

## Chapter 3: Net Operating and Excess Business Losses

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**Please note.** Corrections were made to this workbook through January of 2021. No subsequent modifications were made.

For your convenience, in-text website links are also provided as short URLs. Anywhere you see **uofi.tax/xxx**, the link points to the address immediately following in brackets.

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# 2020 Workbook

Throughout the 2020 *University of Illinois Federal Tax Workbook*, there are topics affected by recent major legislation, notably the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, and the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. For the reader's convenience in locating these issues, there are icons in the left margin highlighting areas of impact and their source.



CARES Act



SECURE Act

## NET OPERATING LOSSES (NOL)

### BEFORE THE TAX CUTS AND JOBS ACT (TCJA)<sup>1</sup>

An NOL generally occurs when a taxpayer's **business deductions** exceed the business's gross income,<sup>2</sup> subject to certain modifications.<sup>3</sup>

Prior to the enactment of the TCJA (i.e., for tax years beginning before 2018),<sup>4</sup> the following rules applied to NOLs.

- NOLs generally were carried back up to two years and forward up to 20 years to offset **taxable income**.<sup>5</sup> Carryback was the default decision.<sup>6</sup>

**Observation.** It is important to note that an NOL only reduces taxable income in the carryback or carryforward years. An NOL is never deducted on the form or schedule that created the loss.

- Taxpayers could choose to forgo the carryback and elect carryforward on a timely filed return.<sup>7</sup>
- Special carryback periods were allowed for NOLs attributable to certain specified liability losses<sup>8</sup> and certain casualty and disaster losses.<sup>9</sup>
- Farming activities were allowed a 5-year carryback.<sup>10</sup>

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<sup>1</sup>. PL 115-97.

<sup>2</sup>. IRC §172(c).

<sup>3</sup>. IRC §172(d).

<sup>4</sup>. TCJA §13302(e)(1).

<sup>5</sup>. TCJA §13302 eliminated the option for most taxpayers to carry back an NOL. Prior to the enactment of the CARES Act (discussed later), most taxpayers could only carry NOLs arising from tax years ending after 2017 forward to a later year. An exception applied to certain farming losses.

<sup>6</sup>. IRC §172(b)(1)(A)(i), as amended by the TCJA.

<sup>7</sup>. IRC §172(b)(1)(B)(iv).

<sup>8</sup>. IRC §172(b)(1)(C), which was stricken by the TCJA.

<sup>9</sup>. IRC §172(b)(1)(E), which was stricken by the TCJA.

<sup>10</sup>. IRC §172(b)(1)(F), which was stricken by the TCJA; IRS Pub. 225, *Farmer's Tax Guide*; TCJA §13302.

## NOLs FOR TAX YEARS BEGINNING AFTER 2017<sup>11</sup>



**Note.** The Coronavirus Aid, Relief, and Economic Security (CARES) Act<sup>12</sup> (discussed later) modifies the changes made under the TCJA.

Under the TCJA, the NOL deduction for a tax year beginning after 2017 is equal to the lesser of:<sup>13</sup>

- The aggregate of the NOL carryovers to such year, plus the NOL carrybacks to such year, or
- 80% of taxable income (determined without regard to the NOL deduction).

**In general, NOLs can no longer be carried back but can be carried forward indefinitely.**<sup>14</sup> Farming losses and losses incurred by certain insurance companies (other than life insurance companies) have carryback provisions for up to two years.<sup>15</sup>

### Effects of the TCJA Limitations

Both the elimination of carrybacks and the 80% limitation cause more of an NOL to be deferred to future tax years than was the case prior to the enactment of the TCJA.

**Example 1.** Steve Jonas, a calendar-year sole proprietor, reported the following taxable income for tax years 2015, 2016, 2017, and 2018.

2015	\$14,000
2016	11,000
2017	(35,000)
2018	20,000

Because the loss occurred prior to 2018, Steve used the 2-year default carryback rules. The \$35,000 loss was carried back to 2015, with \$14,000 of the carryback utilized in that year. The remaining \$21,000 loss was carried forward to 2016, and \$11,000 of the loss was used in that year. This left a remaining loss of \$10,000 to be carried forward to 2018.

**Note.** Under the TCJA, the loss carried forward from 2017 would be available to be fully utilized in 2018 because the loss occurred in a year before enactment of the TCJA.

**Example 2.** Use the same facts as **Example 1**, except Steve's loss occurred in 2018 instead of 2017, and Steve had net taxable income in 2019 of \$11,000. The \$35,000 loss in 2018 must be carried forward to 2019 and can only offset 80% of Steve's taxable income, or \$8,800 (80% × \$11,000 taxable income). The remainder of the loss (\$26,200) is carried forward to future years.

<sup>11</sup>. TCJA §13302(e)(1).

<sup>12</sup>. PL 116-136.

<sup>13</sup>. IRC §172(a).

<sup>14</sup>. IRC §172(b)(1)(A).

<sup>15</sup>. IRC §§172(b)(1)(B)(iv) and 172(b)(1)(C).

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## NOL CHANGES UNDER THE CARES ACT<sup>16</sup>

In an effort to stimulate the economy in response to the coronavirus pandemic, Congress enacted the CARES Act, which made the following changes to NOLs for tax years 2018, 2019, and 2020.<sup>17</sup>

1. The **80% taxable income limitation is repealed** for 2018, 2019, and 2020.<sup>18</sup>
2. For the 2018, 2019, and 2020 tax years, the default treatment is to carry back the NOLs **five years**.<sup>19</sup>

**Note.** Taxpayers are still permitted to forgo carrybacks and carry losses forward.<sup>20</sup> Rev. Proc. 2020-24, §2.03, released on April 9, 2020, provides that a taxpayer must make an **irrevocable** election under §172(b)(3) to waive the carryback period for an NOL arising in a tax year beginning in 2018 or 2019 by the due date, including extensions of time, for filing the taxpayer's federal income tax return **for the first tax year ending after March 27, 2020** (the date of enactment of the CARES Act).

The impact of the CARES Act is illustrated later in this chapter.

## CALCULATING AN NOL

An NOL is defined as the **excess of deductions allowed over gross income**, with the following modifications.<sup>21</sup>

1. No deduction is allowed for NOLs.
2. **Noncorporate** taxpayers cannot deduct capital losses that exceed capital gains, nor is the IRC §1202 small business stock gain exclusion allowed.
3. No deduction is allowed under IRC §151 for personal exemptions.

**Note.** This provision should have no impact on NOLs for the 2018–2025 tax years because personal exemptions are reduced to \$0 under the TCJA for those years.

4. For **noncorporate** taxpayers, deductions that are not attributable to the taxpayer's trade or business **are** allowed only to the extent of non-trade or business income.
5. Casualty or theft losses are **always** allowable regardless of whether they are attributable to a trade or business.<sup>22</sup>
6. The deduction for dividends received by **corporate** taxpayers from domestic and foreign corporations<sup>23</sup> is allowed without regard to the IRC §246(b) limitation.
7. Adjustments are required for real estate investment trusts (REITs).
8. The domestic productions activities deduction (DPAD) is **not** allowed.<sup>24</sup>
9. The IRC §199A qualified business income deduction (QBID) is **not** allowed.
10. The IRC §250 deduction for foreign-derived intangible income is **not** allowed.

<sup>16</sup> Ibid.

<sup>17</sup> PL 116-136, §2303.

<sup>18</sup> PL 116-136, §2303(a)(1), amending IRC §172(a).

<sup>19</sup> PL 116-136, §2303(b)(1)(D)(i)(I), amending IRC §172(b)(1).

<sup>20</sup> PL 116-136, §2303(b)(2), amending IRC §172(b)(1)(A).

<sup>21</sup> IRC §172(d).

<sup>22</sup> IRC §165(c).

<sup>23</sup> IRC §§243 and 245.

<sup>24</sup> IRC §172(d)(7) was repealed by the TCJA.



An NOL can only arise when a taxpayer's business deductions exceed the taxpayer's business income. Therefore, a noncorporate taxpayer reporting a loss on one or more of the following forms **could have** an NOL.

- Schedule C, *Profit or Loss From Business*
- Schedule F, *Profit or Loss From Farming*
- Schedule E, *Supplemental Income and Loss*
- Schedule A, *Itemized Deductions*
  - ♦ Form 2106, *Employee Business Expenses*
  - ♦ Form 4684, *Casualties and Thefts*
- Form 4797, *Sales of Business Property*
- Form 4835, *Farm Rental Income and Expenses*

Besides activities that the individual taxpayer reports directly, an NOL can also arise due to losses from pass-through entities in which the taxpayer has an interest (e.g., partnerships, S corporations, estates, and trusts). Such losses are generally reported by the taxpayer on Schedule E.

When an NOL arises, it offsets a taxpayer's taxable income in another tax year for both regular and alternative minimum tax (AMT) purposes, as described later. However, an NOL does not offset an individual taxpayer's self-employment (SE) income for SE tax purposes.<sup>25</sup>

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<sup>25</sup> IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

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## Form 1045, Schedule A—NOL<sup>26</sup>

Individual taxpayers can determine the amount of their NOL by completing worksheet 1 in IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*. This worksheet is similar to Schedule A — NOL of Form 1045, *Application for Tentative Refund*, which is reproduced next.

Form 1045 (2019)

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### Schedule A—NOL (see instructions)

<b>1</b>	For individuals, subtract your standard deduction or itemized deductions from your adjusted gross income and enter it here. For estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount (see instructions) . . .	<b>1</b>
<b>2</b>	Nonbusiness capital losses before limitation. Enter as a positive number (see instructions) . . . . .	<b>2</b>
<b>3</b>	Nonbusiness capital gains (without regard to any section 1202 exclusion) . . . . .	<b>3</b>
<b>4</b>	If line 2 is more than line 3, enter the difference. Otherwise, enter -0- . . . . .	<b>4</b>
<b>5</b>	If line 3 is more than line 2, enter the difference. Otherwise, enter -0- . . . . .	<b>5</b>
<b>6</b>	Nonbusiness deductions (see instructions) . . . . .	<b>6</b>
<b>7</b>	Nonbusiness income other than capital gains (see instructions) . . . . .	<b>7</b>
<b>8</b>	Add lines 5 and 7 . . . . .	<b>8</b>
<b>9</b>	If line 6 is more than line 8, enter the difference. Otherwise, enter -0- . . . . .	<b>9</b>
<b>10</b>	If line 8 is more than line 6, enter the difference. Otherwise, enter -0-. <b>But don't enter more than line 5</b> . . . . .	<b>10</b>
<b>11</b>	Business capital losses before limitation. Enter as a positive number . . . . .	<b>11</b>
<b>12</b>	Business capital gains (without regard to any section 1202 exclusion) . . . . .	<b>12</b>
<b>13</b>	Add lines 10 and 12 . . . . .	<b>13</b>
<b>14</b>	Subtract line 13 from line 11. If zero or less, enter -0- . . . . .	<b>14</b>
<b>15</b>	Add lines 4 and 14 . . . . .	<b>15</b>
<b>16</b>	Enter the loss, if any, from line 16 of your 2019 Schedule D (Form 1040 or 1040-SR). (For estates and trusts, enter the loss, if any, from line 19, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you don't have a loss on that line (and don't have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15 . . . . .	<b>16</b>
<b>17</b>	Section 1202 exclusion. Enter as a positive number (see instructions) . . . . .	<b>17</b>
<b>18</b>	Subtract line 17 from line 16. If zero or less, enter -0- . . . . .	<b>18</b>
<b>19</b>	Enter the loss, if any, from line 21 of your 2019 Schedule D (Form 1040 or 1040-SR). (For estates and trusts, enter the loss, if any, from line 20 of Schedule D (Form 1041).) Enter as a positive number . . . . .	<b>19</b>
<b>20</b>	If line 18 is more than line 19, enter the difference. Otherwise, enter -0- . . . . .	<b>20</b>
<b>21</b>	If line 19 is more than line 18, enter the difference. Otherwise, enter -0- . . . . .	<b>21</b>
<b>22</b>	Subtract line 20 from line 15. If zero or less, enter -0- . . . . .	<b>22</b>
<b>23</b>	Domestic production activities deduction from your 2019 return (see instructions) . . . . .	<b>23</b>
<b>24</b>	NOL deduction for losses from other years. Enter as a positive number . . . . .	<b>24</b>
<b>25</b>	<b>NOL.</b> Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, enter it here and on page 1, line 1a. If the result is zero or more, you <b>don't</b> have an NOL . . . . .	<b>25</b>

Form **1045** (2019)

<sup>26</sup> Instructions for Form 1045; IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

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The purpose of Form 1045, Schedule A — NOL (and worksheet 1) is to establish a taxpayer's business-related income and deductions by separating such items from nonbusiness income and deductions and, in doing so, to arrive at the taxpayer's NOL. The following table provides guidance on what items to include/exclude on each line of this form.<sup>27</sup>

Line No.	Include	Do Not Include
2	Nonbusiness capital losses (e.g., reported on Schedule D, <i>Capital Gains and Losses</i> )	IRC §1202 small business stock gain exclusion
3	Nonbusiness capital gains (e.g., reported on Schedule D)	IRC §1202 small business stock gain exclusion
6	Nonbusiness deductions including the following: <ul style="list-style-type: none"> <li>• Alimony paid</li> <li>• Deductions for contributions to an individual retirement account (IRA) or a self-employed retirement plan</li> <li>• Health savings account deduction</li> <li>• Archer medical savings account deduction</li> <li>• Most itemized deductions (except for casualty and theft losses resulting from a federally declared disaster and state income tax on trade or business income)</li> <li>• Standard deduction</li> </ul>	Business deductions, such as the following: <ul style="list-style-type: none"> <li>• State income tax on trade or business income (including wages and unemployment compensation)</li> <li>• Moving expenses</li> <li>• Educator expenses</li> <li>• Self-employed health insurance premiums</li> <li>• 50% of SE tax</li> <li>• DPAD</li> <li>• Rental losses</li> <li>• Loss on the sale or exchange of business real estate or depreciable property</li> <li>• Business losses from pass-through entities</li> <li>• Ordinary loss on the sale or exchange of IRC §1244 (small business) stock</li> <li>• Ordinary loss on the sale or exchange of stock in a small business corporation or a small business investment company</li> <li>• Casualty and theft losses resulting from a federally declared disaster (even if they involve nonbusiness property)</li> <li>• Loss on the sale of accounts receivable (when the accrual method of accounting applies)</li> <li>• Interest and litigation expenses on state and federal income taxes related to a trade or business</li> <li>• Unrecovered investment in a pension or annuity claimed on a decedent's final return</li> <li>• Payment by a federal employee to buy back sick leave used in an earlier year</li> </ul>

<sup>27</sup> IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

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Line No.	Include	Do Not Include
7	Nonbusiness income, such as: <ul style="list-style-type: none"> <li>• Taxable IRA distributions</li> <li>• Pension benefits</li> <li>• Social security benefits</li> <li>• Annuity income</li> <li>• Dividends</li> <li>• Investment interest income</li> <li>• Nonbusiness income from a pass-through entity</li> </ul>	Trade or business income, such as: <ul style="list-style-type: none"> <li>• Salaries and wages</li> <li>• SE income</li> <li>• Unemployment compensation</li> <li>• Rental income</li> <li>• Ordinary gain from the sale or other disposition of business real estate or depreciable business property</li> <li>• Business income from a pass-through entity</li> </ul>
11	Business capital losses (e.g., from Form 4797)	
12	Business capital gains (e.g., from Form 4797)	
17	IRC §1202 small business stock gain exclusion (e.g., from Form 8949, <i>Sales and Other Dispositions of Capital Assets</i> , column (f), code Q)	
23	DPAD	
24	Any NOL carried forward or back from other tax years	



## Practitioner Planning Tip

There is no requirement for a taxpayer who has an NOL to attach any form to the tax return of the NOL tax year showing the calculation of the NOL. However, after completion of a tax return that has an NOL, it is recommended that tax practitioners include a completed NOL worksheet in their file workpapers and give a copy to the client.

For new clients with a prior year NOL, it is advisable to get a copy of all original and amended returns going back to the tax year in which the NOL originated.

For individual taxpayers, the initial amount on Schedule A — NOL is adjusted gross income (AGI) **minus** the standard deduction or itemized deductions (line 1). The remainder of Schedule A — NOL is devoted to **adjustments** to the initial amount to eliminate losses, deductions, and exclusions that do not contribute to an NOL. If the resulting amount on line 25 of Schedule A — NOL is **negative**, then the taxpayer has an NOL equal to that amount.

Further information regarding the required adjustments on Schedule A — NOL follows.

**Nonbusiness Capital Losses.** Nonbusiness capital losses (line 2) should not include any §1202 exclusion claimed (relating to gain from certain small business stock).

**Nonbusiness Capital Gains.** Similarly, nonbusiness capital gains (line 3) should also not include any §1202 exclusion claimed.

**Nonbusiness Deductions.** Nonbusiness deductions should be entered as a positive number (line 6). These are deductions that are **not** connected with a trade or business and include the following.

- IRA deductions
- Health savings account deduction
- Archer medical savings account deduction
- Deductions for payments on behalf of a self-employed individual to a simplified employee pension (SEP), savings incentive match plan for employees (SIMPLE), or other qualified plan
- Alimony paid
- Most itemized deductions (except for casualty and theft losses resulting from a federally declared disaster and state income tax on trade or business income)
- Standard deduction

**Nonbusiness Income other than Capital Gains.** Examples of nonbusiness income (line 7) include the following.

- Taxable IRA distributions
- Pension benefits
- Social security benefits
- Annuity income
- Dividends
- Interest from investments
- The taxpayer's share of nonbusiness income from a partnership or an S corporation

**Adjustments for Capital Losses.** Nonbusiness capital losses (line 2) are deductible only to the extent of nonbusiness capital gains without regard to any §1202 exclusion claimed (line 3).

Deductible business capital losses (line 11) cannot exceed the total of:

1. Nonbusiness capital gains that exceed the sum of nonbusiness capital losses and excess nonbusiness deductions (line 10), and
2. Business capital gains without regard to any §1202 exclusion claimed (line 12).

**IRC §1202 Exclusion.** Any §1202 exclusion relating to the sale or exchange of qualified small business stock is entered as a positive number (line 17).

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**Domestic Production Activities Deduction.** Although the TCJA repealed the DPAD for tax years beginning after 2017, taxpayers may nevertheless have a DPAD in post-2017 years in limited circumstances (e.g., DPAD from certain fiscal year entities). The amount that should be entered on Schedule A — NOL, line 23 as a positive number comes from Form 8903, *Domestic Production Activities Deduction*, line 25.

**Deduction for Prior Year NOLs.** Any deduction for prior year NOLs must be added back in determining the current year NOL (line 24).

**Illustrative Example.** The following example illustrates the use of Schedule A—NOL, in calculating a taxpayer's NOL for 2019.

**Example 3.** Ken Fisher is a single taxpayer who has the following 2019 income and deductions. He has no casualty losses.

Income/Gain		Expense/Loss/Exclusion	
Description	Amount	Description	Amount
Wages	\$25,000	Schedule C business loss	\$50,000
Qualified dividends	15,000	2017 NOL carryover	6,000
Long-term business gain (§1231)	10,000	Long-term nonbusiness capital loss	24,000
		Itemized deductions	35,000

Ken has a net long-term capital loss for 2019 of \$14,000 (\$10,000 business gain – \$24,000 capital loss). Only \$3,000 is deductible in 2020 due to the IRC §1211 capital loss limitation.

Ken's AGI is negative \$19,000 (\$25,000 wages + \$15,000 dividends – \$50,000 business loss – \$3,000 long-term capital loss – \$6,000 NOL from 2017) and his taxable income is negative \$54,000 (negative \$19,000 AGI – \$35,000 itemized deductions).

Although Ken's taxable income is negative \$54,000, only \$15,000 of this loss is an NOL, which is calculated as shown on the following Schedule A — NOL. As a result, Ken has an NOL carryforward of \$21,000 (\$15,000 + \$6,000 NOL carryforward from 2017).

# 2020 Workbook

## For Example 3

Form 1045 (2019)

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### Schedule A—NOL (see instructions)

<b>1</b>	For individuals, subtract your standard deduction or itemized deductions from your adjusted gross income and enter it here. For estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount (see instructions)	<b>1</b>	<b>(54,000)</b>
<b>2</b>	Nonbusiness capital losses before limitation. Enter as a positive number (see instructions)	<b>2</b>	<b>24,000</b>
<b>3</b>	Nonbusiness capital gains (without regard to any section 1202 exclusion)	<b>3</b>	<b>0</b>
<b>4</b>	If line 2 is more than line 3, enter the difference. Otherwise, enter -0-	<b>4</b>	<b>24,000</b>
<b>5</b>	If line 3 is more than line 2, enter the difference. Otherwise, enter -0-	<b>5</b>	<b>0</b>
<b>6</b>	Nonbusiness deductions (see instructions)	<b>6</b>	<b>35,000</b>
<b>7</b>	Nonbusiness income other than capital gains (see instructions)	<b>7</b>	<b>15,000</b>
<b>8</b>	Add lines 5 and 7	<b>8</b>	<b>15,000</b>
<b>9</b>	If line 6 is more than line 8, enter the difference. Otherwise, enter -0-	<b>9</b>	<b>20,000</b>
<b>10</b>	If line 8 is more than line 6, enter the difference. Otherwise, enter -0-. <b>But don't enter more than line 5</b>	<b>10</b>	<b>0</b>
<b>11</b>	Business capital losses before limitation. Enter as a positive number	<b>11</b>	<b>0</b>
<b>12</b>	Business capital gains (without regard to any section 1202 exclusion)	<b>12</b>	<b>10,000</b>
<b>13</b>	Add lines 10 and 12	<b>13</b>	<b>10,000</b>
<b>14</b>	Subtract line 13 from line 11. If zero or less, enter -0-	<b>14</b>	<b>0</b>
<b>15</b>	Add lines 4 and 14	<b>15</b>	<b>24,000</b>
<b>16</b>	Enter the loss, if any, from line 16 of your 2019 Schedule D (Form 1040 or 1040-SR). (For estates and trusts, enter the loss, if any, from line 19, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you don't have a loss on that line (and don't have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15	<b>16</b>	<b>14,000</b>
<b>17</b>	Section 1202 exclusion. Enter as a positive number (see instructions)	<b>17</b>	<b>0</b>
<b>18</b>	Subtract line 17 from line 16. If zero or less, enter -0-	<b>18</b>	<b>14,000</b>
<b>19</b>	Enter the loss, if any, from line 21 of your 2019 Schedule D (Form 1040 or 1040-SR). (For estates and trusts, enter the loss, if any, from line 20 of Schedule D (Form 1041).) Enter as a positive number	<b>19</b>	<b>3,000</b>
<b>20</b>	If line 18 is more than line 19, enter the difference. Otherwise, enter -0-	<b>20</b>	<b>11,000</b>
<b>21</b>	If line 19 is more than line 18, enter the difference. Otherwise, enter -0-	<b>21</b>	<b>0</b>
<b>22</b>	Subtract line 20 from line 15. If zero or less, enter -0-	<b>22</b>	<b>13,000</b>
<b>23</b>	Domestic production activities deduction from your 2019 return (see instructions)	<b>23</b>	<b>0</b>
<b>24</b>	NOL deduction for losses from other years. Enter as a positive number	<b>24</b>	<b>6,000</b>
<b>25</b>	<b>NOL.</b> Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, enter it here and on page 1, line 1a. If the result is zero or more, you <b>don't</b> have an NOL	<b>25</b>	<b>(15,000)</b>

Form **1045** (2019)

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# 2020 Workbook

## ALTERNATIVE MINIMUM TAX<sup>28</sup>

### Calculating the Alternative Tax Net Operating Loss

An individual taxpayer can have an alternative tax net operating loss (ATNOL). This is not the same as the alternative tax net operating loss deduction (ATNOLD), which is defined later. Once a taxpayer has determined their alternative minimum taxable income (AMTI), their ATNOL for the tax year equals:

**Deductions allowed for calculating AMTI, excluding the ATNOLD, less the income included in AMTI.**

Conceptually, this is like **the excess of deductions allowed over gross income** — i.e., the definition of an NOL for regular tax purposes.

**Note.** The ATNOL only includes tax preference items that **increased** the amount of the NOL for regular tax purposes.

The amount of a taxpayer's ATNOL may differ from the NOL that is determined for regular tax purposes. The following are examples of tax items that can result in an ATNOL that is different than the NOL calculated for regular tax purposes.

- Regular depreciation versus AMT depreciation<sup>29</sup>
- Passive activities involving farming and farm syndicates<sup>30</sup>
- Limitations on itemized deductions<sup>31</sup>

### Calculating the ATNOLD

The IRS defines the ATNOLD as the sum of the ATNOL carrybacks and carryforwards to the tax year, subject to the ATNOLD limitation.

The amount of the ATNOLD cannot exceed the ATNOLD limitation, which is the **sum** of the following amounts.

1. The **lesser** of:
  - a. The amount of the ATNOLD attributable to ATNOLs carried back or forward to the tax year attributable to NOLs **other than** qualified losses described in 2a, **or**
  - b. 90% of the AMTI determined without regard to the ATNOL or the DPAD
2. **Plus**, the **lesser** of:
  - a. The sum of the ATNOL carrybacks and carryforwards to the tax year attributable to qualified disaster losses, qualified Gulf Opportunity Zone losses, qualified recovery assistance losses, qualified disaster recovery assistance losses, and any 2008 or 2009 loss that the taxpayer elected to carry back more than two years, **or**
  - b. 100% of AMTI for the tax year (calculated without regard to the ATNOLD and DPAD) **minus** the amount determined in **item 1**

**Note.** The purpose of step 2 of the ATNOLD limitation is to have ATNOLs for which an extended carryback period was elected offset 100% rather than 90% of AMTI.

<sup>28</sup> IRC §56(d); Instructions to Form 6251.

<sup>29</sup> IRC §56(a)(1).

<sup>30</sup> IRC §58(a).

<sup>31</sup> IRC §56(b)(1).



**Example 4.** For 2020, Dan has AMTI of \$100,000, which includes an ATNOL carryforward of \$20,000. Dan's 2020 ATNOLD is \$20,000, which is determined as follows.

1. \$20,000, which is the **lesser** of:
  - a. The ATNOL carryforward of \$20,000, **or**
  - b. \$108,000  $((\$100,000 \text{ AMTI} + \$20,000 \text{ ATNOL carryforward}) \times 90\%)$
2. **Plus** \$0, which is the **lesser** of:
  - a. \$0 (the amount attributable to qualified disaster losses and certain other losses described earlier), **or**
  - b. \$100,000  $(\$100,000 \text{ AMTI} + \$20,000 \text{ ATNOL carryforward} - \$20,000 \text{ determined in step 1})$ .

Because Dan did not have any DPAD or qualified losses, the ATNOLD limitation is simply the lesser of the ATNOL carryforward and 90% of adjusted AMTI (as illustrated in step 1 of the ATNOLD limitation formula).

## ATNOL Carryback/Carryforward Rules

The ATNOL carryback/carryforward rules mirror the NOL carryback/carryforward rules for the regular tax. These rules are discussed next.

**Note.** When a taxpayer makes the IRC §172(b)(3) election (discussed later) to forgo the carryback period for the regular tax, the election also applies to the ATNOL.

**Note.** For an in-depth discussion and illustration of carryback provisions available for farming operations, see the 2020 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 5: Agricultural Issues and Rural Investments.

## ESTATES AND TRUSTS<sup>32</sup>

An estate or trust may have an NOL if the aggregate of taxable income, charitable deductions, income distribution deduction, and exemption amounts reported on Form 1041, *U.S. Income Tax Return for Estates and Trusts*, results in a negative amount. Estates and trusts can also use Form 1045, Schedule A—NOL to determine if they have an NOL.

Estates and trusts have the option of filing either Form 1045 or an amended Form 1041 for each carryback year to which NOLs are applied. An estate or trust opting to file an amended Form 1041 should use a copy of the appropriate carryback year's Form 1041, check the "net operating loss carryback" box, and follow the Form 1041 instructions for amended returns. The NOL deduction is included with other deductions not subject to the 2% limit (line 15a).

## Final Year of Estate/Trust<sup>33</sup>

Upon termination of a trust or decedent's estate, any unused NOL (that would have otherwise been allowable by the entity in a later year if the entity had not been terminated) flows to the beneficiaries on the entity's **final return**. The instructions for Form 1041, Schedule K-1, *Beneficiary's Share of Income, Deductions, Credits, etc.*, advise beneficiaries on how to properly report the NOL on their returns.

<sup>32</sup> IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

<sup>33</sup> Instructions for Schedule K-1 (Form 1041).

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For regular tax purposes, an unused NOL is reported to the beneficiaries on the Schedule K-1 with a **Code D** on line 11 (final year deductions). Individual beneficiaries report this unused NOL on the “other income” line of Schedule 1 (Form 1040, *U.S. Individual Income Tax Return*).<sup>34</sup>

For AMT purposes, any ATNOL carryover is reported on Schedule K-1, line 11, with a **code E**. The beneficiary should report this ATNOL carryover on line 2f of Form 6251, *Alternative Minimum Tax — Individuals*, for the year in question.<sup>35</sup>

## S CORPORATIONS AND PARTNERSHIPS<sup>36</sup>

Because partnerships and S corporations are pass-through entities, they do not directly generate an NOL. Nevertheless, a partner’s or shareholder’s share of income and deductions from a pass-through entity can be used to calculate their individual NOL.

## FORM 982 ADJUSTMENTS TO NOLs<sup>37</sup>

Although income from discharge of indebtedness is **usually** taxable,<sup>38</sup> it is **not** taxable in the following circumstances.<sup>39</sup>

1. The debt is discharged in a title 11 bankruptcy proceeding.
2. The discharge occurs while the taxpayer is insolvent.
3. The debt is qualified farm indebtedness.
4. The debt is qualified real property business indebtedness of a taxpayer other than a C corporation.
5. The debt is qualified principal residence indebtedness that is discharged **before** January 1, 2021, or subject to a written arrangement established **before** January 1, 2021.<sup>40</sup>
6. The debt is a student loan forgiven in exchange for working for a certain period in certain professions for any of a broad class of employers.<sup>41</sup>

**Note.** For more information about discharge of indebtedness, see the 2013 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 3: Financial Distress. This can be found at **uofi.tax/arc** [taxschool.illinois.edu/taxbookarchive].

When debt forgiveness income is excluded from taxation because of **exceptions 1–5** (listed above), the taxpayer is required to reduce certain tax attributes (but not below zero) by the amount not included in income. Form 982, *Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)*, must be filed to report the reduction of the applicable tax attributes.

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<sup>34</sup>. Instructions for Form 1040.

<sup>35</sup>. Instructions for Form 6251.

<sup>36</sup>. Ibid.

<sup>37</sup>. IRS Pub. 4681, *Canceled Debts, Foreclosures, Repossessions, and Abandonments*.

<sup>38</sup>. IRC §61(a)(11).

<sup>39</sup>. IRC §108(a).

<sup>40</sup>. IRC §108(a)(1)(E); PL 116-94, Division Q, §101.

<sup>41</sup>. IRC §108(f).

If the debt forgiveness is not taxable because of **exceptions 1–3**, the NOL for the tax year of the discharge and any NOL carryforwards to that year are reduced first before any other tax attributes unless the taxpayer elects to first reduce the basis of depreciable property before reducing other tax attributes.<sup>42</sup> IRC §1017 and Treas. Reg. §1.1017-1 provide additional information about applying the reduction to the basis of depreciable property.

If the debt forgiveness is not taxable because of **exception 4**, then the basis in the depreciable real property of the taxpayer is reduced. The taxpayer cannot reduce other tax attributes in this instance.<sup>43</sup>

If the debt forgiveness is not taxable because of **exception 5**, then the basis of the taxpayer's principal residence is reduced but no other tax attributes are reduced.<sup>44</sup>

Tax attributes are not reduced if the debt reduction is not taxable due to **exception 6**.<sup>45</sup>

## EXCESS BUSINESS LOSSES<sup>46</sup>

**Note.** The following rules were in effect under the TCJA. The CARES Act modifies these rules and is discussed later in this section.

Following passage of the TCJA, noncorporate taxpayers were subject to the excess business loss (EBL) limitation during the TCJA period (i.e., tax years beginning after December 31, 2017, and before January 1, 2026). For tax years beginning in **2020**, an EBL was defined as the **excess** (if any) of:

1. A taxpayer's aggregate deductions from **trades or businesses** for the tax year, **over**
2. The sum of:
  - a. The taxpayer's aggregate trade or business income and gains for the year, **plus**
  - b. \$259,000 (\$518,000 for married filing jointly (MFJ) taxpayers).<sup>47</sup>

**Note.** The threshold amounts are adjusted annually for inflation for tax years during the TCJA period. For tax years beginning in 2019, the thresholds were \$510,000 for MFJ taxpayers and \$255,000 for all other taxpayers.<sup>48</sup> For tax years beginning in 2018, the thresholds were \$500,000 for MFJ taxpayers and \$250,000 for all other taxpayers.<sup>49</sup>

The taxpayer's aggregate deductions from trades or businesses are determined without regard to whether such deductions are disallowed for the tax year by the EBL limitation.

When the EBL limitation applies, a taxpayer's EBL is carried forward and treated as part of their NOL in subsequent tax years.

<sup>42</sup> IRC §§108(b)(2)(A) and (b)(5).

<sup>43</sup> IRC §108(c).

<sup>44</sup> IRC §108(h)(1).

<sup>45</sup> IRC §108(f).

<sup>46</sup> TCJA §11012; IRC §461(l).

<sup>47</sup> Rev. Proc. 2019-44, 2019-47 IRB 1093.

<sup>48</sup> Rev. Proc. 2018-57, 2018-49 IRB 827.

<sup>49</sup> IRC §461(l)(3)(A).

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## Practitioner Planning Tip

The TCJA greatly enhanced the ability of taxpayers to accelerate depreciation deductions using either bonus depreciation or IRC §179 expensing. The decision to use accelerated methods can result in the creation of losses large enough that the EBL rules limit the amount of losses allowed in the current year. The unused losses are then carried forward to future years where they are limited to 80% of taxable income. However, the carryforward period is indefinite. Illustrating the impact of these accelerated depreciation methods to clients is more important than ever. Practitioners need to examine the long-term effects of these decisions on the taxpayer. For information on bonus depreciation and §179 expensing, see the 2020 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 2: Depreciation.

**Note.** At the time this workbook was published, IRS guidance on EBLs mainly consisted of Form 461, *Limitation on Business Losses*, and the accompanying instructions.

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## EBL REPORTING REQUIREMENTS

EBL reporting requirements are satisfied by completing Form 461 (which follows). However, the IRS has the authority to issue additional reporting requirements.<sup>50</sup>

<b>Form 461</b>  Department of the Treasury Internal Revenue Service	<b>Limitation on Business Losses</b>  ► Attach to your tax return. ► Go to <a href="http://www.irs.gov/Form461">www.irs.gov/Form461</a> for instructions and the latest information.	OMB No. 1545-2283  <b>2019</b> Attachment Sequence No. <b>461</b>
Name(s) shown on return		Identifying number
<b>Part I Total Income/Loss Items</b> See instructions if you are filing a tax return other than Form 1040 or 1040-SR.		
<b>1</b>	Enter amount from Form 1040 or 1040-SR, line 1 . . . . .	<b>1</b>
<b>2</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 3 . . . . .	<b>2</b>
<b>3</b>	Enter amount from Form 1040 or 1040-SR, line 6 . . . . .	<b>3</b>
<b>4</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 4 . . . . .	<b>4</b>
<b>5</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 5 . . . . .	<b>5</b>
<b>6</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 6 . . . . .	<b>6</b>
<b>7</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 7 . . . . .	<b>7</b>
<b>8</b>	Enter other income, gain, or losses from a trade or business not reported on lines 1 through 7 . . . . .	<b>8</b>
<b>9</b>	Combine lines 1 through 8 . . . . .	<b>9</b>
<b>Part II Adjustment for Amounts Not Attributable to Trade or Business</b> See instructions if you are filing a tax return other than Form 1040 or 1040-SR.		
<b>10</b>	Enter any income or gain reported on lines 1 through 8 that is not attributable to a trade or business . . . . .	<b>10</b>
<b>11</b>	Enter any losses or deductions reported on lines 1 through 8 that are not attributable to a trade or business. See instructions . . . . .	<b>11</b>
<b>12</b>	Subtract line 11 from line 10 . . . . .	<b>12</b>
<b>Part III Limitation on Losses</b>		
<b>13</b>	If line 12 is a negative number, enter it here as a positive number. If line 12 is a positive number, enter it here as a negative number . . . . .	<b>13</b>
<b>14</b>	Add lines 9 and 13 . . . . .	<b>14</b>
<b>15</b>	Enter \$255,000 (or \$510,000 if married filing jointly) . . . . .	<b>15</b>
<b>16</b>	Add lines 14 and 15. If less than zero, enter the amount from line 16 as a positive number on Schedule 1 (Form 1040 or 1040-SR), line 8. See instructions if you are filing a tax return other than a Form 1040 or 1040-SR. If zero or greater, do not attach this form to your tax return . . . . .	<b>16</b>

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 16654I

Form **461** (2019)

Form 461 consists of three parts. In part I, taxpayers enter certain income/loss items to determine their total income/loss. Specific income/loss items listed in part I are identified in the following table.

Form 461 Line No.	Form Reference	Income/Loss Item
1	Form 1040 or 1040-SR, <i>U.S. Tax Return for Seniors</i> , line 1	Wages, salaries, tips, etc.
2	Schedule 1 (Form 1040 or 1040-SR), line 3	Business income or (loss) from Schedule C
3	Form 1040 or 1040-SR, line 6	Capital gain or (loss) from Schedule D, if required
4	Schedule 1 (Form 1040 or 1040-SR), line 4	Other gains or (losses) from Form 4797
5	Schedule 1 (Form 1040 or 1040-SR), line 5	Rental real estate, royalties, partnerships, S corporations, trusts, etc. from Schedule E
6	Schedule 1 (Form 1040 or 1040-SR), line 6	Farm income or (loss) from Schedule F
7	Schedule 1 (Form 1040 or 1040-SR), line 7	Unemployment compensation

<sup>50</sup> IRC §461(l)(5).

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## DEFINITION OF TRADE OR BUSINESS

A definition of “trade or business” is not set forth in the statutes promulgating the EBL provisions. In the instructions to Form 461, the IRS provides the following information regarding what constitutes a trade or business.

*An activity qualifies as a trade or business if your primary purpose for engaging in the activity is for income or profit and **you’re involved in the activity** [emphasis added] with continuity and regularity. The facts and circumstances of each case determine if an activity is a trade or business. The regularity of activities and transactions and the production of income are important elements. You don’t need to actually make a profit to be in a trade or business as long as you have a profit motive. However, you do need to make ongoing efforts to further the interests of your business.*

**Note.** The American Institute of Certified Public Accountants (AICPA) requested the IRS replace the bolded text in the quoted text with “the activity is conducted.” The AICPA’s reason for this request was that the taxpayer’s regular and continuous involvement in the activity is not one of the tests for a trade or business (e.g., a passive investor in a partnership may be in a trade or business provided the business is conducted with regularity and continuity).<sup>51</sup> At the time this material was written, the IRS had not responded publicly to this request.

Further information on what constitutes a trade or business for purposes of the EBL rules is posted on the IRS’s website.<sup>52</sup> According to this information, trade or business income/loss can include, but is not limited to, the following sources.

- Schedule C and Schedule F activities
- The activity of being an employee
- An activity reported on Form 4835
- Business activities reported on Schedule E
- Business gains and losses reported on Form 4797 and Form 8949
- Trade or business income and losses from pass-through entities
- Farming losses from casualties or because of disease or drought

## Employee Wages<sup>53</sup>

Interestingly, the IRS’s indication that employee wages **can** constitute trade or business income conflicts with the legislators’ intent regarding the determination of the EBL limitation. According to the TCJA explanation provided by the Joint Committee on Taxation, the trade or business of performing services as an employee is **not** considered in determining an EBL. However, this explanation also indicates that “a technical correction may be necessary to carry out this intent.”

**Note.** The CARES Act §2304(b)(2)(B) clarifies that wages are **not** treated as business income for purposes of determining the EBL limitation.



<sup>51</sup> *Recommendation for the 2018 Instructions for Form 461 — Limitation on Business Losses*. Nellen, Annette. Apr. 3, 2019. AICPA. [www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20190403-aicpa-comments-on-form-461-instructions.pdf] Accessed on Jan. 7, 2020.

<sup>52</sup> *Excess business losses*. Nov. 6, 2019. IRS. [www.irs.gov/newsroom/excess-business-losses] Accessed on Jan. 8, 2020.

<sup>53</sup> *General Explanation of Public Law No. 115-97 (JCS-1-18)*. Dec. 2018. Joint Committee on Taxation. [www.jct.gov/publications.html?func=startdown&id=5152] Accessed on Jan. 7, 2020; *New limitation on excess business losses*. Vercelli, Lydia. May 1, 2019. The Tax Adviser. [www.thetaxadviser.com/issues/2019/may/new-limitation-excess-business-losses.html] Accessed on Jan. 7, 2020.

## APPLICATION TO PASS-THROUGH ENTITY OWNERS<sup>54</sup>

EBLs are determined at the partner/shareholder level. Consequently, partners/shareholders take into account their share of the entity's income, gain, deduction, or loss attributable to the entity's trades or businesses.

Because the EBL limitation is determined at the partner/shareholder level, this can result in equal partners/shareholders with disparate EBLs, as illustrated in the next example.

**Example 5.** Tina and Floyd each own 50% of TF Partners (a partnership), which is their only income source. Tina is single and Floyd files jointly with his spouse. In 2020, TF Partners reports a net loss of \$600,000.

Because Tina is single, her 2020 EBL threshold is \$259,000, and she has an EBL of \$41,000 (\$300,000 loss – (\$0 business income + \$259,000 threshold)). Tina's \$41,000 EBL is carried forward as an NOL to 2021.

Because Floyd files jointly, his 2020 EBL threshold is \$518,000. He does not have an EBL for 2020 (\$300,000 loss – (\$0 business income + \$518,000 threshold)).

Based on IRS guidance currently available, business gains and losses reported on Forms 4797 and 8949, including those from pass-through entities, can be trade or business income/loss for purposes of the EBL limitation. This includes a partner's/shareholder's share of an entity's gain or loss from the sale of its business assets.<sup>55</sup>

However, absent a more precise definition of trade or business income, it is unclear whether this includes gain or loss from the sale of a shareholder's S corporation stock.<sup>56</sup>

## Loss Ordering Rules

Three different sets of rules may limit the amount of losses deductible by an investor in a pass-through entity. These limitations are applied in the order listed.<sup>57</sup>

1. Basis limitations (IRC §704(d) for partners and IRC §1366(d) for S corporation shareholders)
2. At-risk limitations under IRC §465
3. Passive activity loss limitations under IRC §469

**Note.** For a detailed discussion about the three loss limitations, see the 2019 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 2: Schedule K-1.

<sup>54</sup> IRC §461(l)(4).

<sup>55</sup> *Excess business losses*. Nov. 6, 2019. IRS. [www.irs.gov/newsroom/excess-business-losses] Accessed on Jan. 8, 2020.

<sup>56</sup> *New limitation on excess business losses*. Vercelli, Lydia. May 1, 2019. The Tax Adviser. [www.thetaxadviser.com/issues/2019/may/new-limitation-excess-business-losses.html] Accessed on Jan. 8, 2020.

<sup>57</sup> *S Corporation Stock and Debt Basis*. Dec. 20, 2019. IRS. [www.irs.gov/businesses/small-businesses-self-employed/s-corporation-stock-and-debt-basis] Accessed on Jan. 8, 2020.

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The EBL limitation is then applied after the passive activity loss limitations.<sup>58</sup>

A passive activity is one that involves the conduct of a trade or business in which the taxpayer does not materially participate.<sup>59</sup> Generally, passive losses are only allowable to the extent of passive income, with any remaining loss carried over to subsequent years.<sup>60</sup> However, individual taxpayers with AGIs of \$100,000 or less (\$50,000 or less for certain married filing separately (MFS) taxpayers) who own and actively participate in the management of rental real estate may offset up to \$25,000 of losses (\$12,500 for certain MFS taxpayers) from the activity against other income in a tax year.<sup>61</sup> Individual taxpayers cannot meet the active participation requirement unless they own at least 10% of the rental real estate activity.<sup>62</sup>

## Interaction with Passive Activity Loss Limitations

The following example illustrates how the EBL interacts with the passive loss rules.

**Example 6.** Anne, a single taxpayer, is a 15% shareholder of Urban Rentals, which is an S corporation. Urban Rentals' sole activity is real estate rentals, which is considered a business. Anne actively participates in the management of the S corporation's rental properties. In 2020, Anne has income of \$90,000 from activities that are not trades or businesses. In addition, her share of Urban Rentals' 2020 loss is \$280,000.

Assuming Anne's business loss is not limited by the basis and at-risk limitations, it is nevertheless subject to the passive activity loss limitation. Thus, Anne's entire \$280,000 loss from Urban Rentals is passive.

Because Anne's AGI does not exceed \$100,000, she can deduct \$25,000 of this loss on her 2020 tax return. The remaining \$255,000 passive loss (\$280,000 rental loss – \$25,000 utilized in 2020) is carried over to subsequent years.

Applying the EBL formula, Anne appears to have an EBL of \$21,000 (\$280,000 business loss – (\$0 business income + \$259,000 threshold)). However, because only \$25,000 of Anne's \$280,000 business loss is deductible in 2020 and the \$25,000 deductible loss is less than the \$259,000 applicable EBL threshold, Anne does not have an EBL for 2020.

## APPLICATION TO HEDGE FUND INVESTMENTS<sup>63</sup>

When applying the EBL rules to hedge fund investments, it is important to determine whether the fund is engaged in a trade or business activity. According to the IRS, a trader in securities who buys and sells securities for their own account is engaged in a trade or business if all the following conditions are met.<sup>64</sup>

1. They must seek to profit from daily market movements in the prices of securities and not from dividends, interest, or capital appreciation.
2. Their activity must be substantial.
3. They must carry on the activity with continuity and regularity.

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<sup>58</sup> IRC §461(l)(6).

<sup>59</sup> IRC §469(c).

<sup>60</sup> IRC §§469(a) and (b).

<sup>61</sup> IRC §469(i).

<sup>62</sup> IRC §469(i)(6).

<sup>63</sup> *New limitation on excess business losses*. Vercelli, Lydia. May 1, 2019. The Tax Adviser. [www.thetaxadviser.com/issues/2019/may/new-limitation-excess-business-losses.html] Accessed on Jan. 8, 2020.

<sup>64</sup> *Topic No. 429 Traders in Securities (Information for Form 1040 or 1040-SR Filers)*. Jan. 3, 2020. IRS. [www.irs.gov/taxtopics/tc429] Accessed on Jan. 8, 2020.



Specific facts and circumstances that are considered by the IRS in determining if an activity is a securities trading business include the following.<sup>65</sup>

- Typical holding periods for securities bought and sold
- The frequency and dollar amount of trades during the year
- The extent to which the taxpayer pursues the activity to produce income for a livelihood
- The amount of time devoted to the activity

**Note.** Only the portion of a hedge fund's activity that is from a trade or business activity is considered in determining a taxpayer's EBL. For hedge funds structured as pass-through entities, it is the responsibility of the entity return preparer to determine the ultimate owner's allocable portion of business income/loss from the trading activity.

## WHAT HAPPENS TO UNUTILIZED EBLs/NOLs OF DECEDENTS?<sup>66</sup>

With the introduction of the EBL limitation, taxpayers can have an NOL when they would not otherwise have had one. Due to the limited circumstances when NOLs can be carried back, many taxpayers will be obligated to carry these NOLs forward. What happens to unutilized NOLs when the taxpayer dies? According to the IRS, when a taxpayer dies, any outstanding NOLs that are not utilized on the taxpayer's final income tax return are lost (i.e., they are not deductible by the decedent's estate).<sup>67</sup>

The following example illustrates this issue.

**Example 7.** Chuck, who filed joint tax returns with his wife, ran a national furniture retail business until his death in 2020. The following table shows Chuck's income and losses as reported on his 2018, 2019, and final 2020 income tax returns.

Description	2018	2019	2020
Business deductions	(\$5,000,000)	(\$5,000,000)	(\$5,000,000)
Business income	3,000,000	3,000,000	3,000,000
EBL threshold	500,000	510,000	518,000
EBL	\$1,500,000	\$1,490,000	\$1,482,000
Investment income	\$4,000,000	\$4,000,000	\$4,000,000
Allowed business loss (EBL threshold)	(500,000)	(510,000)	(518,000)
Tentative taxable income	\$3,500,000	\$3,490,000	\$3,482,000
NOL allowed (carryforward from prior year) <sup>a</sup>	N/A	(\$1,500,000)	(\$1,490,000)
Taxable income	\$3,500,000	\$1,990,000	\$1,992,000
NOL carryforward (equal to the EBL)	\$1,500,000	\$1,490,000	\$1,482,000

<sup>a</sup> Lesser of NOL carryforward or 80% of taxable income.

<sup>65</sup> Ibid.

<sup>66</sup> *The new individual loss limitation landscape*. 2019. Deloitte. [www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-indiv-loss-limit-chapter-2019-essential-tax-wealth-planning-guide.pdf] Accessed on Jan. 8, 2020.

<sup>67</sup> Rev. Rul. 74-175, 1974-1 CB 52.

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Chuck's tentative taxable income is always enough to fully absorb the prior NOL carryforward. However, Chuck's 2020 EBL of \$1.482 million is lost because Chuck has no future taxable income against which it can be offset, and this EBL/NOL cannot be utilized by Chuck's estate.

**Observation.** If the EBL limitation had **not** been enacted, then Chuck would **not** have generated any NOLs during the years in question because his business losses would have been fully offset by his portfolio income. The Joint Committee on Taxation's technical explanation of the TCJA is silent regarding unutilized NOLs of decedents.<sup>68</sup> Therefore, it is unclear if it was the legislators' intent to deny the decedent a tax deduction for an NOL determined for the year of death when it arose solely due to the EBL limitation. It remains to be seen if the IRS will address this problem when §461(l) regulations are eventually issued.



## IMPACT OF THE CARES ACT ON EBLs<sup>69</sup>

**Note.** In order to utilize the provisions of the CARES Act, for taxpayers with NOLs and EBLs originating in 2018 or 2019, amending returns will be necessary. Examples illustrating these actions are included later in this chapter.

For tax years 2018 through 2020, the EBL rules are repealed by the CARES Act.<sup>70</sup> However, the EBL rules **are in effect** for tax years beginning after December 31, 2020, and before January 1, 2026.

Provisions under the CARES Act attempt to remove previous confusion by clarifying that losses for calculating an EBL **do not include** deductions allowable under IRC §172 (capital losses) or IRC §199A (QBID).<sup>71</sup>

In addition, the CARES Act addresses capital gains for the purpose of calculating an EBL. Under the provision, the amount of gains from sales or exchanges of capital assets taken into account are limited to the **lesser** of the capital gain net income determined by taking into account **only** gains and losses **attributable to a trade or business**, or the overall capital gain net income.<sup>72</sup>

**Example 8.** Bob, a single taxpayer, is a builder who operates as a sole proprietor. In 2019, his gross receipts for his business were \$100,000. Expecting a large increase in business, Bob invested \$360,000 into equipment, trucks, and tools. In addition, he had \$75,000 in various operating expenses in 2019. Bob's tax professional, Susan, filed the return on February 20, 2020, using 100% bonus depreciation.

Bob's original return, filed under rules established under the TCJA (as described earlier in this chapter), limited his NOL and created an EBL. Moreover, his NOL could only be carried over to future years as the following forms illustrate.

After the enactment of the CARES Act on March 27, 2020, Susan met with Bob to discuss amending the 2019 filing to take advantage of the NOL changes made under the CARES Act. Bob's returns, as originally filed on February 20, 2020, and as amended under the CARES Act follow.

<sup>68</sup> *General Explanation of Public Law 115-97 (JCS-1-18)*. Dec. 2018. Joint Committee on Taxation. [www.jct.gov/publications.html?func=startdown&id=5152] Accessed on Jan. 7, 2020.

<sup>69</sup> PL 116-136 §2304(a), amending IRC §461(l)(1).

<sup>70</sup> PL 116-136 §2304(a)(1)(A) and (B).

<sup>71</sup> PL 116-136 §2304(b), amending IRC §461(l)(3)(A).

<sup>72</sup> PL 116-136 §2304(b), amending IRC §461(l)(3)(B)(ii).

# 2020 Workbook

## For Example 8. Original Return

Form <b>1040</b>	Department of the Treasury—Internal Revenue Service (99) <b>U.S. Individual Income Tax Return</b>	2019	OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.																																			
<b>Filing Status</b> <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately (MFS) <input type="checkbox"/> Head of household (HOH) <input type="checkbox"/> Qualifying widow(er) (QW) Check only one box. If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶																																						
Your first name and middle initial <b>Bob</b>		Last name <b>Builder</b>																																				
If joint return, spouse's first name and middle initial		Last name																																				
Home address (number and street). If you have a P.O. box, see instructions. <b>412 Mumford Hall</b>		Apt. no.																																				
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). <b>Champaign, IL 61820</b>		<b>Presidential Election Campaign</b> Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse																																				
Foreign country name		Foreign province/state/county	Foreign postal code																																			
If more than four dependents, see instructions and ✓ here ▶ <input type="checkbox"/>																																						
<b>Standard Deduction</b> <b>Someone can claim:</b> <input type="checkbox"/> You as a dependent <input type="checkbox"/> Your spouse as a dependent <input type="checkbox"/> Spouse itemizes on a separate return or you were a dual-status alien																																						
<b>Age/Blindness</b> You: <input type="checkbox"/> Were born before January 2, 1955 <input type="checkbox"/> Are blind <b>Spouse:</b> <input type="checkbox"/> Was born before January 2, 1955 <input type="checkbox"/> Is blind																																						
<b>Dependents</b> (see instructions): <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">(1) First name</th> <th style="width: 30%;">Last name</th> <th style="width: 10%;">(2) Social security number</th> <th style="width: 10%;">(3) Relationship to you</th> <th style="width: 10%;">(4) ✓ if qualifies for (see instructions):</th> <th style="width: 10%;">Child tax credit</th> <th style="width: 10%;">Credit for other dependents</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td><input type="checkbox"/></td><td><input type="checkbox"/></td><td><input type="checkbox"/></td></tr> </tbody> </table>				(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions):	Child tax credit	Credit for other dependents					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>					<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions):	Child tax credit	Credit for other dependents																																
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For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form <b>1040</b> (2019)																																						

<b>SCHEDULE 1</b> (Form 1040 or 1040-SR)  Department of the Treasury Internal Revenue Service	<b>Additional Income and Adjustments to Income</b> ▶ Attach to Form 1040 or 1040-SR. ▶ Go to <a href="http://www.irs.gov/Form1040">www.irs.gov/Form1040</a> for instructions and the latest information.	OMB No. 1545-0074 <b>2019</b> Attachment Sequence No. <b>01</b>																														
Name(s) shown on Form 1040 or 1040-SR <b>Bob Builder</b>		Your social security number <b>333-45-6789</b>																														
At any time during 2019, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																																
<b>Part I Additional Income</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td><b>1</b> Taxable refunds, credits, or offsets of state and local income taxes . . . . .</td><td><b>1</b></td><td></td></tr> <tr><td><b>2a</b> Alimony received . . . . .</td><td><b>2a</b></td><td></td></tr> <tr><td><b>b</b> Date of original divorce or separation agreement (see instructions) ▶</td><td></td><td></td></tr> <tr><td><b>3</b> Business income or (loss). Attach Schedule C . . . . .</td><td><b>3</b></td><td style="text-align: right;"><b>(335,000)</b></td></tr> <tr><td><b>4</b> Other gains or (losses). Attach Form 4797 . . . . .</td><td><b>4</b></td><td></td></tr> <tr><td><b>5</b> Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E . . . . .</td><td><b>5</b></td><td></td></tr> <tr><td><b>6</b> Farm income or (loss). Attach Schedule F . . . . .</td><td><b>6</b></td><td></td></tr> <tr><td><b>7</b> Unemployment compensation . . . . .</td><td><b>7</b></td><td></td></tr> <tr><td><b>8</b> Other income. List type and amount ▶ <b>ELA</b></td><td><b>8</b></td><td style="text-align: right;"><b>80,000</b></td></tr> <tr><td><b>9</b> Combine lines 1 through 8. Enter here and on Form 1040 or 1040-SR, line 7a . . . . .</td><td><b>9</b></td><td style="text-align: right;"><b>(255,000)</b></td></tr> </table>			<b>1</b> Taxable refunds, credits, or offsets of state and local income taxes . . . . .	<b>1</b>		<b>2a</b> Alimony received . . . . .	<b>2a</b>		<b>b</b> Date of original divorce or separation agreement (see instructions) ▶			<b>3</b> Business income or (loss). Attach Schedule C . . . . .	<b>3</b>	<b>(335,000)</b>	<b>4</b> Other gains or (losses). Attach Form 4797 . . . . .	<b>4</b>		<b>5</b> Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E . . . . .	<b>5</b>		<b>6</b> Farm income or (loss). Attach Schedule F . . . . .	<b>6</b>		<b>7</b> Unemployment compensation . . . . .	<b>7</b>		<b>8</b> Other income. List type and amount ▶ <b>ELA</b>	<b>8</b>	<b>80,000</b>	<b>9</b> Combine lines 1 through 8. Enter here and on Form 1040 or 1040-SR, line 7a . . . . .	<b>9</b>	<b>(255,000)</b>
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<b>Part II Adjustments to Income</b>																																

**Note.** The excess loss adjustment (ELA) of \$80,000 on line 8 comes from Form 461.

# 2020 Workbook

## For Example 8. Original Return

### SCHEDULE C (Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service (99)

### Profit or Loss From Business (Sole Proprietorship)

► Go to [www.irs.gov/ScheduleC](http://www.irs.gov/ScheduleC) for instructions and the latest information.

► Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships generally must file Form 1065.

OMB No. 1545-0074

**2019**  
Attachment  
Sequence No. **09**

Name of proprietor

**Bob Builder**

Social security number (SSN)

**333-45-6789**

**A** Principal business or profession, including product or service (see instructions)

**Builder**

**B** Enter code from instructions

► **2 3 6 1 0 0**

**C** Business name. If no separate business name, leave blank.

**Bob Builder**

**D** Employer ID number (EIN) (see instr.)

**E** Business address (including suite or room no.) ► **412 Mumford Hall**

City, town or post office, state, and ZIP code **Champaign, IL 61820**

**F** Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ►

**G** Did you "materially participate" in the operation of this business during 2019? If "No," see instructions for limit on losses ☒ Yes ☐ No

**H** If you started or acquired this business during 2019, check here ☐

**I** Did you make any payments in 2019 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No

**J** If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

#### Part I Income

<b>1</b>	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked <input type="checkbox"/>	<b>1</b>	<b>100,000</b>
<b>2</b>	Returns and allowances	<b>2</b>	
<b>3</b>	Subtract line 2 from line 1	<b>3</b>	<b>100,000</b>
<b>4</b>	Cost of goods sold (from line 42)	<b>4</b>	
<b>5</b>	<b>Gross profit.</b> Subtract line 4 from line 3	<b>5</b>	<b>100,000</b>
<b>6</b>	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	<b>6</b>	
<b>7</b>	<b>Gross income.</b> Add lines 5 and 6	<b>7</b>	<b>100,000</b>

#### Part II Expenses. Enter expenses for business use of your home **only** on line 30.

<b>8</b>	Advertising	<b>8</b>		<b>18</b>	Office expense (see instructions)	<b>18</b>	
<b>9</b>	Car and truck expenses (see instructions)	<b>9</b>	<b>15,000</b>	<b>19</b>	Pension and profit-sharing plans	<b>19</b>	
<b>10</b>	Commissions and fees	<b>10</b>		<b>20</b>	Rent or lease (see instructions):		
<b>11</b>	Contract labor (see instructions)	<b>11</b>		<b>a</b>	Vehicles, machinery, and equipment	<b>20a</b>	<b>10,000</b>
<b>12</b>	Depreciation	<b>12</b>		<b>b</b>	Other business property	<b>20b</b>	
<b>13</b>	Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	<b>13</b>	<b>360,000</b>	<b>21</b>	Repairs and maintenance	<b>21</b>	<b>5,000</b>
<b>14</b>	Employee benefit programs (other than on line 19)	<b>14</b>		<b>22</b>	Supplies (not included in Part III)	<b>22</b>	<b>45,000</b>
<b>15</b>	Insurance (other than health)	<b>15</b>		<b>23</b>	Taxes and licenses	<b>23</b>	
<b>16</b>	Interest (see instructions):			<b>24</b>	Travel and meals:		
<b>a</b>	Mortgage (paid to banks, etc.)	<b>16a</b>		<b>a</b>	Travel	<b>24a</b>	
<b>b</b>	Other	<b>16b</b>		<b>b</b>	Deductible meals (see instructions)	<b>24b</b>	
<b>17</b>	Legal and professional services	<b>17</b>		<b>25</b>	Utilities	<b>25</b>	
				<b>26</b>	Wages (less employment credits)	<b>26</b>	
				<b>27a</b>	Other expenses (from line 48)	<b>27a</b>	
				<b>b</b>	Reserved for future use	<b>27b</b>	

**28** **Total expenses** before expenses for business use of home. Add lines 8 through 27a **► 435,000**

**29** Tentative profit or (loss). Subtract line 28 from line 7 **(335,000)**

**30** Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions).

**Simplified method filers only:** enter the total square footage of: (a) your home: \_\_\_\_\_

and (b) the part of your home used for business: \_\_\_\_\_. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30

**31** **Net profit or (loss).** Subtract line 30 from line 29.

• If a profit, enter on both **Schedule 1 (Form 1040 or 1040-SR), line 3** (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see instructions). Estates and trusts, enter on **Form 1041, line 3**.

• If a loss, you **must** go to line 32.

**32** If you have a loss, check the box that describes your investment in this activity (see instructions).

• If you checked 32a, enter the loss on both **Schedule 1 (Form 1040 or 1040-SR), line 3** (or **Form 1040-NR, line 13**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on **Form 1041, line 3**.

• If you checked 32b, you **must** attach **Form 6198**. Your loss may be limited.

**32a** ☒ All investment is at risk.  
**32b** ☐ Some investment is not at risk.

For Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 11334P

Schedule C (Form 1040 or 1040-SR) 2019

# 2020 Workbook

## For Example 8. Original Return

Form <b>461</b>  Department of the Treasury Internal Revenue Service	<b>Limitation on Business Losses</b>  ► Attach to your tax return.  ► Go to <a href="http://www.irs.gov/Form461">www.irs.gov/Form461</a> for instructions and the latest information.	OMB No. 1545-2283  <div style="font-size: 24pt; font-weight: bold;">2019</div> Attachment Sequence No. <b>461</b>	
Name(s) shown on return <b>Bob Builder</b>		Identifying number <b>333-45-6789</b>	
<b>Part I Total Income/Loss Items</b> See instructions if you are filing a tax return other than Form 1040 or 1040-SR.			
<b>1</b>	Enter amount from Form 1040 or 1040-SR, line 1 . . . . .	<b>1</b>	
<b>2</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 3 . . . . .	<b>2</b>	<b>(335,000)</b>
<b>3</b>	Enter amount from Form 1040 or 1040-SR, line 6 . . . . .	<b>3</b>	
<b>4</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 4 . . . . .	<b>4</b>	
<b>5</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 5 . . . . .	<b>5</b>	
<b>6</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 6 . . . . .	<b>6</b>	
<b>7</b>	Enter amount from Schedule 1 (Form 1040 or 1040-SR), line 7 . . . . .	<b>7</b>	
<b>8</b>	Enter other income, gain, or losses from a trade or business not reported on lines 1 through 7 . . . . .	<b>8</b>	
<b>9</b>	Combine lines 1 through 8 . . . . .	<b>9</b>	<b>(335,000)</b>
<b>Part II Adjustment for Amounts Not Attributable to Trade or Business</b> See instructions if you are filing a tax return other than Form 1040 or 1040-SR.			
<b>10</b>	Enter any income or gain reported on lines 1 through 8 that is not attributable to a trade or business . . . . .	<b>10</b>	
<b>11</b>	Enter any losses or deductions reported on lines 1 through 8 that are not attributable to a trade or business. See instructions . . . . .	<b>11</b>	
<b>12</b>	Subtract line 11 from line 10 . . . . .	<b>12</b>	
<b>Part III Limitation on Losses</b>			
<b>13</b>	If line 12 is a negative number, enter it here as a positive number. If line 12 is a positive number, enter it here as a negative number . . . . .	<b>13</b>	
<b>14</b>	Add lines 9 and 13 . . . . .	<b>14</b>	<b>(335,000)</b>
<b>15</b>	Enter \$255,000 (or \$510,000 if married filing jointly) . . . . .	<b>15</b>	<b>255,000</b>
<b>16</b>	Add lines 14 and 15. If less than zero, enter the amount from line 16 as a positive number on Schedule 1 (Form 1040 or 1040-SR), line 8. See instructions if you are filing a tax return other than a Form 1040 or 1040-SR. If zero or greater, do not attach this form to your tax return . . . . .	<b>16</b>	<b>(80,000)</b>

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 16654I Form **461** (2019)

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# 2020 Workbook

## For Example 8. Original Return

<b>Form 4562</b> Department of the Treasury Internal Revenue Service (99)	<b>Depreciation and Amortization</b> <b>(Including Information on Listed Property)</b> ▶ Attach to your tax return. ▶ Go to <a href="http://www.irs.gov/Form4562">www.irs.gov/Form4562</a> for instructions and the latest information.	OMB No. 1545-0172 <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>2019</b>          Attachment          Sequence No. <b>179</b> </div>
Name(s) shown on return <b>Bob Builder</b>		Business or activity to which this form relates <b>Schedule C, Part 2</b>
		Identifying number <b>333-45-6789</b>

**Part I Election To Expense Certain Property Under Section 179**  
**Note:** If you have any listed property, complete Part V before you complete Part I.

1 Maximum amount (see instructions) . . . . .	1	1,020,000
2 Total cost of section 179 property placed in service (see instructions) . . . . .	2	
3 Threshold cost of section 179 property before reduction in limitation (see instructions) . . . . .	3	2,550,000
4 Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0- . . . . .	4	
5 Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions . . . . .	5	

6 (a) Description of property	(b) Cost (business use only)	(c) Elected cost
7 Listed property. Enter the amount from line 29 . . . . .	7	
8 Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7 . . . . .	8	
9 Tentative deduction. Enter the <b>smaller</b> of line 5 or line 8 . . . . .	9	
10 Carryover of disallowed deduction from line 13 of your 2018 Form 4562 . . . . .	10	
11 Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions . . . . .	11	
12 Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11 . . . . .	12	
13 Carryover of disallowed deduction to 2020. Add lines 9 and 10, less line 12 ▶ . . . . .	13	

**Note:** Don't use Part II or Part III below for listed property. Instead, use Part V.

**Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)**

14 Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions . . . . .	14	360,000
15 Property subject to section 168(f)(1) election . . . . .	15	
16 Other depreciation (including ACRS) . . . . .	16	

**Part III MACRS Depreciation (Don't include listed property. See instructions.)**

**Section A**

17 MACRS deductions for assets placed in service in tax years beginning before 2019 . . . . .	17	
18 If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here . . . . . <input type="checkbox"/>		

**Section B—Assets Placed in Service During 2019 Tax Year Using the General Depreciation System**

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	

**Section C—Assets Placed in Service During 2019 Tax Year Using the Alternative Depreciation System**

20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 30-year			30 yrs.	MM	S/L	
d 40-year			40 yrs.	MM	S/L	

**Part IV Summary (See instructions.)**

21 Listed property. Enter amount from line 28 . . . . .	21	
22 <b>Total.</b> Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions . . . . .	22	360,000
23 For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs . . . . .	23	

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 12906N **Form 4562** (2019)

# 2020 Workbook

## For Example 8. Original Return

Form <b>8995</b>  Department of the Treasury Internal Revenue Service	<b>Qualified Business Income Deduction Simplified Computation</b>  ► Attach to your tax return. ► Go to <a href="http://www.irs.gov/Form8995">www.irs.gov/Form8995</a> for instructions and the latest information.	OMB No. 1545-0123  <div style="font-size: 2em; font-weight: bold;">2019</div> Attachment Sequence No. <b>55</b>	
Name(s) shown on return <b>Bob Builder</b>		Your taxpayer identification number <b>333-45-6789</b>	
<b>1</b>	(a) Trade, business, or aggregation name	(b) Taxpayer identification number	(c) Qualified business income or (loss)
<b>i</b>	<b>Bob Builder</b>	<b>333-45-6789</b>	<b>(335,000)</b>
<b>ii</b>	<b>Excess Business Loss</b>	<b>333-45-6789</b>	<b>80,000</b>
<b>iii</b>			
<b>iv</b>			
<b>v</b>			
<b>2</b>	Total qualified business income or (loss). Combine lines 1i through 1v, column (c)	<b>2</b>	<b>(255,000)</b>
<b>3</b>	Qualified business net (loss) carryforward from the prior year	<b>3</b>	( )
<b>4</b>	Total qualified business income. Combine lines 2 and 3. If zero or less, enter -0-	<b>4</b>	<b>0</b>
<b>5</b>	Qualified business income component. Multiply line 4 by 20% (0.20)	<b>5</b>	
<b>6</b>	Qualified REIT dividends and publicly traded partnership (PTP) income or (loss) (see instructions)	<b>6</b>	
<b>7</b>	Qualified REIT dividends and qualified PTP (loss) carryforward from the prior year	<b>7</b>	( )
<b>8</b>	Total qualified REIT dividends and PTP income. Combine lines 6 and 7. If zero or less, enter -0-	<b>8</b>	
<b>9</b>	REIT and PTP component. Multiply line 8 by 20% (0.20)	<b>9</b>	
<b>10</b>	Qualified business income deduction before the income limitation. Add lines 5 and 9	<b>10</b>	<b>0</b>
<b>11</b>	Taxable income before qualified business income deduction	<b>11</b>	<b>(267,200)</b>
<b>12</b>	Net capital gain (see instructions)	<b>12</b>	
<b>13</b>	Subtract line 12 from line 11. If zero or less, enter -0-	<b>13</b>	<b>0</b>
<b>14</b>	Income limitation. Multiply line 13 by 20% (0.20)	<b>14</b>	<b>0</b>
<b>15</b>	Qualified business income deduction. Enter the lesser of line 10 or line 14. Also enter this amount on the applicable line of your return ►	<b>15</b>	<b>0</b>
<b>16</b>	Total qualified business (loss) carryforward. Combine lines 2 and 3. If greater than zero, enter -0-	<b>16</b>	<b>( 255,000 )</b>
<b>17</b>	Total qualified REIT dividends and PTP (loss) carryforward. Combine lines 6 and 7. If greater than zero, enter -0-	<b>17</b>	( )

For Privacy Act and Paperwork Reduction Act Notice, see instructions. Cat. No. 37806C Form **8995** (2019)

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# 2020 Workbook

## For Example 8. Original Return

<b>Form 1040</b>	<b>Net Operating Loss Worksheet 1</b>	<b>2019</b>
Name <b>Bob Builder</b>		Taxpayer Identification Number <b>333-45-6789</b>

Net Operating Loss Calculation		
1 For individuals, subtract your standard deduction or itemized deductions from your adjusted gross income and enter it here. For estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount	1	(267,200)
2 Nonbusiness capital losses before limitation. Enter as a positive number	2	
3 Nonbusiness capital gains (without regard to any section 1202 exclusion)	3	
4 If line 2 is more than line 3, enter the difference; otherwise, enter -0-	4	0
5 If line 3 is more than line 2, enter the difference; otherwise, enter -0-	5	0
6 Nonbusiness deductions (see instructions)	6	12,200
7 Nonbusiness income other than capital gains (see instructions)	7	
8 Add lines 5 and 7	8	
9 If line 6 is more than line 8, enter the difference; otherwise, enter -0-	9	12,200
10 If line 8 is more than line 6, enter the difference; otherwise, enter -0-. <b>But do not enter more than line 5</b>	10	0
11 Business capital losses before limitation. Enter as a positive number	11	
12 Business capital gains (without regard to any section 1202 exclusion)	12	
13 Add lines 10 and 12	13	
14 Subtract line 13 from line 11. If zero or less, enter -0-	14	0
15 Add lines 4 and 14	15	
16 Enter the loss, if any, from line 16 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 15, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you do not have a loss on that line (and do not have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15	16	
17 Section 1202 exclusion. Enter as a positive number	17	
18 Subtract line 17 from line 16. If zero or less, enter -0-	18	0
19 Enter the loss, if any, from line 21 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 16 of Schedule D (Form 1041).) Enter as a positive number	19	
20 If line 18 is more than line 19, enter the difference; otherwise, enter -0-	20	0
21 If line 19 is more than line 18, enter the difference; otherwise, enter -0-	21	0
22 Subtract line 20 from line 15. If zero or less, enter -0-	22	0
23 Domestic production activities deduction from your return.	23	
24 NOL deduction for losses from other years. Enter as a positive number	24	
25 <b>NOL.</b> Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, you have a current year NOL. If the result is zero or more, you <b>do not</b> have an NOL	25	(255,000)

<b>Form 1040</b>	<b>Net Operating Loss Carryover Information</b>	<b>2019</b>
Name <b>Bob Builder</b>		Taxpayer Identification Number <b>333-45-6789</b>

Post-2017 Net Operating Loss Carryover Information		
	Regular	AMT
Carryover from prior years		
2019 Excess business loss	80,000	80,000
2019 Net operating loss	255,000	255,000
2019 Utilized on carryback / return		
Carryover to 2020	335,000	335,000



# 2020 Workbook

In order to properly apply the 5-year carryback provisions of the NOL as the CARES Act prescribes,<sup>73</sup> access to the previous five years of income tax returns (2014 through 2018) is necessary.

The 2014–2018 returns contained the following Schedule C net profit results.

2014	\$100,000
2015	50,000
2016	125,000
2017	75,000
2018	62,500

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Bob's marital status was single in each of the previous five years.



The forms that follow illustrate the result of the CARES Act provision on the carryback of the losses to the previous years.

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<sup>73</sup> PL 116-136 §2303(b)(1)(D)(i)(I), amending IRC §172(b)(1).

# 2020 Workbook

## For Example 8. Amended Return

Form <b>1040</b>	<b>Net Operating Loss Worksheet 1</b>	<b>2019</b>
Name <b>Bob Builder</b>		Taxpayer Identification Number <b>333-45-6789</b>

### Net Operating Loss Calculation

<b>1</b> For individuals, subtract your standard deduction or itemized deductions from your adjusted gross income and enter it here. For estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount .....	<b>1</b>	<b>(347,200)</b>
<b>2</b> Nonbusiness capital losses before limitation. Enter as a positive number .....	<b>2</b>	
<b>3</b> Nonbusiness capital gains (without regard to any section 1202 exclusion) .....	<b>3</b>	
<b>4</b> If line 2 is more than line 3, enter the difference; otherwise, enter -0- .....	<b>4</b>	<b>0</b>
<b>5</b> If line 3 is more than line 2, enter the difference; otherwise, enter -0- .....	<b>5</b>	<b>0</b>
<b>6</b> Nonbusiness deductions (see instructions) .....	<b>6</b>	<b>12,200</b>
<b>7</b> Nonbusiness income other than capital gains (see instructions) .....	<b>7</b>	
<b>8</b> Add lines 5 and 7 .....	<b>8</b>	
<b>9</b> If line 6 is more than line 8, enter the difference; otherwise, enter -0- .....	<b>9</b>	<b>12,200</b>
<b>10</b> If line 8 is more than line 6, enter the difference; otherwise, enter -0-. <b>But do not enter more than line 5</b> .....	<b>10</b>	<b>0</b>
<b>11</b> Business capital losses before limitation. Enter as a positive number .....	<b>11</b>	
<b>12</b> Business capital gains (without regard to any section 1202 exclusion) .....	<b>12</b>	
<b>13</b> Add lines 10 and 12 .....	<b>13</b>	
<b>14</b> Subtract line 13 from line 11. If zero or less, enter -0- .....	<b>14</b>	<b>0</b>
<b>15</b> Add lines 4 and 14 .....	<b>15</b>	
<b>16</b> Enter the loss, if any, from line 16 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 15, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you do not have a loss on that line (and do not have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15 .....	<b>16</b>	
<b>17</b> Section 1202 exclusion. Enter as a positive number .....	<b>17</b>	
<b>18</b> Subtract line 17 from line 16. If zero or less, enter -0- .....	<b>18</b>	<b>0</b>
<b>19</b> Enter the loss, if any, from line 21 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 16 of Schedule D (Form 1041).) Enter as a positive number .....	<b>19</b>	
<b>20</b> If line 18 is more than line 19, enter the difference; otherwise, enter -0- .....	<b>20</b>	<b>0</b>
<b>21</b> If line 19 is more than line 18, enter the difference; otherwise, enter -0- .....	<b>21</b>	<b>0</b>
<b>22</b> Subtract line 20 from line 15. If zero or less, enter -0- .....	<b>22</b>	<b>0</b>
<b>23</b> Domestic production activities deduction from your return. ....	<b>23</b>	
<b>24</b> NOL deduction for losses from other years. Enter as a positive number .....	<b>24</b>	
<b>25</b> <b>NOL.</b> Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, you have a current year NOL. If the result is zero or more, you <b>do not</b> have an NOL .....	<b>25</b>	<b>(335,000)</b>

### Farm Net Operating Loss Calculation

<b>1</b> Schedule F - Profit or Loss from farming .....	<b>1</b>	
<b>2</b> Form 4835 - Farm Rental eligible for income averaging .....	<b>2</b>	
<b>3</b> Partnership and S corporation income or loss from farming activities .....	<b>3</b>	
<b>4</b> Net ordinary gain or loss from sale of farming business property .....	<b>4</b>	
<b>5</b> Capital gain/loss from sale of farming property .....	<b>5</b>	
<b>6</b> Farm NOL. Combine lines 1 through 5. If the result is less than zero, you have a current year farm NOL. If the result is zero or more, you do not have a Farm NOL. ....	<b>6</b>	

# 2020 Workbook

## For Example 8. Amended Return

<b>Form 1040-X</b> (Rev. January 2020)	Department of the Treasury—Internal Revenue Service <b>Amended U.S. Individual Income Tax Return</b> ▶ Go to <a href="http://www.irs.gov/Form1040X">www.irs.gov/Form1040X</a> for instructions and the latest information.	OMB No. 1545-0074
<b>This return is for calendar year</b> <input checked="" type="checkbox"/> 2019 <input type="checkbox"/> 2018 <input type="checkbox"/> 2017 <input type="checkbox"/> 2016 <b>Other year.</b> Enter one: calendar year _____ or fiscal year (month and year ended): _____		
Your first name and middle initial <b>Bob</b>	Last name <b>Builder</b>	Your social security number <b>333 45 6789</b>
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Current home address (number and street). If you have a P.O. box, see instructions. <b>412 Mumford Hall</b>		Apt. no. Your phone number
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below. See instructions. <b>Champaign, IL 61820</b>		
Foreign country name	Foreign province/state/county	Foreign postal code
<b>Amended return filing status.</b> You <b>must</b> check one box even if you are not changing your filing status. <b>Caution:</b> In general, you can't change your filing status from a joint return to separate returns after the due date.		
<input checked="" type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately (MFS) <input type="checkbox"/> Qualifying widow(er) (QW) <input type="checkbox"/> Head of household (HOH)		
If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶		
Use Part III on the back to explain any changes		
<b>Income and Deductions</b>	<b>A. Original amount reported or as previously adjusted (see instructions)</b>	<b>B. Net change—amount of increase or (decrease)—explain in Part III</b>
<b>1</b> Adjusted gross income. If a net operating loss (NOL) carryback is included, check here . . . . . ▶ <input type="checkbox"/>	<b>1</b> (255,000)	<b>(80,000)</b>
<b>2</b> Itemized deductions or standard deduction . . . . .	<b>2</b> 12,200	<b>0</b>
<b>3</b> Subtract line 2 from line 1 . . . . .	<b>3</b> (267,200)	<b>(80,000)</b>
<b>4a</b> Exemptions (amended 2017 or earlier returns only). <b>If changing,</b> complete Part I on page 2 and enter the amount from line 29 . . . . .	<b>4a</b>	
<b>b</b> Qualified business income deduction (amended 2018 or later returns only)	<b>4b</b>	
<b>5</b> Taxable income. Subtract line 4a or 4b from line 3. If the result is zero or less, enter -0- . . . . .	<b>5</b> (267,200)	<b>(80,000)</b>
<b>Tax Liability</b>		
<b>6</b> Tax. Enter method(s) used to figure tax (see instructions):	<b>6</b> 0	<b>0</b>
If general business credit carryback is included, check here ▶ <input type="checkbox"/>	<b>7</b>	

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# 2020 Workbook



## For Example 8. Amended Return

Form 1040-X (Rev. 1-2020)

Page **2**

### Part I Exemptions and Dependents

Complete this part **only** if any information relating to exemptions (to dependents if amending your 2018 or later return) has changed from what you reported on the return you are amending. This would include a change in the number of exemptions (of dependents if amending your 2018 or later return).

 <b>For amended 2018 or later returns only, leave lines 24, 28, and 29 blank. Fill in all other applicable lines.</b> <b>Note:</b> See the Forms 1040 and 1040-SR, or Form 1040A, instructions for the tax year being amended. See also the Form 1040-X instructions.		<b>A. Original number of exemptions or amount reported or as previously adjusted</b>	<b>B. Net change</b>	<b>C. Correct number or amount</b>
<b>24</b>	Yourself and spouse. <b>Caution:</b> If someone can claim you as a dependent, you can't claim an exemption for yourself. If amending your 2018 or later return, leave line blank . . . . .	<b>24</b>		
<b>25</b>	Your dependent children who lived with you . . . . .	<b>25</b>		
<b>26</b>	Your dependent children who didn't live with you due to divorce or separation . . . . .	<b>26</b>		
<b>27</b>	Other dependents . . . . .	<b>27</b>		
<b>28</b>	Total number of exemptions. Add lines 24 through 27. If amending your 2018 or later return, leave line blank . . . . .	<b>28</b>		
<b>29</b>	Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4a on page 1 of this form. If amending your 2018 or later return, leave line blank . . . . .	<b>29</b>		
<b>30</b> List <b>ALL</b> dependents (children and others) claimed on this amended return. If more than 4 dependents, see inst. and <input checked="" type="checkbox"/> here  <input type="checkbox"/>				


Dependents (see instructions):			(d) <input checked="" type="checkbox"/> if qualifies for (see instructions):	
(a) First name	Last name	(b) Social security number	(c) Relationship to you	
				Child tax credit
				Credit for other dependents (amended 2018 or later returns only)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

### Part II Presidential Election Campaign Fund

Checking below won't increase your tax or reduce your refund.

- ☐ Check here if you didn't previously want \$3 to go to the fund, but now do.
- ☐ Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

### Part III Explanation of Changes. In the space provided below, tell us why you are filing Form 1040-X.

 Attach any supporting documents and new or changed forms and schedules.

Return is being amended to apply net operating loss rules under PL 116-136 (CARES Act) §2304(a)(1)(A) and (B), which eliminated §461 EBL rules and requirements to carry over net operating losses (§2303(b), temporarily amending IRC §172(b)(1)). The 2019 NOL as amended is therefore increased by \$80,000 due to elimination of §461 EBL rules. Taxpayer chooses under default provisions of PL 116-136 (CARES Act) §2303(b), temporarily amending IRC §172(b)(1), to carry back the 2019 net operating loss.

# 2020 Workbook

## For Example 8. Amended Return

Form	<b>1045</b>	<b>Application for Tentative Refund</b> ▶ For individuals, estates, or trusts. ▶ Mail in separate envelope. (Don't attach to tax return.) ▶ Go to <a href="http://www.irs.gov/Form1045">www.irs.gov/Form1045</a> for the latest information.				OMB No. 1545-0098	
		2019					
Type or print	Name(s) shown on return <b>Bob Builder</b>				Social security or employer identification number <b>333-45-6789</b>		
	Number, street, and apt. or suite no. If a P.O. box, see instructions. <b>412 Mumford Hall</b>				Spouse's social security number (SSN)		
	City, town or post office, state, and ZIP code. If a foreign address, also complete spaces below (see instructions). <b>Champaign, IL 61820</b>				Daytime phone number		
	Foreign country name		Foreign province/county		Foreign postal code		
1 This application is filed to carry back:		a Net operating loss (NOL) (Sch. A, line 25) \$ <b>335,000</b>		b Unused general business credit \$		c Net section 1256 contracts loss \$	
2a For the calendar year 2019, or other tax year beginning , 2019, and ending , 20				b Date tax return was filed <b>Feb. 20, 2020</b>			
3 If this application is for an unused credit created by another carryback, enter year of first carryback ▶ _____ 4 If you filed a joint return (or separate return) for some, but not all, of the tax years involved in figuring the carryback, list the years and specify whether joint (J) or separate (S) return for each ▶ _____ 5 If SSN for carryback year is different from above, enter a SSN ▶ _____ and b Year(s) ▶ _____ 6 If you changed your accounting period, give date permission to change was granted ▶ _____ 7 Have you filed a petition in Tax Court for the year(s) to which the carryback is to be applied? . . . . . <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 8 Is any part of the decrease in tax due to a loss or credit resulting from a reportable transaction required to be disclosed on Form 8886, Reportable Transaction Disclosure Statement? . . . . . <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 9 If you are carrying back an NOL or a net section 1256 contracts loss, did this cause the release of foreign tax credits or the release of other credits due to the release of the foreign tax credit (see instructions)? . . . . . <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
<b>Computation of Decrease in Tax</b> (see instructions)		5th preceding		4th preceding		3rd preceding	
		tax year ended ▶ 12/31/14		tax year ended ▶ 12/31/15		tax year ended ▶ 12/31/16	
Note: If 1a and 1c are blank, skip lines 10 through 15.		Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
10 NOL deduction after carryback (see instructions)			(335,000)		(248,265)		(208,097)
11 Adjusted gross income . . . . .		92,935	(242,065)	46,468	(201,797)	116,169	(91,928)
12 Deductions (see instructions) . . . . .		6,200	6,200	6,300	6,300	6,300	6,300
13 Subtract line 12 from line 11 . . . . .		86,735	(248,265)	40,168	(208,097)	109,869	(98,228)
14 Exemptions (see instructions) . . . . .		3,950	3,950	4,000	4,000	4,050	4,050
15 Taxable income. Line 13 minus line 14		82,785	(252,215)	36,168	(212,097)	105,819	(102,278)
16 Income tax. See instructions and attach an explanation . . . . .		16,553	0	4,964	0	22,666	0
17 Excess advance premium tax credit repayment (see instructions) . . . . .		0	0	0	0	0	0
18 Alternative minimum tax . . . . .		0	0	0	0	0	0
19 Add lines 16 through 18 . . . . .		16,553	0	4,964	0	22,666	0

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 10670A

Form **1045** (2019)

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# 2020 Workbook

## For Example 8. Amended Return

Form 1045 (2019)

Page **2**

Computation of Decrease in Tax (continued)	5th preceding		4th preceding		3rd preceding	
	tax year ended ► 12/31/14		tax year ended ► 12/31/15		tax year ended ► 12/31/16	
	Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
<b>20</b> General business credit (see instructions)						
<b>21</b> Net premium tax credit (see instructions)						
<b>22</b> Other credits. Identify . . . . .						
<b>23</b> Total credits. Add lines 20 through 22	0	0	0	0	0	0
<b>24</b> Subtract line 23 from line 19 . . . . .	16,553	0	4,964	0	22,666	0
<b>25</b> Self-employment tax (see instructions)	14,130	14,130	7,065	7,065	17,662	17,662
<b>26</b> Additional Medicare Tax (see instructions)						
<b>27</b> Net Investment Income Tax (see instructions) . . . . .						
<b>28</b> Health care: individual responsibility (see instructions) . . . . .						
<b>29</b> Other taxes . . . . .						
<b>30</b> Total tax. Add lines 24 through 29 . . . . .	30,683	14,130	12,029	7,065	40,328	17,662
<b>31</b> Enter the amount from the "After carryback" column on line 30 for each year . . . . .	14,130		7,065		17,662	
<b>32</b> Decrease in tax. Line 30 minus line 31	16,553		4,964		22,666	

# 2020 Workbook

## For Example 8. Amended Return

Form	<b>1045</b>	<b>Application for Tentative Refund</b> ▶ For individuals, estates, or trusts. ▶ Mail in separate envelope. (Don't attach to tax return.) ▶ Go to <a href="http://www.irs.gov/Form1045">www.irs.gov/Form1045</a> for the latest information.				OMB No. 1545-0098
Department of the Treasury Internal Revenue Service		2019				

Type or print	Name(s) shown on return <b>Bob Builder</b>			Social security or employer identification number <b>333-45-6789</b>		
	Number, street, and apt. or suite no. If a P.O. box, see instructions. <b>412 Mumford Hall</b>			Spouse's social security number (SSN)		
	City, town or post office, state, and ZIP code. If a foreign address, also complete spaces below (see instructions). <b>Champaign, IL 61820</b>			Daytime phone number		
	Foreign country name		Foreign province/county		Foreign postal code	

1	This application is filed to carry back:	a Net operating loss (NOL) (Sch. A, line 25) \$ <b>335,000</b>	b Unused general business credit \$	c Net section 1256 contracts loss \$
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2a	For the calendar year 2019, or other tax year beginning , 2019, and ending , 20	b Date tax return was filed <b>Feb. 20, 2020</b>
----	---	---

3 If this application is for an unused credit created by another carryback, enter year of first carryback ▶ \_\_\_\_\_

4 If you filed a joint return (or separate return) for some, but not all, of the tax years involved in figuring the carryback, list the years and specify whether joint (J) or separate (S) return for each ▶ \_\_\_\_\_

5 If SSN for carryback year is different from above, enter a SSN ▶ \_\_\_\_\_ and b Year(s) ▶ \_\_\_\_\_

6 If you changed your accounting period, give date permission to change was granted ▶ \_\_\_\_\_

7 Have you filed a petition in Tax Court for the year(s) to which the carryback is to be applied? . . . . . ☐ Yes ☒ No

8 Is any part of the decrease in tax due to a loss or credit resulting from a reportable transaction required to be disclosed on Form 8886, Reportable Transaction Disclosure Statement? . . . . . ☐ Yes ☒ No

9 If you are carrying back an NOL or a net section 1256 contracts loss, did this cause the release of foreign tax credits or the release of other credits due to the release of the foreign tax credit (see instructions)? . . . . . ☐ Yes ☒ No

Computation of Decrease in Tax (see instructions)	2nd preceding		1st preceding		_____ preceding	
	tax year ended ▶ 12/31/17		tax year ended ▶ 12/31/18		tax year ended ▶	
	Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
10 NOL deduction after carryback (see instructions)	(98,228)	(34,877)				
11 Adjusted gross income . . . . .	69,701	(28,527)	58,084	23,207		
12 Deductions (see instructions) . . . . .	6,350	6,350	21,217	14,241		
13 Subtract line 12 from line 11 . . . . .	63,351	(34,877)	36,867	8,966		
14 Exemptions (see instructions) . . . . .	4,050	4,050	0	0		
15 Taxable income. Line 13 minus line 14	59,301	(38,927)	36,867	8,966		
16 Income tax. See instructions and attach an explanation . . . . .	10,565	0	4,235	898		
17 Excess advance premium tax credit repayment (see instructions) . . . . .	0	0	0	0		
18 Alternative minimum tax . . . . .	0	0	0	0		
19 Add lines 16 through 18 . . . . .	10,565	0	4,235	898		

Note: If 1a and 1c are blank, skip lines 10 through 15.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 10670A Form **1045** (2019)

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# 2020 Workbook

## For Example 8. Amended Return

Form 1045 (2019)

Page **2**

Computation of Decrease in Tax (continued)	<u>2nd</u> preceding		<u>1st</u> preceding		____ preceding	
	tax year ended ► <b>12/31/17</b>		tax year ended ► <b>12/31/18</b>		tax year ended ►	
	Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
<b>20</b> General business credit (see instructions)						
<b>21</b> Net premium tax credit (see instructions)						
<b>22</b> Other credits. Identify . . . . .						
<b>23</b> Total credits. Add lines 20 through 22	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		
<b>24</b> Subtract line 23 from line 19 . . . . .	<b>10,565</b>	<b>0</b>	<b>4,235</b>	<b>898</b>		
<b>25</b> Self-employment tax (see instructions)	<b>10,597</b>	<b>10,597</b>	<b>8,831</b>	<b>8,831</b>		
<b>26</b> Additional Medicare Tax (see instructions)						
<b>27</b> Net Investment Income Tax (see instructions) . . . . .						
<b>28</b> Health care: individual responsibility (see instructions) . . . . .						
<b>29</b> Other taxes . . . . .						
<b>30</b> Total tax. Add lines 24 through 29 . .	<b>21,162</b>	<b>10,597</b>	<b>13,066</b>	<b>9,729</b>		
<b>31</b> Enter the amount from the "After carryback" column on line 30 for each year . . . . .	<b>10,597</b>		<b>9,729</b>			
<b>32</b> Decrease in tax. Line 30 minus line 31	<b>10,565</b>		<b>3,337</b>			



# 2020 Workbook

## For Example 8. Amended Return

Form 1045 (2019)

Page **4**

### Schedule B—NOL Carryover (see instructions)

Complete one column before going to the next column. Start with the earliest carryback year.	5th preceding		4th preceding		3rd preceding	
	tax year ended ► 12/31/14		tax year ended ► 12/31/15		tax year ended ► 12/31/16	
<b>1 NOL deduction.</b> Enter as a positive number . . . . .		335,000		248,265		208,097
<b>2</b> Taxable income before 2019 NOL carryback (see instructions). For estates and trusts, increase this amount by the sum of the charitable deduction and income distribution deduction (see instructions) . . . . .	82,785		36,168		105,819	
<b>3</b> Net capital loss deduction (see instructions) . . . . .						
<b>4</b> Section 1202 exclusion. Enter as a positive number (see instructions) . . . . .						
<b>5</b> Domestic production activities deduction (see instructions) . . . . .						
<b>6</b> Adjustment to adjusted gross income (see instructions) . . . . .						
<b>7</b> Adjustment to itemized deductions (see instructions) . . . . .						
<b>8</b> For individuals, enter deduction for exemptions. For estates and trusts, enter exemption amount . . . . .	3,950		4,000		4,050	
<b>9</b> Modified taxable income. Combine lines 2 through 8. If zero or less, enter -0- (see instructions) . . . . .		86,735		40,168		109,869
<b>10 NOL carryover</b> (see instructions) . . . . .		248,265		208,097		98,228
<b>Adjustment to Itemized Deductions (Individuals Only)</b> Complete lines 11 through 38 for the carryback year(s) for which you itemized deductions <b>only</b> if line 3, 4, or 5 above is more than zero.						
<b>11</b> Adjusted gross income before 2019 NOL carryback . . . . .						
<b>12</b> Add lines 3 through 6 above . . . . .						
<b>13</b> Modified adjusted gross income. Add lines 11 and 12 . . . . .						
<b>14</b> Medical expenses from Sch. A (Form 1040), line 4, or as previously adjusted . . . . .						
<b>15</b> Medical expenses from Sch. A (Form 1040), line 1, or as previously adjusted . . . . .						
<b>16</b> Multiply line 13 by percentage from Sch. A (Form 1040), line 3 . . . . .						
<b>17</b> Subtract line 16 from line 15. If zero or less, enter -0- . . . . .						
<b>18</b> Subtract line 17 from line 14 . . . . .		0		0		0
<b>19</b> Mortgage insurance premiums from Sch. A (Form 1040), line 13, or as previously adjusted . . . . .						
<b>20</b> Refigured mortgage insurance premiums (see instructions) . . . . .						
<b>21</b> Subtract line 20 from line 19 . . . . .		0		0		0

Form **1045** (2019)

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# 2020 Workbook

## For Example 8. Amended Return

Form 1045 (2019)

Page **4**

### Schedule B—NOL Carryover (see instructions)

Complete one column before going to the next column. Start with the earliest carryback year.

	<u>2nd</u> preceding tax year ended ► <b>12/31/17</b>	<u>1st</u> preceding tax year ended ► <b>12/31/18</b>	<u>      </u> preceding tax year ended ►
<b>1 NOL deduction.</b> Enter as a positive number . . . . .	<b>98,228</b>	<b>34,877</b>	
<b>2</b> Taxable income before 2019 NOL carryback (see instructions). For estates and trusts, increase this amount by the sum of the charitable deduction and income distribution deduction (see instructions) . . . . .	<b>59,301</b>	<b>36,867</b>	
<b>3</b> Net capital loss deduction (see instructions) . . . . .			
<b>4</b> Section 1202 exclusion. Enter as a positive number (see instructions) . . . . .			
<b>5</b> Domestic production activities deduction (see instructions) . . . . .			
<b>6</b> Adjustment to adjusted gross income (see instructions) . . . . .			
<b>7</b> Adjustment to itemized deductions (see instructions) . . . . .			
<b>8</b> For individuals, enter deduction for exemptions. For estates and trusts, enter exemption amount . . . . .	<b>4,050</b>		
<b>9</b> Modified taxable income. Combine lines 2 through 8. If zero or less, enter -0- (see instructions) . . . . .	<b>63,351</b>	<b>36,867</b>	
<b>10 NOL carryover</b> (see instructions) . . . . .	<b>34,877</b>	<b>0</b>	
<b>Adjustment to Itemized Deductions (Individuals Only)</b> Complete lines 11 through 38 for the carryback year(s) for which you itemized deductions <b>only</b> if line 3, 4, or 5 above is more than zero.			
<b>11</b> Adjusted gross income before 2019 NOL carryback . . . . .			
<b>12</b> Add lines 3 through 6 above . . . . .			
<b>13</b> Modified adjusted gross income. Add lines 11 and 12 . . . . .			
<b>14</b> Medical expenses from Sch. A (Form 1040), line 4, or as previously adjusted			
<b>15</b> Medical expenses from Sch. A (Form 1040), line 1, or as previously adjusted			
<b>16</b> Multiply line 13 by percentage from Sch. A (Form 1040), line 3 . . . . .			
<b>17</b> Subtract line 16 from line 15. If zero or less, enter -0- . . . . .			
<b>18</b> Subtract line 17 from line 14 . . . . .	<b>0</b>		
<b>19</b> Mortgage insurance premiums from Sch. A (Form 1040), line 13, or as previously adjusted . . . . .			
<b>20</b> Refigured mortgage insurance premiums (see instructions) . . . . .			
<b>21</b> Subtract line 20 from line 19 . . . . .	<b>0</b>		

Form **1045** (2019)

# 2020 Workbook

## Takeaways from example:

- Carryback of the NOL results in \$58,085 of refunds due to Bob.
- SE tax was not affected by the carryback of losses.

**Note.** Although not illustrated in this example, additional Medicare tax would not be affected in the carryback or carryforward year.

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- QBID in the first carryback year (2018) was reduced from \$9,217 to \$2,241 because of the reduction in taxable income due to the NOL carryback (see line 12 of Form 1045 for first carryback period). The QBID worksheets follow.

## QBID worksheet before NOL carryback:

Form 1040/1041	2018 Qualified Business Income Deduction Simplified Worksheet	2018																				
Name(s) as shown on return	(Keep for your records)	Tax ID Number																				
<b>Bob Builder</b>		<b>333-45-6789</b>																				
<p><b>Before you begin:</b> This worksheet is for taxpayers who:</p> <ul style="list-style-type: none"> <li>• Have qualified business income, REIT dividends, or PTP income.</li> <li>• Are not a patron in a specified agricultural or horticultural cooperative.</li> <li>• Have taxable income of \$157,500 or less (\$315,000 or less if married filing jointly).</li> </ul>																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">1.</th> <th style="width: 60%;">(a) Trade or business name</th> <th style="width: 20%;">(b) Employer identification number</th> <th style="width: 15%;">(c) Qualified business income or (loss)</th> </tr> </thead> <tbody> <tr> <td>i.</td> <td><b>Schedule C # 1</b></td> <td></td> <td style="text-align: right;"><b>58,084</b></td> </tr> <tr> <td>ii.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>iii.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>iv.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			1.	(a) Trade or business name	(b) Employer identification number	(c) Qualified business income or (loss)	i.	<b>Schedule C # 1</b>		<b>58,084</b>	ii.				iii.				iv.			
1.	(a) Trade or business name	(b) Employer identification number	(c) Qualified business income or (loss)																			
i.	<b>Schedule C # 1</b>		<b>58,084</b>																			
ii.																						
iii.																						
iv.																						
<p>2. Total qualified business income or (loss). Add the amounts in 1i through 1iv, column 1(c) . . . . . <b>2. 58,084</b></p> <p><i>Note. If reporting qualified business income or (loss) from more than four trades or businesses, see the instructions for line 2 of this worksheet.</i></p> <p>3. Qualified business loss carryforward from the prior year . . . . . <b>3. 58,084</b></p> <p>4. Total qualified business income. Combine lines 2 and 3. If zero or less, enter -0- . . . <b>4. 58,084</b></p> <p>5. Qualified business income component. Multiply line 4 by 20% (0.20) . . . . . <b>5. 11,617</b></p> <p>6. Qualified REIT dividends and PTP income or (loss) . . . . . <b>6. 0</b></p> <p>7. Qualified REIT dividends and PTP loss carryforward from the prior year . . . . . <b>7. ( )</b></p> <p>8. Total qualified REIT dividends and PTP income. Add lines 6 and 7. If zero or less, enter -0- . . . . . <b>8. 0</b></p> <p>9. REIT and PTP component. Multiply line 8 by 20% (0.20) . . . . . <b>9. 11,617</b></p> <p>10. Qualified business income deduction before the income limitation. Add lines 5 and 9 . . . . . <b>10. 11,617</b></p> <p>a. Enter amount from Form 1040, line 7 . . . . . <b>a. 58,084</b></p> <p>b. Enter amount from Form 1040, line 8 . . . . . <b>b. 12,000</b></p> <p>11. Taxable income before qualified business income deduction. Subtract line b from line a. If filing with Form 1041, enter amount from Form 1041, line 22. . . . . <b>11. 46,084</b></p> <p>12. Net capital gain (see instructions) . . . . . <b>12. 0</b></p> <p>13. Subtract line 12 from line 11. If zero or less, enter -0- . . . . . <b>13. 46,084</b></p> <p>14. Income limitation. Multiply line 13 by 20% (0.20) . . . . . <b>14. 9,217</b></p> <p>15. Qualified business income deduction. Enter the smaller of line 10 or line 14 . . . . . <b>15. 9,217</b></p> <p>16. Total qualified business loss carryforward. Add lines 2 and 3. If more than zero, enter -0- . . . . . <b>16. ( 0 )</b></p> <p>17. Total qualified REIT dividends and PTP loss carryforward. Add lines 6 and 7. If more than zero, enter -0- . . . . . <b>17. ( 0 )</b></p>																						

# 2020 Workbook

## QBID worksheet after NOL carryback:

Form 1040/1041 <small>Name(s) as shown on return</small>	2018 Qualified Business Income Deduction Simplified Worksheet <small>(Keep for your records)</small>	2018 <small>Tax ID Number</small>																				
<b>Bob Builder</b>		<b>333-45-6789</b>																				
<p><b>Before you begin:</b> This worksheet is for taxpayers who:</p> <ul style="list-style-type: none"> <li>• Have qualified business income, REIT dividends, or PTP income.</li> <li>• Are not a patron in a specified agricultural or horticultural cooperative.</li> <li>• Have taxable income of \$157,500 or less (\$315,000 or less if married filing jointly).</li> </ul>																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">1.</th> <th style="width: 55%;">(a) Trade or business name</th> <th style="width: 20%;">(b) Employer identification number</th> <th style="width: 20%;">(c) Qualified business income or (loss)</th> </tr> </thead> <tbody> <tr> <td>i.</td> <td><b>Schedule C # 1</b></td> <td></td> <td style="text-align: right;"><b>58,084</b></td> </tr> <tr> <td>ii.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>iii.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>iv.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			1.	(a) Trade or business name	(b) Employer identification number	(c) Qualified business income or (loss)	i.	<b>Schedule C # 1</b>		<b>58,084</b>	ii.				iii.				iv.			
1.	(a) Trade or business name	(b) Employer identification number	(c) Qualified business income or (loss)																			
i.	<b>Schedule C # 1</b>		<b>58,084</b>																			
ii.																						
iii.																						
iv.																						
<p>2. Total qualified business income or (loss). Add the amounts in 1i through 1iv, column 1(c) . . . . . <b>2. 58,084</b></p> <p><i>Note. If reporting qualified business income or (loss) from more than four trades or businesses, see the instructions for line 2 of this worksheet.</i></p> <p>3. Qualified business loss carryforward from the prior year . . . . . <b>3.</b></p> <p>4. Total qualified business income. Combine lines 2 and 3. If zero or less, enter -0- . . . <b>4. 58,084</b></p> <p>5. Qualified business income component. Multiply line 4 by 20% (0.20) . . . . . <b>5. 11,617</b></p> <p>6. Qualified REIT dividends and PTP income or (loss) . . . . . <b>6. 0</b></p> <p>7. Qualified REIT dividends and PTP loss carryforward from the prior year . . . . . <b>7. ( )</b></p> <p>8. Total qualified REIT dividends and PTP income. Add lines 6 and 7. If zero or less, enter -0- . . . . . <b>8. 0</b></p> <p>9. REIT and PTP component. Multiply line 8 by 20% (0.20) . . . . . <b>9.</b></p> <p>10. Qualified business income deduction before the income limitation. Add lines 5 and 9 . . . . . <b>10. 11,617</b></p> <p style="margin-left: 20px;">a. Enter amount from Form 1040, line 7 . . . . . <b>a. 23,207</b></p> <p style="margin-left: 20px;">b. Enter amount from Form 1040, line 8 . . . . . <b>b. 12,000</b></p> <p>11. Taxable income before qualified business income deduction. Subtract line b from line a. If filing with Form 1041, enter amount from Form 1041, line 22. . . . . <b>11. 11,207</b></p> <p>12. Net capital gain (see instructions) . . . . . <b>12. 0</b></p> <p>13. Subtract line 12 from line 11. If zero or less, enter -0- . . . . . <b>13. 11,207</b></p> <p>14. Income limitation. Multiply line 13 by 20% (0.20) . . . . . <b>14. 2,241</b></p> <p>15. Qualified business income deduction. Enter the smaller of line 10 or line 14 . . . . . <b>15. 2,241</b></p> <p>16. Total qualified business loss carryforward. Add lines 2 and 3. If more than zero, enter -0- . . . . . <b>16. ( 0 )</b></p> <p>17. Total qualified REIT dividends and PTP loss carryforward. Add lines 6 and 7. If more than zero, enter -0- . . . . . <b>17. ( 0 )</b></p>																						

**Example 9.** Use the same facts as **Example 8**, except Bob elects out of bonus depreciation on his original return and, instead, utilizes regular modified accelerated cost recovery system (MACRS) depreciation. In addition, Bob elects to forgo the carryback of the NOL. His return was filed on July 1, 2020.

**Advantages:**

- Depreciation deductions are preserved for future years.
- Bob could carry the loss back to the fifth preceding year but instead he elects to forgo the carryback. With this decision, the NOL is available to offset up to 100% of taxable income in 2020 (as discussed earlier under the provisions of the CARES Act). However, if losses are carried forward beyond 2020, the 80% limit on taxable income in the carryforward year applies.<sup>74</sup>

**Disadvantages:**

- Depreciation expense is limited to the regular MACRS amount allowed each year for the asset class (i.e., there is no way to accelerate depreciation amounts).
- The 2019 loss creates a qualified business loss (QBL), which affects future QBI.
- The NOL only reduces 80% of taxable income (before application of the NOL) in carryforward years beginning after 2020 (as discussed previously).

Bob's tax return prepared using this option follows. He must also attach a statement to the 2019 filing indicating his irrevocable election: **"Taxpayer elects under IRC §172(b)(3) to forgo the automatic carryback period for the 2019 net operating loss."**

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<sup>74</sup> PL 116-136, §2303(a)(1), amending IRC §172(a).

# 2020 Workbook

## For Example 9

Form <b>1040</b>	Department of the Treasury—Internal Revenue Service (99) <b>U.S. Individual Income Tax Return</b>	2019	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
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**Filing Status** ☒ Single ☐ Married filing jointly ☐ Married filing separately (MFS) ☐ Head of household (HOH) ☐ Qualifying widow(er) (QW)  
 Check only one box.  
 If you checked the MFS box, enter the name of spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent. ▶

Your first name and middle initial <b>Bob</b>	Last name <b>Builder</b>	Your social security number <b>333   45   6789</b>
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions.  
**412 Mumford Hall**

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).  
**Champaign, IL 61820**

Foreign country name	Foreign province/state/county	Foreign postal code	If more than four dependents, see instructions and ✓ here ▶ <input type="checkbox"/>
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**Standard Deduction** ☐ Someone can claim: ☐ You as a dependent ☐ Your spouse as a dependent  
☐ Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** You: ☐ Were born before January 2, 1955 ☐ Are blind Spouse: ☐ Was born before January 2, 1955 ☐ Is blind

Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) ✓ if qualifies for (see instructions): Child tax credit Credit for other dependents	
(1) First name	Last name			Child tax credit	Credit for other dependents
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

<b>1</b> Wages, salaries, tips, etc. Attach Form(s) W-2 . . . . . <b>2a</b> Tax-exempt interest . . . . . <b>3a</b> Qualified dividends . . . . . <b>4a</b> IRA distributions . . . . . <b>c</b> Pensions and annuities . . . . . <b>5a</b> Social security benefits . . . . . <b>6</b> Capital gain or (loss). Attach Schedule D if required. If not required, check here . . . . . ▶ <input type="checkbox"/> <b>7a</b> Other income from Schedule 1, line 9 . . . . . <b>b</b> Add lines 1, 2b, 3b, 4b, 4d, 5b, 6, and 7a. This is your <b>total income</b> . . . . . ▶ <b>8a</b> Adjustments to income from Schedule 1, line 22 . . . . . <b>b</b> Subtract line 8a from line 7b. This is your <b>adjusted gross income</b> . . . . . ▶ <b>9</b> <b>Standard deduction or itemized deductions</b> (from Schedule A) . . . . . <b>10</b> Qualified business income deduction. Attach Form 8995 or Form 8995-A . . . . . <b>11a</b> Add lines 9 and 10 . . . . . <b>b</b> <b>Taxable income.</b> Subtract line 11a from line 8b. If zero or less, enter -0- . . . . .	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 50%;"><b>1</b></td><td></td></tr> <tr><td><b>2b</b></td><td></td></tr> <tr><td><b>3b</b></td><td></td></tr> <tr><td><b>4b</b></td><td></td></tr> <tr><td><b>4d</b></td><td></td></tr> <tr><td><b>5b</b></td><td></td></tr> <tr><td><b>6</b></td><td></td></tr> <tr><td><b>7a</b></td><td style="text-align: right;"><b>(47,000)</b></td></tr> <tr><td><b>7b</b></td><td style="text-align: right;"><b>(47,000)</b></td></tr> <tr><td><b>8a</b></td><td style="text-align: right;"><b>0</b></td></tr> <tr><td><b>8b</b></td><td style="text-align: right;"><b>(47,000)</b></td></tr> <tr><td><b>9</b></td><td style="text-align: right;"><b>12,200</b></td></tr> <tr><td><b>10</b></td><td></td></tr> <tr><td><b>11a</b></td><td style="text-align: right;"><b>12,200</b></td></tr> <tr><td><b>11b</b></td><td style="text-align: right;"><b>0</b></td></tr> </table>	<b>1</b>		<b>2b</b>		<b>3b</b>		<b>4b</b>		<b>4d</b>		<b>5b</b>		<b>6</b>		<b>7a</b>	<b>(47,000)</b>	<b>7b</b>	<b>(47,000)</b>	<b>8a</b>	<b>0</b>	<b>8b</b>	<b>(47,000)</b>	<b>9</b>	<b>12,200</b>	<b>10</b>		<b>11a</b>	<b>12,200</b>	<b>11b</b>	<b>0</b>
<b>1</b>																															
<b>2b</b>																															
<b>3b</b>																															
<b>4b</b>																															
<b>4d</b>																															
<b>5b</b>																															
<b>6</b>																															
<b>7a</b>	<b>(47,000)</b>																														
<b>7b</b>	<b>(47,000)</b>																														
<b>8a</b>	<b>0</b>																														
<b>8b</b>	<b>(47,000)</b>																														
<b>9</b>	<b>12,200</b>																														
<b>10</b>																															
<b>11a</b>	<b>12,200</b>																														
<b>11b</b>	<b>0</b>																														

**Standard Deduction for—**  
 • Single or Married filing separately, \$12,200  
 • Married filing jointly or Qualifying widow(er), \$24,400  
 • Head of household, \$18,350  
 • If you checked any box under **Standard Deduction**, see instructions.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 11320B

Form **1040** (2019)

# 2020 Workbook

## For Example 9

### SCHEDULE 1 (Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service

### Additional Income and Adjustments to Income

► Attach to Form 1040 or 1040-SR.

► Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information.

OMB No. 1545-0074

**2019**

Attachment  
Sequence No. **01**

Name(s) shown on Form 1040 or 1040-SR

**Bob Builder**

Your social security number

**333-45-6789**

At any time during 2019, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency? . . . . . ☐ Yes ☒ No

#### Part I Additional Income

<b>1</b>	Taxable refunds, credits, or offsets of state and local income taxes . . . . .	<b>1</b>	
<b>2a</b>	Alimony received . . . . .	<b>2a</b>	
<b>b</b>	Date of original divorce or separation agreement (see instructions) ►		
<b>3</b>	Business income or (loss). Attach Schedule C . . . . .	<b>3</b>	<b>(47,000)</b>
<b>4</b>	Other gains or (losses). Attach Form 4797 . . . . .	<b>4</b>	
<b>5</b>	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E . . . . .	<b>5</b>	
<b>6</b>	Farm income or (loss). Attach Schedule F . . . . .	<b>6</b>	
<b>7</b>	Unemployment compensation . . . . .	<b>7</b>	
<b>8</b>	Other income. List type and amount ►	<b>8</b>	
<b>9</b>	Combine lines 1 through 8. Enter here and on Form 1040 or 1040-SR, line 7a . . . . .	<b>9</b>	<b>(47,000)</b>

#### Part II Adjustments to Income

<b>10</b>	Educator expenses . . . . .	<b>10</b>	
<b>11</b>	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 . . . . .	<b>11</b>	
<b>12</b>	Health savings account deduction. Attach Form 8889 . . . . .	<b>12</b>	
<b>13</b>	Moving expenses for members of the Armed Forces. Attach Form 3903 . . . . .	<b>13</b>	
<b>14</b>	Deductible part of self-employment tax. Attach Schedule SE . . . . .	<b>14</b>	
<b>15</b>	Self-employed SEP, SIMPLE, and qualified plans . . . . .	<b>15</b>	
<b>16</b>	Self-employed health insurance deduction . . . . .	<b>16</b>	
<b>17</b>	Penalty on early withdrawal of savings . . . . .	<b>17</b>	
<b>18a</b>	Alimony paid . . . . .	<b>18a</b>	
<b>b</b>	Recipient's SSN . . . . .		
<b>c</b>	Date of original divorce or separation agreement (see instructions) ►		
<b>19</b>	IRA deduction . . . . .	<b>19</b>	
<b>20</b>	Student loan interest deduction . . . . .	<b>20</b>	
<b>21</b>	Tuition and fees. Attach Form 8917 . . . . .	<b>21</b>	
<b>22</b>	Add lines 10 through 21. These are your <b>adjustments to income</b> . Enter here and on Form 1040 or 1040-SR, line 8a . . . . .	<b>22</b>	

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 71479F

Schedule 1 (Form 1040 or 1040-SR) 2019

**3**

# 2020 Workbook

## For Example 9

### SCHEDULE C (Form 1040 or 1040-SR)

Department of the Treasury  
Internal Revenue Service (99)

### Profit or Loss From Business (Sole Proprietorship)

► Go to [www.irs.gov/ScheduleC](http://www.irs.gov/ScheduleC) for instructions and the latest information.

► Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships generally must file Form 1065.

OMB No. 1545-0074

**2019**  
Attachment  
Sequence No. **09**

Name of proprietor

**Bob Builder**

Social security number (SSN)

**333-45-6789**

**A** Principal business or profession, including product or service (see instructions)

**Builder**

**B** Enter code from instructions

► **2 3 6 1 0 0**

**C** Business name. If no separate business name, leave blank.

**Bob Builder**

**D** Employer ID number (EIN) (see instr.)

**E** Business address (including suite or room no.) ► **412 Mumford Hall**

City, town or post office, state, and ZIP code **Champaign, IL 61820**

**F** Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ►

**G** Did you "materially participate" in the operation of this business during 2019? If "No," see instructions for limit on losses ☒ Yes ☐ No

**H** If you started or acquired this business during 2019, check here ☐

**I** Did you make any payments in 2019 that would require you to file Form(s) 1099? (see instructions) ☐ Yes ☒ No

**J** If "Yes," did you or will you file required Forms 1099? ☐ Yes ☐ No

#### Part I Income

<b>1</b>	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked <input type="checkbox"/>	<b>1</b>	<b>100,000</b>
<b>2</b>	Returns and allowances	<b>2</b>	
<b>3</b>	Subtract line 2 from line 1	<b>3</b>	<b>100,000</b>
<b>4</b>	Cost of goods sold (from line 42)	<b>4</b>	
<b>5</b>	<b>Gross profit.</b> Subtract line 4 from line 3	<b>5</b>	<b>100,000</b>
<b>6</b>	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	<b>6</b>	
<b>7</b>	<b>Gross income.</b> Add lines 5 and 6	<b>7</b>	<b>100,000</b>

#### Part II Expenses. Enter expenses for business use of your home **only** on line 30.

<b>8</b>	Advertising	<b>8</b>		<b>18</b>	Office expense (see instructions)	<b>18</b>	
<b>9</b>	Car and truck expenses (see instructions)	<b>9</b>	<b>15,000</b>	<b>19</b>	Pension and profit-sharing plans	<b>19</b>	
<b>10</b>	Commissions and fees	<b>10</b>		<b>20</b>	Rent or lease (see instructions):		
<b>11</b>	Contract labor (see instructions)	<b>11</b>		<b>a</b>	Vehicles, machinery, and equipment	<b>20a</b>	<b>10,000</b>
<b>12</b>	Depreciation	<b>12</b>		<b>b</b>	Other business property	<b>20b</b>	
<b>13</b>	Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	<b>13</b>	<b>72,000</b>	<b>21</b>	Repairs and maintenance	<b>21</b>	<b>5,000</b>
<b>14</b>	Employee benefit programs (other than on line 19)	<b>14</b>		<b>22</b>	Supplies (not included in Part III)	<b>22</b>	<b>45,000</b>
<b>15</b>	Insurance (other than health)	<b>15</b>		<b>23</b>	Taxes and licenses	<b>23</b>	
<b>16</b>	Interest (see instructions):			<b>24</b>	Travel and meals:		
<b>a</b>	Mortgage (paid to banks, etc.)	<b>16a</b>		<b>a</b>	Travel	<b>24a</b>	
<b>b</b>	Other	<b>16b</b>		<b>b</b>	Deductible meals (see instructions)	<b>24b</b>	
<b>17</b>	Legal and professional services	<b>17</b>		<b>25</b>	Utilities	<b>25</b>	
<b>28</b>	<b>Total expenses</b> before expenses for business use of home. Add lines 8 through 27a	<b>28</b>		<b>26</b>	Wages (less employment credits)	<b>26</b>	
<b>29</b>	Tentative profit or (loss). Subtract line 28 from line 7	<b>29</b>	<b>0</b>	<b>27a</b>	Other expenses (from line 48)	<b>27a</b>	
<b>30</b>	Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions). <b>Simplified method filers only:</b> enter the total square footage of: (a) your home: _____ and (b) the part of your home used for business: _____. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30	<b>30</b>		<b>b</b>	<b>Reserved for future use</b>	<b>27b</b>	
<b>31</b>	<b>Net profit or (loss).</b> Subtract line 30 from line 29. • If a profit, enter on both <b>Schedule 1 (Form 1040 or 1040-SR), line 3</b> (or <b>Form 1040-NR, line 13</b> ) and on <b>Schedule SE, line 2</b> . (If you checked the box on line 1, see instructions). Estates and trusts, enter on <b>Form 1041, line 3</b> . • If a loss, you <b>must</b> go to line 32.	<b>31</b>	<b>(47,000)</b>				
<b>32</b>	If you have a loss, check the box that describes your investment in this activity (see instructions). • If you checked 32a, enter the loss on both <b>Schedule 1 (Form 1040 or 1040-SR), line 3</b> (or <b>Form 1040-NR, line 13</b> ) and on <b>Schedule SE, line 2</b> . (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on <b>Form 1041, line 3</b> . • If you checked 32b, you <b>must</b> attach <b>Form 6198</b> . Your loss may be limited.						

**32a** ☒ All investment is at risk.  
**32b** ☐ Some investment is not at risk.

For Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 11334P

Schedule C (Form 1040 or 1040-SR) 2019



# 2020 Workbook

## For Example 9

<b>Form 4562</b> Department of the Treasury Internal Revenue Service (99)	<b>Depreciation and Amortization</b> <b>(Including Information on Listed Property)</b> ▶ Attach to your tax return. ▶ Go to <a href="http://www.irs.gov/Form4562">www.irs.gov/Form4562</a> for instructions and the latest information.	OMB No. 1545-0172 <b>2019</b> Attachment Sequence No. 179				
Name(s) shown on return <b>Bob Builder</b>		Identifying number <b>333-45-6789</b>				
<b>Part I Election To Expense Certain Property Under Section 179</b> <b>Note:</b> If you have any listed property, complete Part V before you complete Part I.						
1 Maximum amount (see instructions) . . . . .		1 1,020,000				
2 Total cost of section 179 property placed in service (see instructions) . . . . .		2				
3 Threshold cost of section 179 property before reduction in limitation (see instructions) . . . . .		3 2,550,000				
4 Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0- . . . . .		4				
5 Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions . . . . .		5				
6 (a) Description of property (b) Cost (business use only) (c) Elected cost						
7 Listed property. Enter the amount from line 29 . . . . .		7				
8 Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7 . . . . .		8				
9 Tentative deduction. Enter the <b>smaller</b> of line 5 or line 8 . . . . .		9				
10 Carryover of disallowed deduction from line 13 of your 2018 Form 4562 . . . . .		10				
11 Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions . . . . .		11				
12 Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11 . . . . .		12				
13 Carryover of disallowed deduction to 2020. Add lines 9 and 10, less line 12 ▶ . . . . .		13				
<b>Note:</b> Don't use Part II or Part III below for listed property. Instead, use Part V.						
<b>Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)</b>						
14 Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions. . . . .		14				
15 Property subject to section 168(f)(1) election . . . . .		15				
16 Other depreciation (including ACRS) . . . . .		16				
<b>Part III MACRS Depreciation (Don't include listed property. See instructions.)</b>						
<b>Section A</b>						
17 MACRS deductions for assets placed in service in tax years beginning before 2019 . . . . .		17				
18 If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ▶ <input type="checkbox"/>						
<b>Section B—Assets Placed in Service During 2019 Tax Year Using the General Depreciation System</b>						
(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property		360,000	5.0	HY	200DB	72,000
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	
				MM	S/L	
<b>Section C—Assets Placed in Service During 2019 Tax Year Using the Alternative Depreciation System</b>						
20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 30-year			30 yrs.	MM	S/L	
d 40-year			40 yrs.	MM	S/L	
<b>Part IV Summary (See instructions.)</b>						
21 Listed property. Enter amount from line 28 . . . . .						21
22 <b>Total.</b> Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions . . . . .						22 72,000
23 For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs . . . . .						23

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 12906N

Form 4562 (2019)

# 2020 Workbook

## For Example 9

Form <b>8995</b>  Department of the Treasury Internal Revenue Service	<b>Qualified Business Income Deduction Simplified Computation</b>  ▶ Attach to your tax return. ▶ Go to <a href="http://www.irs.gov/Form8995">www.irs.gov/Form8995</a> for instructions and the latest information.	OMB No. 1545-0123  <div style="font-size: 2em; font-weight: bold;">2019</div> Attachment Sequence No. <b>55</b>
Name(s) shown on return <b>Bob Builder</b>		Your taxpayer identification number <b>333-45-6789</b>
<b>1</b>	(a) Trade, business, or aggregation name	(b) Taxpayer identification number
<b>i</b>	<b>Bob Builder</b>	<b>333-45-6789</b>
<b>ii</b>		
<b>iii</b>		
<b>iv</b>		
<b>v</b>		
<b>2</b>	Total qualified business income or (loss). Combine lines 1i through 1v, column (c)	<b>(47,000)</b>
<b>3</b>	Qualified business net (loss) carryforward from the prior year	( )
<b>4</b>	Total qualified business income. Combine lines 2 and 3. If zero or less, enter -0-	<b>0</b>
<b>5</b>	Qualified business income component. Multiply line 4 by 20% (0.20)	<b>5</b>
<b>6</b>	Qualified REIT dividends and publicly traded partnership (PTP) income or (loss) (see instructions)	
<b>7</b>	Qualified REIT dividends and qualified PTP (loss) carryforward from the prior year	( )
<b>8</b>	Total qualified REIT dividends and PTP income. Combine lines 6 and 7. If zero or less, enter -0-	
<b>9</b>	REIT and PTP component. Multiply line 8 by 20% (0.20)	<b>9</b>
<b>10</b>	Qualified business income deduction before the income limitation. Add lines 5 and 9	<b>10 0</b>
<b>11</b>	Taxable income before qualified business income deduction	<b>(59,200)</b>
<b>12</b>	Net capital gain (see instructions)	
<b>13</b>	Subtract line 12 from line 11. If zero or less, enter -0-	<b>0</b>
<b>14</b>	Income limitation. Multiply line 13 by 20% (0.20)	<b>14 0</b>
<b>15</b>	Qualified business income deduction. Enter the lesser of line 10 or line 14. Also enter this amount on the applicable line of your return ▶	<b>15 0</b>
<b>16</b>	Total qualified business (loss) carryforward. Combine lines 2 and 3. If greater than zero, enter -0-	<b>16 (47,000)</b>
<b>17</b>	Total qualified REIT dividends and PTP (loss) carryforward. Combine lines 6 and 7. If greater than zero, enter -0-	<b>17 ( )</b>

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Cat. No. 37806C

Form **8995** (2019)

## PLANNING WITH NOLs UNDER THE CARES ACT<sup>75</sup>

### QUALIFIED IMPROVEMENT PROPERTY

When the TCJA was drafted, an inadvertent error was created that caused qualified leasehold, retail, and restaurant improvement property (collectively, qualified improvement property (QIP)) to be categorized as 39-year property. Before the TCJA was enacted, such property was treated as 15-year property. This error rendered such property ineligible for bonus depreciation if placed into service after the date of the enactment of the TCJA.<sup>76</sup> The CARES Act corrects this error retroactive to the date the TCJA was enacted.<sup>77</sup> Rev. Proc. 2020-25 provides the mechanics for amending returns or making a change in accounting method using Form 3115, *Application for Change in Accounting Method*.<sup>78</sup>

This technical correction provides practitioners with opportunities to amend 2018 and 2019 returns.

**Note.** For more information about this technical correction, see the 2020 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 2: Depreciation and Chapter 1: New Developments.

**Caution.** Elections made for carryback periods generally cannot be revoked without IRS consent. Likewise, the absence of any election is generally binding on the taxpayer after the extended deadline for the return has passed. However, as mentioned above, Rev. Proc. 2020-25 provides an exception to apply changes made under the CARES Act regarding bonus depreciation and QIP.

**Example 10.** Steve, a sole proprietor restaurant entrepreneur, placed into service qualified restaurant property in January 2018. The cost of the property was \$250,000. His restaurant net income, prior to depreciation, was \$100,000. Steve had no other income and is a single taxpayer.

Due to the technical error in the TCJA, Steve's tax professional Cicely informed him he must depreciate the property over 39 years. After the enactment of the CARES Act, Cicely informs Steve he can amend his 2018 return, treat the qualified restaurant property as 15-year property, and elect bonus depreciation.

Steve's tax results follow.

	Under the Originally Filed 2018 Return	As Amended <sup>a</sup>
AGI	\$87,226	(\$150,000)
QBID	15,045	0 <sup>b</sup>
Taxable income	60,181	0
Tax	9,178	0
SE tax	13,262	0
Total tax	\$22,440	\$ 0
Depreciation allowed or allowable <sup>c</sup>	\$ 6,143	\$250,000

<sup>a</sup> On amended return, 100% bonus was used. This is the default treatment for MACRS property unless the taxpayer elects out of bonus depreciation by asset class.

<sup>b</sup> There is no QBID on the amended return. Instead, a QBL is created.

<sup>c</sup> Original depreciation method was nonresidential real property, mid-month convention, 39 years. Property was placed into service January 2018. On the amended return, the property is treated as 15-year MACRS property.

<sup>75</sup> PL 116-136 §2307, amending IRC §168; Rev. Proc. 2020-25, 2020-19 IRB 785.

<sup>76</sup> PL 115-97 §13204.

<sup>77</sup> PL 116-136 §2307(a) and (b).

<sup>78</sup> Rev. Proc. 2020-25, 2020-19 IRB 785.

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Planning questions and considerations:

1. Should the loss be carried back or should Steve forgo the carryback and carry the loss forward? What were Steve's tax results in previous years and what are his income prospects for the future?
2. Does the loss of QBID and the QBL carryforward impact his decision regarding bonus depreciation?
3. What impact will the 2018 amended return have on Steve's 2019 return with regard to lost depreciation deductions and the 2018 QBL?

**Note.** The previous example illustrates corrections that may be made for QIP, as provided by the CARES Act. In addition, Rev. Proc. 2020-25 provides procedures for changing elections for **any** qualifying depreciable property. If taxpayers placed into service qualifying property in 2018, 2019, or 2020 and elected out of bonus depreciation, they may now revoke that election so that they can claim bonus depreciation. If bonus depreciation was originally elected and now the taxpayer wishes to elect out, the revenue procedure permits this as well. For more information about Rev. Proc. 2020-25, see the 2020 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 2: Depreciation.

## APPLYING THE NOL TO PAST RETURNS

To apply the NOL to past returns, the first step is to recalculate the AGI for the earliest carryback year. The AGI that results after applying the NOL deduction is used to recompute income or deduction items that are based on, or limited to, a percentage of AGI. The following items are adjusted in the order listed.<sup>79</sup>

1. The special allowance for passive activity losses from rental real estate activities
2. Taxable social security and tier 1 railroad retirement benefits
3. IRA deductions
4. Excludable savings bond interest
5. Excludable employer-provided adoption benefits
6. The student loan interest deduction
7. The tuition and fees deduction

For each item in the above list, the AGI after applying the NOL and any previous items is used.

After all of the preceding items are refigured, the following deductions are recalculated based on AGI.<sup>80</sup>

1. Medical expenses
2. Qualified mortgage insurance premiums
3. Casualty losses
4. Miscellaneous itemized deductions
5. Overall limit on itemized deductions
6. Phaseout of exemptions

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<sup>79</sup> IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

<sup>80</sup> Ibid.

The deduction for charitable contributions is **not** recalculated.

**Caution.** SE tax is not affected by NOL carrybacks and carryforwards.

**Note.** For tax years after 2017, the TCJA eliminated the itemized deduction for miscellaneous itemized deductions subject to the 2% limit, the overall limit on itemized deductions, and the deduction for exemptions.

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## Effect of Carryback on IRA Deductions

The effect of NOL carrybacks on IRA deductions may be one of the most confusing aspects of carrying back an NOL to prior years **if the taxpayer made nondeductible contributions to a traditional IRA** in one of the carryback years. When the **NOL is more than the taxable income** for the carryback year, the deductible IRA contribution is **not** recalculated for purposes of the remaining carryforward. Form 1045, Schedule B-NOL Carryover is used to calculate how much of the NOL can be applied to the next oldest carryback year. Therefore, the taxpayer receives no benefit from the additional amount that may have been deductible that year if the taxpayer's AGI had been lower. However, taxpayers retain their basis in the IRA to use against future distributions.

If the **NOL is less than the taxable income** in the carryback year, the deductible amount of the IRA contribution must be recalculated for purposes of determining the taxable income after carryback. Therefore, the taxpayer may now receive a tax benefit from the previously nondeductible contribution to the IRA. However, taxpayers may elect not to deduct the additional allowable amount. If the taxpayer chooses to deduct the additional amount, a revised Form 8606, *Nondeductible IRAs*, must be prepared and attached to the NOL carryback to report an adjusted basis in the IRA.<sup>81</sup>

**Caution.** Practitioners should adjust the basis information in their carryforward reference files and/or their software so that the taxable portion of future distributions is calculated correctly.

**Caution.** If the standard deduction was used on the original filing, the taxpayer may **not** elect to itemize deductions in the carryback year.<sup>81</sup>

## Schedule B-NOL Carryover

If the NOL is more than the modified AGI of the oldest carryback year, **Schedule B-NOL Carryover** is used to calculate how much of the NOL can be applied to the next oldest year. Although certain items are recomputed when applying the NOL for calculating the change in tax liability, those items are not recomputed when calculating the amount of NOL remaining after it is applied to the earliest year. Furthermore, the deduction for personal exemptions is added back to taxable income when applying the NOL deduction. Consequently, the taxpayer loses the benefit of those deductions in the carryback year.

<sup>81</sup> Instructions for Form 1045.

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## Credits

The final step in applying the NOL to past returns is that taxes and credits are recalculated. The earned income credit, for example, may be affected by changes to AGI or the amount of tax (or both) and, therefore, must be recalculated. If the taxpayer becomes eligible for a credit because of the carryback, the form for that year's specific credit (such as the earned income credit (EIC) Worksheet) must be completed.<sup>82</sup>

**Note.** Credits that were utilized on the originally filed returns should be evaluated prior to making the election to carry back losses or to forgo carryback and to elect to carry losses forward. Generally, reducing income in a prior year allows for a larger amount of credit than was previously allowed, but this may not always be the case. For example, if the NOL carryback results in zero taxable income, nonrefundable credits provide no benefit because the tax is already zero. However, part of the NOL was used (potentially wasted) in reducing the taxable income to zero. There is little or no benefit from nonrefundable credits when income tax is eliminated. For example, for the American opportunity credit, even though a current nonrefundable credit was not available, the taxpayer still loses one year of eligibility for this credit.

Following is a list of some of the credits that may be impacted by an NOL carryback.

- Foreign tax credit
- Child (or other dependent) tax credit
- Child and dependent care credit
- Education credits
- Retirement saver's credit
- Adoption credit
- Earned income credit
- Advance premium tax credit
- Minimum tax credit

**Observation.** Credits may be impacted both by changes in AGI and net income tax. Such credits must be recalculated in the carryback years. If, on the originally filed return, a given credit was not reflected because of AGI or tax limitations, the credit may be allowed now due to the impact of the NOL carryback on AGI or net income tax.

## C CORPORATIONS

Calculating the NOL for a C corporation is easier than calculating the NOL for an individual. The income and expenses of the corporation are not separated between business and nonbusiness transactions.<sup>83</sup> However, there are a few adjustments that must be made when calculating the NOL.

- The DPAD under IRC §199 (if applicable) is not included in the NOL.<sup>84</sup>
- The deductions for dividends received are computed without regard to the limits based on taxable income that normally apply.<sup>85</sup>

<sup>82</sup> IRS Pub. 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

<sup>83</sup> IRC §172(d)(4).

<sup>84</sup> IRC §172(d)(7), prior to amendment by TCJA.

<sup>85</sup> IRC §172(d)(5).



## Practitioner Planning Tip

The ability to carry C corporation losses back five years can be an extremely powerful planning tool for corporations that were very profitable in those prior years, especially because corporate tax rates were as high as 35%<sup>86</sup> before the enactment of the TCJA in December 2017. With the 21% flat tax rate for C corporations in effect for tax years after 2017,<sup>87</sup> less profitable C corporations lack the incentive to carry losses to previous years when their tax rate may have been 15% (or less) and may derive greater benefits by electing to forgo the carryback and elect to carry losses to future years.

### NOL Carrybacks<sup>88</sup>

The corporation may use Form 1120X, *Amended U.S. Corporation Income Tax Return*, or Form 1139, *Corporation Application for Tentative Refund*, to claim a refund for NOL carrybacks. The deadline to use Form 1139 is no later than one year after the year in which the NOL is incurred. If the corporation uses Form 1120X, the deadline is three years after the due date, including extensions, for the year in which the NOL is incurred.

### Carryback Expected<sup>89</sup>

A corporation that expects to have an NOL in its current year can automatically extend the time for paying all or part of its income tax for the immediately preceding year. It does this by filing Form 1138, *Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback*. The payment of tax that may be postponed cannot exceed the expected overpayment from the carryback of the NOL.

To calculate the portion of the tax liability qualifying for extension, **amounts paid or required to have been paid** are subtracted from the total due. For this purpose, only taxes shown on a return or assessed as a deficiency are considered as required to be paid. Estimated tax payments are not included in the requirement. Deficiency assessments are not included in the requirement if the Form 1138 is filed within 10 days of the deficiency notice.

The extension is in effect until the end of the month in which the return for the NOL year is due, including extensions. If the corporation filed Form 1139 before this date, the extension will continue until the date the IRS notifies the corporation that its Form 1139 is allowed or disallowed.

### NOL Corporate Carryforwards<sup>90</sup>

NOLs may be carried forward until the entire NOL has been used. When the available NOL is more than the taxable income for the carryforward year, the remainder is carried to the next year. The amount to carry forward is the excess of the available NOL over the modified taxable income for the carryforward year.

A corporation calculates modified taxable income the same manner that it calculates taxable income, with the following exceptions.

- The corporation can deduct NOLs only from years before the NOL year whose carryover is being calculated. The earlier year NOLs are included in modified taxable income when determining what amount from the NOL year is needed to reduce taxable income to zero.
- The deduction for charitable contributions is calculated without taking into account any NOL carrybacks.

<sup>86</sup> IRC §11(b), prior to amendment by TCJA.

<sup>87</sup> TCJA §13001(b).

<sup>88</sup> IRS Pub. 542, *Corporations*.

<sup>89</sup> IRC §6164. See also IRS Pub. 542, *Corporations*.

<sup>90</sup> IRS Pub. 542, *Corporations*.

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