

Income/Franchise:

Florida: State Limitation for NOL Carryforwards Subject to IRC § 382 Deemed the Same as Federal Amount

Case No. 1D2022-2096, Fla. Dist. Ct. App. (2/28/24). In a case involving Florida's adoption of Internal Revenue Code section 382 annual limitations ("382 Limitation") on net operating loss (NOL) carryforwards, a Florida District Court of Appeal (Court) recently held that the Florida annual 382 limitation amount is the same as the federal 382 Limitation amount. The Florida Department of Revenue (Department) interpreted Fla. Stat. section 220.13(1)(b)1.a, and an accompanying administrative rule (specifically, Rule 12C-1.013(15)(j)), to require the taxpayer to multiply its federal 382 Limitation amount by a fraction, the numerator of which was the taxpayer's Florida apportioned NOLs and the denominator of which was the taxpayer's federal NOLs, resulting in an apportioned Florida 382 limitation amount. However, the taxpayer argued that a clear reading of the applicable Florida law did *not* create different Florida and federal 382 limitation amounts. Agreeing with the taxpayer, the Court held that "both the statute's text and the rule support the circuit court's conclusion that the annual NOL deduction limit amount for state tax purposes is the same amount as under federal law." Please contact us with any questions.

URL: https://1dca.flcourts.gov/content/download/1976109/opinion/Opinion_2022-2096.pdf

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