



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

REVISED
FACT SHEET FOR S.B. 1392

net operating loss; carryback; carryover

Purpose

Outlines requirements for net operating loss (NOL) carryovers and carrybacks for an individual or a corporation. Requires the amount of a NOL deduction that would have been disallowed by the United States Internal Revenue Code (U.S. IRC) to be subtracted when computing an individual's Arizona gross income and requires the amount of NOL not included in computing federal adjusted gross income (FAGI) to be added when computing an individual's Arizona gross income.

Background

Individual income tax is levied on Arizona residents' taxable income and uses a graduated rate structure, based on the taxpayer's income level. Current statute authorizes various amounts to be added or subtracted when computing an individual's Arizona adjusted gross income (A.R.S. § [43-1021](#) and [43-1022](#)).

Arizona gross income for a corporation is the same as the corporation's federal taxable income for the taxable year (TY). Current statute authorizes various amounts to be subtracted when computing a corporation's Arizona taxable income, including the statutorily authorized amount of NOL. The amount of the NOL subtraction must be the aggregate of the NOL carryovers to the TY (A.R.S. §§ [43-1101](#); [43-1122](#); and [43-1123](#)).

An NOL is incurred when allowable deductions exceed the taxable income within the same TY. Current statute allows a corporation to apply prior years' NOL against the current year's Arizona income. [Laws 2012, Chapter 343](#), allowed the NOL incurred in one TY to be carried forward to offset taxable income in each of the next 20 TYs ([JLBC Tax Handbook, 2020](#)).

In 2017, the Tax Cuts and Jobs Act limited the NOL deduction that may be used in a TY. Beginning January 1, 2018, individual and corporate taxpayers may deduct the lesser of: 1) the aggregate of the NOL carryovers plus the NOL carrybacks; or 2) 80 percent of taxable income. In 2020, the Coronavirus Aid, Relief and Economic Stimulus Act suspended the limitation for TYs 2018, 2019 and 2020 ([P.L. 115-97 § 13531, 115th Congress, 2017](#) and [P.L. 116-136, 116th Congress, 2020](#)).

The Joint Legislative Budget Committees fiscal note estimates that S.B. 1392 would result in a state General Fund revenue loss of \$(134.7) million in FY 2022 ([JLBC fiscal note](#)).

Provisions

1. Requires the NOL to be an NOL carryback, to the extent not already excluded from an individual's Arizona gross income, for:
 - a) each of the five TYs preceding the TY of the NOL, for NOLs arising in taxable periods between January 1, 2018, and December 31, 2020;
 - b) each of the two TYs preceding the TY of the NOL, for NOLs arising in taxable periods beginning January 1, 2021; or
 - c) the carryback in the case of the earliest of the TYs to which the NOL may be carried must be the excess of the amount of the NOL over the sum of the taxable income for each of the prior TYs to which the NOL may be carried computed by determining the amount of the NOL subtraction for each preceding TY, without regard to the NOL for the loss year or to the NOL for any succeeding TY.
2. Requires the NOL to be an NOL carryback, if for any TY a corporation has an NOL, for:
 - a) each of the five TYs preceding the TY of the NOL, for NOLs arising in taxable periods between January 1, 2018, and December 31, 2020;
 - b) each of the two TYs preceding the TY of the NOL, for NOLs arising in taxable periods beginning January 1, 2021; or
 - c) the carryback in the case of the earliest of the TYs to which the NOL may be carried must be the excess of the amount of the NOL over the sum of the taxable income for each of the prior TYs to which the NOL may be carried computed by determining the amount of the NOL subtraction for each preceding TY, without regard to the NOL for the loss year or to the NOL for any succeeding TY.
3. Requires the amount of the NOL deduction that would have been disallowed under the U.S. IRC to be subtracted when computing an individual's Arizona gross income.
4. Requires the amount of NOL not included in computing FAGI to be added when computing an individual's Arizona gross income.
5. Requires, for NOLs arising in taxable periods beginning January 1, 2021, the NOL to be an NOL carryover for each of the 20 succeeding TYs to the extent not already excluded from Arizona gross income.
6. Requires the carryover, for the succeeding TYs, to be the excess, if any, of the amount of NOL over the sum of the taxable income for each of the intervening years computed by determining the NOL subtraction for each intervening TY, without regard to the NOL or any NOL in a succeeding TY.
7. Includes carrybacks in the aggregate amount of NOLs allowed as a subtraction to a corporation in a TY.
8. Becomes effective on the general effective date, retroactive to TYs beginning January 1, 2018.

Revisions

- Updates the fiscal impact statement.

Prepared by Senate Research

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MG/gs