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closer look at the changes that will have the greatest impact on tax planning for any client ...

Jeremy Claybrook • Oct. 30, 2018

The [Tax Cuts and Jobs Act](#) (TCJA) brings significant changes to the tax code and offers new challenges for tax advisors. Those same challenges offer a number of benefits for taxpayers, especially business filers. However, it is best to temper a client's expectations, as not every change introduced by the TCJA will benefit them.

Net Operating Losses (NOLs) are one of the changes that many may be disappointed to learn lessens a powerful benefit from the prior tax code. Let's take a closer look at the changes that will have the greatest impact on tax planning for any client with a current or anticipated net operating loss for the upcoming tax year.

Change in NOL Calculation

Starting with tax years beginning after Dec. 31, 2017, IRC Sec. 172 limits NOLs by the changing how they are calculated.

IRC Sec. 172 (a) (1) and (2) state the current year NOL is: "...an amount equal to the lesser of the aggregate of ...[Net Operating Loss] carryovers to such a year, plus ... [NOL] carrybacks to such a year, or 80% of taxable income..."

NOLs are now less beneficial going forward, and for the current year, it would be best to advise any clients anticipating a net operating loss of this change soon to avoid any surprises at filing time.

On the other hand, a current-year deduction will now be more valuable for the same client than in years past; this offers a good planning opportunity for any tax advisor.

Also of note, this change will make it necessary to separately track any prior NOL a

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taxable year ... shall not be a net operating loss carryback for any taxable year preceding the taxable year of such a loss, and shall be a net operating loss carryover to each taxable year following the taxable year of the loss.”

In other words, the TCJA has eliminated the carryback. For any clients depending on a carryback to provide a refund, it will be critical to advise them that this strategy is disallowed going forward. Note that the IRC makes no mention of the 20-year carryforward limitation, and does offset part of the loss of the two-year carryback.

Corporation XYZ, a calendar-year tax-filer, has an NOL of \$45,490 in 2018. It has no other carryovers. XYZ's only choice is to carry the NOL forward. In 2019, XYZ Corporation has taxable income of \$50,000. XYZ's 2019 NOL deduction is limited to \$40,000 ($\$50,000 \times 80\%$). The remaining \$5,490 is not deducted, but can be carried forward indefinitely.

Changes to Farming Losses and QBI Deduction

These are not the only changes to NOLs. Two of the most prominent involve farming losses and the new qualified business income (QBI) deduction introduced by IRC Sec. 199A.

Both IRC Sec. 172 (b) (1) (B) and (C) follow on from paragraph (A) and state that the losses of both farms and insurance companies (with the exception of life-insurance companies) may still utilize the two-year carryback to the extent of taxable income attributable to those activities. Both of these activity types are also limited to a carryforward of 20 years for any NOLs generated.

For non-corporate taxpayers, the 20 percent deduction of qualified business income deduction introduced by 199A is disallowed by IRC Sec. 172(d) (8) with regard to the calculation of any net operating losses.

The TCJA introduced many changes to the IRC, and while Sec. 172 is a small part, the

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