

Income/Franchise:

California FTB Summarizes 2024 Legislation that Suspended NOLs and Limits Some Credits

Tax News, Cal. FTB (3/25). A recently posted California Franchise Tax Board (FTB) newsletter summarizes several pieces of tax legislation enacted in 2024, including new law that provides for a three-year suspension of net operating losses (NOLs) and a three-year cap on the use of certain business incentive tax credits to offset no more than \$5 million of tax per year [see previously issued Multistate Tax Alert (June 24, 2024), and previously Multistate Tax Alert (July 1, 2024), for more details on these law changes].

URL: <https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/index.html>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-california-bill-suspends-net-operating-losses-limits-certain-tax-credits.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-california-enacts-senate-bills-167-and-175-on-nols-and-credits.pdf>

Specifically, the FTB explains that for taxable years beginning on or after January 1, 2024, and before January 1, 2027, California has suspended the NOL carryover deduction. According to the FTB, taxpayers may continue to compute and carryover an NOL during the suspension period. However, “taxpayers with net business income or modified adjusted gross income of less than \$1,000,000 or with disaster loss carryovers are not affected by the NOL suspension rules.” The FTB also clarifies that the carryover period for suspended losses is extended by:

- Three years for losses incurred in taxable years beginning before January 1, 2024;
- Two years for losses incurred in taxable years beginning on or after January 1, 2024, and before January 1, 2025; and
- One year for losses incurred in taxable years beginning on or after January 1, 2025, and before January 1, 2026.

Additionally, the FTB explains that for taxable years beginning on or after January 1, 2024, and before January 1, 2027, there is a \$5 million limitation on the application of certain business tax credits. For taxpayers required to be included in a combined report, this limitation is applied on an aggregate basis. The FTB also states that for each taxable year of the limitation, “taxpayers may make an irrevocable election to receive an annual refundable credit amount for the credits disallowed due to the \$5,000,000 limitation.” Moreover, “if a taxpayer elects to make any credit that is disallowed due to the \$5,000,000 limitation refundable, they must make the same election for all other credits claimed that year that were also disallowed due to the \$5,000,000 credit limitation.” Taxpayers may claim 20% of this refundable credit in each year of a five-year refundable period, and the refundable period begins the third taxable year after the taxable year in which the election is made. If a taxpayer does not choose to make this election, “business tax credits disallowed due to the limitation may be carried over,” and the “carryover period for disallowed credits is extended by the number of taxable years the credit was not allowed.” Please contact us with any questions.

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