

Net Operating Losses Under the *Tax Cuts and Jobs Act*

General Rules

Net Operating Loss (NOL) Carrybacks/Carryforwards

Taxable years *ending* on or before 12/31/17
Carryback two years Carryforward 20 years

Taxable years *ending* after 12/31/17
No carryback Indefinite carryforward

NOL Limitations

Taxable years *beginning* on or before 12/31/17
No taxable income limitation

Taxable years *beginning* after 12/31/17
Limited to 80 percent of taxable income

Example | ABC Inc., a calendar-year C corporation, has a \$200,000 NOL carryover (generated in 2018) going into its 2019 tax year. ABC's taxable income for 2019, before NOL deduction, is \$100,000. ABC's \$200,000 NOL carryforward from 2018 can be used to offset its 2019 income as follows:

- The NOL from 2018 (a taxable year beginning after 12/31/17) is limited to the lesser of:
 - ▶ **\$80,000** (\$100,000 taxable income before NOL deduction x 80 percent)
 - ▶ The actual NOL carryforward of \$200,000
- Let's recap:
 - ▶ 2019 taxable income, before NOL deduction: \$100,000
 - ▶ Less allowable NOL carried over from 2018: \$80,000
 - ▶ 2019 taxable income, after NOL deduction: \$20,000
 - ▶ Remaining NOL carried forward to 2020: \$120,000

Special Rules

- **Farming losses** – Two-year carryback, with opt-out election, retained
- **Property & casualty insurance companies** – No change to NOL rules; two-year carryback, 20-year carryforward and no 80 percent taxable income limitation
- **Life insurance companies** – Subject to the same general NOL rules under the new law

Heads up! NOLs from fiscal years ending in 2018 are subject to the new carryback/carryforward rules but not the 80 percent limitation.

Heads up! Taxpayers will need to track and apply pre-law NOLs separately from post-law NOLs.