (i.e., as a deduction) or a negative number (i.e., as the taxable loss), removal of the other tax benefits decreases the NOL.

The NOL deduction claimed in any carryback or carryforward year is not necessarily the amount of the NOL that is absorbed that year. A year to which the NOL is carried can use up more of the NOL than that year's taxable income before modifications.