

Checkpoint Contents

2020 COVID-19 Guidance

New Law Special Study

Highlights of the CARES Act

Chapter 7 LOSSES (04/2020)

**701 Temporary repeal of taxable income limitation for net operating losses (NOLs).**

**Tax Planning & Practice Guides**

## **¶701. Temporary repeal of taxable income limitation for net operating losses (NOLs).**

**Background.** Under pre-Act **Code Sec. 172(a)** the amount of the NOL deduction was equal to the lesser of (1) the aggregate of the NOL carryovers to such year and NOL carrybacks to such year, or (2) 80% of taxable income computed without regard to the deduction allowable in this section. Thus, NOLs are currently subject to a taxable-income limitation and can't fully offset income.

**New law.** The CARES Act temporarily removes the taxable income limitation to allow an NOL carryforward to fully offset income. For tax years beginning before 2021, taxpayers can take an NOL deduction equal to 100% of taxable income (rather than the 80% limitation in present law). For tax years beginning after 2021, taxpayers will be able to take: (1) a 100% deduction of NOLs arising in tax years prior to 2018, and (2) a deduction limited to 80% of modified taxable income for NOLs arising in tax years after 2017. The provision also includes a technical correction to the 2017 Tax Cuts and Jobs Act (TCJA, P.L. 115-97) relating to the effective date of the NOL carryback repeal. ( **Code Sec. 172(a)** , as amended by Act Sec. 2303(a)(1))

**Effective date.** The amendments made by Act Sec. 2303(a) apply to tax years beginning after Dec. 31, 2017, and to tax years beginning on or before Dec. 31, 2017, to which NOLs arising in tax years beginning after Dec. 31, 2017 are carried. (Act Sec. 2303(d)(1))