

# FYI – For Your Information

## 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, Form 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 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:

Michelle was a resident of Colorado in 2004 but was a nonresident of Colorado in 2006. She incurred a net operating loss in 2006 that was sourced to a California business. She carries part of the loss back to 2004 on her federal return, but is not allowed to carry the loss back to her 2004 Colorado return. She moves back to Colorado in 2007. She carries the remainder of the net operating loss forward to 2007 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 2006 federal net operating loss of \$150,000, which he carried back and applied as follows: 2004 - \$80,000; 2005 - \$70,000. \$120,000 of the loss was from Colorado sources. The amount of the federal loss he can claim for Colorado purposes in 2004 is limited to the loss applied to 2004 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 2004 Colorado income. The amount of the loss he can use for 2005 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 2005 to Colorado. The balance of the Colorado-source loss (\$4,000) would cease to exist.



Colorado Department of Revenue  
Taxpayer Service Division  
1375 Sherman St.  
Denver, Colorado 80261

Forms and other services:  
(303) 238-FAST (3278)  
Assistance:  
(303) 238-SERV (7378)

[www.taxcolorado.com](http://www.taxcolorado.com)

## **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 Jan. 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.

### ***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.

## **FURTHER INFORMATION**

FYIs, commonly used forms and additional tax information are available on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)

For additional income tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at [www.taxcolorado.com](http://www.taxcolorado.com)

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