

Income/Franchise:

Missouri DOR Adopts Various Rule Updates Involving Net Operating Loss Computation

Amended 12 CSR 10-2.165: Net Operating Losses on Corporate Income Tax Returns, Mo. Dept. of Rev. (8/1/24); 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 adopted 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 updates clarify that nothing in the rule shall be interpreted as incorporating a federal agency’s rule or guideline, as well as provide 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/v49n15Aug1/v49n15.pdf>

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

Another change clarifies, “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.” These various changes become effective 30 days after publication in the Missouri Code of State Regulations. Please contact us with any questions.

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