

Income/Franchise:

Missouri DOR Proposes Various Rule Updates Involving Net Operating Loss Computation

Proposed Amended 12 CSR 10-2.165: Net Operating Losses on Corporate Income Tax Returns, Mo. Dept. of Rev. (3/1/24). The Missouri Department of Revenue proposed various revisions to its administrative rule on computing net operating losses (NOLs) to, among other changes, update it to “better take into account changes in the law since the most recent amendment to this rule,” as well as accommodate some subsequent NOL-related decisions from the Missouri Administrative Hearing Commission. The proposed updates clarify that nothing in the rule shall be interpreted as incorporating a federal agency’s rule or guideline. The proposal also provides that, with some exceptions, to the extent an NOL is carried backward for more than two years or carried forward for more than twenty years on the federal income tax return, that amount of the NOL generally must be added to federal taxable income in arriving at Missouri taxable income. Moreover, “any amount of NOL taken against federal taxable income but disallowed for Missouri income tax purposes under section 143.121.2(4), RSMo, may be carried forward and taken against any income on the Missouri corporate income tax return” for a period of not more than twenty years following the year of initial loss.

URL: <https://www.sos.mo.gov/CMSImages/AdRules/moreg/2024/v49n5March1/v49n5.pdf>

Another proposed edit adds, “If a corporate member of an affiliated group incurs an NOL arising from a loss year for which such member files a separate Missouri return or no Missouri return, then that NOL cannot be carried to a consolidated Missouri income tax return for a different tax year (the carryover tax year), except insofar as that particular NOL is carried forward or backward and actually deducted on the affiliated group’s consolidated federal income tax return for that carryover tax year, as reflected in the affiliated group’s federal taxable income for that carryover tax year.” Another addition explains that “in the situation of a corporate merger where the taxpayer whose loss year gave rise to the NOL did not survive the merger, the net operating loss addition modification must still be computed by reference to the addition and subtraction modifications for the loss year of the corporation that did not survive the merger.” Comments on these proposed changes must be received within 30 days after their March 1 publication in the Missouri Register. Please contact us with any questions.

— David Kennedy (St. Louis)
Senior Manager
Deloitte Tax LLP
dakennedy@deloitte.com

Chad Halloran (St. Louis)
Senior Manager
Deloitte Tax LLP
chadhalloran@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.