

Net Operating Losses



Net Operating Losses Under Title 36, 63-3021 and 63-3072(e) and (f)

- ▶ \$100,000 Carryback limit
- ▶ Loss Carryback disallowance in Carryback Year not Originally a Loss Year

\$100,000 Carryback Limit

- ▶ IC 63-3022(c) limits the carryback amount for any taxable year of loss to \$100,000.
- ▶ The statute makes no provision for inflation adjustments to this \$100,000 amount.
- ▶ The carryback limit results in failed business ventures generally paying a higher average income tax rate than successful ventures. This treatment amounts to a regressive tax on struggling, startup ventures, mature businesses that face severe declines, or even cyclical businesses.

\$100,000 Carryback Limit

- ▶ Federal statute does not impose a dollar limitation on the carryback amount.
- ▶ Oregon, Utah, Montana statutes do not impose a dollar limitation on the carryback amount (WA, NV, WY have no income tax).
- ▶ California recently enacted legislation allowing loss carrybacks, with eligible carryback amounts phasing in to 100 percent of the NOL amount for 2015 and beyond.

Carrybacks from amended years

- ▶ Interpretation by state tax commission of IC _____ resulted in the disallowance of an amended return NOL from being carried back to a prior year.
- ▶ If the prior year had already had an NOL, the carryback would not have been barred, under the interpretation of the tax commission. However, because the carryback year didn't originally have a net operating loss, the carryback of an NOL from an amended return in a subsequent year was disallowed.

Depreciation Conformity



Depreciation conformity

- ▶ Idaho decoupled from the IRC Section 168(k) bonus depreciation provisions post 2009. (IC 63-3022O(1)).
- ▶ This decoupling generates little or no additional revenue to the state over the life of a depreciable asset. It only modifies timing of that revenue.

Depreciation conformity

- ▶ Taxpayers must now track and report Federal regular and AMT depreciation records, as well as Idaho depreciation records for each asset purchased.
- ▶ A separate Form 4562 must be created and attached to Idaho returns. (February 14, 2011 guidance from Idaho Tax Commission)

Depreciation conformity

- ▶ Gain and loss amounts from sales of property must also be accounted for. (Feb. 2011 guidance)
- ▶ This tracking is in addition to regular and AMT reporting for federal purposes.
- ▶ But, generally, basis in an entity is still reduced for federal bonus depreciation deductions, even though such deductions have been disallowed at the Idaho level. (IC 63-3022O(4))

Mandatory e Filing of Trust and Estate returns

Software providers have stated they will not provide e filing functionality for Idaho estates and trusts unless it becomes mandated by law.