



Revenue Information Bulletin No. 22-011

May 17, 2022

**Corporation Income Tax
Individual Income Tax**

**Federal and State Changes to
Deductions for Net Operating Losses**

Recent federal and state legislative changes modified the utilization of the deduction for net operating losses (NOLs) by corporations and individuals. The purpose of the bulletin is (1) to explain federal and state changes to the treatment of NOLs; and (2) to provide guidance to Louisiana taxpayers on the state tax implications of these changes.

Federal Changes to NOLs

Under the CARES Act¹, NOLs arising in tax years beginning after December 31, 2017, and before January 1, 2021 (*e.g.*, NOLs incurred in 2018, 2019, or 2020 by a calendar-year taxpayer) may be carried back to each of the five tax years preceding the tax year that generated the loss. Prior to the CARES Act, NOLs for tax years beginning after December 31, 2017, could not be carried back but could be carried forward indefinitely, and NOL usage was limited to 80% of taxable income.² The CARES Act temporarily removed the 80% limitation, reinstating it for tax years beginning after December 31, 2020. Due to changes under the CARES Act, taxpayers with eligible NOLs are now able to amend their federal return for prior years and request a refund from the Internal Revenue Service.

Louisiana Changes to NOLs

[Act 459 of the 2021 Regular Session](#) of the Louisiana Legislature amended [LA R.S. 47:287.86](#) to provide that all NOLs related to loss years beginning on or after January 1, 2001, may be carried forward to each taxable year after the loss year until the NOL is fully utilized. Act 459 applies to all claims for the NOL deduction on a return filed on or after January 1, 2022. The Act 459 changes to NOLs is applicable to corporation income taxes only.³

¹ Section 2303 of Public Law 116-136

² See [IRS Guidance](#) on business deductions as modified by the Tax Cuts and Jobs Act of 2017.

³ See Appendix A for other recent changes to NOLs specific to corporation income taxes.

Guidance for Corporate Taxpayers

Louisiana treatment of corporation NOLs does not conform to federal treatment of corporate NOLs.⁴ Therefore, the CARES Act federal NOL changes do not apply to state corporation income tax returns.

- If a corporate taxpayer carries back an NOL on a federal return and the carryback results in a reduction of a federal income tax liability deducted on a Louisiana return for a prior period, the corporation shall include in its state taxable income the tax year in which the taxpayer incurred the NOL that was carried back the amount of the reduction in its federal income tax liability in the year to which the federal NOL was carried back.⁵
- The Louisiana NOL for the year in which originated any federal NOL that was carried back must be reduced by the amount of the reduction in the federal tax liability that was previously deducted on a Louisiana return for the tax year to which the NOL loss was carried back.⁶

Guidance for Individual Taxpayers

The CARES Act provisions related to NOLs are also applicable to a business (generally from the taxpayer's IRS Form 1040, Schedule C or from a disregarded or pass-through entity) whose loss is reported on individual income tax return of its owner(s). Louisiana law⁷ defines "adjusted gross income" for Louisiana individual income tax purposes as the adjusted gross income reportable on the individual's federal income tax return. Louisiana piggybacks federal treatment of NOLs for individual income tax purposes and business losses are included in an individual's federal adjusted gross income.

- If a taxpayer carries back an NOL to an open taxable period on a federal return, the taxpayer shall also amend their state income tax return to correct the federal adjusted gross income and the federal income tax deduction. Nonresident individuals shall carryback and carryforward NOLs in accordance with Department regulations⁸.
- The passage of the CARES Act does not suspend or interrupt prescription to claim a credit or refund under Louisiana law. However, Louisiana law⁹ provides that when a claim for a refund of individual income taxes is attributable to an election to carryback an NOL, the refund claim prescribes three years from December 31 of the year in

⁴ [LA R.S. 47:287.86](#)

⁵ [LA R.S. 47:287.442\(B\)\(1\)\(b\)\(ii\)](#)

⁶ [LAC 61:I.1125\(B\)\(2\)](#)

⁷ [LA R.S. 47:293\(1\)](#)

⁸ [LAC 61:I.1302](#)

⁹ [LA R.S. 47:1623\(D\)](#)

which tax for the loss year would become due instead of the general 3-year prescriptive period for a tax year.

- If the CARES Act allows a taxpayer to carry back an NOL on a federal return to an otherwise prescribed period for Louisiana income tax purposes, the taxpayer may amend the state income tax return and claim the refund no later than three years from December 31 of the year in which the tax for the loss year became due.

Individual Income Tax Example

Taxpayer A is a resident individual with a tax year 2019 NOL of \$150,000. Under the CARES Act NOL provisions, Taxpayer A elects to carryback the NOL to federal returns for tax years 2014, 2015, 2016, 2017 and 2018 until the NOL is fully utilized. Taxpayer A filed returns and paid taxes due timely for tax years 2014 through 2018.

Because the claims for refund of Louisiana individual income taxes for tax years 2014 through 2018 are attributable to an election to carryback an NOL, Taxpayer A will have until December 31, 2023, to file the claims for refund via an amended state tax return with the Department.

For questions relating to this bulletin, contact Policy.Publications@la.gov.

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Secretary

Appendix A:

Summary of State Changes to the Corporate Deduction for NOLs

Act 103 (RS2015)	<ul style="list-style-type: none">• Repealed 3 year carryback rule• Extended carryforward from 15 to 20 years
Act 123 (RS2015)	<ul style="list-style-type: none">• Temporarily reduced NOL deduction from 100% to 72%
Act 24 (1ES2016)	<ul style="list-style-type: none">• Changed NOL utilization from FIFO to LIFO
Act 6 (1ES2016)	<ul style="list-style-type: none">• Permanently reduced NOL deduction from 100% to 72%• Limited NOL to 72% of net income
Act 2 (2ES2016)	<ul style="list-style-type: none">• Clarified that limitations do not apply to amended returns filed after 7/1/15 if original return was filed before 7/1/15
Act 304 (RS2019)	<ul style="list-style-type: none">• Changed NOL utilization from LIFO back to FIFO
Act 459 (RS2021)	<ul style="list-style-type: none">• Removed the 20 year carryforward limitation