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companies and farming losses.

Jul. 06, 2020

The Department of the Treasury and the Internal Revenue Service have issued proposed regulations and temporary regulations that provide guidance for consolidated groups regarding net operating losses (NOLs).

The Tax Cuts and Jobs Act (TCJA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) amended the rules for NOLs. After amendment, the NOL deduction is the sum of:

- The total of the NOLs arising before January 1, 2018 (pre-2018 NOLs) that are carried to that year; plus
- The lesser of:

- The total of the NOLs arising after December 31, 2017; or

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The CARES Act effectively delays the application of the TCJA amendments until January 1, 2021. Additionally, the CARES Act permits a five-year carryback for NOLs, including farming losses and NOLs of nonlife insurance companies, for taxable years beginning after December 31, 2017 and before January 1, 2021.

The proposed regulations provide guidance to consolidated groups on the application of the 80% limitation. Additionally, the proposed regulations would remove obsolete provisions from the rules for consolidated groups that contain both life insurance companies and nonlife insurance companies.

Because the CARES Act allows certain NOLs to be carried back five years, the temporary regulations allow certain acquiring consolidated groups to make an election to waive all or a portion of the pre-acquisition portion of the extended carryback period for certain losses attributable to certain acquired members.

For more information about this and other TCJA provisions, visit IRS.gov/taxreform. Additional information about tax relief for businesses affected by the COVID-19 pandemic can be found on IRS.gov.

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