

CARES ACT CHANGES TO NET OPERATING LOSSES

WHAT IS A NET OPERATING LOSS?

A net operating loss occurs when business deductions exceed gross income. A taxpayer may carry the net operating loss to another tax year to offset income and reduce tax liability.

Montana law provides for corporate net operating losses in section [15-31-119](#), MCA, and changes to federal law do not affect corporate income taxpayers. Businesses that pay the individual income tax, however, are subject to federal law on net operating losses. Section [15-30-2119](#), MCA, provides that net operating losses are determined in accordance with [26 U.S.C. 172](#).

NET OPERATING LOSSES BEFORE CARES ACT

Prior to March 2020, federal law limited net operating loss carryforwards to 80% of taxable income, disallowed net operating loss carrybacks, and placed no limit on the number of years net operating losses could be carried forward. Montana law conformed to these provisions for individual income taxpayers.

CARES ACT TEMPORARILY ALLOWS CARRYBACKS

Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in March 2020. That legislation temporarily amended net operating loss provisions for tax years 2018, 2019, and 2020. The amendments to [26 U.S.C. 172](#) removed the 80% limit on net operating loss deductions taken in tax years before 2021 and allowed the loss to be carried back to 5 years preceding the loss.

Under the CARES Act amendments, a business with a net operating loss in 2018, 2019, or 2020, may carry the loss to a year within the preceding 5 years during which the business reported income. The business may file an amended return and get a refund for the difference between the income reported and the net operating loss carried back.

Montana law automatically incorporates these changes for individual income taxpayers by its reference in [15-30-2119](#) to [26 U.S.C. 172](#).

ESTIMATED REVENUE IMPACT OF NOL CHANGE

The Department of Revenue estimated the revenue loss from individual income tax refunds due to changes to the net operating loss deduction.

The estimated revenue effects are published by the Joint Committee on Taxation (JCT) and extrapolated for Montana. The JCT estimates are moved forward one year because of the difference in the federal fiscal year (October-September) and the Montana fiscal year (July-June).

Taxpayers filing extensions file their returns in the time period during which Montana has moved into a new fiscal year and the federal government has not. The July 15 extended due date for tax year 2019 falls in the same period. For these reasons, the FY2020 and FY2021 JCT estimates are combined into one estimate for Montana.

Fiscal Year	JCT Federal Revenue Change	Montana Extrapolated Revenue Change
2020	(\$154,371,000,000)	(\$116,915,218)
2021	(\$72,717,000,000)	
2022	\$4,906,000,000	(\$55,073,323)
2023	\$4,846,000,000	\$3,715,634
2024	\$9,403,000,000	\$3,670,192
2025	\$13,192,000,000	\$7,121,505
2026	\$12,777,000,000	\$9,991,161
2027	\$8,749,000,000	\$9,676,855
2028	\$6,239,000,000	\$6,626,188
2029	\$2,958,000,000	\$4,725,201
2030	\$3,484,000,000	\$2,240,286
2031		\$2,638,660
Total	(\$160,534,000,000)	(\$121,582,860)

Source: Department of Revenue