



FYI Income 19

Net Operating Losses

NET OPERATING LOSSES OF INDIVIDUALS, ESTATES AND TRUSTS

Losses Incurred in Taxable Years Beginning On or After Jan. 1, 1987

There is no separate computation of Colorado net operating losses. The federal net operating loss deduction will be allowed for Colorado income tax purposes. If the federal net operating loss is carried back to a prior year, the loss **must** be carried back for Colorado as well on an Amended Return (104X). The carryback period must be the same as used for federal purposes. [§39-22-504, C.R.S.]

Nonresidents

A federal net operating loss incurred by a nonresident will be allowed as a reduction to Colorado income to the extent it arose from Colorado sources. A net operating loss sourced to another state must be added back to federal taxable income on the other addition line of the Individual Income Tax Form (104) in the year it is deducted on the federal return. Enter "Federal NOL of a nonresident sourced to another state" as the explanation for the other addition.

If a net operating loss is sourced to another state while the taxpayer is a part-year resident of Colorado, the net operating loss will be allowed as a reduction to Colorado income to the extent it arose from Colorado sources or to the extent apportionable to the resident portion of the year.

Example 1:

Donna was a resident of Colorado in 2005 but was a nonresident of Colorado in 2007. She incurred a net operating loss in 2007 that was sourced to a California business. She carries part of the loss back to 2005 on her federal return, but is not allowed to carry the loss back to her 2005 Colorado return. She moves back to Colorado in 2008. She carries the remainder of the net operating loss forward to 2008 on her federal return. Because the nondeductible loss is included in line 1 of her Colorado return she must add the loss back to taxable income as an "other addition" on the Colorado Form 104.

Example 2:

Bruce, a nonresident taxpayer incurred a 2007 federal net operating loss of \$150,000, which he carried back and applied as follows: 2005 - \$80,000; 2006 - \$70,000. \$120,000 of the loss was from Colorado sources. The amount of the federal loss he can claim for Colorado purposes in 2005 is limited to the loss applied to 2005 for federal purposes (\$80,000) or that part of his federal loss sourced to Colorado (\$120,000). Assume he uses \$46,000 of the loss to zero out his 2005 Colorado income. The amount of the loss he can use for 2006 for Colorado income tax purposes is the smaller of the federal loss applied (\$70,000) or the remaining Colorado-source loss (\$74,000). He would source the entire \$70,000 federal net operating loss applied to 2006 to Colorado. The balance of the Colorado-source loss (\$4,000) would cease to exist.

NET OPERATING LOSSES OF CORPORATIONS

The Colorado net operating loss of a corporation is computed in the same manner as the federal net operating loss deduction except that in the case of a corporation apportioning income, it is that part of the federal net operating loss, as modified, that is from Colorado sources. Federal limitations on carryover losses between predecessor and successor corporations apply for Colorado income tax purposes. [§39-22-504, C.R.S.]

For tax years beginning on or after August 6, 1997, Colorado corporation net operating losses may be carried forward for up to 20 years. They may not be carried back to earlier years.

For tax years beginning on or after Jan. 1, 1984, but prior to August 6, 1997, Colorado corporation net operating losses may be carried forward for up to 15 years. They may not be carried back to earlier years.

For tax years prior to January 1, 1984, the Colorado corporation net operating losses could be carried back and/or forward to the same years to match the federal net operating losses.

\$250,000 limitation

For tax years beginning on or after January 1, 2011, but prior to January 1, 2014, Colorado C corporation net operating losses used may not exceed \$250,000 in any tax year. If the \$250,000 limitation prevents a corporation from using any part of a net operating loss carryforward in a tax year, then all net operating losses carried forward to such tax year may be carried forward one additional year for each tax year the restriction applies. Any portion of a net operating loss carryforward that cannot be used solely due to the \$250,000 limitation shall be increased by 3.25%.

Example: A corporation carries a \$600,000 net operating loss from 2009 and a \$100,000 loss from 2010 to tax year 2011. In 2011, the corporation could have used \$300,000 of the carryforward loss to offset income, but is limited to a \$250,000 net operating loss. The 2009 and 2010 losses may be carried forward an additional year to 2030 and 2031 respectively. The 2009 net operating loss carryforward to 2012 will be \$351,625 (\$350,000 unused loss plus 3.25% of the \$50,000 that otherwise would have been used in 2011). The 2010 net operating loss carryforward to 2012 will be \$100,000 and is not increased because the limitation did not prevent any of this loss from being used in 2011.

In 2012, the corporation has a \$50,000 loss. The \$250,000 limitation does not limit the use of any loss in 2012, so the net operating loss carryforwards are not increased by the 3.25% and the 2009 and 2010 losses can still be carried forward to 2030 and 2031 respectively. The 2012 loss can be carried forward until 2031 as well.

In 2013, the corporation can use \$400,000 in net operating loss to offset its taxable income, which results in \$150,000 of 2009 net operating loss not used as a result of the \$250,000 limitation. The remaining 2009 loss may be carried forward to 2031 and the 2010 and 2011 losses may be carried forward to 2032. The 2009 net operating loss carryforward to 2014 will be \$104,928 (\$101,625 unused loss plus 3.25% of the \$101,625 that otherwise would have been used in 2013). The 2010 net operating loss carryforward to 2014 will be \$101,572 (\$100,000 unused loss plus 3.25% of the \$48,375 that otherwise would have been used in 2013). The 2012 loss is not increased because the limitation did not prevent any of this loss from being used in 2013.

In 2014, the \$250,000 limitation will no longer apply, so the carryforward period will not be adjusted and there will be no 3.25% increase to any unused net operating loss.

COMMON QUESTIONS

Can a net operating loss reported on a composite return be carried backward or forward to composite returns for other tax years?

No. The carryover of a net operating loss is not allowed on a composite return.

Can a net operating loss of an individual that is carried back for federal purposes be instead carried forward for Colorado purposes? (This may be desired if the taxpayer was not a resident in the carryback year or if other subtractions existed in the carryback year that reduce or eliminate the benefit of the loss carryback in that year.)

No. The carryback and carryforward treatment of a net operating loss must be the same for Colorado and federal purposes.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.