

TAX FOUNDATION
OF HAWAII

CARES ACT

General Business Provisions

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NET OPERATING LOSSES - CORPORATIONS

- TCJA (2017) eliminated loss carrybacks and limited utilization to 80% of current year income.
- CARES Act section 2303 says:
 - NOL arising in a tax year beginning in 2018, 2019, 2020 can be carried back 5 years.
 - For 2021 and before, NOL arising in a prior tax year may fully offset income until 2021; the 80% limit doesn't apply.
 - After 2021, the 80% limit applies to NOL arising in tax years beginning in 2018 or later. The limit does not apply to NOL arising in tax years beginning in 2017 or earlier.
 - There are special rules for REITs, life insurers, and the section 965 transition tax.

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NET OPERATING LOSSES – NOT CORP.

- TCJA (2018) limited excess business losses to \$250K (\$500K joint) which could be utilized against other income. Anything else needed to be carried forward. IRC § 461(l).
- CARES Act section 2304 says that excess business losses arising in a tax year beginning in 2018, 2019, or 2020 can be fully utilized. The \$250K/\$500K limits do not apply until 2021.
- Clarifies that excess business losses do not include any deduction under IRC sections 172 or 199A.
- Clarifies that capital losses from a business can only offset the lesser of: capital gain from the business, or overall capital gain.

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CREDIT FOR CORPORATE AMT

- TCJA abolished corporate AMT but permitted corps. to use AMT credits from earlier years to offset regular tax. Some of the credits would be refundable in 2018-2021. IRC § 53(e).
- Act section 2305 says that such credits are all refundable in 2019. Or, a taxpayer can elect to treat them as refundable in 2018. IRS is directed to process refund claims in 90 days (like NOL carryback refund).

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BUSINESS INTEREST DEDUCTIONS

- TCJA limits deduction of business interest to sum of business interest income, 30% of adjusted taxable income (looks like EBITDA), and floor plan financing interest. Limit doesn't apply to taxpayers with avg. annual gross receipts of \$26M (in 2020). IRC § 163(j)(10).
- CARES Act sec. 2306 changes the percentage limit to 50% for taxable years beginning in 2019 and 2020. Taxpayers may elect to apply the 30% instead. There are special rules for partners in a partnership.

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QUALIFIED IMPROVEMENT PROPERTY "RETAIL GLITCH"

- TCJA inadvertently changed recovery period for qual. leasehold imps., retail imps., and restaurant property to 39 years. No bonus depreciation was allowable.
- CARES Act fixes this so all QI property gets a 15-year recovery period and is bonus eligible. Retroactive to TCJA eff. date of 1/1/2018.
- Could be a big deal for retailers and restaurants!

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Hawaii Relief

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TAX ANNOUNCEMENT 2020-01

- Allows filing and payment extension to July 20 of a **2019** return of **income** tax that otherwise would be due in April, May, or June.
- Does not apply to any other tax year.
 - Returns that are delinquent are still delinquent.
 - Estimated income tax for 2020 is unchanged.
- Does not apply to any other tax type.
 - GE, TA, WH, etc. no extensions to file and pay.

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